

(128th General Assembly)
(Amended Substitute House Bill Number 1)

AN ACT

To amend sections 7.12, 9.06, 9.24, 9.314, 101.34, 101.72, 102.02, 105.41, 107.21, 107.40, 109.57, 109.572, 109.73, 109.731, 109.742, 109.744, 109.751, 109.761, 109.77, 109.802, 109.803, 117.13, 118.05, 120.08, 121.04, 121.07, 121.08, 121.083, 121.084, 121.31, 121.37, 121.40, 121.401, 121.402, 122.011, 122.05, 122.051, 122.075, 122.151, 122.17, 122.171, 122.40, 122.603, 122.71, 122.751, 122.76, 122.89, 123.01, 124.03, 124.04, 124.07, 124.11, 124.134, 124.14, 124.152, 124.181, 124.183, 124.22, 124.23, 124.27, 124.321, 124.324, 124.325, 124.34, 124.381, 124.382, 124.385, 124.386, 124.392, 124.81, 125.11, 125.18, 125.831, 126.05, 126.21, 126.35, 127.16, 131.23, 131.33, 133.01, 133.02, 133.06, 133.18, 133.20, 133.21, 133.34, 135.03, 135.06, 135.08, 135.32, 141.04, 145.012, 145.298, 148.02, 148.04, 149.43, 149.45, 150.01, 150.02, 150.03, 150.04, 150.05, 150.07, 152.09, 152.10, 152.12, 152.15, 152.33, 156.01, 156.02, 156.03, 156.04, 166.02, 166.07, 166.08, 166.11, 166.25, 169.08, 173.08, 173.35, 173.392, 173.40, 173.401, 173.42, 173.43, 173.50, 173.71, 173.76, 173.99, 174.02, 174.03, 174.06, 175.01, 176.05, 303.213, 307.626, 307.629, 307.79, 311.17, 311.42, 319.28, 319.301, 319.302, 319.54, 321.24, 321.261, 323.01, 323.121, 323.156, 323.73, 323.74, 323.77, 323.78, 329.03, 329.04, 329.042, 329.051, 329.06, 340.033, 343.01, 351.01, 351.021, 504.21, 505.82, 711.001, 711.05, 711.10, 711.131, 718.04, 721.15, 901.20, 901.32, 901.43, 903.082, 903.11, 903.25, 905.32, 905.33,

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3923.91, 4113.11, 4123.446, 4301.85, 4501.243, 4501.29, 4503.548, 4503.563, 4582.71, 4755.061, 4781.16, 4781.17, 4781.18, 4781.19, 4781.20, 4781.21, 4781.22, 4781.23, 4781.24, 4781.25, 4781.99, 5101.073, 5101.504, 5101.5210, 5101.542, 5111.0121, 5111.0210, 5111.092, 5111.233, 5111.236, 5111.262, 5111.861, 5111.88, 5111.881, 5111.882, 5111.883, 5111.884, 5111.885, 5111.886, 5111.887, 5111.888, 5111.889, 5111.8810, 5111.8811, 5112.40, 5112.41, 5112.42, 5112.43, 5112.44, 5112.45, 5112.46, 5112.47, 5112.48, 5119.613, 5119.621, 5123.193, 5123.197, 5155.38, 5505.152, 5525.26, 5537.051, 5705.219, 5705.2110, 5705.2111, 5725.33, 5729.16, 5733.58, 5733.59, 5739.051, 5747.66, 5751.014, 5911.11, 5919.20, 5919.36, and 6119.091; to repeal sections 117.102, 173.71, 173.72, 173.721, 173.722, 173.723, 173.724, 173.73, 173.731, 173.732, 173.74, 173.741, 173.742, 173.75, 173.751, 173.752, 173.753, 173.76, 173.77, 173.771, 173.772, 173.773, 173.78, 173.79, 173.791, 173.80, 173.801, 173.802, 173.803, 173.81, 173.811, 173.812, 173.813, 173.814, 173.815, 173.82, 173.83, 173.831, 173.832, 173.833, 173.84, 173.85, 173.86, 173.861, 173.87, 173.871, 173.872, 173.873, 173.874, 173.875, 173.876, 173.88, 173.89, 173.891, 173.892, 173.90, 173.91, 905.38, 905.381, 905.66, 907.16, 927.74, 1504.01, 1504.02, 1504.03, 1504.04, 1517.15, 1521.02, 1711.58, 3301.0712, 3301.41, 3301.42, 3301.43, 3302.032, 3313.473, 3314.15, 3319.0810, 3319.222, 3319.23, 3319.261, 3319.302, 3319.304, 3333.27, 3701.77, 3701.771, 3701.772, 3701.93, 3701.931, 3701.932, 3701.933, 3701.934, 3701.935, 3701.936, 3702.511, 3702.523, 3702.527, 3702.528, 3702.529, 3702.542, 3704.143, 3724.01,

3724.02, 3724.021, 3724.03, 3724.04, 3724.05, 3724.06, 3724.07, 3724.08, 3724.09, 3724.10, 3724.11, 3724.12, 3724.13, 3724.99, 4517.052, 4517.27, 4735.22, 4735.23, 5101.072, 5103.54, 5111.263, 5112.371, 5115.10, 5115.11, 5112.12, 5115.13, 5115.14, 5145.32, and 5923.141 of the Revised Code; to amend Sections 205.10, 321.10, 325.20, and 327.10 of Am. Sub. H.B. 2 of the 128th General Assembly; to amend Section 309.10 of Am. Sub. H.B. 2 of the 128th General Assembly; to amend Section 317.10 of Am. Sub. H.B. 2 of the 128th General Assembly; to amend Sections 120.01 and 120.02 of Am. Sub. H.B. 119 of the 127th General Assembly; to amend Sections 103.80.80, 103.80.90, 301.10.50, and 301.30.30 of H.B. 496 of the 127th General Assembly; to amend Sections 301.20.20 and 301.60.50 of H.B. 496 of the 127th General Assembly, as subsequently amended; to amend Section 11 of Am. Sub. H.B. 554 of the 127th General Assembly; to amend Sections 233.30.20, 233.30.50, 233.40.30, 235.10, and 701.20 of H.B. 562 of the 127th General Assembly; to amend Sections 227.10 and 233.50.80 of H.B. 562 of the 127th General Assembly, as subsequently amended; to amend Sections 217.11 and 231.20.30 of Am. Sub. H.B. 562 of the 127th General Assembly, as subsequently amended; to amend Section 831.06 of H.B. 530 of the 126th General Assembly; to amend Section 4 of H.B. 516 of the 125th General Assembly, as subsequently amended; to amend Section 6 of H.B. 364 of the 124th General Assembly and to amend Section 6 of H.B. 364 of the 124th General Assembly to codify the Section as section 3314.027 of the Revised Code; to amend Section 153 of Am. Sub. H.B. 117 of the 121st General Assembly, as subsequently

amended; to repeal Section 3 of Am. Sub. H.B. 203 of the 126th General Assembly; to repeal Section 325.05 of Am. Sub. H.B. 2 of the 128th General Assembly; to further amend sections 711.001, 711.05, 711.10, 711.131, 4736.01, 6111.04, and 6111.44 of the Revised Code effective January 1, 2010; to amend the version of section 2949.111 of the Revised Code that is scheduled to take effect January 1, 2010, to continue the provisions of this act on and after that effective date; to amend the version of section 5739.033 of the Revised Code that is scheduled to take effect January 1, 2010, to continue the provisions of this act on and after that effective date; to repeal sections 5112.40, 5112.41, 5112.42, 5112.43, 5112.44, 5112.45, 5112.46, 5112.47, and 5112.48 of the Revised Code, effective October 1, 2011; to repeal the version of sections 1753.53 and 3923.38 of the Revised Code that were scheduled to take effect January 1, 2010; to make operating appropriations for the biennium beginning July 1, 2009, and ending June 30, 2011, and to provide authorization and conditions for the operation of state programs.

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

SECTION 101.01. That sections 7.12, 9.06, 9.24, 9.314, 101.34, 101.72, 102.02, 105.41, 107.21, 107.40, 109.57, 109.572, 109.73, 109.731, 109.742, 109.744, 109.751, 109.761, 109.77, 109.802, 109.803, 117.13, 118.05, 120.08, 121.04, 121.07, 121.08, 121.083, 121.084, 121.31, 121.37, 121.40, 121.401, 121.402, 122.011, 122.05, 122.051, 122.075, 122.151, 122.17, 122.171, 122.40, 122.603, 122.71, 122.751, 122.76, 122.89, 123.01, 124.03, 124.04, 124.07, 124.11, 124.134, 124.14, 124.152, 124.181, 124.183, 124.22, 124.23, 124.27, 124.321, 124.324, 124.325, 124.34, 124.381, 124.382, 124.385, 124.386, 124.392, 124.81, 125.11, 125.18, 125.831, 126.05, 126.21, 126.35, 127.16, 131.23, 131.33, 133.01, 133.02, 133.06,

133.18, 133.20, 133.21, 133.34, 135.03, 135.06, 135.08, 135.32, 141.04, 145.012, 145.298, 148.02, 148.04, 149.43, 149.45, 150.01, 150.02, 150.03, 150.04, 150.05, 150.07, 152.09, 152.10, 152.12, 152.15, 152.33, 156.01, 156.02, 156.03, 156.04, 166.02, 166.07, 166.08, 166.11, 166.25, 169.08, 173.08, 173.35, 173.392, 173.40, 173.401, 173.42, 173.43, 173.50, 173.71, 173.76, 173.99, 174.02, 174.03, 174.06, 175.01, 176.05, 303.213, 307.626, 307.629, 307.79, 311.17, 311.42, 319.28, 319.301, 319.302, 319.54, 321.24, 321.261, 323.01, 323.121, 323.156, 323.73, 323.74, 323.77, 323.78, 329.03, 329.04, 329.042, 329.051, 329.06, 340.033, 343.01, 351.01, 351.021, 504.21, 505.82, 711.001, 711.05, 711.10, 711.131, 718.04, 721.15, 901.20, 901.32, 901.43, 903.082, 903.11, 903.25, 905.32, 905.33, 905.331, 905.36, 905.50, 905.51, 905.52, 905.56, 907.13, 907.14, 907.30, 907.31, 915.24, 918.08, 918.28, 921.02, 921.06, 921.09, 921.11, 921.13, 921.16, 921.22, 921.27, 921.29, 923.44, 923.46, 927.51, 927.52, 927.53, 927.56, 927.69, 927.70, 927.701, 927.71, 942.01, 942.02, 942.06, 942.13, 943.01, 943.02, 943.04, 943.05, 943.06, 943.07, 943.13, 943.14, 943.16, 953.21, 953.22, 953.23, 955.201, 1321.20, 1321.51, 1321.52, 1321.53, 1321.54, 1321.55, 1321.551, 1321.57, 1321.59, 1321.60, 1321.99, 1322.01, 1322.02, 1322.03, 1322.031, 1322.04, 1322.041, 1322.05, 1322.051, 1322.052, 1322.06, 1322.061, 1322.062, 1322.063, 1322.064, 1322.07, 1322.071, 1322.072, 1322.074, 1322.075, 1322.08, 1322.081, 1322.09, 1322.10, 1322.11, 1322.99, 1332.24, 1332.25, 1343.011, 1345.01, 1345.05, 1345.09, 1347.08, 1349.31, 1349.43, 1501.01, 1501.05, 1501.07, 1501.30, 1502.12, 1506.01, 1507.01, 1511.01, 1511.02, 1511.021, 1511.022, 1511.03, 1511.04, 1511.05, 1511.06, 1511.07, 1511.071, 1511.08, 1514.08, 1514.10, 1514.13, 1515.08, 1515.14, 1515.183, 1517.02, 1517.10, 1517.11, 1517.14, 1517.16, 1517.17, 1517.18, 1519.03, 1520.02, 1520.03, 1521.03, 1521.031, 1521.04, 1521.05, 1521.06, 1521.061, 1521.062, 1521.063, 1521.064, 1521.07, 1521.10, 1521.11, 1521.12, 1521.13, 1521.14, 1521.15, 1521.16, 1521.18, 1521.19, 1523.01, 1523.02, 1523.03, 1523.04, 1523.05, 1523.06, 1523.07, 1523.08, 1523.09, 1523.10, 1523.11, 1523.12, 1523.13, 1523.14, 1523.15, 1523.16, 1523.17, 1523.18, 1523.19, 1523.20, 1533.11, 1541.03, 1547.01, 1547.51, 1547.52, 1547.531, 1547.54, 1547.542, 1547.73, 1547.99, 1548.10, 1707.17, 1707.18, 1707.37, 1710.01, 1710.02, 1710.03, 1710.04, 1710.06, 1710.07, 1710.10, 1710.13, 1721.211, 1724.02, 1724.04, 1733.26, 1739.05, 1751.03, 1751.04, 1751.05, 1751.14, 1751.15, 1751.16, 1751.18, 1751.19, 1751.32, 1751.321, 1751.34, 1751.35, 1751.36, 1751.45, 1751.46, 1751.48, 1751.831, 1751.84, 1751.85, 1753.09, 1901.121, 1901.26, 1901.31, 1907.14, 1907.24, 2101.01, 2301.02, 2301.03, 2303.201, 2305.234, 2317.422, 2503.17,

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150.051, 153.013, 166.22, 166.28, 173.28, 173.402, 173.403, 173.421, 173.423, 173.424, 173.425, 173.431, 173.432, 173.433, 173.434, 173.501, 173.70, 175.052, 175.30, 175.31, 175.32, 305.20, 319.24, 717.25, 901.041, 901.91, 927.54, 943.031, 1321.521, 1321.522, 1321.531, 1321.532, 1321.533, 1321.534, 1321.535, 1321.536, 1321.552, 1321.591, 1321.592, 1321.593, 1321.594, 1322.022, 1322.023, 1322.024, 1322.025, 1322.065, 1547.02, 1547.85, 1547.86, 1547.87, 1733.252, 2505.122, 3119.371, 3301.041, 3301.076, 3301.0719, 3301.0721, 3301.122, 3301.60, 3301.61, 3301.62, 3301.63, 3301.64, 3301.82, 3301.90, 3301.95, 3304.181, 3304.182, 3306.01, 3306.011, 3306.012, 3306.02, 3306.03, 3306.04, 3306.05, 3306.051, 3306.052, 3306.06, 3306.07, 3306.08, 3306.09, 3306.091, 3306.10, 3306.11, 3306.12, 3306.13, 3306.18, 3306.19, 3306.191, 3306.192, 3306.21, 3306.22, 3306.25, 3306.29, 3306.291, 3306.292, 3306.30, 3306.31, 3306.33, 3306.34, 3306.35, 3306.40, 3306.50, 3306.51, 3306.52, 3306.53, 3306.54, 3306.55, 3306.56, 3306.57, 3306.58, 3310.15, 3311.0510, 3313.6015, 3313.719, 3313.821, 3313.822, 3313.83, 3313.86, 3314.028, 3314.088, 3314.44, 3317.018, 3318.312, 3319.223, 3319.611, 3319.612, 3319.70, 3319.71, 3321.041, 3326.39, 3333.048, 3333.39, 3333.391, 3333.392, 3333.90, 3334.111, 3345.36, 3353.09, 3353.20, 3354.24, 3365.12, 3375.79, 3701.0211, 3701.136, 3701.611, 3702.592, 3702.593, 3702.594, 3705.031, 3709.092, 3715.041, 3721.511, 3721.512, 3721.513, 3722.022, 3734.282, 3770.21, 3793.21, 3903.77, 3923.241, 3923.582, 3923.90, 3923.91, 4113.11, 4123.446, 4301.85, 4501.243, 4501.29, 4503.548, 4503.563, 4582.71, 4755.061, 4781.16, 4781.17, 4781.18, 4781.19, 4781.20, 4781.21, 4781.22, 4781.23, 4781.24, 4781.25, 4781.99, 5101.073, 5101.504, 5101.5210, 5101.542, 5111.0121, 5111.0210, 5111.092, 5111.233, 5111.236, 5111.262, 5111.861, 5111.88, 5111.881, 5111.882, 5111.883, 5111.884, 5111.885, 5111.886, 5111.887, 5111.888, 5111.889, 5111.8810, 5111.8811, 5112.40, 5112.41, 5112.42, 5112.43, 5112.44, 5112.45, 5112.46, 5112.47, 5112.48, 5119.613, 5119.621, 5123.193, 5123.197, 5155.38, 5505.152, 5525.26, 5537.051, 5705.219, 5705.2110, 5705.2111, 5725.33, 5729.16, 5733.58, 5733.59, 5739.051, 5747.66, 5751.014, 5911.11, 5919.20, 5919.36, and 6119.091 of the Revised Code be enacted; and Section 6 of H.B. 364 of the 124th General Assembly be amended and Section 6 of H.B. 364 of the 124th General Assembly be amended to codify as section 3314.027 of the Revised Code to read as follows:

Sec. 5.2265. The month of August is designated as "Ohio Military Family Month."

Sec. 7.12. Whenever any legal publication is required by law to be made

in a newspaper published in a municipal corporation, county, or other political subdivision, the newspaper shall also be a newspaper of general circulation in the municipal corporation, county, or other political subdivision, without further restriction or limitation upon a selection of the newspaper to be used. If no newspaper is published in such municipal corporation, county, or other political subdivision, such legal publication shall be made in any newspaper of general circulation therein. If there are less than two newspapers published in any municipal corporation, county, or other political subdivision in the manner defined by this section, then any legal publication required by law to be made in a newspaper published in a municipal corporation, county, or other political subdivision may be made in any newspaper regularly issued at stated intervals from a known office of publication located within the municipal corporation, county, or other political subdivision. As used in this section, a known office of publication is a public office where the business of the newspaper is transacted during the usual business hours, and such office shall be shown by the publication itself.

In addition to all other requirements, a newspaper or newspaper of general circulation, except those publications performing the functions described in section 2701.09 of the Revised Code for a period of one year immediately preceding any such publication required to be made, shall be a publication bearing a title or name, regularly issued as frequently as once a week ~~for a definite price or consideration paid for by not less than fifty per cent of those to whom distribution is made, having a second class mailing privilege,~~ being not less than four pages, published continuously during the immediately preceding one-year period, and circulated generally in the political subdivision in which it is published. Such publication must be of a type to which the general public resorts for passing events of a political, religious, commercial, and social nature, current happenings, announcements, miscellaneous reading matter, advertisements, and other notices, that has at least twenty-five per cent editorial, nonadvertising content, exclusive of inserts, measured relative to total publication space, and an audited circulation to at least fifty per cent of the households in the newspaper's retail trade zone as defined by the audit.

Any notice required to be published in a newspaper of general circulation may appear on an insert placed in such a newspaper. A responsible party who is required to publish such a notice shall consider various advertising media to determine which media might reach the intended public most broadly. The responsible party need publish the notice in only one qualified medium to meet the requirements of law.

Sec. 9.06. (A)(1) The department of rehabilitation and correction ~~shall~~ may contract for the private operation and management pursuant to this section of the initial intensive program prison established pursuant to section 5120.033 of the Revised Code, if one or more intensive program prisons are established under that section, and may contract for the private operation and management of any other facility under this section. Counties and municipal corporations to the extent authorized in sections 307.93, 341.35, 753.03, and 753.15 of the Revised Code, may contract for the private operation and management of a facility under this section. A contract entered into under this section shall be for an initial term of not more than two years, with an option to renew for additional periods of two years.

(2) The department of rehabilitation and correction, by rule, shall adopt minimum criteria and specifications that a person or entity, other than a person or entity that satisfies the criteria set forth in division (A)(3)(a) of this section and subject to division (I) of this section, must satisfy in order to apply to operate and manage as a contractor pursuant to this section the initial intensive program prison established pursuant to section 5120.033 of the Revised Code, if one or more intensive program prisons are established under that section.

(3) Subject to division (I) of this section, any person or entity that applies to operate and manage a facility as a contractor pursuant to this section shall satisfy one or more of the following criteria:

(a) The person or entity is accredited by the American correctional association and, at the time of the application, operates and manages one or more facilities accredited by the American correctional association.

(b) The person or entity satisfies all of the minimum criteria and specifications adopted by the department of rehabilitation and correction pursuant to division (A)(2) of this section, provided that this alternative shall be available only in relation to the initial intensive program prison established pursuant to section 5120.033 of the Revised Code, if one or more intensive program prisons are established under that section.

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

(B) Subject to division (I) of this section, any contract entered into under this section shall include all of the following:

(1) A requirement that the contractor retain the contractor's accreditation from the American correctional association throughout the contract term or, if the contractor applied pursuant to division (A)(3)(b) of this section, continue complying with the applicable criteria and specifications adopted by the department of rehabilitation and correction pursuant to division (A)(2) of this section;

(2) A requirement that all of the following conditions be met:

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

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

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

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

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

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

(5) A requirement that the contractor immediately report all escapes from the facility, and the apprehension of all escapees, by telephone and in writing to all local law enforcement agencies with jurisdiction over the place

at which the facility is located, to the prosecuting attorney of the county in which the facility is located, to the state highway patrol, to a daily newspaper having general circulation in the county in which the facility is located, and, if the facility is a state correctional institution, to the department of rehabilitation and correction. The written notice may be by either facsimile transmission or mail. A failure to comply with this requirement regarding an escape is a violation of section 2921.22 of the Revised Code.

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

(7) A requirement that the contractor maintain proper control of inmates' personal funds pursuant to rules promulgated by the department of rehabilitation and correction, for state correctional institutions, or pursuant to the minimum standards for jails along with any additional standards established by the local public entity, for local correctional institutions, and that records pertaining to these funds be made available to representatives of the public entity for review or audit;

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

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

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

(11) A requirement that the contractor provide internal and perimeter security as agreed upon in the contract;

(12) If the facility is a state correctional institution, a requirement that the contractor impose discipline on inmates housed in a state correctional

institution, only in accordance with rules promulgated by the department of rehabilitation and correction;

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

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

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

(16) A statement that all documents and records relevant to the facility shall be maintained in the same manner required for, and subject to the same laws, rules, and regulations as apply to, the records of the public entity;

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

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

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

(20) A requirement that, if the facility is an intensive program prison established pursuant to section 5120.033 of the Revised Code, the facility shall comply with all criteria for intensive program prisons of that type that are set forth in that section;

(21) If the institution is a state correctional institution, a requirement that the contractor provide clothing for all inmates housed in the facility that is conspicuous in its color, style, or color and style, that conspicuously

identifies its wearer as an inmate, and that is readily distinguishable from clothing of a nature that normally is worn outside the facility by non-inmates, that the contractor require all inmates housed in the facility to wear the clothing so provided, and that the contractor not permit any inmate, while inside or on the premises of the facility or while being transported to or from the facility, to wear any clothing of a nature that does not conspicuously identify its wearer as an inmate and that normally is worn outside the facility by non-inmates.

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

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

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

(3) For inmates serving a term imposed for a felony offense committed prior to July 1, 1996, or for a misdemeanor offense, developing or implementing procedures for calculating and awarding good time, approving the good time, if any, that may be awarded to inmates engaging in work, and granting, denying, or revoking good time;

(4) For inmates serving a term imposed for a felony offense committed on or after July 1, 1996, extending an inmate's term pursuant to the provisions of law governing bad time;

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

(6) Approving inmates for work release;

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

(D) A contractor that has been approved to operate a facility under this section, and a person or entity that enters into a contract for specialized services, as described in division (I) of this section, relative to an intensive program prison established pursuant to section 5120.033 of the Revised Code to be operated by a contractor that has been approved to operate the prison under this section, shall provide an adequate policy of insurance specifically including, but not limited to, insurance for civil rights claims as

determined by a risk management or actuarial firm with demonstrated experience in public liability for state governments. The insurance policy shall provide that the state, including all state agencies, and all political subdivisions of the state with jurisdiction over the facility or in which a facility is located are named as insured, and that the state and its political subdivisions shall be sent any notice of cancellation. The contractor may not self-insure.

A contractor that has been approved to operate a facility under this section, and a person or entity that enters into a contract for specialized services, as described in division (I) of this section, relative to an intensive program prison established pursuant to section 5120.033 of the Revised Code to be operated by a contractor that has been approved to operate the prison under this section, shall indemnify and hold harmless the state, its officers, agents, and employees, and any local government entity in the state having jurisdiction over the facility or ownership of the facility, shall reimburse the state for its costs in defending the state or any of its officers, agents, or employees, and shall reimburse any local government entity of that nature for its costs in defending the local government entity, from all of the following:

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

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

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

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

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

(E) Private correctional officers of a contractor operating and managing a facility pursuant to a contract entered into under this section may carry and use firearms in the course of their employment only after being certified as

satisfactorily completing an approved training program as described in division (A) of section 109.78 of the Revised Code.

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

(G) Any offense that would be a crime if committed at a state correctional institution or jail, workhouse, prison, or other correctional facility shall be a crime if committed by or with regard to inmates at facilities operated pursuant to a contract entered into under this section.

(H) A contractor operating and managing a facility pursuant to a contract entered into under this section shall pay any inmate workers at the facility at the rate approved by the public entity. Inmates working at the facility shall not be considered employees of the contractor.

(I) In contracting for the private operation and management pursuant to division (A) of this section of ~~the initial~~ any intensive program prison established pursuant to section 5120.033 of the Revised Code ~~or of any other intensive program prison established pursuant to that section~~, the department of rehabilitation and correction may enter into a contract with a contractor for the general operation and management of the prison and may enter into one or more separate contracts with other persons or entities for the provision of specialized services for persons confined in the prison, including, but not limited to, security or training services or medical, counseling, educational, or similar treatment programs. If, pursuant to this division, the department enters into a contract with a contractor for the general operation and management of the prison and also enters into one or more specialized service contracts with other persons or entities, all of the following apply:

(1) The contract for the general operation and management shall comply with all requirements and criteria set forth in this section, and all provisions of this section apply in relation to the prison operated and managed pursuant to the contract.

(2) Divisions (A)(2), (B), and (C) of this section do not apply in relation to any specialized services contract, except to the extent that the provisions

of those divisions clearly are relevant to the specialized services to be provided under the specialized services contract. Division (D) of this section applies in relation to each specialized services contract.

(J) As used in this section:

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

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

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

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

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

(6) "Person or entity" in the case of a contract for the private operation and management of a state correctional institution, includes an employee organization, as defined in section 4117.01 of the Revised Code, that represents employees at state correctional institutions.

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

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

(B) For purposes of this section, a finding for recovery is unresolved

unless one of the following criteria applies:

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

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

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

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

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

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

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

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

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

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

(D) The auditor of state shall maintain a database, accessible to the

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

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

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

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

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

(2) To medicaid provider agreements under Chapter 5111. of the Revised Code, ~~payments or provider agreements under disability assistance medical assistance established under Chapter 5115. of the Revised Code,~~ or payments or provider agreements under the children's buy-in program established under sections 5101.5211 to 5101.5216 of the Revised Code.

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

(G)(1) This section applies only to contracts for goods, services, or construction that satisfy the criteria in either division (G)(1)(a) or (b) of this

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

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

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

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

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

(H) As used in this section:

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

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

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

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

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

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

Sec. 9.314. (A) As used in this section:

(1) "Contracting authority" has the same meaning as in section 307.92 of the Revised Code.

(2) "Political subdivision" means a municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities only in geographic areas smaller than that of the state and also includes a contracting authority.

(3) "Reverse auction" means a purchasing process in which offerors submit proposals in competing to sell services or supplies in an open environment via the internet.

(4) "Services" means the furnishing of labor, time, or effort by a person, not involving the delivery of a specific end product other than a report which, if provided, is merely incidental to the required performance. "Services" does not include services furnished pursuant to employment agreements or collective bargaining agreements.

(5) "Supplies" means all property, including, but not limited to, equipment, materials, other tangible assets, and insurance, but excluding real property or interests in real property.

(B)(1) Whenever any political subdivision determines that the use of a reverse auction is advantageous to the political subdivision, the political subdivision, in accordance with this section and rules the political subdivision shall adopt, may purchase services or supplies by reverse auction.

(2) A political subdivision shall not purchase supplies or services by reverse auction if the contract concerns the design, construction, alteration, repair, reconstruction, or demolition of a building, highway, road, street, alley, drainage system, water system, waterworks, ditch, sewer, sewage disposal plant, or any other structure or works of any kind.

(C) A political subdivision shall solicit proposals through a request for proposals. The request for proposals shall state the relative importance of price and other evaluation factors. The political subdivision shall give notice of the request for proposals in accordance with the rules it adopts.

(D) As provided in the request for proposals and in the rules a political subdivision adopts, and to ensure full understanding of and responsiveness to solicitation requirements, the political subdivision may conduct discussions with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award. The political subdivision shall accord offerors fair and equal treatment with respect to any opportunity for discussion regarding any clarification, correction, or revision of their proposals.

(E) A political subdivision may award a contract to the offeror whose proposal the political subdivision determines to be the most advantageous to the political subdivision, taking into consideration factors such as price and the evaluation criteria set forth in the request for proposals. The contract file shall contain the basis on which the award is made.

(F) The rules that a political subdivision adopts under this section may require the provision of a performance bond, or another similar form of

financial security, in the amount and in the form specified in the rules.

(G) If a political subdivision is required by law to purchase services or supplies by competitive sealed bidding or competitive sealed proposals, a purchase made by reverse auction satisfies that requirement.

Sec. 9.317. As used in this section, "reverse auction" has the meaning defined in section 9.314 of the Revised Code, and "state agency" has the meaning defined in section 9.23 of the Revised Code.

A state agency shall not purchase supplies or services by reverse auction if the contract concerns the design, construction, alteration, repair, reconstruction, or demolition of a building, highway, road, street, alley, drainage system, water system, waterworks, ditch, sewer, sewage disposal plant, or any other structure or works of any kind.

Sec. 101.34. (A) There is hereby created a joint legislative ethics committee to serve the general assembly. The committee shall be composed of twelve members, six each from the two major political parties, and each member shall serve on the committee during the member's term as a member of that general assembly. Six members of the committee shall be members of the house of representatives appointed by the speaker of the house of representatives, not more than three from the same political party, and six members of the committee shall be members of the senate appointed by the president of the senate, not more than three from the same political party. A vacancy in the committee shall be filled for the unexpired term in the same manner as an original appointment. The members of the committee shall be appointed within fifteen days after the first day of the first regular session of each general assembly and the committee shall meet and proceed to recommend an ethics code not later than thirty days after the first day of the first regular session of each general assembly.

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

The committee shall meet at the call of the chairperson or upon the

written request of seven members of the committee.

(B) The joint legislative ethics committee:

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

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

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

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

(5) May recommend legislation to the general assembly relating to the conduct and ethics of members and employees of and candidates for the general assembly;

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

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

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

(9) Shall provide for the proper forms on which a statement required pursuant to section 102.02 or 102.021 of the Revised Code shall be filed and instructions as to the filing of the statement;

(10) Exercise the powers and duties prescribed under sections 101.70 to 101.79, sections 101.90 to 101.98, Chapter 102., and sections 121.60 to 121.69 of the Revised Code;

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

2921.42 and 2921.43 of the Revised Code.

(C) There is hereby created in the state treasury the joint legislative ethics committee fund. All money collected from registration fees and late filing fees prescribed under sections 101.72, 101.92, and 121.62 of the Revised Code shall be deposited into the state treasury to the credit of the fund. Money credited to the fund and any interest and earnings from the fund shall be used solely for the operation of the joint legislative ethics committee and the office of legislative inspector general and for the purchase of data storage and computerization facilities for the statements filed with the committee under sections 101.73, 101.74, 101.93, 101.94, 121.63, and 121.64 of the Revised Code.

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

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

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

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

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

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

(G) There is hereby created in the state treasury the joint legislative

ethics committee investigative fund. Investment earnings of the fund shall be credited to the fund. Money in the fund shall be used solely for the operations of the committee in conducting investigations.

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

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

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

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

(B) In addition to the initial registration statement required by division (A) of this section, each legislative agent and employer shall file with the joint committee, not later than the last day of January, May, and September of each year, an updated registration statement that confirms the continuing existence of each engagement described in an initial registration statement and that lists the specific bills or resolutions on which the agent actively advocated under that engagement during the period covered by the updated statement, and with it any statement of expenditures required to be filed by section 101.73 of the Revised Code and any details of financial transactions required to be filed by section 101.74 of the Revised Code.

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

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

(2) Within thirty days after the termination of an engagement, the legislative agent who was employed under the engagement shall send

written notification of the termination to the joint committee.

(E) ~~Except as otherwise provided in this division, a~~ A registration fee of twenty-five dollars shall be charged for filing an initial registration statement. The state agency of an officer or employee who actively advocates in a fiduciary capacity as a representative of that state agency shall pay the registration fee required under this division. All money collected from registration fees under this division and late filing fees under division (G) of this section shall be deposited into the state treasury to the credit of the joint legislative ethics committee fund created under section 101.34 of the Revised Code.

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

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

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

(H) On or before the fifteenth day of March of each year, the joint

committee shall, in the manner and form that it determines, publish a report containing statistical information on the registration statements filed with it under this section during the preceding year.

Sec. 102.02. (A) Except as otherwise provided in division (H) of this section, all of the following shall file with the appropriate ethics commission the disclosure statement described in this division on a form prescribed by the appropriate commission: every person who is elected to or is a candidate for a state, county, or city office and every person who is appointed to fill a vacancy for an unexpired term in such an elective office; all members of the state board of education; the director, assistant directors, deputy directors, division chiefs, or persons of equivalent rank of any administrative department of the state; the president or other chief administrative officer of every state institution of higher education as defined in section 3345.011 of the Revised Code; the executive director and the members of the capitol square review and advisory board appointed or employed pursuant to section 105.41 of the Revised Code; the chief executive officer and the members of the board of each state retirement system; each employee of a state retirement board who is a state retirement system investment officer licensed pursuant to section 1707.163 of the Revised Code; the members of the Ohio retirement study council appointed pursuant to division (C) of section 171.01 of the Revised Code; employees of the Ohio retirement study council, other than employees who perform purely administrative or clerical functions; the administrator of workers' compensation and each member of the bureau of workers' compensation board of directors; the bureau of workers' compensation director of investments; the chief investment officer of the bureau of workers' compensation; the director appointed by the workers' compensation council; all members of the board of commissioners on grievances and discipline of the supreme court and the ethics commission created under section 102.05 of the Revised Code; every business manager, treasurer, or superintendent of a city, local, exempted village, joint vocational, or cooperative education school district or an educational service center; every person who is elected to or is a candidate for the office of member of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district or of a governing board of an educational service center that has a total student count of twelve thousand or more as most recently determined by the department of education pursuant to section 3317.03 of the Revised Code; every person who is appointed to the board of education of a municipal school district pursuant to division (B) or (F) of section 3311.71 of the Revised Code; all members of the board of directors of a sanitary district that is established

under Chapter 6115. of the Revised Code and organized wholly for the purpose of providing a water supply for domestic, municipal, and public use, and that includes two municipal corporations in two counties; every public official or employee who is paid a salary or wage in accordance with schedule C of section 124.15 or schedule E-2 of section 124.152 of the Revised Code; members of the board of trustees and the executive director of the southern Ohio agricultural and community development foundation; and every other public official or employee who is designated by the appropriate ethics commission pursuant to division (B) of this section.

The disclosure statement shall include all of the following:

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

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

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

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

professional services.

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

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

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

(6) The names of all persons residing or transacting business in the state, other than a depository excluded under division (A)(3) of this section, who owe more than one thousand dollars to the person filing the statement, either in the person's own name or to any person for the person's use or benefit. Division (A)(6) of this section shall not be construed to require the disclosure of clients of attorneys or persons licensed under section 4732.12

or 4732.15 of the Revised Code, or patients of persons certified under section 4731.14 of the Revised Code, nor the disclosure of debts owed to the person resulting from the ordinary conduct of a business or profession.

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

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

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

(10) If the disclosure statement is filed by a public official or employee described in division (B)(2) of section 101.73 of the Revised Code or

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

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

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

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

(B) The Ohio ethics commission, the joint legislative ethics committee, and the board of commissioners on grievances and discipline of the supreme court, using the rule-making procedures of Chapter 119. of the Revised Code, may require any class of public officials or employees under its jurisdiction and not specifically excluded by this section whose positions involve a substantial and material exercise of administrative discretion in the formulation of public policy, expenditure of public funds, enforcement of laws and rules of the state or a county or city, or the execution of other public trusts, to file an annual statement on or before the fifteenth day of April under division (A) of this section. The appropriate ethics commission shall send the public officials or employees written notice of the requirement

by the fifteenth day of February of each year the filing is required unless the public official or employee is appointed after that date, in which case the notice shall be sent within thirty days after appointment, and the filing shall be made not later than ninety days after appointment.

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

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

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

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

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

For state office, except member of the state board of education	\$65
For office of member of general assembly	\$40
For county office	\$40
For city office	\$25
For office of member of the state board of education	\$25
For office of member of a city, local, exempted village, or cooperative education board of education or educational service center governing board	\$20
For position of business manager, treasurer, or superintendent of a city, local, exempted village, joint vocational, or cooperative education school district or educational service center	\$20

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

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

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

(G)(1) The appropriate ethics commission other than the Ohio ethics commission and the joint legislative ethics committee shall deposit all fees it

receives under divisions (E) and (F) of this section into the general revenue fund of the state.

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

(3) The joint legislative ethics committee shall deposit all receipts it receives from the payment of financial disclosure statement filing fees under divisions (E) and (F) of this section into the joint legislative ethics committee investigative fund.

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

Sec. 103.24. There is hereby created in the state treasury the legislative agency telephone usage fund. Money collected from the house of representatives, senate, and joint legislative ethics committee shall be credited to the fund, along with money collected from any other legislative agency that the legislative service commission determines should account for calls made from the agency's telephones through the fund. The fund shall be used to pay the telephone carriers for all such telephone calls.

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

(1) Two members of the senate, appointed by the president of the senate, both of whom shall not be members of the same political party;

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

(3) Five members appointed by the governor, with the advice and consent of the senate, not more than three of whom shall be members of the

same political party, one of whom shall be the chief of staff of the governor's office, one of whom shall represent the Ohio arts council, one of whom shall represent the Ohio historical society, one of whom shall represent the Ohio building authority, and one of whom shall represent the public at large;

(4) One member, who shall be a former president of the senate, appointed by the current president of the senate. If the current president of the senate, in the current president's discretion, decides for any reason not to make the appointment or if no person is eligible or available to serve, the seat shall remain vacant.

(5) One member, who shall be a former speaker of the house of representatives, appointed by the current speaker of the house of representatives. If the current speaker of the house of representatives, in the current speaker's discretion, decides for any reason not to make the appointment or if no person is eligible or available to serve, the seat shall remain vacant.

(6) The clerk of the senate and the clerk of the house of representatives.

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

(C) The board shall hold meetings in a manner and at times prescribed by the rules adopted by the board. A majority of the board constitutes a quorum, and no action shall be taken by the board unless approved by at least six members or by at least seven members if a person is appointed under division (A)(4) or (5) of this section. At its first meeting, the board shall adopt rules for the conduct of its business and the election of its

officers, and shall organize by selecting a chairperson and other officers as it considers necessary. Board members shall serve without compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(D) The board may do any of the following:

(1) Employ or hire on a consulting basis professional, technical, and clerical employees as are necessary for the performance of its duties; All employees of the board are in the unclassified civil service and serve at the pleasure of the board. For the purposes of sections 718.04 and 4117.01 of the Revised Code, employees of the board shall be considered employees of the general assembly.

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

(3) Adopt, amend, or rescind rules necessary to accomplish the duties of the board as set forth in this section;

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

(5) Purchase a warehouse in which to store items of the capitol collection trust and, whenever necessary, equipment or other property of the board.

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

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

(2) Subject to section 3353.07 of the Revised Code, operate the capitol square, and have sole authority to regulate all uses of the capitol square. The uses shall include, but not be limited to, the casual and recreational use of the capitol square.

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

(4) Establish and maintain the capitol collection trust. The capitol

collection trust shall consist of furniture, antiques, and other items of personal property that the board shall store in suitable facilities until they are ready to be displayed in the capitol square.

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

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

(7) Plan and develop a center at the capitol building for the purpose of educating visitors about the history of Ohio, including its political, economic, and social development and the design and erection of the capitol building and its grounds.

(F)(1) The board shall lease capital facilities improved or financed by the Ohio building authority pursuant to Chapter 152. of the Revised Code for the use of the board, and may enter into any other agreements with the authority ancillary to improvement, financing, or leasing of those capital facilities, including, but not limited to, any agreement required by the applicable bond proceedings authorized by Chapter 152. of the Revised Code. Any lease of capital facilities authorized by this section shall be governed by division (D) of section 152.24 of the Revised Code.

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

(3) All moneys received by the treasurer of state on account of the board and required by the applicable bond proceedings or by separate agreement with the board to be deposited, transferred, or credited to the bond service

fund or bond service reserve fund established by the bond proceedings shall be transferred by the treasurer of state to such fund, whether or not it is in the custody of the treasurer of state, without necessity for further appropriation, upon receipt of notice from the Ohio building authority as prescribed in the bond proceedings.

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

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

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

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

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

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

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

improvement fund the amount needed to pay such construction, renovation, or other costs. The director then shall transfer the amount needed from the excess balance of the underground parking garage operating fund.

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

(L) Section 125.18 of the Revised Code does not apply to the board.

(M) As used in this section, "capitol square" means the capitol building, senate building, capitol atrium, capitol grounds, the state underground parking garage, and the warehouse owned by the board.

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

Sec. 107.19. The governor shall have no power to issue any executive order that has previously been issued and that the federal trade commission, office of policy planning, bureau of economics, and bureau of competition has opined is anti-competitive and is in violation of anti-trust laws. Any such executive order shall be considered invalid and unenforceable.

Sec. 107.21. (A) As used in this section, "Appalachian region" means the following counties in this state ~~which that~~ have been designated as part of Appalachia by the federal Appalachian regional commission and ~~which that~~ have been geographically isolated and economically depressed: Adams, Ashtabula, Athens, Belmont, Brown, Carroll, Clermont, Columbiana, Coshocton, Gallia, Guernsey, Harrison, Highland, Hocking, Holmes, Jackson, Jefferson, Lawrence, Mahoning, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pike, Ross, Scioto, Trumbull, Tuscarawas, Vinton, and Washington.

(B) There is hereby created in the department of development the governor's office of Appalachian Ohio. The governor shall designate the director of the governor's office of Appalachian Ohio. The director shall report directly to the office of the governor. On January 1, 1987, the governor shall designate the director to represent this state on the federal Appalachian regional commission. The director may appoint such employees as are necessary to exercise the powers and duties of this office. The director shall maintain local development districts as established within the Appalachian region for the purpose of regional planning for the distribution of funds from the Appalachian regional commission within the Appalachian region.

(C) The governor's office of Appalachian Ohio shall represent the interests of the Appalachian region in the government of this state. The

duties of the director of the office shall include, but are not limited to, the following:

(1) To identify residents of the Appalachian region qualified to serve on state boards, commissions, and bodies and in state offices, and to bring these persons to the attention of the governor;

(2) To represent the interests of the Appalachian region in the general assembly and before state boards, commissions, bodies, and agencies;

(3) To assist in forming a consensus on public issues and policies among institutions and organizations that serve the Appalachian region;

(4) To act as an ~~ombudsman~~ ombudsperson to assist in resolving differences between state or federal agencies and the officials of political subdivisions or private, nonprofit organizations located within the Appalachian region;

(5) To assist planning commissions, agencies, and organizations within the Appalachian region in distributing planning information and documents to the appropriate state and federal agencies and to assist in focusing attention on any findings and recommendations of these commissions, agencies, and organizations;

(6) To issue reports on the Appalachian region ~~which~~ that describe progress achieved and the needs that still exist in the region;

(7) To assist the governor's office in resolving the problems of residents of the Appalachian region that come to the governor's attention.

(D) The amount of money from appropriated state funds allocated each year to pay administrative costs of a local development district existing on the effective date of this amendment shall not be decreased due to the creation and funding of additional local development districts. The amount of money allocated to each district shall be increased each year by the average percentage of increase in the consumer price index for the prior year.

As used in this division, "consumer price index" means the consumer price index for all urban consumers (United States city average, all items), prepared by the United States department of labor, bureau of labor statistics.

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

loaned, or otherwise obtained by the state for the governor's residence and that have been approved by the commission.

(B) The commission shall be responsible for the care, provision, repair, and placement of furnishings and other objects and accessories of the grounds and public areas of the first story of the governor's residence and for the care and placement of plants on the grounds. The commission shall not exercise its responsibility under this division by using prison labor. In exercising ~~this~~ its responsibility under this division, the commission shall preserve and seek to further establish all of the following:

(1) The authentic ambiance and decor of the historic era during which the governor's residence was constructed;

(2) The grounds as a representation of Ohio's natural ecosystems;

(3) The heritage garden for all of the following purposes:

(a) To preserve, sustain, and encourage the use of native flora throughout the state;

(b) To replicate the state's physiographic regions, plant communities, and natural landscapes;

(c) To serve as an educational garden that demonstrates the artistic, industrial, political, horticultural, and geologic history of the state through the use of plants;

(d) To serve as a reservoir of rare species of plants from the physiographic regions of the state.

These duties shall not affect the obligation of the department of administrative services to provide for and adopt policies and procedures regarding the use, general maintenance, and operating expenses of the governor's residence. The department shall not use prison labor in providing for the general maintenance of the governor's residence.

(C) The commission shall consist of eleven members. One member shall be the director of administrative services or the director's designee, who shall serve during the director's term of office and shall serve as chairperson. One member shall be the director of the Ohio historical society or the director's designee, who shall serve during the director's term of office and shall serve as vice-chairperson. One member shall represent the Columbus landmarks foundation. One member shall represent the Bexley historical society. One member shall be the mayor of the city of Bexley, who shall serve during the mayor's term of office. One member shall be the chief executive officer of the Franklin park conservatory joint recreation district, who shall serve during the term of employment as chief executive officer. The remaining five members shall be appointed by the governor with the advice and consent of the senate. The five members appointed by the

governor shall be persons with knowledge of Ohio history, architecture, decorative arts, or historic preservation, and one of those members shall have knowledge of landscape architecture, garden design, horticulture, and plants native to this state.

(D) Of the initial appointees, the representative of the Columbus landmarks foundation shall serve for a term expiring December 31, 1996, and the representative of the Bexley historical society shall serve for a term expiring December 31, 1997. Of the five members appointed by the governor, three shall serve for terms ending December 31, 1998, and two shall serve for terms ending December 31, 1999. Thereafter, each term shall be for four years, commencing on the first day of January and ending on the last day of December. The member having knowledge of landscape architecture, garden design, horticulture, and plants native to this state initially shall be appointed upon the first vacancy on the commission occurring on or after June 30, 2006.

Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the end of the term for which the member's predecessor was appointed shall hold office for the remainder of the term. Any member shall continue in office subsequent to the expiration of the term until the member's successor takes office.

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

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

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

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

(I) Except as otherwise provided in this division, the commission may

accept any payment for the use of the governor's residence or may accept any donation, gift, bequest, or devise for the governor's residence or as an endowment for the maintenance and care of the garden on the grounds of the governor's residence in furtherance of its duties. The commission shall not accept any donation, gift, bequest, or devise from a person, individual, or member of an individual's immediate family if the person or individual is receiving payments under a contract with the state or a state agency for the purchase of supplies, services, or equipment or for the construction, reconstruction, improvement, enlargement, alteration, repair, painting, or decoration of a public improvement, except for payments received under an employment contract or a collective bargaining agreement. Any revenue received by the commission shall be deposited into the governor's residence fund, which is hereby established in the state treasury, for use by the commission in accordance with the performance of its duties. All investment earnings of the fund shall be credited to the fund. Title to all property acquired by the commission shall be taken in the name of the state and shall be held for the use and benefit of the commission.

(J) Nothing in this section limits the ability of a person or other entity to purchase decorations, objects of art, chandeliers, china, silver, statues, paintings, furnishings, accouterments, plants, or other aesthetic materials for placement in the governor's residence or on the grounds of the governor's residence or donation to the commission. No such object or plant, however, shall be placed on the grounds or public areas of the first story of the governor's residence without the consent of the commission.

(K) The heritage garden established under this section shall be officially known as "the heritage garden at the Ohio governor's residence."

(L) As used in this section, "heritage garden" means the botanical garden of native plants established at the governor's residence.

Sec. 109.57. (A)(1) The superintendent of the bureau of criminal identification and investigation shall procure from wherever procurable and file for record photographs, pictures, descriptions, fingerprints, measurements, and other information that may be pertinent of all persons who have been convicted of committing within this state a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or any misdemeanor described in division (A)(1)(a), (A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code, of all children under eighteen years of age who have been adjudicated delinquent children for committing within this state an act that would be a felony or an offense of violence if committed by an adult or who have been convicted of or pleaded guilty to committing within this state a felony or an offense of violence, and

of all well-known and habitual criminals. The person in charge of any county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution and the person in charge of any state institution having custody of a person suspected of having committed a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or any misdemeanor described in division (A)(1)(a), (A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code or having custody of a child under eighteen years of age with respect to whom there is probable cause to believe that the child may have committed an act that would be a felony or an offense of violence if committed by an adult shall furnish such material to the superintendent of the bureau. Fingerprints, photographs, or other descriptive information of a child who is under eighteen years of age, has not been arrested or otherwise taken into custody for committing an act that would be a felony or an offense of violence who is not in any other category of child specified in this division, if committed by an adult, has not been adjudicated a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult, has not been convicted of or pleaded guilty to committing a felony or an offense of violence, and is not a child with respect to whom there is probable cause to believe that the child may have committed an act that would be a felony or an offense of violence if committed by an adult shall not be procured by the superintendent or furnished by any person in charge of any county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution, except as authorized in section 2151.313 of the Revised Code.

(2) Every clerk of a court of record in this state, other than the supreme court or a court of appeals, shall send to the superintendent of the bureau a weekly report containing a summary of each case involving a felony, involving any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, involving a misdemeanor described in division (A)(1)(a), (A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code, or involving an adjudication in a case in which a child under eighteen years of age was alleged to be a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult. The clerk of the court of common pleas shall include in the report and summary the clerk sends under this division all information described in divisions (A)(2)(a) to (f) of this section regarding a case before the court of appeals

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

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

(b) The style and number of the case;

(c) The date of arrest, offense, summons, or arraignment;

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

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

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

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

(3) The superintendent shall cooperate with and assist sheriffs, chiefs of police, and other law enforcement officers in the establishment of a complete system of criminal identification and in obtaining fingerprints and other means of identification of all persons arrested on a charge of a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or a misdemeanor described in division (A)(1)(a), (A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code and of all children under eighteen years of age arrested or otherwise taken into custody for committing an act that would be a felony or an offense of violence if committed by an adult. The superintendent also shall file for record the fingerprint impressions of all persons confined in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution for the violation of state laws and of

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

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

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

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

(C)(1) The superintendent may operate a center for electronic, automated, or other data processing for the storage and retrieval of information, data, and statistics pertaining to criminals and to children under eighteen years of age who are adjudicated delinquent children for committing an act that would be a felony or an offense of violence if committed by an adult, criminal activity, crime prevention, law enforcement, and criminal justice, and may establish and operate a statewide communications network to gather and disseminate information, data, and statistics for the use of law enforcement agencies and for other uses specified in this division. The superintendent may gather, store, retrieve, and

disseminate information, data, and statistics that pertain to children who are under eighteen years of age and that are gathered pursuant to sections 109.57 to 109.61 of the Revised Code together with information, data, and statistics that pertain to adults and that are gathered pursuant to those sections.

(2) The superintendent or the superintendent's designee shall gather information of the nature described in division (C)(1) of this section that pertains to the offense and delinquency history of a person who has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing a sexually oriented offense or a child-victim oriented offense for inclusion in the state registry of sex offenders and child-victim offenders maintained pursuant to division (A)(1) of section 2950.13 of the Revised Code and in the internet database operated pursuant to division (A)(13) of that section and for possible inclusion in the internet database operated pursuant to division (A)(11) of that section.

(3) In addition to any other authorized use of information, data, and statistics of the nature described in division (C)(1) of this section, the superintendent or the superintendent's designee may provide and exchange the information, data, and statistics pursuant to the national crime prevention and privacy compact as described in division (A)(5) of this section.

(D) The information and materials furnished to the superintendent pursuant to division (A) of this section and information and materials furnished to any board or person under division (F) or (G) of this section are not public records under section 149.43 of the Revised Code. The superintendent or the superintendent's designee shall gather and retain information so furnished under division (A) of this section that pertains to the offense and delinquency history of a person who has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing a sexually oriented offense or a child-victim oriented offense for the purposes described in division (C)(2) of this section.

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

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

(2)(a) In addition to or in conjunction with any request that is required to be made under section 109.572, 2151.86, 3301.32, or 3301.541, 3319.39, 3319.391, 3327.10, 3701.881, 5104.012, 5104.013, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code or that is made under section 3314.41, 3319.392, or 3326.25 of the Revised Code, the board of education of any school district; the director of mental retardation and developmental disabilities; any county board of mental retardation and developmental disabilities; any entity under contract with a county board of mental retardation and developmental disabilities; the chief administrator of any chartered nonpublic school; the chief administrator of any home health agency; the chief administrator of or person operating any child day-care center, type A family day-care home, or type B family day-care home licensed or certified under Chapter 5104. of the Revised Code; the administrator of any type C family day-care home certified pursuant to Section 1 of Sub. H.B. 62 of the 121st general assembly or Section 5 of Am. Sub. S.B. 160 of the 121st general assembly; the chief administrator of any head start agency; the executive director of a public children services agency; a private company described in section 3314.41, 3319.392, or 3326.25 of the Revised Code; or an employer described in division (J)(2) of section 3327.10 of the Revised Code may request that the superintendent of the bureau investigate and determine, with respect to any individual who has applied for employment in any position after October 2, 1989, or any individual wishing to apply for employment with a board of education may request, with regard to the individual, whether the bureau has any information gathered under division (A) of this section that pertains to that individual. On receipt of the request, the superintendent shall determine whether that information exists and, upon request of the person, board, or entity requesting information, also shall request from the federal bureau of investigation any criminal records it has pertaining to that individual. The superintendent or the superintendent's designee also may request criminal history records from other states or the federal government pursuant to the national crime prevention and privacy compact set forth in section 109.571 of the Revised Code. Within thirty days of the date that the superintendent receives a request, the superintendent shall send to the board, entity, or person a report of any information that the superintendent determines exists, including information contained in records that have been sealed under

section 2953.32 of the Revised Code, and, within thirty days of its receipt, shall send the board, entity, or person a report of any information received from the federal bureau of investigation, other than information the dissemination of which is prohibited by federal law.

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

(c) Notwithstanding division (F)(2)(a) of this section, in the case of a request under section 3319.39, 3319.391, or 3327.10 of the Revised Code only for criminal records maintained by the federal bureau of investigation, the superintendent shall not determine whether any information gathered under division (A) of this section exists on the person for whom the request is made.

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

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

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

(F)(2)(a) of this section.

(G) In addition to or in conjunction with any request that is required to be made under section 3701.881, 3712.09, 3721.121, or 3722.151 of the Revised Code with respect to an individual who has applied for employment in a position that involves providing direct care to an older adult, the chief administrator of a home health agency, hospice care program, home licensed under Chapter 3721. of the Revised Code, adult day-care program operated pursuant to rules adopted under section 3721.04 of the Revised Code, or adult care facility may request that the superintendent of the bureau investigate and determine, with respect to any individual who has applied after January 27, 1997, for employment in a position that does not involve providing direct care to an older adult, whether the bureau has any information gathered under division (A) of this section that pertains to that individual.

In addition to or in conjunction with any request that is required to be made under section 173.27 of the Revised Code with respect to an individual who has applied for employment in a position that involves providing ombudsperson services to residents of long-term care facilities or recipients of community-based long-term care services, the state long-term care ombudsperson, ombudsperson's designee, or director of health may request that the superintendent investigate and determine, with respect to any individual who has applied for employment in a position that does not involve providing such ombudsperson services, whether the bureau has any information gathered under division (A) of this section that pertains to that applicant.

In addition to or in conjunction with any request that is required to be made under section 173.394 of the Revised Code with respect to an individual who has applied for employment in a position that involves providing direct care to an individual, the chief administrator of a community-based long-term care agency may request that the superintendent investigate and determine, with respect to any individual who has applied for employment in a position that does not involve providing direct care, whether the bureau has any information gathered under division (A) of this section that pertains to that applicant.

On receipt of a request under this division, the superintendent shall determine whether that information exists and, on request of the individual requesting information, shall also request from the federal bureau of investigation any criminal records it has pertaining to the applicant. The superintendent or the superintendent's designee also may request criminal history records from other states or the federal government pursuant to the

national crime prevention and privacy compact set forth in section 109.571 of the Revised Code. Within thirty days of the date a request is received, the superintendent shall send to the requester a report of any information determined to exist, including information contained in records that have been sealed under section 2953.32 of the Revised Code, and, within thirty days of its receipt, shall send the requester a report of any information received from the federal bureau of investigation, other than information the dissemination of which is prohibited by federal law.

(H) Information obtained by a government entity or person under this section is confidential and shall not be released or disseminated.

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

(J) As used in this section, "sexually oriented offense" and "child-victim oriented offense" have the same meanings as in section 2950.01 of the Revised Code.

Sec. 109.572. (A)(1) Upon receipt of a request pursuant to section 121.08, 3301.32, 3301.541, or 3319.39 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

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

(b) A violation of an existing or former law of this state, any other state,

or the United States that is substantially equivalent to any of the offenses listed in division (A)(1)(a) of this section.

(2) On receipt of a request pursuant to section 5123.081 of the Revised Code with respect to an applicant for employment in any position with the department of mental retardation and developmental disabilities, pursuant to section 5126.28 of the Revised Code with respect to an applicant for employment in any position with a county board of mental retardation and developmental disabilities, or pursuant to section 5126.281 of the Revised Code with respect to an applicant for employment in a direct services position with an entity contracting with a county board for employment, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2903.341, 2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, or 3716.11 of the Revised Code;

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

(3) On receipt of a request pursuant to section 173.27, 173.394, 3712.09, 3721.121, or 3722.151 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check with respect to any person who has applied for employment in a position for which a criminal records check is required by those sections. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code;

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

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

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

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

(5) On receipt of a request pursuant to section 5111.032, 5111.033, or 5111.034 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a

criminal records check. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for any of the following, regardless of the date of the conviction, the date of entry of the guilty plea, or the date the person was found eligible for intervention in lieu of conviction:

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2909.04, 2909.05, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.11, 2917.31, 2919.12, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 2921.11, 2921.13, 2921.34, 2921.35, 2921.36, 2923.01, 2923.02, 2923.03, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 2925.23, 2927.12, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date;

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

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

information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code;

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

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

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

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2913.49, 2917.01, 2917.02, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2927.12, or 3716.11 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the

Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, two or more OVI or OVUAC violations committed within the three years immediately preceding the submission of the application or petition that is the basis of the request, or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(8)(a) of this section.

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

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2913.02, 2913.03, 2913.04, 2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2919.12, 2919.22, 2919.24, 2919.25, 2921.11, 2921.13, 2923.01, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, a violation of section 2923.02 or 2923.03 of the Revised Code that relates to a crime specified in this division, or a second violation of section 4511.19 of the Revised Code within five years of the date of application for licensure or certification.

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses or violations described in division (A)(9)(a) of this section.

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

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, or a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense;

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(10)(a) of this section.

(11) On receipt of a request for a criminal records check from an individual pursuant to section 4749.03 or 4749.06 of the Revised Code, accompanied by a completed copy of the form prescribed in division (C)(1) of this section and a set of fingerprint impressions obtained in a manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists indicating that the person who is the subject of the request has been convicted of or pleaded guilty to a felony in this state or in any other state. If the individual indicates that a firearm will be carried in the course of business, the superintendent shall require information from

the federal bureau of investigation as described in division (B)(2) of this section. The superintendent shall report the findings of the criminal records check and any information the federal bureau of investigation provides to the director of public safety.

(12) On receipt of a request pursuant to section 1321.37, 1321.53, 1321.531, 1322.03, 1322.031, or 4763.05 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check with respect to any person who has applied for a license, permit, or certification from the department of commerce or a division in the department. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following: a violation of section 2913.02, 2913.11, 2913.31, 2913.51, or 2925.03 of the Revised Code; any other criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities, as set forth in Chapters 2909., 2911., 2913., 2915., 2921., 2923., and 2925. of the Revised Code; or any existing or former law of this state, any other state, or the United States that is substantially equivalent to those offenses.

(13) On receipt of a request for a criminal records check from the treasurer of state under section 113.041 of the Revised Code or from an individual under section 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, or 4779.091 of the Revised Code, accompanied by a completed form prescribed under division (C)(1) of this section and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request has been convicted of or pleaded guilty to any criminal offense in this state or any other state. The superintendent shall send the results of a check requested under section 113.041 of the Revised Code to the treasurer of state and shall send the results of a check requested under any of the other

listed sections to the licensing board specified by the individual in the request.

(14) On receipt of a request pursuant to section 1121.23, 1155.03, 1163.05, 1315.141, 1733.47, or 1761.26 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any criminal offense under any existing or former law of this state, any other state, or the United States.

(15) Not later than thirty days after the date the superintendent receives a request of a type described in division (A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), or (14) of this section, the completed form, and the fingerprint impressions, the superintendent shall send the person, board, or entity that made the request any information, other than information the dissemination of which is prohibited by federal law, the superintendent determines exists with respect to the person who is the subject of the request that indicates that the person previously has been convicted of or pleaded guilty to any offense listed or described in division (A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), or (14) of this section, as appropriate. The superintendent shall send the person, board, or entity that made the request a copy of the list of offenses specified in division (A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), or (14) of this section, as appropriate. If the request was made under section 3701.881 of the Revised Code with regard to an applicant who may be both responsible for the care, custody, or control of a child and involved in providing direct care to an older adult, the superintendent shall provide a list of the offenses specified in divisions (A)(4) and (6) of this section.

Not later than thirty days after the superintendent receives a request for a criminal records check pursuant to section 113.041 of the Revised Code, the completed form, and the fingerprint impressions, the superintendent shall send the treasurer of state any information, other than information the dissemination of which is prohibited by federal law, the superintendent determines exist with respect to the person who is the subject of the request that indicates that the person previously has been convicted of or pleaded guilty to any criminal offense in this state or any other state.

(B) The superintendent shall conduct any criminal records check

requested under section 113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1321.53, 1321.531, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code as follows:

(1) The superintendent shall review or cause to be reviewed any relevant information gathered and compiled by the bureau under division (A) of section 109.57 of the Revised Code that relates to the person who is the subject of the request, including, if the criminal records check was requested under section 113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1321.37, 1321.53, 1321.531, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4749.03, 4749.06, 4763.05, 5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code, any relevant information contained in records that have been sealed under section 2953.32 of the Revised Code;

(2) If the request received by the superintendent asks for information from the federal bureau of investigation, the superintendent shall request from the federal bureau of investigation any information it has with respect to the person who is the subject of the request, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671 if the request is made pursuant to section 2151.86, 5104.012, or 5104.013 of the Revised Code or if any other Revised Code section requires fingerprint-based checks of that nature, and shall review or cause to be reviewed any information the superintendent receives from that bureau. If a request under section 3319.39 of the Revised Code asks only for information from the federal bureau of investigation, the superintendent shall not conduct the review prescribed by division (B)(1) of this section.

(3) The superintendent or the superintendent's designee may request criminal history records from other states or the federal government pursuant to the national crime prevention and privacy compact set forth in section 109.571 of the Revised Code.

(C)(1) The superintendent shall prescribe a form to obtain the information necessary to conduct a criminal records check from any person for whom a criminal records check is requested under section 113.041 of the

Revised Code or required by section 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1321.53, 1321.531, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. The form that the superintendent prescribes pursuant to this division may be in a tangible format, in an electronic format, or in both tangible and electronic formats.

(2) The superintendent shall prescribe standard impression sheets to obtain the fingerprint impressions of any person for whom a criminal records check is requested under section 113.041 of the Revised Code or required by section 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1321.53, 1321.531, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. Any person for whom a records check is requested under or required by any of those sections shall obtain the fingerprint impressions at a county sheriff's office, municipal police department, or any other entity with the ability to make fingerprint impressions on the standard impression sheets prescribed by the superintendent. The office, department, or entity may charge the person a reasonable fee for making the impressions. The standard impression sheets the superintendent prescribes pursuant to this division may be in a tangible format, in an electronic format, or in both tangible and electronic formats.

(3) Subject to division (D) of this section, the superintendent shall prescribe and charge a reasonable fee for providing a criminal records check requested under section 113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1321.53, 1321.531, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171,

4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. The person making a criminal records request under any of those sections shall pay the fee prescribed pursuant to this division. A person making a request under section 3701.881 of the Revised Code for a criminal records check for an applicant who may be both responsible for the care, custody, or control of a child and involved in providing direct care to an older adult shall pay one fee for the request. In the case of a request under section 1121.23, 1155.03, 1163.05, 1315.141, 1733.47, 1761.26, or 5111.032 of the Revised Code, the fee shall be paid in the manner specified in that section.

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

(D) A determination whether any information exists that indicates that a person previously has been convicted of or pleaded guilty to any offense listed or described in division (A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or (b), (A)(4)(a) or (b), (A)(5)(a) or (b), (A)(6)(a) or (b), (A)(7), (A)(8)(a) or (b), (A)(9)(a) or (b), (A)(10)(a) or (b), (A)(12), or (A)(14) of this section, or that indicates that a person previously has been convicted of or pleaded guilty to any criminal offense in this state or any other state regarding a criminal records check of a type described in division (A)(13) of this section, and that is made by the superintendent with respect to information considered in a criminal records check in accordance with this section is valid for the person who is the subject of the criminal records check for a period of one year from the date upon which the superintendent makes the determination. During the period in which the determination in regard to a person is valid, if another request under this section is made for a criminal records check for that person, the superintendent shall provide the information that is the basis for the superintendent's initial determination at a lower fee than the fee prescribed for the initial criminal records check.

(E) As used in this section:

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

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

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

(4) "OVI or OVUAC violation" means a violation of section 4511.19 of the Revised Code or a violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to section 4511.19 of the Revised Code.

Sec. 109.73. (A) The Ohio peace officer training commission shall recommend rules to the attorney general with respect to all of the following:

(1) The approval, or revocation of approval, of peace officer training schools administered by the state, counties, municipal corporations, public school districts, technical college districts, and the department of natural resources;

(2) Minimum courses of study, attendance requirements, and equipment and facilities to be required at approved state, county, municipal, and department of natural resources peace officer training schools;

(3) Minimum qualifications for instructors at approved state, county, municipal, and department of natural resources peace officer training schools;

(4) The requirements of minimum basic training that peace officers appointed to probationary terms shall complete before being eligible for permanent appointment, which requirements shall include ~~a minimum of fifteen hours of~~ training in the handling of the offense of domestic violence, other types of domestic violence-related offenses and incidents, and protection orders and consent agreements issued or approved under section 2919.26 or 3113.31 of the Revised Code; ~~a minimum of six hours of~~ crisis intervention training; and ~~a specified amount of~~ training in the handling of missing children and child abuse and neglect cases; and the time within which such basic training shall be completed following appointment to a probationary term;

(5) The requirements of minimum basic training that peace officers not appointed for probationary terms but appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment, which requirements shall include ~~a minimum of fifteen hours of~~ training in the handling of the offense of domestic violence, other types of domestic violence-related offenses and incidents, and protection orders and consent agreements issued or approved under section 2919.26 or 3113.31 of the Revised Code, ~~a minimum of six hours of~~ crisis intervention training, and ~~a specified amount of~~ training in the handling of missing children and child abuse and neglect cases, and the time within which such basic training shall be completed following appointment on other than a permanent basis;

(6) Categories or classifications of advanced in-service training programs for peace officers, including programs in the handling of the offense of domestic violence, other types of domestic violence-related offenses and incidents, and protection orders and consent agreements issued or approved under section 2919.26 or 3113.31 of the Revised Code, in crisis intervention, and in the handling of missing children and child abuse and neglect cases, and minimum courses of study and attendance requirements with respect to such categories or classifications;

(7) Permitting persons, who are employed as members of a campus police department appointed under section 1713.50 of the Revised Code; who are employed as police officers by a qualified nonprofit corporation police department pursuant to section 1702.80 of the Revised Code; who are appointed and commissioned as bank, savings and loan association, savings bank, credit union, or association of banks, savings and loan associations, savings banks, or credit unions police officers, as railroad police officers, or as hospital police officers pursuant to sections 4973.17 to 4973.22 of the Revised Code; or who are appointed and commissioned as amusement park police officers pursuant to section 4973.17 of the Revised Code, to attend approved peace officer training schools, including the Ohio peace officer training academy, and to receive certificates of satisfactory completion of basic training programs, if the private college or university that established the campus police department; qualified nonprofit corporation police department; bank, savings and loan association, savings bank, credit union, or association of banks, savings and loan associations, savings banks, or credit unions; railroad company; hospital; or amusement park sponsoring the police officers pays the entire cost of the training and certification and if trainee vacancies are available;

(8) Permitting undercover drug agents to attend approved peace officer training schools, other than the Ohio peace officer training academy, and to receive certificates of satisfactory completion of basic training programs, if, for each undercover drug agent, the county, township, or municipal corporation that employs that undercover drug agent pays the entire cost of the training and certification;

(9)(a) The requirements for basic training programs for bailiffs and deputy bailiffs of courts of record of this state and for criminal investigators employed by the state public defender that those persons shall complete before they may carry a firearm while on duty;

(b) The requirements for any training received by a bailiff or deputy bailiff of a court of record of this state or by a criminal investigator employed by the state public defender prior to June 6, 1986, that is to be

considered equivalent to the training described in division (A)(9)(a) of this section.

(10) Establishing minimum qualifications and requirements for certification for dogs utilized by law enforcement agencies;

(11) Establishing minimum requirements for certification of persons who are employed as correction officers in a full-service jail, five-day facility, or eight-hour holding facility or who provide correction services in such a jail or facility;

(12) Establishing requirements for the training of agents of a county humane society under section 1717.06 of the Revised Code, including, without limitation, a requirement that the agents receive instruction on traditional animal husbandry methods and training techniques, including customary owner-performed practices.

(B) The commission shall appoint an executive director, with the approval of the attorney general, who shall hold office during the pleasure of the commission. The executive director shall perform such duties assigned by the commission. The executive director shall receive a salary fixed pursuant to Chapter 124. of the Revised Code and reimbursement for expenses within the amounts available by appropriation. The executive director may appoint officers, employees, agents, and consultants as the executive director considers necessary, prescribe their duties, and provide for reimbursement of their expenses within the amounts available for reimbursement by appropriation and with the approval of the commission.

(C) The commission may do all of the following:

(1) Recommend studies, surveys, and reports to be made by the executive director regarding the carrying out of the objectives and purposes of sections 109.71 to 109.77 of the Revised Code;

(2) Visit and inspect any peace officer training school that has been approved by the executive director or for which application for approval has been made;

(3) Make recommendations, from time to time, to the executive director, the attorney general, and the general assembly regarding the carrying out of the purposes of sections 109.71 to 109.77 of the Revised Code;

(4) Report to the attorney general from time to time, and to the governor and the general assembly at least annually, concerning the activities of the commission;

(5) Establish fees for the services the commission offers under sections 109.71 to 109.79 of the Revised Code, including, but not limited to, fees for training, certification, and testing;

(6) Perform such other acts as are necessary or appropriate to carry out

the powers and duties of the commission as set forth in sections 109.71 to 109.77 of the Revised Code.

(D) In establishing the requirements, under division (A)(12) of this section, the commission may consider any portions of the curriculum for instruction on the topic of animal husbandry practices, if any, of the Ohio state university college of veterinary medicine. No person or entity that fails to provide instruction on traditional animal husbandry methods and training techniques, including customary owner-performed practices, shall qualify to train a humane agent for appointment under section 1717.06 of the Revised Code.

Sec. 109.731. (A) The Ohio peace officer training commission shall prescribe, and shall make available to sheriffs, all of the following:

(1) An application form that is to be used under section 2923.125 of the Revised Code by a person who applies for a license to carry a concealed handgun ~~or~~ and an application form that is to be used under section 2923.125 of the Revised Code by a person who applies for the renewal of a license of that nature and that conforms, both of which shall conform substantially to the ~~form~~ forms prescribed in section 2923.1210 of the Revised Code;

(2) A form for the license to carry a concealed handgun that is to be issued by sheriffs to persons who qualify for a license to carry a concealed handgun under section 2923.125 of the Revised Code and that conforms to the following requirements:

(a) It has space for the licensee's full name, residence address, and date of birth and for a color photograph of the licensee.

(b) It has space for the date of issuance of the license, its expiration date, its county of issuance, the name of the sheriff who issues the license, and the unique combination of letters and numbers that identify the county of issuance and the license given to the licensee by the sheriff in accordance with division (A)(4) of this section.

(c) It has space for the signature of the licensee and the signature or a facsimile signature of the sheriff who issues the license.

(d) It does not require the licensee to include serial numbers of handguns, other identification related to handguns, or similar data that is not pertinent or relevant to obtaining the license and that could be used as a de facto means of registration of handguns owned by the licensee.

(3) A series of three-letter county codes that identify each county in this state;

(4) A procedure by which a sheriff shall give each license, replacement license, or renewal license to carry a concealed handgun and each temporary

emergency license or replacement temporary emergency license to carry a concealed handgun the sheriff issues under section 2923.125 or 2923.1213 of the Revised Code a unique combination of letters and numbers that identifies the county in which the license or temporary emergency license was issued and that uses the county code and a unique number for each license and each temporary emergency license the sheriff of that county issues;

(5) A form for the temporary emergency license to carry a concealed handgun that is to be issued by sheriffs to persons who qualify for a temporary emergency license under section 2923.1213 of the Revised Code, which form shall conform to all the requirements set forth in divisions (A)(2)(a) to (d) of this section and shall additionally conspicuously specify that the license is a temporary emergency license and the date of its issuance.

(B)(1) The Ohio peace officer training commission, in consultation with the attorney general, shall prepare a pamphlet that does all of the following, in everyday language:

(a) Explains the firearms laws of this state;

(b) Instructs the reader in dispute resolution and explains the laws of this state related to that matter;

(c) Provides information to the reader regarding all aspects of the use of deadly force with a firearm, including, but not limited to, the steps that should be taken before contemplating the use of, or using, deadly force with a firearm, possible alternatives to using deadly force with a firearm, and the law governing the use of deadly force with a firearm.

(2) The attorney general shall consult with and assist the commission in the preparation of the pamphlet described in division (B)(1) of this section and, as necessary, shall recommend to the commission changes in the pamphlet to reflect changes in the law that are relevant to it. ~~The commission~~ attorney general shall ~~make copies of~~ publish the pamphlet ~~available to any person, public entity, or private entity that operates or teaches a training course, class, or program described in division (B)(3)(a), (b), (c), and (e) of section 2923.125 of the Revised Code and requests copies for distribution to persons who take the course, class, or program, and to sheriffs for distribution to applicants under section 2923.125 of the Revised Code for a license to carry a concealed handgun and applicants under that section for the renewal of a license to carry a concealed handgun.~~ on the web site of the attorney general and shall provide the address of the web site to any person who requests the pamphlet.

~~(C)(1) The Ohio peace officer training commission, in consultation with~~

~~the attorney general, shall prescribe a fee to be paid by an applicant under section 2923.125 of the Revised Code for a license to carry a concealed handgun or for the renewal of a license to carry a concealed handgun as follows:~~

~~(a) For an applicant who has been a resident of this state for five or more years, an amount that does not exceed the lesser of the actual cost of issuing the license, including, but not limited to, the cost of conducting a criminal records check, or whichever of the following is applicable:~~

~~(i) For an application made on or after the effective date of this amendment, fifty five dollars;~~

~~(ii) For an application made prior to the effective date of this amendment, forty five dollars;~~

~~(b) For an applicant who has been a resident of this state for less than five years, an amount that shall consist of the actual cost of having a criminal background check performed by the federal bureau of investigation, if one is so performed, plus the lesser of the actual cost of issuing the license, including, but not limited to, the cost of conducting a criminal records check, or whichever of the following is applicable:~~

~~(i) For an application made on or after the effective date of this amendment, fifty five dollars;~~

~~(ii) For an application made prior to the effective date of this amendment, forty five dollars.~~

~~(2) The commission, in consultation with the attorney general, shall specify the portion of the fee prescribed under division (C)(1) of this section that will be used to pay each particular cost of the issuance of the license. The sheriff shall deposit all fees paid by an applicant under section 2923.125 of the Revised Code into the sheriff's concealed handgun license issuance expense fund established pursuant to section 311.42 of the Revised Code.~~

~~(D) The Ohio peace officer training commission shall maintain statistics with respect to the issuance, renewal, suspension, revocation, and denial of licenses to carry a concealed handgun and the suspension of processing of applications for those licenses, and with respect to the issuance, suspension, revocation, and denial of temporary emergency licenses to carry a concealed handgun, as reported by the sheriffs pursuant to division (C) of section 2923.129 of the Revised Code. Not later than the first day of March in each year, the commission shall submit a statistical report to the governor, the president of the senate, and the speaker of the house of representatives indicating the number of licenses to carry a concealed handgun that were issued, renewed, suspended, revoked, and denied in the previous calendar year, the number of applications for those licenses for which processing was~~

suspended in accordance with division (D)(3) of section 2923.125 of the Revised Code in the previous calendar year, and the number of temporary emergency licenses to carry a concealed handgun that were issued, suspended, revoked, or denied in the previous calendar year. Nothing in the statistics or the statistical report shall identify, or enable the identification of, any individual who was issued or denied a license, for whom a license was renewed, whose license was suspended or revoked, or for whom application processing was suspended. The statistics and the statistical report are public records for the purpose of section 149.43 of the Revised Code.

~~(E)~~(D) As used in this section, "handgun" has the same meaning as in section 2923.11 of the Revised Code.

Sec. 109.742. The attorney general shall adopt, in accordance with Chapter 119. or pursuant to section 109.74 of the Revised Code, rules governing the training of peace officers in crisis intervention. The rules shall specify ~~six or more hours of that~~ the amount of training necessary for the satisfactory completion of basic training programs at approved peace officer training schools, other than the Ohio peace officer training academy.

Sec. 109.744. The attorney general shall adopt, in accordance with Chapter 119. of the Revised Code or pursuant to section 109.74 of the Revised Code, rules governing the training of peace officers in the handling of the offense of domestic violence, other types of domestic violence-related offenses and incidents, and protection orders and consent agreements issued or approved under section 2919.26 or 3113.31 of the Revised Code. The provisions of the rules shall include, but shall not be limited to, all of the following:

(A) ~~A specification that fifteen or more hours~~ specified amount of that training ~~that is required~~ necessary for the satisfactory completion of basic training programs at approved peace officer training schools, other than the Ohio peace officer training academy;

(B) A requirement that the training include, but not be limited to, training in all of the following:

- (1) All recent amendments to domestic violence-related laws;
- (2) Notifying a victim of domestic violence of ~~his~~ the victim's rights;
- (3) Processing protection orders and consent agreements issued or approved under section 2919.26 or 3113.31 of the Revised Code.

Sec. 109.751. (A) The executive director of the Ohio peace officer training commission shall neither approve nor issue a certificate of approval to a peace officer training school pursuant to section 109.75 of the Revised Code unless the school agrees to permit, in accordance with rules adopted by the attorney general pursuant to division (C) of this section, undercover

drug agents to attend its basic training programs. The executive director shall revoke approval, and the certificate of approval of, a peace officer training school that does not permit, in accordance with rules adopted by the attorney general pursuant to division (C) of this section, undercover drug agents to attend its basic training programs.

This division does not apply to peace officer training schools for employees of conservancy districts who are designated pursuant to section 6101.75 of the Revised Code or for a natural resources law enforcement staff officer, park officers, forest officers, preserve officers, wildlife officers, or state watercraft officers of the department of natural resources.

(B)(1) A peace officer training school is not required to permit an undercover drug agent, a bailiff or deputy bailiff of a court of record of this state, or a criminal investigator employed by the state public defender to attend its basic training programs if either of the following applies:

(a) In the case of the Ohio peace officer training academy, the employer county, township, municipal corporation, court, or state public defender or the particular undercover drug agent, bailiff, deputy bailiff, or criminal investigator has not paid the tuition costs of training in accordance with section 109.79 of the Revised Code;

(b) In the case of other peace officer training schools, the ~~employer~~ employing county, township, municipal corporation, court, or state public defender fails to pay the entire cost of the training and certification.

(2) A training school shall not permit a bailiff or deputy bailiff of a court of record of this state or a criminal investigator employed by the state public defender to attend its basic training programs unless the employing court of the bailiff or deputy bailiff or the state public defender, whichever is applicable, has authorized the bailiff, deputy bailiff, or investigator to attend the school.

(C) The attorney general shall adopt, in accordance with Chapter 119. or pursuant to section 109.74 of the Revised Code, rules governing the attendance of undercover drug agents at approved peace officer training schools, other than the Ohio peace officer training academy, and the certification of the agents upon their satisfactory completion of basic training programs.

Sec. 109.761. (A)(1) Each agency or entity that appoints or employs one or more peace officers shall report to the Ohio peace officer training commission all of the following that occur on or after February 20, 2002:

(a) The appointment or employment of any person to serve the agency or entity as a peace officer in any full-time, part-time, reserve, auxiliary, or other capacity;

(b) The termination, resignation, felony conviction, ~~or death, or guilty plea as specified in division (F) of section 109.77 of the Revised Code~~ of any person who has been appointed to or employed by the agency or entity as a peace officer in any full-time, part-time, reserve, auxiliary, or other capacity and is serving the agency or entity in any of those peace officer capacities.

(2) An agency or entity shall make each report required by this division not later than ten days after the occurrence of the event being reported. The agency or entity shall make the report in the manner and format prescribed by the executive director of the Ohio peace officer training commission.

(B) Each agency or entity that appoints or employs one or more peace officers or state highway patrol troopers shall annually provide to the Ohio peace officer training commission a roster of all persons who have been appointed to or employed by the agency or entity as peace officers or troopers in any full-time, part-time, reserve, auxiliary, or other capacity and are serving, or during the year covered by the report have served, the agency or entity in any of those peace officer or trooper capacities. The agency or entity shall provide the roster in the manner and format, and by the date, prescribed by the executive director of the Ohio peace officer training commission.

(C) The Ohio peace officer training commission shall prescribe the manner and format of making reports under division (A) of this section and providing annual rosters under division (B) of this section and shall prescribe the date by which the annual rosters must be provided.

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

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

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

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

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

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

(e) A state university law enforcement officer;

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

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

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

(i) A special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States department of transportation as provided in Parts 1542. and 1544. of Title 49 of the Code of Federal Regulations, as amended.

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

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

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

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

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

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

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

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

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

(h) A special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States department of transportation as provided in Parts 1542. and 1544. of Title 49 of the Code of Federal Regulations, as amended.

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

(4) Division (B) of this section does not apply to any person serving on a permanent basis on March 28, 1985, as a park officer, forest officer,

preserve officer, wildlife officer, or state watercraft officer of the department of natural resources or as an employee of a park district under section 511.232 or 1545.13 of the Revised Code, to any person serving on a permanent basis on March 6, 1986, as an employee of a conservancy district designated pursuant to section 6101.75 of the Revised Code, to any person serving on a permanent basis on January 10, 1991, as a preserve officer of the department of natural resources, to any person employed on a permanent basis on July 2, 1992, as a special police officer by the department of mental health pursuant to section 5119.14 of the Revised Code or by the department of mental retardation and developmental disabilities pursuant to section 5123.13 of the Revised Code, to any person serving on a permanent basis on May 17, 2000, as a special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code, to any person serving on a permanent basis on ~~the effective date of this amendment~~ March 19, 2003, as a special police officer employed by a municipal corporation at a municipal airport or other municipal air navigation facility described in division (A)(19) of section 109.71 of the Revised Code, to any person serving on a permanent basis on June 19, 1978, as a state university law enforcement officer pursuant to section 3345.04 of the Revised Code and who, immediately prior to June 19, 1978, was serving as a special police officer designated under authority of that section, or to any person serving on a permanent basis on September 20, 1984, as a liquor control investigator, known after June 30, 1999, as an enforcement agent of the department of public safety, engaged in the enforcement of Chapters 4301. and 4303. of the Revised Code.

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

(C) No person, after September 20, 1984, shall receive an original appointment on a permanent basis as a veterans' home police officer designated under section 5907.02 of the Revised Code unless the person previously has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved police officer basic training program. Every

person who is appointed on a temporary basis or for a probationary term or on other than a permanent basis as a veterans' home police officer designated under section 5907.02 of the Revised Code shall forfeit that position unless the person previously has completed satisfactorily or, within one year from the time of appointment, satisfactorily completes an approved police officer basic training program.

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

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

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

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

(E)(1) Before a person seeking a certificate completes an approved peace officer basic training program, the executive director of the Ohio peace officer training commission shall request the person to disclose, and the person shall disclose, any previous criminal conviction of or plea of guilty of that person to a felony.

(2) Before a person seeking a certificate completes an approved peace officer basic training program, the executive director shall request a criminal history records check on the person. The executive director shall submit the person's fingerprints to the bureau of criminal identification and investigation, which shall submit the fingerprints to the federal bureau of investigation for a national criminal history records check.

Upon receipt of the executive director's request, the bureau of criminal identification and investigation and the federal bureau of investigation shall conduct a criminal history records check on the person and, upon

completion of the check, shall provide a copy of the criminal history records check to the executive director. The executive director shall not award any certificate prescribed in this section unless the executive director has received a copy of the criminal history records check on the person to whom the certificate is to be awarded.

(3) The executive director of the commission shall not award a certificate prescribed in this section to a person who has been convicted of or has pleaded guilty to a felony or who fails to disclose any previous criminal conviction of or plea of guilty to a felony as required under division (E)(1) of this section.

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

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

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

(b) Pleads guilty to a misdemeanor committed on or after January 1, 1997, pursuant to a negotiated plea agreement as provided in division (D) of section 2929.43 of the Revised Code in which the person agrees to surrender the certificate awarded to the person under this section.

(2) The executive director of the commission shall suspend any certificate that has been awarded to a person as prescribed in this section if the person is convicted, after trial, of a felony committed on or after January 1, 1997. The executive director shall suspend the certificate pursuant to division (F)(2) of this section pending the outcome of an appeal by the person from that conviction to the highest court to which the appeal is taken or until the expiration of the period in which an appeal is required to be filed. If the person files an appeal that results in that person's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against that person, the executive director shall reinstate the certificate awarded to the person under this section. If the person files an appeal from that person's conviction of the felony and the conviction is upheld by the highest court to which the appeal is taken or if the person does

not file a timely appeal, the executive director shall revoke the certificate awarded to the person under this section.

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

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

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

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

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

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

(K) This section does not apply to any member of the police department

of a municipal corporation in an adjoining state serving in this state under a contract pursuant to section 737.04 of the Revised Code.

Sec. 109.802. (A) There is hereby created in the state treasury the law enforcement assistance fund. ~~The fund~~ attorney general shall be used use the fund to pay reimbursements for continuing professional training programs for peace officers and troopers as provided in this section and section 109.803 of the Revised Code, ~~the~~ compensation of any employees of the attorney general required to administer those sections, and any other administrative costs incurred by the attorney general to administer those sections.

(B) The attorney general shall adopt rules in accordance with Chapter 119. of the Revised Code establishing application procedures, standards, and guidelines, and prescribing an application form, for the reimbursement of public appointing authorities for the cost of continuing professional training programs for their peace officers and troopers. The rules shall include, but are not limited to, all of the following:

(1) A requirement that applications for reimbursement be submitted on a calendar-year basis;

(2) The documentation required to substantiate any costs for which the applicant seeks reimbursement;

(3) Procedures for submitting applications for reimbursement for the cost of continuing professional training programs completed by a peace officer or trooper for whom the executive director of the Ohio peace officer training commission granted pursuant to division (A)(2) of section 109.803 of the Revised Code an extension of the time for compliance with the continuing professional training requirement specified in division (A) of that section and who complied with the requirement prior to the date on which the extension ends;

(4) Any other requirements necessary for the proper administration of the reimbursement program.

(C) The Ohio peace officer training commission shall administer a program for reimbursing public appointing authorities for the costs of continuing professional training programs that are successfully completed by the appointing authority's peace officers or troopers. The commission shall administer the reimbursement program in accordance with rules adopted by the attorney general pursuant to division (B) of this section.

(D) Each public appointing authority may apply each calendar year to the peace officer training commission for reimbursement for the costs of continuing professional training programs that are successfully completed by the appointing authority's peace officers or troopers. Each application

shall be made in accordance with, on an application form prescribed in, and be supported by the documentation required by, the rules adopted by the attorney general pursuant to division (B) of this section.

(E)(1) The Ohio peace officer training commission, in accordance with rules of the attorney general adopted under division (B) of this section, shall review each application for reimbursement made under division (D) of this section to determine if the applicant is entitled to reimbursement for the training programs for which the applicant seeks reimbursement. Except as provided in division (E)(2) of this section, a public appointing authority that complies with division (B) of section 109.761 of the Revised Code and applies under division (D) of this section for reimbursement is entitled to reimbursement ~~only if all~~ for each of the appointing authority's peace officers or troopers ~~comply~~ who timely complies with the continuing professional training requirement specified in division (A)(1) of section 109.803 of the Revised Code by completing the minimum number of hours of training directed by the Ohio peace officer training commission under that division and with the other requirements described in that division.

~~(2) If a public appointing authority applies under division (D) of this section for reimbursement, if one or more of its peace officers or troopers have not complied with the continuing professional training requirement specified in division (A)(1) of section 109.803 of the Revised Code by completing the minimum number of hours of training directed by the Ohio peace officer training commission under that division, and if the executive director of the commission granted pursuant to division (A)(2) of section 109.803 of the Revised Code an extension of the time within which each of those peace officers or troopers who have not complied with the continuing professional training requirement must comply with that requirement, notwithstanding division (E)(1) of this section, both of the following apply:~~

~~(a) If each peace officer or trooper of the public appointing authority for whom the executive director of the commission did not grant an extension pursuant to division (A)(2) of section 109.803 of the Revised Code has complied with the continuing professional training requirement and with the other requirements described in division (A)(1) of section 109.803 of the Revised Code, the public appointing authority is entitled to reimbursement for the training programs completed by all of its peace officers or troopers who have so complied with the continuing professional training requirement and the other specified requirements.~~

~~(b) If a peace officer or trooper of the public appointing authority for whom the executive director of the commission granted an extension pursuant to division (A)(2) of section 109.803 of the Revised Code complies~~

prior to the date on which the extension ends with the continuing professional training requirement, and if the peace officer or trooper also has complied with the other requirements described in division (A)(1) of section 109.803 of the Revised Code, the public appointing authority is entitled to reimbursement for the training programs completed by that peace officer or trooper. An application for reimbursement of the type described in this division shall be made in accordance with rules adopted by the attorney general pursuant to division (B) of section 109.802 of the Revised Code.

(3) If a public appointing authority that applies under division (D) of this section for reimbursement is entitled to reimbursement under division (E)(1) or (2) of this section for each peace officer and trooper who successfully completes a training program, the commission shall approve reimbursing the appointing authority for the cost of that program. The actual amount of reimbursement for each authorized training program shall be determined by rules adopted by the attorney general under division (B) of this section.

If the public appointing authority is entitled to reimbursement under division (E)(2)(~~a~~) of this section, payment of the reimbursement shall not be withheld during the period of the extension granted to the other peace officers or troopers of the authority pursuant to division (A)(2) of section 109.803 of the Revised Code, pending their compliance with the requirement. If the public appointing authority is entitled to reimbursement under division (E)(2)(~~a~~) of this section and if one or more of its peace officers or troopers who were granted an extension pursuant to division (A)(2) of section 109.803 of the Revised Code fails to complete prior to the date on which the extension ends the required minimum number of hours of continuing professional training set by the commission under division (A)(1) of section 109.803 of the Revised Code, the failure does not affect the reimbursement made to the public appointing authority, and the public appointing authority is not required to return the reimbursement or any portion of it.

(F) Each public appointing authority that receives funds under this section shall keep those funds separate from any other funds of the appointing authority and shall use those funds only for paying the cost of continuing professional training programs.

(G) As used in this section and section 109.803 of the Revised Code:

(1) "Peace officer" has the same meaning as in section 109.71 of the Revised Code.

(2) "Trooper" means an individual appointed as a state highway patrol trooper under section 5503.01 of the Revised Code.

(3) "Appointing authority" means any agency or entity that appoints a peace officer or trooper.

Sec. 109.803. (A)(1) Subject to division (A)(2) of this section, every appointing authority shall require each of its appointed peace officers and troopers to complete up to twenty-four hours of continuing professional training each calendar year, as directed by the Ohio peace officer training commission. The number of hours directed by the commission, up to twenty-four hours, is intended to be a minimum requirement, and appointing authorities are encouraged to exceed the number of hours the commission directs as the minimum. The commission shall set the required minimum number of hours based upon available funding for reimbursement as described in this division. If no funding for the reimbursement is available, no continuing professional training will be required.

(2) An appointing authority may submit a written request to the peace officer training commission that requests for a calendar year because of emergency circumstances an extension of the time within which one or more of its appointed peace officers or troopers must complete the required minimum number of hours of continuing professional training set by the commission, as described in division (A)(1) of this section. A request made under this division shall set forth the name of each of the appointing authority's peace officers or troopers for whom an extension is requested, identify the emergency circumstances related to that peace officer or trooper, include documentation of those emergency circumstances, and set forth the date on which the request is submitted to the commission. A request shall be made under this division not later than the fifteenth day of December in the calendar year for which the extension is requested.

Upon receipt of a written request made under this division, the executive director of the commission shall review the request and the submitted documentation. If the executive director of the commission is satisfied that emergency circumstances exist for any peace officer or trooper for whom a request was made under this division, the executive director may approve the request for that peace officer or trooper and grant an extension of the time within which that peace officer or trooper must complete the required minimum number of hours of continuing professional training set by the commission. An extension granted under this division may be for any period of time the executive director believes to be appropriate, and the executive director shall specify in the notice granting the extension the date on which the extension ends. Not later than thirty days after the date on which a request is submitted to the commission, for each peace officer and trooper for whom an extension is requested, the

executive director either shall approve the request and grant an extension or deny the request and deny an extension and shall send to the appointing authority that submitted the request written notice of the executive director's decision.

If the executive director grants an extension of the time within which a particular appointed peace officer or trooper of an appointing authority must complete the required minimum number of hours of continuing professional training set by the commission, the appointing authority shall require that peace officer or trooper to complete the required minimum number of hours of training not later than the date on which the extension ends.

~~(3)(a) If a public appointing authority complies with the training requirement specified in division (A)(1) of this section by requiring each of its appointed peace officers and troopers to complete the number of hours of training the commission directs as the minimum and with division (B) of section 109.761 of the Revised Code and if the appointed peace officers and troopers of the public appointing authority comply with section 109.801 of the Revised Code to the extent that they are subject to that section and comply with all other training mandated by the general assembly or the attorney general, the attorney general shall reimburse the public appointing authority for the successful training costs of each of its appointed peace officers and troopers as provided in section 109.802 of the Revised Code.~~

~~(b) If the executive director of the Ohio peace officer training commission grants pursuant to division (A)(2) of this section an extension of the time within which one or more appointed peace officers or troopers of a public appointing authority must complete the required minimum number of hours of continuing professional training set by the commission, and if the criteria set forth in division (A)(3)(a) of this section are satisfied regarding each appointed peace officer or trooper of the public appointing authority for whom such an extension was not granted, the attorney general shall reimburse the public appointing authority for the successful training costs of each of its appointed peace officers and troopers for whom such an extension was not granted, as provided in section 109.802 of the Revised Code.~~

~~If an appointed peace officer or trooper of a public appointing authority for whom the executive director granted such an extension completes prior to the date on which the extension ends the number of hours of training the commission directs as the minimum, if the officer or trooper also has complied with section 109.801 of the Revised Code to the extent that the officer or trooper is subject to that section and has complied with all other training mandated by the general assembly or the attorney general, and if the~~

~~public appointing authority has complied with division (B) of section 109.761 of the Revised Code, the attorney general shall reimburse the public appointing authority for the successful training costs of that peace officer or trooper as provided in section 109.802 of the Revised Code.~~

~~(B)(1) Subject to division (B)(2) of this section, no appointed peace officer or trooper of an appointing authority who fails to complete in any calendar year the required hours of continuing professional training the Ohio peace officer training commission directs pursuant to division (A) of this section as the minimum number of hours or who fails to comply with section 109.801 of the Revised Code or any other required training shall carry a firearm during the course of official duties or perform the functions of a peace officer or trooper until evidence of the peace officer's or trooper's compliance with those requirements is filed with the executive director of the Ohio peace officer training commission.~~

~~(2) If the executive director of the Ohio peace officer training commission grants pursuant to division (A)(2) of this section an extension of the time within which an appointed peace officer or trooper of an appointing authority must complete the required minimum number of hours of continuing professional training set by the commission, during the period of the extension division (B)(1) of this section does not apply to a peace officer or trooper for whom such an extension was granted, provided that peace officer or trooper has complied with section 109.801 of the Revised Code to the extent that the officer or trooper is subject to that section and has complied with all other required training. If a peace officer or trooper of an appointing authority for whom such an extension was granted fails to complete prior to the date on which the extension ends the required minimum number of hours of continuing professional training set by the commission, division (B)(1) of this section applies to that officer or trooper after the date on which the extension ends.~~

~~(C)(B) With the advice of the Ohio peace officer training commission, the attorney general shall adopt in accordance with Chapter 119. of the Revised Code rules setting forth minimum standards for continuing professional training for peace officers and troopers and governing the administration of continuing professional training programs for peace officers and troopers. The attorney general shall transmit a certified copy of any rule adopted under this section to the secretary of state.~~

Sec. 111.26. (A) It is hereby declared to be a public purpose and function of the state to facilitate the conduct of elections by assisting boards of elections in acquiring state capital facilities consisting of voting machines, marking devices, and automatic tabulating equipment certified for

use in this state under section 3506.05 of the Revised Code. Those voting machines, marking devices, and automatic tabulating equipment are designated as capital facilities under sections 152.09 to 152.33 of the Revised Code. The Ohio building authority is authorized to issue revenue obligations under sections 152.09 to 152.33 of the Revised Code to pay all or part of the cost of those state capital facilities as are designated by law.

Boards of elections, due to their responsibilities related to the proper conduct of elections under state law, are designated as state agencies having jurisdiction over those state capital facilities financed in part pursuant to this section and Chapter 152. of the Revised Code. It is hereby determined and declared that voting machines, marking devices, and automatic tabulating equipment financed in part under this section are for the purpose of housing agencies of state government, their functions and equipment.

(B) A county shall contribute to the cost of capital facilities authorized under this section as provided below.

(C) Any lease of capital facilities authorized by this section, the rentals of which are payable in whole or in part from appropriations made by the general assembly, is governed by division (D) of section 152.24 of the Revised Code. Such rentals constitute available receipts as defined in section 152.09 of the Revised Code and may be pledged for the payment of bond service charges as provided in section 152.10 of the Revised Code.

(D) The county voting machine revolving lease/loan fund is hereby created in the state treasury. The fund shall consist of the net proceeds of obligations issued under sections 152.09 to 152.33 of the Revised Code to finance a portion of those state capital facilities described in division (A) of this section, as needed to ensure sufficient moneys to support appropriations from the fund. Lease payments from counties made for those capital facilities financed in part from the fund and interest earnings on the balance in the fund shall be credited to the fund. The fund shall also receive any other authorized transfers of cash. Moneys in the fund shall be used for the purpose of acquiring a portion of additional capital facilities described in division (A) of this section at the request of the applicable board of elections.

Participation in the fund by a board of county commissioners shall be voluntary.

The secretary of state shall administer the county voting machine revolving lease/loan fund in accordance with this section and shall enter into any lease or other agreement with the department of administrative services, the Ohio building authority, or any board of elections necessary or appropriate to accomplish the purposes of this section.

(E) Acquisitions made under this section shall provide not more than fifty per cent of the estimated total cost of a board of county commissioners' purchase of voting machines, marking devices, and automatic tabulating equipment.

The secretary of state shall adopt rules for the implementation of the acquisition and revolving lease/loan program established under this section, which rules shall require that the secretary of state approve any acquisition of voting machines, marking devices, and automatic tabulating equipment using money made available under this section. An acquisition for any one board of county commissioners shall not exceed five million dollars and shall be made only for equipment purchased on or after March 31, 2008. Any costs incurred on or after January 1, 2008, may be considered as the county cost percentage for the purpose of an acquisition made under this section.

Counties shall lease from the secretary of state the capital facilities financed in part from the county voting machine revolving lease/loan fund and may enter into any agreements required under the applicable bond proceedings. All voting machines, marking devices, and automatic tabulating equipment purchased through this fund shall remain the property of the state until all payments under the applicable county lease have been made at which time ownership shall transfer to the county. Costs associated with the maintenance, repair, and operation of the voting machines, marking devices, and automatic tabulating equipment purchased under this section shall be the responsibility of the participating boards of elections and boards of county commissioners.

Such lease may obligate the counties, as using state agencies under Chapter 152. of the Revised Code, to operate the capital facilities for such period of time as may be specified by law and to pay such rent as the secretary of state determines to be appropriate. Notwithstanding any other provision of the Revised Code to the contrary, any county may enter into such a lease, and any such lease is legally sufficient to obligate the county for the term stated in the lease. Any such lease constitutes an agreement described in division (E) of section 152.24 of the Revised Code.

(F) As used in this section:

(1) "Automatic tabulating equipment," "marking device," and "voting machine" have the same meanings as in section 3506.01 of the Revised Code.

(2) "Equipment" has the same meaning as in section 3506.05 of the Revised Code.

Sec. 111.27. There is hereby established in the state treasury the board

of elections reimbursement and education fund. The fund shall be used by the secretary of state to reimburse boards of elections for various purposes, including reimbursements made under sections 3513.301, 3513.312, 3515.071, and 3521.03 of the Revised Code, and to provide training and educational programs for members and employees of boards of elections. The fund shall receive transfers of cash pursuant to controlling board action and also shall receive revenues from fees, gifts, grants, donations, and other similar receipts.

Sec. 117.13. (A) The costs of audits of state agencies shall be recovered by the auditor of state in the following manner:

(1) The costs of all audits of state agencies shall be paid to the auditor of state on statements rendered by the auditor of state. Money so received by the auditor of state shall be paid into the state treasury to the credit of the public audit expense fund--intrastate, which is hereby created, and shall be used to pay costs related to such audits. The costs of all annual and special audits of a state agency shall be charged to the state agency being audited. The costs of all biennial audits of a state agency shall be paid from money appropriated to the department of administrative services for that purpose. The costs of any assistant auditor, employee, or expert employed pursuant to section 117.09 of the Revised Code called upon to testify in any legal proceedings in regard to any audit, or called upon to review or discuss any matter related to any audit, may be charged to the state agency to which the audit relates.

(2) The auditor of state shall establish by rule rates to be charged to state agencies or to the department of administrative services for recovering the costs of audits of state agencies.

(B) As used in this division, "government auditing standards" means the government auditing standards published by the comptroller general of the United States general accounting office.

(1) Except as provided in divisions (B)(2) and (3) of this section, any costs of an audit of a private institution, association, board, or corporation receiving public money for its use shall be charged to the public office providing the public money in the same manner as costs of an audit of the public office.

(2) If an audit of a private child placing agency or private noncustodial agency receiving public money from a public children services agency for providing child welfare or child protection services sets forth that money has been illegally expended, converted, misappropriated, or is unaccounted for, the costs of the audit shall be charged to the agency being audited in the same manner as costs of an audit of a public office, unless the findings are

inconsequential, as defined by government auditing standards.

(3) If such an audit does not set forth that money has been illegally expended, converted, misappropriated, or is unaccounted for or sets forth findings that are inconsequential, as defined by government auditing standards, the costs of the audit shall be charged as follows:

(a) One-third of the costs to the agency being audited;

(b) One-third of the costs to the public children services agency that provided the public money to the agency being audited;

(c) One-third of the costs to the department of job and family services.

(C) The costs of audits of local public offices shall be recovered by the auditor of state in the following manner:

(1) The total amount of compensation paid assistant auditors of state, their expenses, the cost of employees assigned to assist the assistant auditors of state, the cost of experts employed pursuant to section 117.09 of the Revised Code, and the cost of typing, reviewing, and copying reports shall be borne by the public office to which such assistant auditors of state are so assigned, except that annual vacation and sick leave of assistant auditors of state, employees, and typists shall be financed from the general revenue fund. The necessary traveling and hotel expenses of the deputy inspectors and supervisors of public offices shall be paid from the state treasury. Assistant auditors of state shall be compensated by the taxing district or other public office audited for activities undertaken pursuant to division (B) of section 117.18 and section 117.24 of the Revised Code. The costs of any assistant auditor, employee, or expert employed pursuant to section 117.09 of the Revised Code called upon to testify in any legal proceedings in regard to any audit, or called upon to review or discuss any matter related to any audit, may be charged to the public office to which the audit relates.

(2) The auditor of state shall certify the amount of such compensation, expenses, cost of experts, reviewing, copying, and typing to the fiscal officer of the local public office audited. The fiscal officer of the local public office shall forthwith draw a warrant upon the general fund or other appropriate funds of the local public office to the order of the auditor of state; provided, that the auditor of state is authorized to negotiate with any local public office and, upon agreement between the auditor of state and the local public office, may adopt a schedule for payment of the amount due under this section. Money so received by the auditor of state shall be paid into the state treasury to the credit of the public audit expense fund--local government, which is hereby created, and shall be used to pay the compensation, expense, cost of experts and employees, reviewing, copying, and typing of reports.

(3) At the conclusion of each audit, or analysis and report made pursuant to section 117.24 of the Revised Code, the auditor of state shall furnish the fiscal officer of the local public office audited a statement showing the total cost of the audit, or of the audit and the analysis and report, and the percentage of the total cost chargeable to each fund audited. The fiscal officer may distribute such total cost to each fund audited in accordance with its percentage of the total cost.

(4) The auditor of state shall provide each local public office a statement or certification of the amount due from the public office for services performed by the auditor of state under this or any other section of the Revised Code, as well as the date upon which payment is due to the auditor of state. Any local public office that does not pay the amount due to the auditor of state by that date may be assessed by the auditor of state for interest from the date upon which the payment is due at the rate per annum prescribed by section 5703.47 of the Revised Code. All interest charges assessed by the auditor of state may be collected in the same manner as audit costs pursuant to division (D) of this section.

(D) If the auditor of state fails to receive payment for any amount due, including, but not limited to, fines, fees, and costs, from a public office for services performed under this or any other section of the Revised Code, the auditor of state may seek payment through the office of budget and management. (Amounts due include any amount due to an independent public accountant with whom the auditor has contracted to perform services, all costs and fees associated with participation in the uniform accounting network, and all costs associated with the auditor's provision of local government services.) Upon certification by the auditor of state to the director of budget and management of any such amount due, the director shall withhold from the public office any amount available, up to and including the amount certified as due, from any funds under the director's control that belong to or are lawfully payable or due to the public office. The director shall promptly pay the amount withheld to the auditor of state. If the director determines that no funds due and payable to the public office are available or that insufficient amounts of such funds are available to cover the amount due, the director shall withhold and pay to the auditor of state the amounts available and, in the case of a local public office, certify the remaining amount to the county auditor of the county in which the local public office is located. The county auditor shall withhold from the local public office any amount available, up to and including the amount certified as due, from any funds under the county auditor's control and belonging to or lawfully payable or due to the local public office. The county auditor

shall promptly pay any such amount withheld to the auditor of state.

(E)(1) The auditor of state shall certify to the director of budget and management the amounts due or necessary for state agency audit costs and the director shall transfer the certified amounts from the general revenue fund to the public audit expense fund - intrastate if either of the following apply:

(a) A state agency that has ceased operation has not paid audit costs pursuant to this section.

(b) In the judgment of the auditor of state, the money appropriated for the cost of biennial audits of state agencies is not sufficient to conduct an appropriate audit program.

(2) If a local public office ceases operation and has not paid audit costs pursuant to this section, one of the following shall occur:

(a) In the case of costs due for an audit performed by the auditor or state, the auditor of state shall certify to the director the amounts due for these costs, and the director shall transfer the certified amounts from the general revenue fund to the public audit expense fund-local government.

(b) In the case of costs due for an audit performed by an independent auditor, the independent auditor shall notify the auditor of state of the amounts due for these costs. The auditor of state shall certify the amounts to the director, and the director shall transfer the certified amounts from the general revenue fund to the credit of the public audit expense fund-independent auditors, which is hereby created in the state treasury for the purpose of reimbursing independent auditors for unpaid audit costs pursuant to this section.

Sec. 118.05. (A) Pursuant to the powers of the general assembly and for the purposes of this chapter, upon the occurrence of a fiscal emergency in any municipal corporation, county, or township, as determined pursuant to section 118.04 of the Revised Code, there is established, with respect to that municipal corporation, county, or township, a body both corporate and politic constituting an agency and instrumentality of the state and performing essential governmental functions of the state to be known as the "financial planning and supervision commission for (name of municipal corporation, county, or township)," which, in that name, may exercise all authority vested in such a commission by this chapter. A separate commission is established with respect to each municipal corporation, county, or township as to which there is a fiscal emergency as determined under this chapter.

(B) A commission shall consist of the following ~~seven~~ voting members:

(1) Four ex officio members: the treasurer of state; the director of

budget and management; in the case of a municipal corporation, the mayor of the municipal corporation and the presiding officer of the legislative authority of the municipal corporation; in the case of a county, the president of the board of county commissioners and the county auditor; and in the case of a township, a member of the board of township trustees and the county auditor.

The treasurer of state may designate a deputy treasurer or director within the office of the treasurer of state or any other appropriate person who is not an employee of the treasurer of state's office; the director of budget and management may designate an individual within the office of budget and management or any other appropriate person who is not an employee of the office of budget and management; the mayor may designate a responsible official within the mayor's office or the fiscal officer of the municipal corporation; the presiding officer of the legislative authority of the municipal corporation may designate any other member of the legislative authority; the board of county commissioners may designate any other member of the board or the fiscal officer of the county; and the board of township trustees may designate any other member of the board or the fiscal officer of the township to attend the meetings of the commission when the ex officio member is absent or unable for any reason to attend. A designee, when present, shall be counted in determining whether a quorum is present at any meeting of the commission and may vote and participate in all proceedings and actions of the commission. The designations shall be in writing, executed by the ex officio member or entity making the designation, and filed with the secretary of the commission. The designations may be changed from time to time in like manner, but due regard shall be given to the need for continuity.

(2) ~~Three~~ If a municipal corporation, county, or township has a population of at least one thousand, three members nominated and appointed as follows:

The mayor and presiding officer of the legislative authority of the municipal corporation, the board of county commissioners, or the board of township trustees shall, within ten days after the determination of the fiscal emergency by the auditor of state under section 118.04 of the Revised Code, submit in writing to the governor the nomination of five persons agreed to by them and meeting the qualifications set forth in this division. If the governor is not satisfied that at least three of the nominees are well qualified, the governor shall notify the mayor and presiding officer, or the board of county commissioners, or the board of township trustees to submit in writing, within five days, additional nominees agreed upon by them, not

exceeding three. The governor shall appoint three members from all the agreed-upon nominees so submitted or a lesser number that the governor considers well qualified within thirty days after receipt of the nominations, and shall fill any remaining positions on the commission by appointment of any other persons meeting the qualifications set forth in this division. All appointments by the governor shall be made with the advice and consent of the senate. Each of the three appointed members shall serve during the life of the commission, subject to removal by the governor for misfeasance, nonfeasance, or malfeasance in office. In the event of the death, resignation, incapacity, removal, or ineligibility to serve of an appointed member, the governor, pursuant to the process for original appointment, shall appoint a successor.

(3) If a municipal corporation, county, or township has a population of less than one thousand, one member nominated and appointed as follows:

The mayor and presiding officer of the legislative authority of the municipal corporation, the board of county commissioners, or the board of township trustees shall, within ten days after the determination of the fiscal emergency by the auditor of state under section 118.04 of the Revised Code, submit in writing to the governor the nomination of three persons agreed to by them and meeting the qualifications set forth in this division. If the governor is not satisfied that at least one of the nominees is well qualified, the governor shall notify the mayor and presiding officer, or the board of county commissioners, or the board of township trustees to submit in writing, within five days, additional nominees agreed upon by them, not exceeding three. The governor shall appoint one member from all the agreed-upon nominees so submitted or shall fill the position on the commission by appointment of any other person meeting the qualifications set forth in this division. All appointments by the governor shall be made with the advice and consent of the senate. The appointed member shall serve during the life of the commission, subject to removal by the governor for misfeasance, nonfeasance, or malfeasance in office. In the event of the death, resignation, incapacity, removal, or ineligibility to serve of the appointed member, the governor, pursuant to the process for original appointment, shall appoint a successor.

~~Each of the three appointed members~~ member shall be an individual:

(a) ~~Who has knowledge and experience in financial matters, financial management, or business organization or operations, including at least five years of experience in the private sector in the management of business or financial enterprise or in management consulting, public accounting, or other professional activity;~~

(b) Whose residency, office, or principal place of professional or business activity is situated within the municipal corporation, county, or township;

(c) ~~Who has not, at any time during the five years preceding the date of appointment, held any elected public office. An appointed member of the commission shall not become a candidate for elected public office while serving as a member of the commission.~~

(C) Immediately after appointment of the initial ~~three~~ appointed member or members of the commission, the governor shall call the first meeting of the commission and shall cause written notice of the time, date, and place of the first meeting to be given to each member of the commission at least forty-eight hours in advance of the meeting.

(D) The director of budget and management shall serve as chairperson of the commission. The commission shall elect one of its members to serve as vice-chairperson and may appoint a secretary and any other officers, who need not be members of the commission, it considers necessary.

(E) The commission may adopt and alter bylaws and rules, which shall not be subject to section 111.15 or Chapter 119. of the Revised Code, for the conduct of its affairs and for the manner, subject to this chapter, in which its powers and functions shall be exercised and embodied.

(F) ~~Five~~ Four members of ~~the a~~ a commission established pursuant to divisions (B)(1) and (2) of this section constitute a quorum of the commission. The affirmative vote of ~~five~~ a majority of the members of the such a commission is necessary for any action taken by vote of the commission. Three members of a commission established pursuant to divisions (B)(1) and (3) of this section constitute a quorum of the commission. The affirmative vote of a majority of the members of such a commission is necessary for any action taken by vote of the commission. No vacancy in the membership of the commission shall impair the rights of a quorum by such vote to exercise all the rights and perform all the duties of the commission. Members of the commission, and their designees, are not disqualified from voting by reason of the functions of the other office they hold and are not disqualified from exercising the functions of the other office with respect to the municipal corporation, county, or township, its officers, or the commission.

(G) The auditor of state shall serve as the "financial supervisor" to the commission unless the auditor of state elects to contract for that service. As used in this chapter, "financial supervisor" means the auditor of state.

(H) At the request of the commission, the auditor of state shall designate employees of the auditor of state's office to assist the commission and the

financial supervisor and to coordinate the work of the auditor of state's office and the financial supervisor. Upon the determination of a fiscal emergency in any municipal corporation, county, or township, the municipal corporation, county, or township shall provide the commission with such reasonable office space in the principal building housing city, county, or township government, where feasible, as it determines is necessary to carry out its duties under this chapter.

(I) The financial supervisor, the members of the commission, the auditor of state, and any person authorized to act on behalf of or assist them shall not be personally liable or subject to any suit, judgment, or claim for damages resulting from the exercise of or failure to exercise the powers, duties, and functions granted to them in regard to their functioning under this chapter, but the commission, the financial supervisor, the auditor of state, and those other persons shall be subject to mandamus proceedings to compel performance of their duties under this chapter and with respect to any debt obligations issued pursuant or subject to this chapter.

(J) At the request of the commission, the administrative head of any state agency shall temporarily assign personnel skilled in accounting and budgeting procedures to assist the commission or the financial supervisor in its duties as financial supervisor.

(K) The appointed members of the commission are not subject to section 102.02 of the Revised Code. Each appointed member of the commission shall file with the commission a signed written statement setting forth the general nature of sales of goods, property, or services or of loans to the municipal corporation, county, or township with respect to which that commission is established, in which the appointed member has a pecuniary interest or in which any member of the appointed member's immediate family, as defined in section 102.01 of the Revised Code, or any corporation, partnership, or enterprise of which the appointed member is an officer, director, or partner, or of which the appointed member or a member of the appointed member's immediate family, as so defined, owns more than a five per cent interest, has a pecuniary interest, and of which sale, loan, or interest such member has knowledge. The statement shall be supplemented from time to time to reflect changes in the general nature of any such sales or loans.

Sec. 120.08. There is hereby created in the state treasury the indigent defense support fund, consisting of money paid into the fund pursuant to ~~section~~ sections 4507.45, 4509.101, 4510.22, and 4511.19 of the Revised Code and pursuant to ~~section~~ sections 2937.22, 2949.091, and 2949.094 of the Revised Code out of the additional court costs imposed under ~~that~~

~~section~~ those sections. The state public defender shall use at least ninety per cent of the money in the fund for the purpose of reimbursing county governments for expenses incurred pursuant to sections 120.18, 120.28, and 120.33 of the Revised Code. Disbursements from the fund to county governments shall be made in each state fiscal at least once per year and shall be allocated proportionately so that each county receives an equal percentage of its total cost for operating its county public defender system, its joint county public defender system, or its county appointed counsel system, or its system operated under division (C)(7) of section 120.04 of the Revised Code and division (B) of section 120.33 of the Revised Code. The state public defender may use not more than ten per cent of the money in the fund for the purposes of appointing assistant state public defenders or for providing other personnel, equipment, and facilities necessary for the operation of the state public defender office.

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

In the department of commerce:

- Commissioner of securities;
- Superintendent of real estate and professional licensing;
- Superintendent of financial institutions;
- State fire marshal;
- Superintendent of labor ~~and worker safety~~;
- Superintendent of liquor control;
- ~~Superintendent of industrial compliance~~;
- Superintendent of unclaimed funds.

In the department of administrative services:

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

In the department of agriculture:

Chiefs of divisions as follows:

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

Weights and measures.

In the department of natural resources:

Chiefs of divisions as follows:

~~Water;~~

Mineral resources management;

Forestry;

Natural areas and preserves;

Wildlife;

Geological survey;

Parks and recreation;

Watercraft;

Recycling and litter prevention;

Soil and water ~~conservation~~ resources;

~~Real estate and land management~~;

Engineering.

In the department of insurance:

Deputy superintendent of insurance;

Assistant superintendent of insurance, technical;

Assistant superintendent of insurance, administrative;

Assistant superintendent of insurance, research.

Sec. 121.07. (A) Except as otherwise provided in this division, the officers mentioned in sections 121.04 and 121.05 of the Revised Code and the offices and divisions they administer shall be under the direction, supervision, and control of the directors of their respective departments, and shall perform such duties as the directors prescribe. In performing or exercising any of the examination or regulatory functions, powers, or duties vested by Title XI, Chapters 1733. and 1761., and sections 1315.01 to 1315.18 of the Revised Code in the superintendent of financial institutions, the superintendent of financial institutions and the division of financial institutions are independent of and are not subject to the control of the department or the director of commerce. In the absence of the superintendent of financial institutions, a deputy superintendent, or in the absence of both the superintendent and an available deputy superintendent, the director of commerce, may, for a limited period of time, perform or exercise any of those functions, powers, or duties if written authorization is given by the superintendent of financial institutions.

(B) With the approval of the governor, the director of each department shall establish divisions within the department, and distribute the work of the department among such divisions. Each officer created by section 121.04 of the Revised Code shall be the head of such a division.

With the approval of the governor, the director of each department may consolidate any two or more of the offices created in the department by section 121.04 of the Revised Code, or reduce the number of or create new divisions therein.

The director of each department may prescribe rules for the government of the department, the conduct of its employees, the performance of its business, and the custody, use, and preservation of the records, papers, books, documents, and property pertaining thereto.

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

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

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

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

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

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

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

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

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

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

4767. of the Revised Code.

(I) There is hereby created in the department of commerce a division of labor ~~and worker safety~~, which shall have all powers and perform all duties vested by law in the superintendent of labor ~~and worker safety~~. Wherever powers are conferred or duties imposed upon the superintendent of labor ~~and worker safety~~, those powers and duties shall be construed as vested in the division of labor ~~and worker safety~~. The division of labor ~~and worker safety~~ shall be under the control and supervision of the director of commerce and be administered by the superintendent of labor ~~and worker safety~~. ~~The superintendent of labor and worker safety shall exercise the powers and perform the duties delegated to the superintendent by the director under Chapters 4109., 4111., and 4115. of the Revised Code.~~

(J) There is hereby created in the department of commerce a division of unclaimed funds, which shall have all powers and perform all duties delegated to or vested by law in the superintendent of unclaimed funds. Wherever powers are conferred or duties imposed upon the superintendent of unclaimed funds, those powers and duties shall be construed as vested in the division of unclaimed funds. The division of unclaimed funds shall be under the control and supervision of the director of commerce and shall be administered by the superintendent of unclaimed funds. The superintendent of unclaimed funds shall exercise the powers and perform the functions and duties delegated to the superintendent by the director of commerce under section 121.07 and Chapter 169. of the Revised Code, and as may otherwise be provided by law.

(K) The department of commerce or a division of the department created by the Revised Code that is acting with authorization on the department's behalf may request from the bureau of criminal identification and investigation pursuant to section 109.572 of the Revised Code, or coordinate with appropriate federal, state, and local government agencies to accomplish, criminal records checks for the persons whose identities are required to be disclosed by an applicant for the issuance or transfer of a permit, license, certificate of registration, or certification issued or transferred by the department or division. At or before the time of making a request for a criminal records check, the department or division may require any person whose identity is required to be disclosed by an applicant for the issuance or transfer of such a license, permit, certificate of registration, or certification to submit to the department or division valid fingerprint impressions in a format and by any media or means acceptable to the bureau of criminal identification and investigation and, when applicable, the federal bureau of investigation. The department or division may cause the bureau of

criminal identification and investigation to conduct a criminal records check through the federal bureau of investigation only if the person for whom the criminal records check would be conducted resides or works outside of this state or has resided or worked outside of this state during the preceding five years, or if a criminal records check conducted by the bureau of criminal identification and investigation within this state indicates that the person may have a criminal record outside of this state.

In the case of a criminal records check under section 109.572 of the Revised Code, the department or division shall forward to the bureau of criminal identification and investigation the requisite form, fingerprint impressions, and fee described in division (C) of that section. When requested by the department or division in accordance with this section, the bureau of criminal identification and investigation shall request from the federal bureau of investigation any information it has with respect to the person who is the subject of the requested criminal records check and shall forward the requisite fingerprint impressions and information to the federal bureau of investigation for that criminal records check. After conducting a criminal records check or receiving the results of a criminal records check from the federal bureau of investigation, the bureau of criminal identification and investigation shall provide the results to the department or division.

The department or division may require any person about whom a criminal records check is requested to pay to the department or division the amount necessary to cover the fee charged to the department or division by the bureau of criminal identification and investigation under division (C)(3) of section 109.572 of the Revised Code, including, when applicable, any fee for a criminal records check conducted by the federal bureau of investigation.

Sec. 121.083. The superintendent of ~~the division of industrial compliance labor~~ in the department of commerce shall do all of the following:

(A) Administer and enforce the general laws of this state pertaining to buildings, pressure piping, boilers, bedding, upholstered furniture, and stuffed toys, steam engineering, elevators, plumbing, licensed occupations regulated by the department, and travel agents, as they apply to plans review, inspection, code enforcement, testing, licensing, registration, and certification.

(B) Exercise the powers and perform the duties delegated to the superintendent by the director of commerce under Chapters 4109., 4111., and 4115. of the Revised Code.

(C) Collect and collate statistics as are necessary.

~~(C)~~(D) Examine and license persons who desire to act as steam engineers, to operate steam boilers, and to act as inspectors of steam boilers, provide for the scope, conduct, and time of such examinations, provide for, regulate, and enforce the renewal and revocation of such licenses, inspect and examine steam boilers and make, publish, and enforce rules and orders for the construction, installation, inspection, and operation of steam boilers, and do, require, and enforce all things necessary to make such examination, inspection, and requirement efficient.

~~(D)~~(E) Rent and furnish offices as needed in cities in this state for the conduct of its affairs.

~~(E)~~(F) Oversee a chief of construction and compliance, a chief of operations and maintenance, a chief of licensing and certification, a chief of worker protection, and other designees appointed by the director of ~~commerce~~ to perform the duties described in this section.

~~(F)~~(G) Enforce the rules the board of building standards adopts pursuant to division (A)(2) of section 4104.43 of the Revised Code under the circumstances described in division (D) of that section.

~~(G)~~(H) Accept submissions, establish a fee for submissions, and review submissions of certified welding and brazing procedure specifications, procedure qualification records, and performance qualification records for building services piping as required by section 4104.44 of the Revised Code.

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

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

Sec. 121.31. There is hereby created the commission on Hispanic-Latino affairs consisting of eleven voting members appointed by the governor with the advice and consent of the senate and ~~two~~ four ex

officio, nonvoting members who are members of the general assembly. The speaker of the house of representatives shall recommend to the governor two persons for appointment to the commission, the president of the senate shall recommend to the governor two such persons, and the minority leaders of the house and senate shall each recommend to the governor one such person. The governor shall make initial appointments to the commission. Of the initial appointments made to the commission, three shall be for a term ending October 7, 1978, four shall be for a term ending October 7, 1979, and four shall be for a term ending October 7, 1980. ~~One~~ Two ex officio ~~member~~ members of the commission shall be ~~a member~~ members of the house of representatives appointed by the speaker of the house of representatives and ~~one two~~ ex officio ~~member~~ members of the commission shall be ~~a member~~ members of the senate appointed by the president of the senate. ~~When making their initial appointments, the speaker shall appoint a member of the house of representatives who is affiliated with the minority political party in the house of representatives and the president shall appoint a member of the senate who is affiliated with the majority political party in the senate; in making subsequent appointments the speaker and the president each shall alternate the political party affiliation of the members they appoint to the commission. The speaker and president shall make their initial appointments so that the initial ex-officio members begin their terms October 7, 2008~~ The speaker shall appoint one member of the house of representatives from among the representatives who are affiliated with the political party having a majority in the house of representatives and one member of the house of representatives from among the representatives who are affiliated with the political party having a minority in the house of representatives. The president shall appoint one member of the senate from among the senators who are affiliated with the political party having a majority in the senate and one member of the senate from among the senators who are affiliated with the political party having a minority in the senate.

After the initial appointments by the governor, terms of office shall be for three years, except that members of the general assembly appointed to the commission shall be members of the commission only so long as they are members of the general assembly. Each term shall end on the same day of the same month of the year as did the term which it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Vacancies shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's

predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. At the first organizational meeting of the commission, the original eleven members shall draw lots to determine the length of the term each member shall serve.

All voting members of the commission shall speak Spanish, shall be of Spanish-speaking origin, and shall be American citizens or lawful, permanent, resident aliens. Voting members shall be from urban, suburban, and rural geographical areas representative of Spanish-speaking people with a numerical and geographical balance of the Spanish-speaking population throughout the state.

The commission shall meet not less than six times per calendar year. The commission shall elect a chairperson, vice-chairperson, and other officers from its voting members as it considers advisable. Six voting members constitute a quorum. The commission shall adopt rules governing its procedures. No action of the commission is valid without the concurrence of six members.

Each voting member shall be compensated for work as a member for each day that the member is actually engaged in the performance of work as a member. No voting member shall be compensated for more than one day each month. In addition, each voting member shall be reimbursed for all actual and necessary expenses incurred in the performance of official business.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Monitoring and supervision of a statewide, comprehensive,

coordinated, multi-disciplinary, interagency system for infants and toddlers with developmental disabilities or delays and their families, as established pursuant to federal grants received and administered by the department of health for early intervention services under the "Individuals with Disabilities Education Act of 2004," 20 U.S.C.A. 1400, as amended.

(4) The cabinet council shall develop and implement the following:

(a) An interagency process to select the indicators that will be used to measure progress toward increasing child well-being in the state and to update the indicators on an annual basis. The indicators shall focus on expectant parents and newborns thriving; infants and toddlers thriving; children being ready for school; children and youth succeeding in school; youth choosing healthy behaviors; and youth successfully transitioning into adulthood.

(b) An interagency system to offer guidance and monitor progress toward increasing child well-being in the state and in each county;

(c) An annual plan that identifies state-level agency efforts taken to ensure progress towards increasing child well-being in the state.

On an annual basis, the cabinet council shall submit to the governor and the general assembly a report on the status of efforts to increase child well-being in the state. This report shall be made available to any other person on request.

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

(a) At least three individuals who are not employed by an agency represented on the council and whose families are or have received services from an agency represented on the council or another county's council. Where possible, the number of members representing families shall be equal to twenty per cent of the council's membership.

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

(c) The health commissioner, or the commissioner's designee, of the board of health of each city and general health district in the county. If the

county has two or more health districts, the health commissioner membership may be limited to the commissioners of the two districts with the largest populations.

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

(e) The executive director of the public children services agency;

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

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

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

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

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

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

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

(m) A representative of the county's early intervention collaborative established pursuant to the federal early intervention program operated under the "Individuals with Disabilities Education Act of 2004";

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

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

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

The county's juvenile court judge senior in service or another judge of the juvenile court designated by the administrative judge or, where there is no administrative judge, by the judge senior in service shall serve as the judicial advisor to the county family and children first council. The judge may advise the county council on the court's utilization of resources, services, or programs provided by the entities represented by the members of the county council and how those resources, services, or programs assist the court in its administration of justice. Service of a judge as a judicial advisor pursuant to this section is a judicial function.

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

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

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

(c) Participation in the development of a countywide, comprehensive, coordinated, multi-disciplinary, interagency system for infants and toddlers with developmental disabilities or delays and their families, as established pursuant to federal grants received and administered by the department of health for early intervention services under the "Individuals with Disabilities Education Act of 2004";

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

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

(3) A county council shall develop and implement the following:

(a) An interagency process to establish local indicators and monitor the county's progress toward increasing child well-being in the county;

(b) An interagency process to identify local priorities to increase child well-being. The local priorities shall focus on expectant parents and newborns thriving; infants and toddlers thriving; children being ready for school; children and youth succeeding in school; youth choosing healthy behaviors; and youth successfully transitioning into adulthood and take into account the indicators established by the cabinet council under division (A)(4)(a) of this section.

(c) An annual plan that identifies the county's interagency efforts to

increase child well-being in the county.

On an annual basis, the county council shall submit a report on the status of efforts by the county to increase child well-being in the county to the county's board of county commissioners and the cabinet council. This report shall be made available to any other person on request.

(4)(a) Except as provided in division (B)(4)(b) of this section, a county council shall comply with the policies, procedures, and activities prescribed by the rules or interagency agreements of a state department participating on the cabinet council whenever the county council performs a function subject to those rules or agreements.

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

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

A county council's administrative agent shall serve as the council's appointing authority for any employees of the council. The council shall file an annual budget with its administrative agent, with copies filed with the county auditor and with the board of county commissioners, unless the board is serving as the council's administrative agent. The council's administrative agent shall ensure that all expenditures are handled in

accordance with policies, procedures, and activities prescribed by state departments in rules or interagency agreements that are applicable to the council's functions.

The administrative agent of a county council shall send notice of a member's absence if a member listed in division (B)(1) of this section has been absent from either three consecutive meetings of the county council or a county council subcommittee, or from one-quarter of such meetings in a calendar year, whichever is less. The notice shall be sent to the board of county commissioners that establishes the county council and, for the members listed in divisions (B)(1)(b), (c), (e), and (l) of this section, to the governing board overseeing the respective entity; for the member listed in division (B)(1)(f) of this section, to the county board of mental retardation and developmental disabilities that employs the superintendent; for a member listed in division (B)(1)(g) or (h) of this section, to the school board that employs the superintendent; for the member listed in division (B)(1)(i) of this section, to the mayor of the municipal corporation; for the member listed in division (B)(1)(k) of this section, to the director of youth services; and for the member listed in division (B)(1)(n), to that member's board of trustees.

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

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

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

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

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

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

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

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

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

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

or decision.

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

(C) Each county shall develop a county service coordination mechanism. The county service coordination mechanism shall serve as the guiding document for coordination of services in the county. For children who also receive services under the help me grow program, the service coordination mechanism shall be consistent with rules adopted by the department of health under section 3701.61 of the Revised Code. All family service coordination plans shall be developed in accordance with the county service coordination mechanism. The mechanism shall be developed and approved with the participation of the county entities representing child welfare; mental retardation and developmental disabilities; alcohol, drug addiction, and mental health services; health; juvenile judges; education; the county family and children first council; and the county early intervention collaborative established pursuant to the federal early intervention program operated under the "Individuals with Disabilities Education Act of 2004." The county shall establish an implementation schedule for the mechanism. The cabinet council may monitor the implementation and administration of each county's service coordination mechanism.

Each mechanism shall include all of the following:

(1) A procedure for an agency, including a juvenile court, or a family voluntarily seeking service coordination, to refer the child and family to the county council for service coordination in accordance with the mechanism;

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

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

(4) A procedure for ensuring that a family service coordination plan meeting is conducted for each child who receives service coordination under the mechanism and for whom an emergency out-of-home placement has been made or for whom a nonemergency out-of-home placement is being considered. The meeting shall be conducted within ten days of an emergency out-of-home placement. The meeting shall be conducted before a nonemergency out-of-home placement. The family service coordination

plan shall outline how the county council members will jointly pay for services, where applicable, and provide services in the least restrictive environment.

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

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

(7) A procedure for assessing the needs and strengths of any child or family that has been referred to the council for service coordination, including a child whose parent or custodian is voluntarily seeking services, and for ensuring that parents and custodians are afforded the opportunity to participate;

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

(9) A local dispute resolution process to serve as the process that must be used first to resolve disputes among the agencies represented on the county council concerning the provision of services to children, including children who are abused, neglected, dependent, unruly, alleged unruly, or delinquent children and under the jurisdiction of the juvenile court and children whose parents or custodians are voluntarily seeking services. The local dispute resolution process shall comply with sections 121.38, 121.381, and 121.382 of the Revised Code. The local dispute resolution process shall be used to resolve disputes between a child's parents or custodians and the county council regarding service coordination. The county council shall inform the parents or custodians of their right to use the dispute resolution process. Parents or custodians shall use existing local agency grievance procedures to address disputes not involving service coordination. The dispute resolution process is in addition to and does not replace other rights or procedures that parents or custodians may have under other sections of the Revised Code.

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

Nothing in division (C)(4) of this section shall be interpreted as

overriding or affecting decisions of a juvenile court regarding an out-of-home placement, long-term placement, or emergency out-of-home placement.

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

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

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

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

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

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

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

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

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

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

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

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

(a) The preparation of a complaint under section 2151.27 of the Revised Code alleging that the child is an unruly child and notifying the child and

the parents, guardian, or custodian that the complaint has been prepared to encourage the child and the parents, guardian, or custodian to comply with other methods to divert the child from the juvenile court system;

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

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

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

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

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

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

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

Sec. 121.375. (A) As used in this section:

"At-risk individual" means an individual at great risk of not being able to access available health and social services due to barriers such as poverty, inadequate transportation, culture, and priorities of basic survival.

"Care coordination agency" means a person or government entity that assists at-risk individuals access available health and social services the at-risk individuals need.

(B) A care coordination agency may provide the following information to the Ohio family and children first cabinet council:

(1) The types of individuals the agency identifies as being at-risk individuals;

(2) The total per-individual cost to the agency for care coordination services provided to at-risk individuals;

(3) The administrative cost per individual for care coordination services provided to at-risk individuals;

(4) The specific work products the agency purchased to provide care

coordination services to at-risk individuals:

(5) The strategies the agency uses to help at-risk individuals access available health and social services;

(6) The agency's success in helping at-risk individuals access available health and social services;

(7) The mechanisms the agency uses to identify and eliminate duplicate care coordination services.

(C) The Ohio family and children first cabinet council may do either or both of the following:

(1) Give incentives to encourage care coordination agencies to provide information to the council under this section;

(2) Use the information provided to it under this section to help improve care coordination for at-risk individuals throughout the state.

Sec. 121.40. (A) There is hereby created the Ohio community service council consisting of twenty-one voting members including the superintendent of public instruction or the superintendent's designee, the chancellor of the Ohio board of regents or the chancellor's designee, the director of youth services or the director's designee, the director of aging or the director's designee, the chairperson of the committee of the house of representatives dealing with education or the chairperson's designee, the chairperson of the committee of the senate dealing with education or the chairperson's designee, and fifteen members who shall be appointed by the governor with the advice and consent of the senate and who shall serve terms of office of three years. The appointees shall include educators, including teachers and administrators; representatives of youth organizations; students and parents; representatives of organizations engaged in volunteer program development and management throughout the state, including youth and conservation programs; and representatives of business, government, nonprofit organizations, social service agencies, veterans organizations, religious organizations, or philanthropies that support or encourage volunteerism within the state. The director of the governor's office of faith-based and community initiatives shall serve as a nonvoting ex officio member of the council. Members of the council shall receive no compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

(B) The council shall appoint an executive director for the council, who shall be in the unclassified civil service. The governor shall be informed of the appointment of an executive director before such an appointment is made. executive director shall supervise the council's activities and report to the council on the progress of those activities. The executive director shall

do all things necessary for the efficient and effective implementation of the duties of the council.

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

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

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

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

(3) Acquire facilities, equipment, and supplies necessary to house the council, its employees, and files and records under its control, and to discharge any duty imposed upon it by law. The expense of these acquisitions shall be audited and paid for in the same manner as other state expenses. For that purpose, the council shall prepare and submit to the office of budget and management a budget for each biennium according to sections 101.532 and 107.03 of the Revised Code. The budget submitted shall cover the costs of the council and its staff in the discharge of any duty imposed upon the council by law. The council shall not delegate any authority to obligate funds.

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

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

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

(7) Assist in coordinating and preparing the state application for funds under sections 101 to 184 of the "National and Community Service Act of 1990," 104 Stat. 3127 (1990), 42 U.S.C.A. 12411 to 12544, as amended, assist in administering and overseeing the "National and Community

Service Trust Act of 1993," P.L. 103-82, 107 Stat. 785, and the americorps program in this state, and assist in developing objectives for a comprehensive strategy to encourage and expand community service programs throughout the state;

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

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

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

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

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

(13) Advise, assist, consult with, and cooperate with, by contract or otherwise, agencies and political subdivisions of this state in establishing a statewide system for volunteers pursuant to section 121.404 of the Revised Code.

(D) ~~The department of aging council shall in writing enter into an agreement with another state agency to serve as the council's fiscal agent. Beginning on July 1, 1997, whenever reference is made in any law, contract, or document to the functions of the department of youth services as fiscal agent to the council, the reference shall be deemed to refer to the department of aging. The department of aging shall have no responsibility for or obligation to the council prior to July 1, 1997. Any validation, cure, right, privilege, remedy, obligation, or liability shall be retained by the council.~~

~~As used in this section, "fiscal agent" means technical support and~~

~~includes the following technical support services:~~ Before entering into such an agreement, the council shall inform the governor of the terms of the agreement and of the state agency designated to serve as the council's fiscal agent. The fiscal agent shall be responsible for all the council's fiscal matters and financial transactions, as specified in the agreement. Services to be provided by the fiscal agent include, but are not limited to, the following:

(1) Preparing and processing payroll and other personnel documents that the council executes as the appointing authority; ~~The department of aging shall not approve any payroll or other personnel-related documents.~~

(2) Maintaining ledgers of accounts and reports of account balances, and monitoring budgets and allotment plans in consultation with the council; ~~and The department shall not approve any biennial budget, grant, expenditure, audit, or fiscal-related document.~~

(3) Performing other routine support services that the ~~director of aging or the director's designee and the council or its designee~~ fiscal agent considers appropriate to achieve efficiency.

(E)(1) The council or its designee, in conjunction and consultation with the fiscal agent, has the following authority and responsibility relative to fiscal matters:

(a) Sole authority to draw funds for any and all federal programs in which the council is authorized to participate;

(b) Sole authority to expend funds from their accounts for programs and any other necessary expenses the council may incur and its subgrantees may incur; and

(c) Responsibility to cooperate with and inform the ~~department of aging~~ fiscal agent as fiscal agent ~~to ensure that the department is fully apprised~~ of all financial transactions.

(2) The council shall follow all state procurement, fiscal, human resources, statutory, and administrative rule requirements.

(3) The ~~department of aging~~ fiscal agent shall determine fees to be charged to the council, which shall be in proportion to the services performed for the council.

(4) The council shall pay fees owed to the ~~department of aging~~ fiscal agent from a general revenue fund of the council or from any other fund from which the operating expenses of the council are paid. Any amounts set aside for a fiscal year for the payment of these fees shall be used only for the services performed for the council by the ~~department of aging~~ fiscal agent in that fiscal year.

(F) The council may accept and administer grants from any source, public or private, to carry out any of the council's functions this section

establishes.

Sec. 121.401. (A) As used in this section and section 121.402 of the Revised Code, "organization or entity" and "unsupervised access to a child" have the same meanings as in section 109.574 of the Revised Code.

(B) The ~~governor's~~ Ohio community service council shall adopt a set of "recommended best practices" for organizations or entities to follow when one or more volunteers of the organization or entity have unsupervised access to one or more children or otherwise interact with one or more children. The "recommended best practices" shall focus on, but shall not be limited to, the issue of the safety of the children and, in addition, the screening and supervision of volunteers. The "recommended best practices" shall include as a recommended best practice that the organization or entity subject to a criminal records check performed by the bureau of criminal identification and investigation pursuant to section 109.57, section 109.572, or rules adopted under division (E) of section 109.57 of the Revised Code, all of the following:

(1) All persons who apply to serve as a volunteer in a position in which the person will have unsupervised access to a child on a regular basis.

(2) All volunteers who are in a position in which the person will have unsupervised access to a child on a regular basis and who the organization or entity has not previously subjected to a criminal records check performed by the bureau of criminal identification and investigation.

(C) The set of "recommended best practices" required to be adopted by this section are in addition to the educational program required to be adopted under section 121.402 of the Revised Code.

Sec. 121.402. (A) The ~~governor's~~ Ohio community service council shall establish and maintain an educational program that does all of the following:

(1) Makes available to parents and guardians of children notice about the provisions of sections 109.574 to 109.577, section 121.401, and section 121.402 of the Revised Code and information about how to keep children safe when they are under the care, custody, or control of a person other than the parent or guardian;

(2) Makes available to organizations and entities information regarding the best methods of screening and supervising volunteers, how to obtain a criminal records check of a volunteer, confidentiality issues relating to reports of criminal records checks, and record keeping regarding the reports;

(3) Makes available to volunteers information regarding the possibility of being subjected to a criminal records check and displaying appropriate behavior to minors;

(4) Makes available to children advice on personal safety and

information on what action to take if someone takes inappropriate action towards a child.

(B) The program shall begin making the materials described in this section available not later than ~~one year after the effective date of this section~~ March 22, 2002.

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

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

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

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

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

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

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

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

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

(9) Study existing structure, operations, and financing of regional or

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

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

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

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

(13) Until October 15, 2007, and upon approval by the controlling board under division (A)(3) of section 901.82 of the Revised Code of the release of money to be used for purchasing a loan or providing a loan guarantee, request the release of that money in accordance with division (B) of section 166.03 of the Revised Code for use for the purposes of the fund created by section 166.031 of the Revised Code.

(14) Allocate that portion of the national recovery zone economic development bond limitation and that portion of the national recovery zone facility bond limitation that has been allocated to the state under section 1400U-1 of the Internal Revenue Code, 26 U.S.C. 1400U-1. If any county or municipal corporation waives any portion of an allocation it receives under division (A)(14) of this section, the department may reallocate that amount. Any allocation or reallocation shall be made in accordance with this section and section 1400U-1 of the Internal Revenue Code.

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

Sec. 122.042. The director of development may found an employment opportunity program that encourages employers to employ individuals who are members of significantly disadvantaged groups. If the director intends to found such an employment opportunity program, the director shall adopt, and thereafter may amend or rescind, rules under Chapter 119. of the

Revised Code to found, and to operate, maintain, and improve, the program. In the rules, the director shall:

(A) Construct, and, as changing circumstances indicate, re-construct, procedures according to which significantly disadvantaged groups are identified as such, an individual is identified as being a member of a significantly disadvantaged group, and an employer is identified as being a potential employer of an individual who is a member of a significantly disadvantaged group;

(B) Describe, and, as experience indicates, re-describe, the kinds of evidence that shall be considered to identify significantly disadvantaged groups, the kinds of evidence an individual shall offer to prove that the individual is a member of a significantly disadvantaged group, and the kinds of evidence an employer shall offer to prove that the employer is a potential employer of an individual who is a member of a significantly disadvantaged group;

(C) Specify, and, as experience indicates, re-specify, strategies and tactics for connecting individuals who are members of significantly disadvantaged groups with potential employers of members of significantly disadvantaged groups; and

(D) Construct, describe, specify, define, and prescribe any other thing that is necessary and proper for the founding, and for the successful and efficient operation, maintenance, and improvement, of the employment opportunity program.

In founding, and in operating, maintaining, and improving, the employment opportunity program under the rules, the director shall proceed so that the resulting program functions as a coherent, efficient system for improving employment opportunities for significantly disadvantaged groups. Examples of significantly disadvantaged groups include individuals who have not graduated from high school, individuals who have been convicted of a crime, individuals who are disabled, and individuals who are chronically unemployed (usually for more than eighteen months).

Sec. 122.05. (A) The director of development may, to carry out the purposes of division (E) of section 122.04 of the Revised Code:

(1) Establish offices in foreign countries as the director considers appropriate and enter into leases of real property, buildings, and office space that are appropriate for these offices;

(2) Appoint personnel, who shall be in the unclassified civil services, necessary to operate such offices and fix their compensation. The director may enter into contracts with foreign nationals to staff the foreign offices established under this section.

(3) The director may establish United States dollar and foreign currency accounts for the payment of expenses related to the operation and maintenance of the offices established under this section. The director shall establish procedures acceptable to the director of budget and management for the conversion, transfer, and control of United States dollars and foreign currency.

(4) Provide export promotion assistance to Ohio businesses and organize or support missions to foreign countries to promote export of Ohio products and services and to encourage foreign direct investment in Ohio. The director may charge fees to businesses receiving export assistance and to participants in foreign missions sufficient to recover the direct costs of those activities. The director shall adopt, as an internal management rule under section 111.15 of the Revised Code, a procedure for setting the fees and a schedule of fees for services commonly provided by the department. The procedure shall require the director to annually review the established fees.

(5) Do all things necessary and appropriate for the operation of the state's foreign offices.

(B) All contracts entered into under division (A)(2) of this section and any payments of expenses under division (A)(3) of this section related to the operation and maintenance of foreign offices established under this section may be paid in the appropriate foreign currency and are exempt from sections 127.16 and 5147.07 and Chapters 124., 125., and 153. of the Revised Code.

Sec. 122.051. There is hereby created in the state treasury the international trade cooperative projects fund. The fund shall consist of ~~moneys~~ all of the following:

(A) Moneys received from private and nonprofit organizations involved in cooperative agreements related to import/export and direct foreign investment activities ~~and cash;~~

(B) Cash transfers from other state agencies or any state or local government to encourage, promote, and assist trade and commerce between this state and foreign nations, pursuant to section 122.05 and division (E) of section 122.04 of the Revised Code; and

(C) Fees charged to businesses receiving export assistance and to participants in foreign missions to recover direct costs of those activities under division (A)(4) of section 122.05 of the Revised Code.

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

(1) "Alternative fuel" means blended biodiesel ~~or~~, blended gasoline, or compressed air used in air-compression driven engines.

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

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

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

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

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

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

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

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

(B) For the purpose of improving the air quality in this state, the director of development shall establish an alternative fuel transportation grant program under which the director may make grants to businesses, nonprofit organizations, public school systems, or local governments for the purchase and installation of alternative fuel refueling or distribution facilities and terminals, for the purchase and use of alternative fuel, and to pay the costs of educational and promotional materials and activities intended for prospective alternative fuel consumers, fuel marketers, and others in order to increase the availability and use of alternative fuel.

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

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

(2) A procedure for prioritizing the award of grants under the program. The procedures shall give preference to all of the following:

(a) Publicly accessible refueling facilities;

(b) Entities seeking grants that have secured funding from other sources, including, but not limited to, private or federal grants;

(c) Entities that have presented compelling evidence of demand in the market in which the facilities or terminals will be located;

(d) Entities that have committed to utilizing purchased or installed facilities or terminals for the greatest number of years;

(e) Entities that will be purchasing or installing facilities or terminals for both blended biodiesel and blended gasoline.

(3) A requirement that the maximum grant for the purchase and installation of an alternative fuel refueling or distribution facility or terminal be eighty per cent of the cost of the facility or terminal, except that at least twenty per cent of the total net cost of the facility or terminal shall be incurred by the grant recipient and not compensated for by any other source;

(4) A requirement that the maximum grant for the purchase of alternative fuel be eighty per cent of the incremental cost of the fuel;

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

(D) An applicant for a grant under this section that sells motor vehicle fuel at retail shall agree that if the applicant receives a grant, the applicant will report to the director the gallon amounts of blended gasoline and blended biodiesel the applicant sells at retail in this state for a period of three years after the grant is awarded.

The director shall enter into a written confidentiality agreement with the applicant regarding the gallon amounts sold as described in this division, and upon execution of the agreement this information is not a public record.

(E) There is hereby created in the state treasury the alternative fuel transportation grant fund. The fund shall consist of money transferred to the fund under division (C) of section 125.836 of the Revised Code, money that is appropriated to it by the general assembly, and money as may be specified by the general assembly from the advanced energy fund created by section 4928.61 of the Revised Code. Money in the fund shall be used to make grants under the alternative fuel transportation grant program and by the director in the administration of that program.

Sec. 122.12. As used in this section and in section 122.121 of the Revised Code:

(A) "Endorsing county" means a county that contains a site selected by a site selection organization for one or more games.

(B) "Endorsing municipality" means a municipal corporation that contains a site selected by a site selection organization for one or more games.

(C) "Game support contract" means a joinder undertaking, joinder agreement, or similar contract executed by an endorsing municipality or

endorsing county and a site selection organization.

(D) "Game" means a national football league "super bowl," a national collegiate athletic association championship game, the national basketball association all-star game, the national hockey league all-star game, the major league baseball all-star game, a national collegiate athletic association bowl championship series game, a world cup soccer game, the nation senior games, or the olympic games.

(E) "Joinder agreement" means an agreement entered into by an endorsing municipality or endorsing county, or more than one endorsing municipality or county acting collectively and a site selection organization setting out representations and assurances by each endorsing municipality or endorsing county in connection with the selection of a site in this state for the location of a game.

(F) "Joinder undertaking" means an agreement entered into by an endorsing municipality or endorsing county, or more than one endorsing municipality or county acting collectively and a site selection organization that each endorsing municipality or endorsing county will execute a joinder agreement in the event that the site selection organization selects a site in this state for a game.

(G) "Local organizing committee" means a nonprofit corporation or its successor in interest that:

(1) Has been authorized by an endorsing municipality, endorsing county, or more than one endorsing municipality or county acting collectively to pursue an application and bid on the applicant's behalf to a site selection organization for selection as the site of one or more games; or

(2) With the authorization of an endorsing municipality, endorsing county, or more than one endorsing municipality or county acting collectively, has executed an agreement with a site selection organization regarding a bid to host one or more games.

(H) "Site selection organization" means the national football league, the national collegiate athletic association, the national basketball association, the national hockey league, major league baseball, the federation internationale de football association, the international world games association, the United States olympic committee, the national senior games association, or the national governing body of a sport that is recognized as such by the United States olympic committee.

Sec. 122.121. (A) If an endorsing municipality or endorsing county enters into a joinder undertaking with a site selection organization, the endorsing municipality or endorsing county may apply to the director of development, on a form and in the manner prescribed by the director, for a

grant based on the projected incremental increase in the receipts from the tax imposed under section 5739.02 of the Revised Code within the market area designated under division (C) of this section, for the two-week period that ends at the end of the day after the date on which a game will be held, that is directly attributable, as determined by the director, to the preparation for and presentation of the game. The director shall determine the projected incremental increase in the tax imposed under section 5739.02 of the Revised Code from information certified to the director by the endorsing municipality or the endorsing county including, but not limited to, historical attendance and ticket sales for the game, income statements showing revenue and expenditures for the game in prior years, attendance capacity at the proposed venues, event budget at the proposed venues, and projected lodging room nights based on historical attendance, attendance capacity at the proposed venues, and duration of the game and related activities. The endorsing municipality or endorsing county is eligible to receive a grant under this section only if the projected incremental increase in receipts from the tax imposed under section 5739.02 of the Revised Code, as determined by the director, exceeds two hundred fifty thousand dollars. The amount of the grant shall be determined by the director but shall not exceed five hundred thousand dollars. The director shall not issue grants with a total value of more than one million dollars in any fiscal year, and shall not issue any grant before July 1, 2011.

(B) If the director of development approves an application for an endorsing municipality or endorsing county and that endorsing municipality or endorsing county enters into a joinder agreement with a site selection organization, the endorsing municipality or endorsing county shall file a copy of the joinder agreement with the director of development, who immediately shall notify the director of budget and management of the filing. Within thirty days after receiving the notice, the director of budget and management shall establish a schedule to disburse from the general revenue fund to such endorsing municipality or endorsing county payments that total the amount certified by the director of development under division (A) of this section, but in no event shall the total amount disbursed exceed five hundred thousand dollars, and no disbursement shall be made before July 1, 2011. The payments shall be used exclusively by the endorsing municipality or endorsing county to fulfill a portion of its obligations to a site selection organization under game support contracts, which obligations may include the payment of costs relating to the preparations necessary for the conduct of the game, including acquiring, renovating, or constructing facilities; to pay the costs of conducting the game; and to assist the local

organizing committee, endorsing municipality, or endorsing county in providing assurances required by a site selection organization sponsoring one or more games.

(C) For the purposes of division (A) of this section, the director of development, in consultation with the tax commissioner, shall designate as a market area for a game each area in which they determine there is a reasonable likelihood of measurable economic impact directly attributable to the preparation for and presentation of the game and related events, including areas likely to provide venues, accommodations, and services in connection with the game based on the information and the copy of the joinder undertaking provided to the director under divisions (A) and (B) of this section. The director and commissioner shall determine the geographic boundaries of each market area. An endorsing municipality or endorsing county that has been selected as the site for a game must be included in a market area for the game.

(D) A local organizing committee, endorsing municipality, or endorsing county shall provide information required by the director of development and tax commissioner to enable the director and commissioner to fulfill their duties under this section, including annual audited statements of any financial records required by a site selection organization and data obtained by the local organizing committee, endorsing municipality, or endorsing county relating to attendance at a game and to the economic impact of the game. A local organizing committee, an endorsing municipality, or an endorsing county shall provide an annual audited financial statement if so required by the director and commissioner, not later than the end of the fourth month after the date the period covered by the financial statement ends.

(E) Within sixty days after the game, the endorsing municipality or the endorsing county shall report to the director of development about the economic impact of the game. The report shall be in the form and substance required by the director, including, but not limited to, a final income statement for the event showing total revenue and expenditures and revenue and expenditures in the market area for the game, and ticket sales for the game and any related activities for which admission was charged. The director of development shall determine, based on the reported information and the exercise of reasonable judgment, the incremental increase in receipts from the tax imposed under section 5739.02 of the Revised Code directly attributable to the game. If the actual incremental increase in such receipts is less than the projected incremental increase in receipts, the director may require the endorsing municipality or the endorsing county to refund to the

state all or a portion of the grant.

(F) No disbursement may be made under this section if the director of development determines that it would be used for the purpose of soliciting the relocation of a professional sports franchise located in this state.

(G) This section may not be construed as creating or requiring a state guarantee of obligations imposed on an endorsing municipality or endorsing county under a game support contract or any other agreement relating to hosting one or more games in this state.

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

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

(2) The Ohio entity had less than two million five hundred thousand dollars of gross revenue during its most recently completed fiscal year or had a net book value of less than two million five hundred thousand dollars at the end of that fiscal year.

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

(4) The amount of the investment for which the credit is being claimed does not exceed three hundred thousand dollars in the case of an investment in an EDGE business enterprise or in an Ohio entity located in a distressed area, or two hundred fifty thousand dollars in the case of an investment in any other Ohio entity.

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

(6) No repayment of principal invested will be made for at least three years from the date the investment is made.

(7) The annual combined amount of any dividend and interest payments

to be made to the investor will not exceed ten per cent of the amount of the investment for at least three years from the date the investment is made.

(8) The investor is not an employee with proprietary decision-making authority of the Ohio entity in which the investment of money is proposed, or related to such an individual. The Ohio entity is not an individual related to the investor. For purposes of this division, the industrial technology and enterprise advisory council shall define "an employee with proprietary decision-making authority."

(9) The investor is not an insider.

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

Nothing in division (A)(6) or (7) of this section limits or disallows the distribution to an investor in a pass-through entity of a portion of the entity's profits equal to the investor's federal, state, and local income tax obligations attributable to the investor's allocable share of the entity's profits. Nothing in division (A)(6) or (7) of this section limits or disallows the sale by an investor of part or all of the investor's interests in an Ohio entity by way of a public offering of shares in the Ohio entity.

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

(C) The industrial technology and enterprise advisory council shall establish from among its members a three-person committee. Within four

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

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

If the one-million-five-hundred-thousand-dollar limit for an Ohio entity has not yet been reached and an application proposes an investment of money that would exceed the limit for that entity, the committee shall send written notice to the investor, or for a group, the contact person, that the investment cannot be approved as requested. Upon receipt of the notice, the investor or group may amend the application to propose an investment of money that does not exceed the limit.

(2) Not more than ~~thirty~~ forty-five million dollars of tax credits shall be issued under sections 122.15 to 122.154 of the Revised Code.

(E) If an investor makes an approved investment of less than two hundred fifty thousand dollars in any Ohio entity other than an EDGE business enterprise or in an Ohio entity located in a distressed area, the investor may apply for approval of another investment of money in that entity, as long as the total amount invested in that entity by the investor under this section does not exceed two hundred fifty thousand dollars. If an investor makes an approved investment of less than three hundred thousand dollars in an EDGE business enterprise or in an Ohio entity located in a distressed area, the investor may apply for approval of another investment of money in that entity, as long as the total amount invested in that entity by the investor under this section does not exceed three hundred thousand

dollars. An investor who receives approval of an investment of money as part of a group may subsequently apply on an individual basis for approval of an additional investment of money in the Ohio entity.

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

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

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

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

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

~~(1) "Full-time employee" means an individual who is employed for consideration for at least an average of thirty-five hours a week, who renders any other standard of service generally accepted by custom or specified by contract as full-time employment, or who is employed for consideration for such time or renders such service but is on family or medical leave under the federal Family and Medical Leave Act of 1993, Pub. L. No. 103-3, 107 Stat. 6, as amended, or on active duty reserve or Ohio national guard service.~~

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

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

~~(b) A full-time employee first employed by a taxpayer in the project that~~

~~is the subject of the tax credit after the tax credit authority approves a project for a tax credit under this section in a public meeting, as long as the taxpayer enters into the tax credit agreement prepared by the department of development after such meeting within sixty days after receiving the agreement from the department. If the taxpayer fails to enter into the agreement within sixty days, "new employee" has the same meaning as under division (A)(2)(a) of this section. A full time employee may be considered a "new employee" of a taxpayer, despite previously having been employed by a related member of the taxpayer, if all of the following apply:~~

~~(i) The related member is a party to the tax credit agreement at the time the employee is first employed with the taxpayer;~~

~~(ii) The related member will remain subject to the tax imposed by section 5725.18, 5729.03, 5733.06, or 5747.02 or levied under Chapter 5751. of the Revised Code for the remainder of the term of the tax credit, and the tax credit is taken against liability for that same tax through the remainder of the term of the tax credit; and~~

~~(iii) The employee was considered a new employee of the related member prior to employment with the taxpayer.~~

~~Under division (A)(2)(a) or (b) of this section, if the tax credit authority determines it appropriate, "new employee" also may include an employee re-hired or called back from lay-off to work in a new facility or on a new product or service established or produced by the taxpayer after entering into the agreement under this section or after the tax credit authority approves the tax credit in a public meeting. Except as otherwise provided in this paragraph, "new employee" does not include any employee of the taxpayer who was previously employed in this state by a related member of the taxpayer and whose employment was shifted to the taxpayer after the taxpayer entered into the tax credit agreement or after the tax credit authority approved the credit in a public meeting, or any employee of the taxpayer for which the taxpayer has been granted a certificate under division (B) of section 5709.66 of the Revised Code. However, if the taxpayer is engaged in the enrichment and commercialization of uranium or uranium products or is engaged in research and development activities related thereto and if the tax credit authority determines it appropriate, "new employee" may include an employee of the taxpayer who was previously employed in this state by a related member of the taxpayer and whose employment was shifted to the taxpayer after the taxpayer entered into the tax credit agreement or after the tax credit authority approved the credit in a public meeting. "New employee" does not include an employee of the taxpayer who is employed in an employment position that was relocated to a project~~

~~from other operations of the taxpayer in this state or from operations of a related member of the taxpayer in this state. In addition, "new employee" does not include a child, grandchild, parent, or spouse, other than a spouse who is legally separated from the individual, of any individual who is an employee of the taxpayer and who has a direct or indirect ownership interest of at least five per cent in the profits, capital, or value of the taxpayer. Such ownership interest shall be determined in accordance with section 1563 of the Internal Revenue Code and regulations prescribed thereunder.~~

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

~~(4) "Related member" has the same meaning as under division (A)(6) of section 5733.042 of the Revised Code without regard to division (B) of that section each employee employed in the project to the extent the employee's withholdings are not used to determine the credit under section 122.171 of the Revised Code. "Income tax revenue" excludes amounts withheld before the day the taxpayer becomes eligible for the credit.~~

~~(2) "Baseline income tax revenue" means income tax revenue except that the applicable withholding period is the twelve months immediately preceding the date the tax credit authority approves the taxpayer's application multiplied by the sum of one plus an annual pay increase factor to be determined by the tax credit authority. If the taxpayer becomes eligible for the credit after the first day of the taxpayer's taxable year or after the first day of the calendar year that includes the tax period, the taxpayer's baseline income tax revenue for the first such taxable or calendar year of credit eligibility shall be reduced in proportion to the number of days during the taxable or calendar year for which the taxpayer was not eligible for the credit. For subsequent taxable or calendar years, "baseline income tax revenue" equals the unreduced baseline income tax revenue for the preceding taxable or calendar year multiplied by the sum of one plus the pay increase factor.~~

~~(3) "Excess income tax revenue" means income tax revenue minus baseline income tax revenue.~~

(B) The tax credit authority may make grants under this section to foster job creation in this state. Such a grant shall take the form of a refundable credit allowed against the tax imposed by section 5725.18, 5729.03, 5733.06, or 5747.02 or levied under Chapter 5751. of the Revised Code. The credit shall be claimed for the taxable years or tax periods specified in the

taxpayer's agreement with the tax credit authority under division (D) of this section. With respect to taxes imposed under section 5733.06 or 5747.02 or Chapter 5751. of the Revised Code, the credit shall be claimed in the order required under section 5733.98, 5747.98, or 5751.98 of the Revised Code. The amount of the credit available for a taxable year or for a calendar year that includes a tax period equals the ~~new~~ excess income tax revenue for that year multiplied by the percentage specified in the agreement with the tax credit authority. Any credit granted under this section against the tax imposed by section 5733.06 or 5747.02 of the Revised Code, to the extent not fully utilized against such tax for taxable years ending prior to 2008, shall automatically be converted without any action taken by the tax credit authority to a credit against the tax levied under Chapter 5751. of the Revised Code for tax periods beginning on or after July 1, 2008, provided that the person to whom the credit was granted is subject to such tax. The converted credit shall apply to those calendar years in which the remaining taxable years specified in the agreement end.

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

(1) The taxpayer's project will ~~create new jobs in this state~~ increase payroll and income tax revenue;

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

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

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

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

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

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

(4) The percentage, as determined by the tax credit authority, of ~~new~~ excess income tax revenue that will be allowed as the amount of the credit

for each taxable year or for each calendar year that includes a tax period;

~~(5) A specific method for determining how many new employees are employed during a taxable year or during a calendar year that includes a tax period~~ The pay increase factor to be applied to the taxpayer's baseline income tax revenue;

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

~~(7) A requirement that the director of development annually shall verify the amounts review the information reported under division (D)(6) of this section, and after doing so shall issue a certificate to the taxpayer stating that the amounts have been verified and verify compliance with the agreement; if the taxpayer is in compliance, a requirement that the director issue a certificate to the taxpayer stating that the information has been verified and identifying the amount of the credit that may be claimed for the taxable or calendar year;~~

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

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

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

~~(ii) That~~ A provision providing that the taxpayer may not relocate a substantial number of employment positions from elsewhere in this state to the project location unless the director of development determines that the legislative authority of the county, township, or municipal corporation from which the employment positions would be relocated has been notified by the taxpayer of the relocation.

For purposes of this section, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position, ~~but the transfer of an~~

~~individual employee from one political subdivision to another political subdivision shall not be considered a relocation of an employment position as long as the individual's employment position in the first political subdivision is refilled unless the employment position in the first political subdivision is replaced.~~

~~(E) If a taxpayer fails to meet or comply with any condition or requirement set forth in a tax credit agreement, the tax credit authority may amend the agreement to reduce the percentage or term of the tax credit. The reduction of the percentage or term shall take effect (1) in the taxable year immediately following the taxable year in which the authority amends the agreement or the director of development notifies the taxpayer in writing of such failure, or (2) in the first tax period beginning in the calendar year immediately following the calendar year in which the authority amends the agreement or the director notifies the taxpayer in writing of such failure. If the taxpayer fails to annually report any of the information required by division (D)(6) of this section within the time required by the director, the reduction of the percentage or term may take effect in the current taxable year. If the taxpayer relocates employment positions in violation of the provision required under division (D)(8)(a) of this section, the taxpayer shall not claim the tax credit under section 5733.0610 of the Revised Code for any tax years following the calendar year in which the relocation occurs, or shall not claim the tax credit under section 5725.32, 5729.032, or 5747.058 of the Revised Code for the taxable year in which the relocation occurs and any subsequent taxable years, and shall not claim the tax credit under division (A) of section 5751.50 of the Revised Code for any tax period in the calendar year in which the relocation occurs and any subsequent tax periods may take effect in the current taxable or calendar year.~~

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

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

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

(H) A taxpayer claiming a credit under this section shall submit to the tax commissioner or, if the taxpayer is an insurance company, to the superintendent of insurance, a copy of the director of development's certificate of verification under division (D)(7) of this section with the taxpayer's tax report or return for the taxable year or for the calendar year that includes the tax period. Failure to submit a copy of the certificate with the report or return does not invalidate a claim for a credit if the taxpayer submits a copy of the certificate to the commissioner or superintendent within sixty days after the commissioner or superintendent requests it.

(I) The director of development, after consultation with the tax commissioner and the superintendent of insurance and in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section. The rules may provide for recipients of tax credits under this section to be charged fees to cover administrative costs of the tax credit program. The fees collected shall be credited to the tax incentive programs operating fund created in section 122.174 of the Revised Code. At the time the director gives public notice under division (A) of section 119.03 of the Revised Code of the adoption of the rules, the director shall submit copies of the proposed rules to the chairpersons of the standing committees on economic development in the senate and the house of representatives.

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

under division (D)(6) of this section. The election applies to and is irrevocable for the credit for which the report is submitted. If the election is made, the credit shall be apportioned among those persons in the same proportions as those in which the income or profit is distributed.

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

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

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

~~(3) If the taxpayer maintained operations at the project location for less than the number of years of the term of the tax credit, an amount not exceeding one hundred per cent of the sum of any previously allowed credits under this section~~ a period less than or equal to the term of the credit, an amount not exceeding one hundred per cent of the sum of any credits allowed and received under this section;

(2) If the taxpayer maintained operations at the project location for a period longer than the term of the credit, but less than the greater of seven years or the term of the credit plus three years, an amount not exceeding seventy-five per cent of the sum of any credits allowed and received under this section.

In determining the portion of the tax credit to be refunded to this state, the tax credit authority shall consider the effect of market conditions on the taxpayer's project and whether the taxpayer continues to maintain other operations in this state. After making the determination, the authority shall certify the amount to be refunded to the tax commissioner or superintendent of insurance, as appropriate. If the amount is certified to the commissioner, the commissioner shall make an assessment for that amount against the taxpayer under Chapter 5733., 5747., or 5751. of the Revised Code. If the amount is certified to the superintendent, the superintendent shall make an assessment for that amount against the taxpayer under Chapter 5725. or

5729. of the Revised Code. The time limitations on assessments under those chapters do not apply to an assessment under this division, but the commissioner or superintendent, as appropriate, shall make the assessment within one year after the date the authority certifies to the commissioner or superintendent the amount to be refunded.

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

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

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

substitute shall serve as chairperson. In the absence of both the director and the director's substitute from a meeting, the vice-chairperson shall serve as chairperson.

(N) For purposes of the credits granted by this section against the taxes imposed under sections 5725.18 and 5729.03 of the Revised Code, "taxable year" means the period covered by the taxpayer's annual statement to the superintendent of insurance.

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

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

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

(b) Project costs paid before January 1, 2002;

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

(2) "Eligible business" means a ~~business taxpayer and its related members~~ with Ohio operations satisfying all of the following:

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

~~(b) On or after January 1, 2002, has made or has caused to be made payments for the capital investment project, including payments made by an unrelated third party entity as a result of a lease of not less than twenty years in term, of either of the following:~~

~~(i) At least two hundred~~ The taxpayer employs at least five hundred full-time equivalent employees at the time the tax credit authority grants the tax credit under this section;

~~(b) The taxpayer makes or causes to be made payments for the capital investment project of either of the following:~~

~~(i) If the taxpayer is engaged at the project site primarily as a manufacturer, at least fifty million dollars in the aggregate at the project site during a period of three consecutive calendar years, including the calendar year that includes a day of the taxpayer's taxable year or tax period with respect to which the credit is granted;~~

~~(ii) If the average wage of all full-time employment positions at the project site is greater than four hundred per cent of the federal minimum~~

~~wage, at least one hundred taxpayer is engaged at the project site primarily in significant corporate administrative functions, as defined by the director of development by rule, at least twenty million dollars in the aggregate at the project site during a period of three consecutive calendar years including the calendar year that includes a day of the taxpayer's taxable year or tax period with respect to which the credit is granted.~~

~~(c) Is engaged at the project site primarily as a manufacturer or is providing significant corporate administrative functions. If the investment under division (A)(2)(b) of this section was made by a third party entity as a result of a lease of not less than twenty years in term, the project must include headquarters operations that are part of a mixed use development that includes at least two of the following: office, hotel, research and development, or retail facilities.~~

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

~~(3) "Full-time employment position" means a position of employment for consideration for at least an average of thirty five hours a week that has been filled for at least one hundred eighty days immediately preceding the filing of an application under this section and for at least one hundred eighty days during each taxable year or each calendar year that includes a tax period with respect to which the credit is granted, or is employed in such position for consideration for such time, but is on active duty reserve or Ohio national guard service~~ equivalent employees" means the quotient obtained by dividing the total number of hours for which employees were compensated for employment in the project by two thousand eighty. "Full-time equivalent employees" shall exclude hours that are counted for a credit under section 122.17 of the Revised Code.

~~(4) "Income tax revenue" means the total amount withheld under section 5747.06 of the Revised Code by the taxpayer during the taxable year, or during the calendar year that includes the tax period, from the compensation of all employees employed in the project whose hours of compensation are included in calculating the number of full-time equivalent employees.~~

~~(4)(5) "Manufacturer" has the same meaning as in section 5739.011 of the Revised Code.~~

~~(5)(6) "Project site" means an integrated complex of facilities in this state, as specified by the tax credit authority under this section, within a fifteen-mile radius where a taxpayer is primarily operating as an eligible business.~~

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

following:

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

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

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

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

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

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

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

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

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

~~division (B) of section 5733.06 of the Revised Code for the tax year.~~

~~(c) If the resulting difference is negative, the applicable tax difference for the tax year shall be zero. "Taxable year" includes, in the case of a domestic or foreign insurance company, the calendar year ending on the thirty-first day of December preceding the day the superintendent of insurance is required to certify to the treasurer of state under section 5725.20 or 5729.05 of the Revised Code the amount of taxes due from insurance companies.~~

(B) The tax credit authority created under section 122.17 of the Revised Code may grant tax credits under this section for the purpose of fostering job retention in this state. Upon application by an eligible business and upon consideration of the recommendation of the director of budget and management, tax commissioner, the superintendent of insurance in the case of an insurance company, and director of development under division (C) of this section, the tax credit authority may grant to an eligible business a nonrefundable credit against the tax imposed by section 5725.18, 5729.03, 5733.06, or 5747.02 of the Revised Code for a period up to fifteen taxable years and against the tax levied by Chapter 5751. of the Revised Code for a period of up to fifteen calendar years ~~provided, however, that if the project site is leased, the term of the tax credit cannot exceed the lesser of fifteen years or one-half the term of the lease, including any permitted renewal periods.~~ The credit shall be in an amount not exceeding seventy five per cent of the Ohio income tax withheld from the employees of the eligible business occupying full-time employment positions at the project site during the calendar year that includes the last day of such business' taxable year or tax period with respect to which the credit is granted. The amount of the credit shall not be based on the Ohio income tax withheld from full-time employees for a calendar year prior to the calendar year in which the minimum investment requirement referred to in division (A)(2)(b) of this section is completed. The credit amount for a taxable year or a calendar year that includes the tax period for which a credit may be claimed equals the income tax revenue for that year multiplied by the percentage specified in the agreement with the tax credit authority. The percentage may not exceed seventy-five per cent. The credit shall be claimed in the order required under section 5725.98, 5729.98, 5733.98, or 5747.98 of the Revised Code. In determining the percentage and term of the credit, the tax credit authority shall consider both the number of full-time equivalent employees and the value of the capital investment project. The credit amount may not be based on the income tax revenue for a calendar year before the calendar year in which the tax credit authority specifies the tax credit is to begin, and the

credit shall be claimed only for the taxable years or tax periods specified in the eligible business' agreement with the tax credit authority ~~under division (E) of this section, but in~~ In no event shall the credit be claimed for a taxable year or tax period terminating before the date specified in the agreement. Any credit granted under this section against the tax imposed by section 5733.06 or 5747.02 of the Revised Code, to the extent not fully utilized against such tax for taxable years ending prior to 2008, shall automatically be converted without any action taken by the tax credit authority to a credit against the tax levied under Chapter 5751. of the Revised Code for tax periods beginning on or after July 1, 2008, provided that the person to whom the credit was granted is subject to such tax. The converted credit shall apply to those calendar years in which the remaining taxable years specified in the agreement end.

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

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

(C) A taxpayer that proposes a capital investment project to retain jobs in this state may apply to the tax credit authority to enter into an agreement for a tax credit under this section. The director of development shall prescribe the form of the application. After receipt of an application, the authority shall forward copies of the application to the director of budget and management, the tax commissioner, the superintendent of insurance in the case of an insurance company, and the director of development, each of whom shall review the application to determine the economic impact the proposed project would have on the state and the affected political subdivisions and shall submit a summary of their determinations and recommendations to the authority.

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

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

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

(3) The taxpayer intends to and has the ability to maintain operations at the project site for at least the greater of (a) the term of the credit plus three years, or (b) seven years.

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

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

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

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

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

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

~~(4), and the anticipated income tax revenue to be generated.~~

(2) The term of the credit, the percentage of the tax credit, the maximum annual value of tax credits that may be allowed each year, and the first year for which the credit may be claimed.

(3) A requirement that the taxpayer maintain operations at the project site for at least the greater of (a) the term of the credit plus three years, or (b) seven years.

~~(5)(4) A requirement that the taxpayer retain a specified number of full-time employment positions~~ full-time equivalent employees at the project site and within this state for the term of the credit, including a requirement that the taxpayer continue to employ at least ~~one thousand employees in full-time employment positions at the project site during the entire term of any agreement, subject to division (E)(7) of this section.~~

(6) five hundred full-time equivalent employees during the entire term of the agreement.

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

~~(7)(6) A requirement that the director of development annually review the annual reports of the taxpayer to verify the information reported under division (E)(6)(5) of this section and compliance with the agreement. Upon verification, the director shall issue a certificate to the taxpayer stating that the information has been verified and identifying the amount of the credit for the taxable year~~ or calendar year that includes the tax period. Unless

~~otherwise specified by the tax credit authority in a resolution and included as part of the agreement, the director shall not issue a certificate for any year in which the total number of filled full-time employment positions for each day of the calendar year divided by three hundred sixty five is less than ninety per cent of the full-time employment positions specified in division (E)(5) of this section. In determining the number of full-time employment positions equivalent employees, no position shall be counted that is filled by an employee who is included in the calculation of a tax credit under section 122.17 of the Revised Code.~~

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

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

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

~~(ii) That (7) A provision providing that the taxpayer may not relocate a substantial number of employment positions from elsewhere in this state to the project site unless the director of development determines that the taxpayer notified the legislative authority of the county, township, or municipal corporation from which the employment positions would be relocated has been notified of the relocation.~~

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

~~(9) if the employment position in the first political subdivision is replaced by another employment position.~~

~~(8) A waiver by the taxpayer of any limitations periods relating to assessments or adjustments resulting from the taxpayer's failure to comply~~

with the agreement.

(F) If a taxpayer fails to meet or comply with any condition or requirement set forth in a tax credit agreement, the tax credit authority may amend the agreement to reduce the percentage or term of the credit. The reduction of the percentage or term shall take effect ~~(1) in the taxable year immediately following the taxable year in which the authority amends the agreement or the director of development notifies the taxpayer in writing of such failure, or (2) in the first tax period beginning in the calendar year immediately following the calendar year in which the authority amends the agreement or the director notifies the taxpayer in writing of such failure.~~ If the taxpayer fails to annually report any of the information required by division (E)(6) of this section within the time required by the director, the reduction of the percentage or term may take effect in the current taxable year. If the taxpayer relocates employment positions in violation of the provision required under division (E)(8)(a) of this section, the taxpayer shall not claim the tax credit under section 5733.0610 of the Revised Code for any tax years following the calendar year in which the relocation occurs, shall not claim the tax credit under section 5747.058 of the Revised Code for the taxable year in which the relocation occurs and any subsequent taxable years, and shall not claim the tax credit under division (A) of section 5751.50 of the Revised Code for the tax period in which the relocation occurs and any subsequent tax periods may take effect in the current taxable or calendar year.

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

(H) A taxpayer claiming a tax credit under this section shall submit to the tax commissioner or, in the case of an insurance company, to the superintendent of insurance, a copy of the director of development's

certificate of verification under division (E)~~(7)~~(6) of this section with the taxpayer's tax report or return for the taxable year or for the calendar year that includes the tax period. Failure to submit a copy of the certificate with the report or return does not invalidate a claim for a credit if the taxpayer submits a copy of the certificate to the commissioner or superintendent within sixty days after the commissioner or superintendent requests it.

(I) For the purposes of this section, a taxpayer may include a partnership, a corporation that has made an election under subchapter S of chapter one of subtitle A of the Internal Revenue Code, or any other business entity through which income flows as a distributive share to its owners. A partnership, S-corporation, or other such business entity may elect to pass the credit received under this section through to the persons to whom the income or profit of the partnership, S-corporation, or other entity is distributed. The election shall be made on the annual report required under division (E)~~(6)~~(5) of this section. The election applies to and is irrevocable for the credit for which the report is submitted. If the election is made, the credit shall be apportioned among those persons in the same proportions as those in which the income or profit is distributed.

(J) If the director of development determines that a taxpayer that received a tax credit under this section is not complying with the requirement under division (E)~~(4)~~(3) of this section, the director shall notify the tax credit authority of the noncompliance. After receiving such a notice, and after giving the taxpayer an opportunity to explain the noncompliance, the authority may terminate the agreement and require the taxpayer to refund to the state all or a portion of the credit claimed in previous years, as follows:

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

(2) If the taxpayer maintained operations at the project site longer than the term of the credit, but less than the greater of (a) the term of the credit plus three years, or (b) seven years, the amount required to be refunded shall not exceed ~~fifty~~ seventy-five per cent of the sum of any tax credits ~~previously~~ allowed and received under this section.

In determining the portion of the credit to be refunded to this state, the authority shall consider the effect of market conditions on the taxpayer's project and whether the taxpayer continues to maintain other operations in this state. After making the determination, the authority shall certify the amount to be refunded to the tax commissioner-~~The~~ or the superintendent of

insurance. If the taxpayer is not an insurance company, the commissioner shall make an assessment for that amount against the taxpayer under Chapter 5733., 5747., or 5751. of the Revised Code. If the taxpayer is an insurance company, the superintendent of insurance shall make an assessment under section 5725.222 or 5729.102 of the Revised Code. The time limitations on assessments under those chapters and sections do not apply to an assessment under this division, but the commissioner or superintendent shall make the assessment within one year after the date the authority certifies to the commissioner or superintendent the amount to be refunded.

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

(K) The director of development, after consultation with the tax commissioner and the superintendent of insurance and in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section. The rules may provide for recipients of tax credits under this section to be charged fees to cover administrative costs of the tax credit program. The fees collected shall be credited to the tax incentive programs operating fund created in section 122.174 of the Revised Code. At the time the director gives public notice under division (A) of section 119.03 of the Revised Code of the adoption of the rules, the director shall submit copies of the proposed rules to the chairpersons of the standing committees on economic development in the senate and the house of representatives.

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

(M)(1) ~~A nonrefundable credit shall be allowed to an applicable corporation and its related members in an amount equal to the applicable~~

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

~~(2) A person qualifying as an applicable corporation under this section for a tax year does not necessarily qualify as an applicable corporation for any other tax year. No person is entitled to the credit allowed under division (M) of this section for the tax year immediately following the taxable year during which the person fails to meet the requirements in divisions (A)(6)(a)(i) and (A)(6)(b) of this section. No person is entitled to the credit allowed under division (M) of this section for any tax year for which the person is not eligible for the credit provided under division (B) of this section. The aggregate amount of tax credits issued under this section during any calendar year for capital investment projects reviewed and approved by the tax credit authority may not exceed the following amounts:~~

~~(1) For 2010, thirteen million dollars;~~

~~(2) For 2011 through 2023, the amount of the limit for the preceding calendar year plus thirteen million dollars;~~

~~(3) For 2024 and each year thereafter, one hundred ninety-five million dollars.~~

~~The foregoing annual limitations do not apply to credits for capital investment projects approved by the tax credit authority before July 1, 2009.~~

Sec. 122.40. (A) There is hereby created the development financing advisory council to assist in carrying out the programs created pursuant to sections 122.39 to 122.62 and Chapter 166. of the Revised Code.

(B) The council shall consist of ~~seven~~ eight members appointed by the governor, with the advice and consent of the senate, who are selected for their knowledge of and experience in economic development financing, one member of the senate appointed by the president of the senate, one member of the house of representatives appointed by the speaker of the house of representatives, and the director of development or the director's designee. With respect to the council:

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

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

(3) The terms of office for the ~~seven~~ eight members appointed by the governor shall be for five years commencing on the first day of January and ending on the thirty-first day of December. The ~~seven~~ members appointed by the governor who are serving terms of office of seven years on December 30, 2004, shall continue to serve those terms, but their successors in office,

including the filling of a vacancy occurring prior to the expiration of those terms, shall be appointed for terms of five years in accordance with this division.

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

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

(6) Except as otherwise provided in division (B)(3) of this section, any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of the predecessor's term.

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

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

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

(10) Members of the council, notwithstanding section 101.26 of the Revised Code with respect to members who are members of the general assembly, shall receive their necessary and actual expenses while engaged in the business of the council and shall be paid at the per diem rate of step 1, pay range 31, of section 124.15 of the Revised Code.

(11) Six members of the council constitute a quorum and the affirmative vote of six members is necessary for any action taken by the council.

(12) In the event of the absence of a member appointed by the president of the senate or by the speaker of the house of representatives, the following persons may serve in the member's absence: the president of the senate or the speaker of the house, as the case may be, or a member of the senate or of the house of representatives, of the same political party as the development financing advisory council member, designated by the president of the senate or the speaker of the house.

Sec. 122.603. (A)(1) Upon approval by the director of development and after entering into a participation agreement with the department of development, a participating financial institution making a capital access loan shall establish a program reserve account. The account shall be an interest-bearing account and shall contain only moneys deposited into it under the program and the interest payable on the moneys in the account.

(2) All interest payable on the moneys in the program reserve account

shall be added to the moneys and held as an additional loss reserve. The director may require that a portion or all of the accrued interest so held in the account be released to the department. If the director causes a release of accrued interest, the director shall deposit the released amount into the capital access loan program fund created in section 122.601 of the Revised Code. The director shall not require the release of that accrued interest more than twice in a fiscal year.

(B) When a participating financial institution makes a capital access loan, it shall require the eligible business to pay to the participating financial institution a fee in an amount that is not less than one and one-half per cent, and not more than three per cent, of the principal amount of the loan. The participating financial institution shall deposit the fee into its program reserve account, and it also shall deposit into the account an amount of its own funds equal to the amount of the fee. The participating financial institution may recover from the eligible business all or part of the amount that the participating financial institution is required to deposit into the account under this division in any manner agreed to by the participating financial institution and the eligible business.

(C) For each capital access loan made by a participating financial institution, the participating financial institution shall certify to the director, within a period specified by the director, that the participating financial institution has made the loan. The certification shall include the amount of the loan, the amount of the fee received from the eligible business, the amount of its own funds that the participating financial institution deposited into its program reserve account to reflect that fee, and any other information specified by the director. The certification also shall indicate if the eligible business receiving the capital access loan is a minority business enterprise as defined in section 122.71 of the Revised Code.

(D)(1)(a) Upon receipt of each of the first three certifications from a participating financial institution made under division (C) of this section and subject to section 122.602 of the Revised Code, the director shall disburse to the participating financial institution from the capital access loan program fund an amount equal to fifty per cent of the principal amount of the particular capital access loan for deposit into the participating financial institution's program reserve account. Thereafter, upon receipt of a certification from that participating financial institution made under division (C) of this section and subject to section 122.602 of the Revised Code, the director shall disburse to the participating financial institution from the capital access loan program fund an amount equal to ten per cent of the principal amount of the particular capital access loan for deposit into the

participating financial institution's program reserve account. ~~The~~

(b) Notwithstanding division (D)(1)(a) of this section, and subject to section 122.602 of the Revised Code, upon receipt of any certification from a participating financial institution made under division (C) of this section with respect to a capital access loan made to an eligible business that is a minority business enterprise, the director shall disburse to the participating financial institution from the capital access loan program fund an amount equal to eighty per cent of the principal amount of the particular capital access loan for deposit into the participating financial institution's program reserve account.

(2) The disbursement of moneys from the fund to a participating financial institution does not require approval from the controlling board.

(E) If the amount in a program reserve account exceeds an amount equal to thirty-three per cent of a participating financial institution's outstanding capital access loans, the department may cause the withdrawal of the excess amount and the deposit of the withdrawn amount into the capital access loan program fund.

(F)(1) The department may cause the withdrawal of the total amount in a participating financial institution's program reserve account if any of the following applies:

(a) The financial institution is no longer eligible to participate in the program.

(b) The participation agreement expires without renewal by the department or the financial institution.

(c) The financial institution has no outstanding capital access loans.

(d) The financial institution has not made a capital access loan within the preceding twenty-four months.

(2) If the department causes a withdrawal under division (F)(1) of this section, the department shall deposit the withdrawn amount into the capital access loan program fund.

Sec. 122.71. As used in sections 122.71 to 122.83 of the Revised Code:

(A) "Financial institution" means any banking corporation, trust company, insurance company, savings and loan association, building and loan association, or corporation, partnership, federal lending agency, foundation, or other institution engaged in lending or investing funds for industrial or business purposes.

(B) "Project" means any real or personal property connected with or being a part of an industrial, distribution, commercial, or research facility to be acquired, constructed, reconstructed, enlarged, improved, furnished, or equipped, or any combination thereof, with the aid provided under sections

122.71 to 122.83 of the Revised Code, for industrial, commercial, distribution, and research development of the state.

(C) "Mortgage" means the lien imposed on a project by a mortgage on real property, or by financing statements on personal property, or a combination of a mortgage and financing statements when a project consists of both real and personal property.

(D) "Mortgagor" means the principal user of a project or the person, corporation, partnership, or association unconditionally guaranteeing performance by the principal user of its obligations under the mortgage.

(E)(1) "Minority business enterprise" means an individual who is a United States citizen and owns and controls a business, or a partnership, corporation, or joint venture of any kind that is owned and controlled by United States citizens, which citizen or citizens are residents of this state and are members of one of the following economically disadvantaged groups: Blacks or African Americans, American Indians, Hispanics or Latinos, and Asians.

(2) "Owned and controlled" means that at least fifty-one per cent of the business, including corporate stock if a corporation, is owned by persons who belong to one or more of the groups set forth in division (E)(1) of this section, and that those owners have control over the management and day-to-day operations of the business and an interest in the capital, assets, and profits and losses of the business proportionate to their percentage of ownership. In order to qualify as a minority business enterprise, a business shall have been owned and controlled by those persons at least one year prior to being awarded a contract pursuant to this section.

(F) "Community improvement corporation" means a corporation organized under Chapter 1724. of the Revised Code.

(G) "Ohio development corporation" means a corporation organized under Chapter 1726. of the Revised Code.

(H) "Minority contractors business assistance organization" means an entity engaged in the provision of management and technical business assistance to minority business enterprise entrepreneurs.

(I) "Minority business supplier development council" means a nonprofit organization established as an affiliate of the national minority supplier development council.

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

(K) "Community development corporation" means a corporation organized under Chapter 1702. of the Revised Code that consists of

residents of the community and business and civic leaders and that has as a principal purpose one or more of the following: the revitalization and development of a low- to moderate-income neighborhood or community; the creation of jobs for low- to moderate-income residents; the development of commercial facilities and services; providing training, technical assistance, and financial assistance to small businesses; and planning, developing, or managing low-income housing or other community development activities.

Sec. 122.751. The minority development financing advisory board or a regional economic development entity shall only consider an application for a loan from any applicant after a determination that the applicant is a community development corporation, or after a certification by the equal employment opportunity coordinator of the department of administrative services under division (B)(1) of section 123.151 of the Revised Code that the applicant is a minority business enterprise, or after a certification by the minority business supplier development council that the applicant is a minority business, and that the applicant satisfies all criteria regarding eligibility for assistance pursuant to section 122.76 of the Revised Code.

Sec. 122.76. (A) The director of development, with controlling board approval, may lend funds to minority business enterprises and to community improvement corporations, Ohio development corporations, minority contractors business assistance organizations, and minority business supplier development councils for the purpose of loaning funds to minority business enterprises and for the purpose of procuring or improving real or personal property, or both, for the establishment, location, or expansion of industrial, distribution, commercial, or research facilities in the state, and to community development corporations that predominantly benefit minority business enterprises or are located in a census tract that has a population that is sixty per cent or more minority if the director determines, in the director's sole discretion, that all of the following apply:

(1) The project is economically sound and will benefit the people of the state by increasing opportunities for employment, by strengthening the economy of the state, or expanding minority business enterprises.

(2) The proposed minority business enterprise borrower is unable to finance the proposed project through ordinary financial channels at comparable terms.

(3) The value of the project is or, upon completion, will be at least equal to the total amount of the money expended in the procurement or improvement of the project, and one or more financial institutions or other governmental entities have loaned not less than thirty per cent of that amount.

(4) The amount to be loaned by the director will not exceed sixty per cent of the total amount expended in the procurement or improvement of the project.

(5) The amount to be loaned by the director will be adequately secured by a first or second mortgage upon the project or by mortgages, leases, liens, assignments, or pledges on or of other property or contracts as the director requires, and such mortgage will not be subordinate to any other liens or mortgages except the liens securing loans or investments made by financial institutions referred to in division (A)(3) of this section, and the liens securing loans previously made by any financial institution in connection with the procurement or expansion of all or part of a project.

(B) Any proposed minority business enterprise borrower submitting an application for assistance under this section shall not have defaulted on a previous loan from the director, and no full or limited partner, major shareholder, or holder of an equity interest of the proposed minority business enterprise borrower shall have defaulted on a loan from the director.

(C) The proposed minority business enterprise borrower shall demonstrate to the satisfaction of the director that it is able to successfully compete in the private sector if it obtains the necessary financial, technical, or managerial support and that support is available through the director, the minority business development office of the department of development, or other identified and acceptable sources. In determining whether a minority business enterprise borrower will be able to successfully compete, the director may give consideration to such factors as the successful completion of or participation in courses of study, recognized by the board of regents as providing financial, technical, or managerial skills related to the operation of the business, by the economically disadvantaged individual, owner, or partner, and the prior success of the individual, owner, or partner in personal, career, or business activities, as well as to other factors identified by the director.

(D) The director shall not lend funds for the purpose of procuring or improving motor vehicles or accounts receivable.

Sec. 122.85. (A) As used in this section and in sections 5733.59 and 5747.66 of the Revised Code:

(1) "Tax credit-eligible production" means a motion picture production certified by the director of development under division (B) of this section as qualifying the motion picture company for a tax credit under section 5733.59 or 5747.66 of the Revised Code.

(2) "Certificate owner" means a motion picture company to which a tax

credit certificate is issued.

(3) "Motion picture company" means an individual, corporation, partnership, limited liability company, or other form of business association producing a motion picture.

(4) "Eligible production expenditures" means expenditures made after June 30, 2009, for goods or services purchased and consumed in this state by a motion picture company directly for the production of a tax credit-eligible production.

"Eligible production expenditures" includes, but is not limited to, expenditures for resident and nonresident cast and crew wages, accommodations, costs of set construction and operations, editing and related services, photography, sound synchronization, lighting, wardrobe, makeup and accessories, film processing, transfer, sound mixing, special and visual effects, music, location fees, and the purchase or rental of facilities and equipment.

(5) "Motion picture" means entertainment content created in whole or in part within this state for distribution or exhibition to the general public, including, but not limited to, feature-length films; documentaries; long-form, specials, miniseries, series, and interstitial television programming; interactive web sites; sound recordings; videos; music videos; interactive television; interactive games; videogames; commercials; any format of digital media; and any trailer, pilot, video teaser, or demo created primarily to stimulate the sale, marketing, promotion, or exploitation of future investment in either a product or a motion picture by any means and media in any digital media format, film, or videotape, provided the motion picture qualifies as a motion picture. "Motion picture" does not include any television program created primarily as news, weather, or financial market reports, a production featuring current events or sporting events, an awards show or other gala event, a production whose sole purpose is fundraising, a long-form production that primarily markets a product or service or in-house corporate advertising or other similar productions, a production for purposes of political advocacy, or any production for which records are required to be maintained under 18 U.S.C. 2257 with respect to sexually explicit content.

(B) For the purpose of encouraging and developing a strong film industry in this state, the director of development may certify a motion picture produced by a motion picture company as a tax credit-eligible production. In the case of a television series, the director may certify the production of each episode of the series as a separate tax credit-eligible production. A motion picture company shall apply for certification of a motion picture as a tax credit-eligible production on a form and in the

manner prescribed by the director. Each application shall include the following information:

(1) The name and telephone number of the motion picture production company;

(2) The name and telephone number of the company's contact person;

(3) A list of the first preproduction date through the last production date in Ohio;

(4) The Ohio production office address and telephone number;

(5) The total production budget of the motion picture;

(6) The total budgeted eligible production expenditures and the percentage that amount is of the total production budget of the motion picture;

(7) The total percentage of the motion picture being shot in Ohio;

(8) The level of employment of cast and crew who reside in Ohio;

(9) A synopsis of the script;

(10) The shooting script;

(11) A creative elements list that includes the names of the principal cast and crew and the producer and director;

(12) Documentation of financial ability to undertake and complete the motion picture;

(13) Estimated value of the tax credit based upon total budgeted eligible production expenditures;

(14) Any other information considered necessary by the director.

Within ninety days after certification of a motion picture as a tax credit-eligible production, and any time thereafter upon the director's request, the motion picture company shall present to the director of development sufficient evidence of reviewable progress. If the motion picture company fails to present sufficient evidence, the director of development may rescind the certification. Upon rescission, the director shall notify the applicant that the certification has been rescinded. Nothing in this section prohibits an applicant whose tax credit-eligible production certification has been rescinded from submitting a subsequent application for certification.

(C)(1) A motion picture company whose motion picture has been certified as a tax credit-eligible production may apply to the director of development on or after July 1, 2009, for a refundable credit against the tax imposed by section 5733.06 or 5747.02 of the Revised Code. The director in consultation with the tax commissioner shall prescribe the form and manner of the application and the information or documentation required to be submitted with the application.

The credit is determined as follows:

(a) If the total budgeted eligible production expenditures stated in the application submitted under division (B) of this section or the actual eligible production expenditures as finally determined under division (D) of this section, whichever is least, is less than or equal to three hundred thousand dollars, no credit is allowed;

(b) If the total budgeted eligible production expenditures stated in the application submitted under division (B) of this section or the actual eligible production expenditures as finally determined under division (D) of this section, whichever is least, is greater than three hundred thousand dollars, the credit equals the sum of the following, subject to the limitation in division (C)(4) of this section:

(i) Twenty-five per cent of the least of such budgeted or actual eligible expenditure amounts excluding budgeted or actual eligible expenditures for resident cast and crew wages;

(ii) Thirty-five per cent of budgeted or actual eligible expenditures for resident cast and crew wages.

(2) Except as provided in division (C)(4) of this section, if the director of development approves a motion picture company's application for a credit, the director shall issue a tax credit certificate to the company. The director in consultation with the tax commissioner shall prescribe the form and manner of issuing certificates. The director shall assign a unique identifying number to each tax credit certificate and shall record the certificate in a register devised and maintained by the director for that purpose. The certificate shall state the amount of the eligible production expenditures on which the credit is based and the amount of the credit. Upon the issuance of a certificate, the director shall certify to the tax commissioner the name of the applicant, the amount of eligible production expenditures shown on the certificate, and any other information required by the rules adopted to administer this section.

(3) The amount of eligible production expenditures for which a tax credit may be claimed is subject to inspection and examination by the tax commissioner or employees of the commissioner under section 5703.19 of the Revised Code and any other applicable law. Once the eligible production expenditures are finally determined under section 5703.19 of the Revised Code and division (D) of this section, the credit amount is not subject to adjustment unless the director determines an error was committed in the computation of the credit amount.

(4) No tax credit certificate may be issued before the completion of the tax credit-eligible production. For the fiscal biennium beginning July 1,

2009, and ending June 30, 2011, not more than thirty million dollars of tax credit may be allowed, of which not more than ten million dollars of tax credit may be allowed in the first year of the biennium. In succeeding fiscal biennia, not more than twenty million dollars of tax credit may be allowed per fiscal biennium, and not more than ten million dollars may be allowed in the first year of the biennium. At any time, not more than five million dollars of tax credit may be allowed per tax credit-eligible production.

(D) A motion picture company whose motion picture has been certified as a tax credit-eligible production shall engage, at the company's expense, an independent certified public accountant to examine the company's production expenditures to identify the expenditures that qualify as eligible production expenditures. The certified public accountant shall issue a report to the company and to the director of development certifying the company's eligible production expenditures and any other information required by the director. Upon receiving and examining the report, the director may disallow any expenditure the director determines is not an eligible production expenditure. If the director disallows an expenditure, the director shall issue a written notice to the motion picture production company stating that the expenditure is disallowed and the reason for the disallowance. Upon examination of the report and disallowance of any expenditures, the director shall determine finally the lesser of the total budgeted eligible production expenditures stated in the application submitted under division (B) of this section or the actual eligible production expenditures for the purpose of computing the amount of the credit.

(E) No credit shall be allowed under section 5733.59 or 5747.66 of the Revised Code unless the director has reviewed the report and made the determination prescribed by division (D) of this section.

(F) This state reserves the right to refuse the use of this state's name in the credits of any tax credit-eligible motion picture production.

(G)(1) The director of development in consultation with the tax commissioner shall adopt rules for the administration of this section, including rules setting forth and governing the criteria for determining whether a motion picture production is a tax credit-eligible production; activities that constitute the production of a motion picture; reporting sufficient evidence of reviewable progress; expenditures that qualify as eligible production expenditures; a competitive process for approving credits; and consideration of geographic distribution of credits. The rules shall be adopted under Chapter 119. of the Revised Code.

(2) The director may require a reasonable application fee to cover administrative costs of the tax credit program. The fees collected shall be

credited to the motion picture tax credit program operating fund, which is hereby created in the state treasury. The motion picture tax credit program operating fund shall consist of all grants, gifts, fees, and contributions made to the director of development for marketing and promotion of the motion picture industry within this state. The director of development shall use money in the fund to pay expenses related to the administration of the Ohio film office and the credit authorized by this section and sections 5733.59 and 5747.66 of the Revised Code.

Sec. 122.89. (A) The director of development may execute bonds as surety for minority businesses as principals, on contracts with the state, any political subdivision or instrumentality thereof, or any person as the obligee. The director as surety may exercise all the rights and powers of a company authorized by the department of insurance to execute bonds as surety but shall not be subject to any requirements of a surety company under Title XXXIX of the Revised Code nor to any rules of the department of insurance.

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

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

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

~~(E)~~(D) The rules of the board shall provide for a retainage of money paid to the minority business or EDGE business enterprise of fifteen per

cent for a contract valued at more than fifty thousand dollars and for a retainage of twelve per cent for a contract valued at fifty thousand dollars or less.

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

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

(G) Notwithstanding any provision of the Revised Code to the contrary, a minority business or EDGE business enterprise may bid or enter into a contract with the state or with any instrumentality of the state without being required to provide a bond as follows:

(1) For the first contract that a minority business or EDGE business enterprise enters into with the state or with any particular instrumentality of the state, the minority business or EDGE business enterprise may bid or enter into a contract valued at twenty-five thousand dollars or less without being required to provide a bond, but only if the minority business or EDGE business enterprise is participating in a qualified contractor assistance program or has successfully completed a qualified contractor assistance program after the effective date of this amendment;

(2) After the state or any particular instrumentality of the state has accepted the first contract as completed and all subcontractors and suppliers on the contract have been paid, the minority business or EDGE business enterprise may bid or enter into a second contract with the state or with that particular instrumentality of the state valued at fifty thousand dollars or less without being required to provide a bond, but only if the minority business or EDGE business enterprise is participating in a qualified contractor assistance program or has successfully completed a qualified contractor assistance program after the effective date of this amendment;

(3) After the state or any particular instrumentality of the state has accepted the second contract as completed and all subcontractors and suppliers on the contract have been paid, the minority business or EDGE business enterprise may bid or enter into a third contract with the state or with that particular instrumentality of the state valued at one hundred thousand dollars or less without being required to provide a bond, but only if the minority business or EDGE business enterprise has successfully completed a qualified contractor assistance program after the effective date

of this amendment:

(4) After the state or any particular instrumentality of the state has accepted the third contract as completed and all subcontractors and suppliers on the contract have been paid, the minority business or EDGE business enterprise may bid or enter into a fourth contract with the state or with that particular instrumentality of the state valued at three hundred thousand dollars or less without being required to provide a bond, but only if the minority business or EDGE business enterprise has successfully completed a qualified contractor assistance program after the effective date of this amendment:

(5) After the state or any instrumentality of the state has accepted the fourth contract as completed and all subcontractors and suppliers on the contract have been paid, upon a showing that with respect to a contract valued at four hundred thousand dollars or less with the state or with any particular instrumentality of the state, that the minority business or EDGE business enterprise either has been denied a bond by two surety companies or that the minority business or EDGE business enterprise has applied to two surety companies for a bond and, at the expiration of sixty days after making the application, has neither received nor been denied a bond, the minority business or EDGE business enterprise may repeat its participation in the unbonded state contractor program. Under no circumstances shall a minority business or EDGE business enterprise be permitted to participate in the unbonded state contractor program more than twice.

(H) Notwithstanding any provision of the Revised Code to the contrary, a minority business or EDGE business enterprise may bid or enter into a contract with any political subdivision of the state or with any instrumentality of a political subdivision without being required to provide a bond as follows:

(1) For the first contract that the minority business or EDGE business enterprise enters into with any particular political subdivision of the state or with any particular instrumentality of a political subdivision, the minority business or EDGE business enterprise may bid or enter into a contract valued at twenty-five thousand dollars or less without being required to provide a bond, but only if the minority business or EDGE business enterprise is participating in a qualified contractor assistance program or has successfully completed a qualified contractor assistance program after the effective date of this amendment:

(2) After any political subdivision of the state or any instrumentality of a political subdivision has accepted the first contract as completed and all subcontractors and suppliers on the contract have been paid, the minority

business or EDGE business enterprise may bid or enter into a second contract with that particular political subdivision of the state or with that particular instrumentality of a political subdivision valued at fifty thousand dollars or less without being required to provide a bond, but only if the minority business or EDGE business enterprise is participating in a qualified contractor assistance program or has successfully completed a qualified contractor assistance program after the effective date of this amendment;

(3) After any political subdivision of the state or any instrumentality of a political subdivision has accepted the second contract as completed and all subcontractors and suppliers on the contract have been paid, the minority business or EDGE business enterprise may bid or enter into a third contract with that particular political subdivision of the state or with that particular instrumentality of a political subdivision valued at one hundred thousand dollars or less without being required to provide a bond, but only if the minority business or EDGE business enterprise has successfully completed a qualified contractor assistance program after the effective date of this amendment;

(4) After any political subdivision of the state or any instrumentality of a political subdivision has accepted the third contract as completed and all subcontractors and suppliers on the contract have been paid, the minority business or EDGE business enterprise may bid or enter into a fourth contract with that particular political subdivision of the state or with that particular instrumentality of a political subdivision valued at two hundred thousand dollars or less without being required to provide a bond, but only if the minority business or EDGE business enterprise has successfully completed a qualified contractor assistance program after the effective date of this amendment;

(5) After any political subdivision of the state or any instrumentality of a political subdivision has accepted the fourth contract as completed and all subcontractors and suppliers on the contract have been paid, upon a showing that with respect to a contract valued at three hundred thousand dollars or less with any political subdivision of the state or any instrumentality of a political subdivision, that the minority business or EDGE business enterprise either has been denied a bond by two surety companies or that the minority business or EDGE business enterprise has applied to two surety companies for a bond and, at the expiration of sixty days after making the application, has neither received nor been denied a bond, the minority business or EDGE business enterprise may repeat its participation in the unbonded political subdivision contractor program. Under no circumstances shall a minority business or EDGE business enterprise be permitted to

participate in the unbonded political subdivision contractor program more than twice.

(I) Notwithstanding any provision of the Revised Code to the contrary, if a minority business or EDGE business enterprise has entered into two or more contracts with the state or with any instrumentality of the state, the minority business or EDGE business enterprise may bid or enter into a contract with a political subdivision of the state or with any instrumentality of a political subdivision valued at the level at which the minority business or EDGE business enterprise would qualify if entering into an additional contract with the state.

(J) The director of development shall coordinate and oversee the unbonded state contractor program described in division (G) of this section, the unbonded political subdivision contractor program described in division (H) of this section, and the approval of a qualified contractor assistance program. The director shall prepare an annual report and submit it to the governor and the general assembly on or before the first day of February that includes the following: information on the director's activities for the preceding calendar year regarding the unbonded state contractor program, the unbonded political subdivision contractor program, and the qualified contractor assistance program; a summary and description of the operations and activities of these programs; an assessment of the achievements of these programs; and a recommendation as to whether these programs need to continue.

(K) As used in this section:

(1) "EDGE business enterprise" means an EDGE business enterprise certified under section 123.152 of the Revised Code.

(2) "Qualified contractor assistance program" means an educational program or technical assistance program for business development that is designed to assist a minority business or EDGE business enterprise in becoming eligible for bonding and has been approved by the director of development for use as required under this section.

(3) "Successfully completed a qualified contractor assistance program" means the minority business or EDGE business enterprise completed such a program on or after the effective date of this amendment.

(4) "Unbonded state contractor program" means the program described in division (G) of this section.

(5) "Unbonded political subdivision contractor program" means the program described in division (H) of this section.

Sec. 123.01. (A) The department of administrative services, in addition to those powers enumerated in Chapters 124. and 125. of the Revised Code

and provided elsewhere by law, shall exercise the following powers:

(1) To prepare, or contract to be prepared, by licensed engineers or architects, surveys, general and detailed plans, specifications, bills of materials, and estimates of cost for any projects, improvements, or public buildings to be constructed by state agencies that may be authorized by legislative appropriations or any other funds made available therefor, provided that the construction of the projects, improvements, or public buildings is a statutory duty of the department. This section does not require the independent employment of an architect or engineer as provided by section 153.01 of the Revised Code in the cases to which that section applies nor affect or alter the existing powers of the director of transportation.

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

(3) To make contracts for and supervise the construction of any projects and improvements or the construction and repair of buildings under the control of a state agency, except contracts for the repair of buildings under the management and control of the departments of public safety, job and family services, mental health, mental retardation and developmental disabilities, rehabilitation and correction, and youth services, the bureau of workers' compensation, the rehabilitation services commission, and boards of trustees of educational and benevolent institutions and except contracts for the construction of projects that do not require the issuance of a building permit or the issuance of a certificate of occupancy and that are necessary to remediate conditions at a hazardous waste facility, solid waste facility, or other location at which the director of environmental protection has reason to believe there is a substantial threat to public health or safety or the environment. These contracts shall be made and entered into by the directors of public safety, job and family services, mental health, mental retardation and developmental disabilities, rehabilitation and correction, and youth services, the administrator of workers' compensation, the rehabilitation services commission, the boards of trustees of such institutions, and the director of environmental protection, respectively. All such contracts may be in whole or in part on unit price basis of maximum estimated cost, with payment computed and made upon actual quantities or units.

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

(5) To acquire, by purchase, gift, devise, lease, or grant, all real estate required by a state agency, in the exercise of which power the department

may exercise the power of eminent domain, in the manner provided by sections 163.01 to 163.22 of the Revised Code;

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

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

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

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

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

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

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

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

(14) To lease for a period not to exceed forty years, pursuant to a contract providing for the construction thereof under a lease-purchase plan, buildings, structures, and other improvements for any public purpose, and, in conjunction therewith, to grant leases, easements, or licenses for lands

under the control of a state agency for a period not to exceed forty years. The lease-purchase plan shall provide that at the end of the lease period, the buildings, structures, and related improvements, together with the land on which they are situated, shall become the property of the state without cost.

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

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

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

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

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

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

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

(c) On the day and at the place named for receiving bids for entering into lease agreements with a state agency, the director of administrative services shall open the bids and shall publicly proceed immediately to tabulate the bids upon duplicate sheets. No lease agreement shall be entered into until the bureau of workers' compensation has certified that the person to be awarded the lease agreement has complied with Chapter 4123. of the Revised Code, until, if the builder submitting the lowest and best bid is a

foreign corporation, the secretary of state has certified that the corporation is authorized to do business in this state, until, if the builder submitting the lowest and best bid is a person nonresident of this state, the person has filed with the secretary of state a power of attorney designating the secretary of state as its agent for the purpose of accepting service of summons in any action brought under Chapter 4123. of the Revised Code, and until the agreement is submitted to the attorney general and the attorney general's approval is certified thereon. Within thirty days after the day on which the bids are received, the department shall investigate the bids received and shall determine that the bureau and the secretary of state have made the certifications required by this section of the builder who has submitted the lowest and best bid. Within ten days of the completion of the investigation of the bids, the department shall award the lease agreement to the builder who has submitted the lowest and best bid and who has been certified by the bureau and secretary of state as required by this section. If bidding for the lease agreement has been conducted upon the basis of basic plans, specifications, bills of materials, and estimates of costs, upon the award to the builder the department, or the builder with the approval of the department, shall appoint an architect or engineer licensed in this state to prepare such further detailed plans, specifications, and bills of materials as are required to construct the building, structure, or improvement. The department shall adopt such rules as are necessary to give effect to this section. The department may reject any bid. Where there is reason to believe there is collusion or combination among bidders, the bids of those concerned therein shall be rejected.

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

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

Such a lease shall be for the purpose of development of the land for use by senior citizens by constructing, altering, renovating, repairing, expanding, and improving the site as it existed on June 25, 1982. A developer desiring to lease the land shall prepare for submission to the department a plan for development. Plans shall include provisions for roads,

sewers, water lines, waste disposal, water supply, and similar matters to meet the requirements of state and local laws. The plans shall also include provision for protection of the property by insurance or otherwise, and plans for financing the development, and shall set forth details of the developer's financial responsibility.

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

- (a) The best interests of the state will be promoted by entering into a lease with the developer;
- (b) The development plans are satisfactory;
- (c) The developer has established the developer's financial responsibility and satisfactory plans for financing the development.

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

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

(18) To manage the use of space owned and controlled by the department, including space in property under the jurisdiction of the Ohio building authority, by doing all of the following:

- (a) Biennially implementing, by state agency location, a census of agency employees assigned space;
- (b) Periodically in the discretion of the director of administrative services:
 - (i) Requiring each state agency to categorize the use of space allotted to

the agency between office space, common areas, storage space, and other uses, and to report its findings to the department;

(ii) Creating and updating a master space utilization plan for all space allotted to state agencies. The plan shall incorporate space utilization metrics.

(iii) Conducting a cost-benefit analysis to determine the effectiveness of state-owned buildings;

(iv) Assessing the alternatives associated with consolidating the commercial leases for buildings located in Columbus.

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

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

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

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

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

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

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

(6) The power of the director of environmental protection to enter into environmental covenants, to grant and accept easements, or to sell property pursuant to division (G) of section 3745.01 of the Revised Code.

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

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

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

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

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

The state personnel board of review shall not be deprived of jurisdiction to hear any appeal due to the failure of an appointing authority to file its

decision with the board. Any final decision of an appointing authority or of the director not filed in the manner provided in this chapter shall be disaffirmed.

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

The mere failure of an employee's appointing authority to file a statement with the department of administrative services indicating that the employee is in the unclassified civil service, or the mere late filing of such a statement, does not prevent the state personnel board of review from determining that the employee is in the unclassified civil service. In determining whether an employee is in the unclassified civil service, the state personnel board of review shall consider the inherent nature of the duties of the employee's classification during the two-year period immediately preceding the appointing authority's appealable action relating to the employee.

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

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

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

(4) ~~Appoint a secretary, referees, examiners, and whatever other~~ Utilize employees are necessary provided by the state employment relations board in the exercise of ~~its~~ the powers and performance of ~~its~~ the duties and functions. ~~The~~ of the state personnel board shall determine appropriate

~~education and experience requirements for its secretary, referees, examiners, and other employees and shall prescribe their duties. A referee or examiner does not need to have been admitted to the practice of law.~~ of review under this chapter;

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

(6) Adopt rules in accordance with Chapter 119. of the Revised Code relating to the procedure of the state personnel board of review in administering the laws it has the authority or duty to administer and for the purpose of invoking the jurisdiction of the state personnel board of review in hearing appeals of appointing authorities and employees in matters set forth in divisions (A)(1) and (2) of this section;

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

(B) The state personnel board of review shall exist as a separate entity within the administrative structure of the state employment relations board.

(C) The state personnel board of review shall be funded by general revenue fund appropriations. All moneys received by the state personnel board of review for copies of documents, rule books, and transcriptions shall be paid into the state treasury to the credit of the ~~transcript and other documents~~ training, publications, and grants fund, ~~which is hereby created to defray the cost of producing an administrative record in section 4117.24 of the Revised Code.~~

Sec. 124.04. In addition to those powers enumerated in Chapters 123. and 125. of the Revised Code and as provided elsewhere by law, the powers, duties, and functions of the department of administrative services not specifically vested in and assigned to, or to be performed by, the state personnel board of review are hereby vested in and assigned to, and shall be performed by, the director of administrative services. These powers, duties, and functions shall include, but shall not be limited to, the following powers, duties, and functions:

(A) To prepare, conduct, and grade all competitive examinations for positions in the classified state service;

(B) To prepare, conduct, and grade all noncompetitive examinations for positions in the classified state service;

(C) To prepare eligible lists containing the names of persons qualified for appointment to positions in the classified state service;

(D) To prepare or amend, in accordance with section 124.14 of the Revised Code, specifications descriptive of duties, responsibilities, requirements, and desirable qualifications of the various classifications of positions in the state service;

(E) To allocate and reallocate, upon the motion of the director or upon request of an appointing authority and in accordance with section 124.14 of the Revised Code, any position, office, or employment in the state service to the appropriate classification on the basis of the duties, responsibilities, requirements, and qualifications of that position, office, or employment;

(F) To develop and conduct personnel recruitment services for positions in the state service;

(G) To conduct research on specifications, classifications, and salaries of positions in the state service;

(H) To develop and conduct personnel training programs, including supervisory training programs and best practices plans, and to develop merit hiring processes, in cooperation with appointing authorities;

(I) To include periodically in communications sent to state employees both of the following:

(1) Information developed under section 2108.34 of the Revised Code promoting the donation of anatomical gifts under Chapter 2108. of the Revised Code;

(2) Information about the liver or kidney donor and bone marrow donor leave granted under section 124.139 of the Revised Code.

(J) To enter into agreements with universities and colleges for in-service training of officers and employees in the civil service and to assist appointing authorities in recruiting qualified applicants;

(K) To appoint examiners, inspectors, clerks, and other assistants necessary in the exercise of the powers and performance of the duties and functions which the director is by law authorized and required to exercise and perform, and to prescribe the duties of all of those employees;

(L) To maintain a journal, which shall be open to public inspection, in which the director shall keep a record of the director's final decision pertaining to the classification or reclassification of positions in the classified civil service of the state and assignment or reassignment of employees in the classified civil service of the state to specific position classifications;

(M) To delegate any of the powers, functions, or duties granted or assigned to the director under this chapter to any other state agency of this

state as the director considers necessary;

(N) To delegate any of the powers, functions, or duties granted or assigned to the director under this chapter to any political subdivision with the concurrence of the legislative authority of the political subdivision.

(O) To administer a state equal employment opportunity program.

Sec. 124.07. (A) The director of administrative services shall appoint examiners, inspectors, clerks, and other assistants as necessary to carry out sections 124.01 to 124.64 of the Revised Code. The director may designate persons in or out of the service of the state to serve as examiners or assistants under the director's direction. An examiner or assistant shall receive the compensation for each day actually and necessarily spent in the discharge of duties as an examiner or assistant that the director determines; provided that, if the examiner or assistant is in the service of the state or any political subdivision of the state, it shall be a part of the examiner's or assistant's official duties to render those services in connection with an examination without extra compensation.

(B) Each state agency shall pay the cost of the services and facilities furnished to it by the department of administrative services that are necessary to provide and maintain payroll services as prescribed in section 125.21 of the Revised Code and state merit standards as prescribed in sections 124.01 to 124.64 of the Revised Code for the agency. If a state-supported college or university or a municipal corporation chooses to use the services and facilities furnished by the department that are necessary to provide and maintain the services and standards so prescribed, the state-supported college or university or municipal corporation shall pay the cost of the services and facilities that the department furnishes to it. The charges against a state agency, a state-supported college or university, or a municipal corporation shall be computed on a reasonable cost basis in accordance with procedures prescribed by the director of budget and management. Any moneys the department receives from a state agency, a state-supported college or university, or a municipal corporation under this division that are in excess of the amount necessary to pay the cost of furnishing the department's services and facilities during any fiscal year shall be either refunded to or credited for the ensuing fiscal year to the state agency, the state-supported college or university, or the municipal corporation.

(C) The director of administrative services may enter into an agreement with any county, municipal corporation, or other political subdivision to furnish services and facilities of the department in the administration of a merit program or other functions related to human resources that include,

but are not limited to, providing competitive examinations for positions in the classified service. The agreement shall provide that the department shall be reimbursed for the reasonable costs of those services and facilities as determined by the director.

(D) All moneys received by the department as reimbursement for ~~payroll~~, a merit program, or other human resources services performed and facilities furnished under this section, such as competitive examinations administered, shall be paid into the state treasury to the credit of the human resources services fund, which is hereby created.

(E) In counties of the state in which are located cities having municipal civil service commissions, the director of administrative services may designate the municipal civil service commission of the largest city within the county as the director's agent for the purpose of carrying out the provisions of sections 124.01 to 124.64 of the Revised Code, within the county, that the director designates. Each municipal civil service commission designated as an agent of the director shall render to the director, at the end of each month, an itemized statement of the cost incurred by the commission for work done as the agent of the director, and the director, after approving that statement, shall pay the total amount of it to the treasurer of the municipal corporation in the same manner as other expenses of the department of administrative services.

(F) The director of administrative services and the examiners, inspectors, clerks, and assistants referred to in this section shall receive, in addition to their salaries, reimbursement for necessary traveling and other expenses incurred in the actual discharge of their official duties. The director may also incur the necessary expenses for stationery, printing, and other supplies incident to the business of the department.

Sec. 124.11. The civil service of the state and the several counties, cities, civil service townships, city health districts, general health districts, and city school districts of the state shall be divided into the unclassified service and the classified service.

(A) The unclassified service shall comprise the following positions, which shall not be included in the classified service, and which shall be exempt from all examinations required by this chapter:

(1) All officers elected by popular vote or persons appointed to fill vacancies in those offices;

(2) All election officers as defined in section 3501.01 of the Revised Code;

(3)(a) The members of all boards and commissions, and heads of principal departments, boards, and commissions appointed by the governor

or by and with the governor's consent;

(b) The heads of all departments appointed by a board of county commissioners;

(c) The members of all boards and commissions and all heads of departments appointed by the mayor, or, if there is no mayor, such other similar chief appointing authority of any city or city school district;

Except as otherwise provided in division (A)(17) or (C) of this section, this chapter does not exempt the chiefs of police departments and chiefs of fire departments of cities or civil service townships from the competitive classified service.

(4) The members of county or district licensing boards or commissions and boards of revision, and not more than five deputy county auditors;

(5) All officers and employees elected or appointed by either or both branches of the general assembly, and employees of the city legislative authority engaged in legislative duties;

(6) All commissioned, warrant, and noncommissioned officers and enlisted persons in the Ohio organized militia, including military appointees in the adjutant general's department;

(7)(a) All presidents, business managers, administrative officers, superintendents, assistant superintendents, principals, deans, assistant deans, instructors, teachers, and such employees as are engaged in educational or research duties connected with the public school system, colleges, and universities, as determined by the governing body of the public school system, colleges, and universities;

(b) The library staff of any library in the state supported wholly or in part at public expense.

(8) Four clerical and administrative support employees for each of the elective state officers, four clerical and administrative support employees for each board of county commissioners and one such employee for each county commissioner, and four clerical and administrative support employees for other elective officers and each of the principal appointive executive officers, boards, or commissions, except for civil service commissions, that are authorized to appoint such clerical and administrative support employees;

(9) The deputies and assistants of state agencies authorized to act for and on behalf of the agency, or holding a fiduciary or administrative relation to that agency and those persons employed by and directly responsible to elected county officials or a county administrator and holding a fiduciary or administrative relationship to such elected county officials or county administrator, and the employees of such county officials whose fitness

would be impracticable to determine by competitive examination, provided that division (A)(9) of this section shall not affect those persons in county employment in the classified service as of September 19, 1961. Nothing in division (A)(9) of this section applies to any position in a county department of job and family services created pursuant to Chapter 329. of the Revised Code.

(10) Bailiffs, constables, official stenographers, and commissioners of courts of record, deputies of clerks of the courts of common pleas who supervise or who handle public moneys or secured documents, and such officers and employees of courts of record and such deputies of clerks of the courts of common pleas as the director of administrative services finds it impracticable to determine their fitness by competitive examination;

(11) Assistants to the attorney general, special counsel appointed or employed by the attorney general, assistants to county prosecuting attorneys, and assistants to city directors of law;

(12) Such teachers and employees in the agricultural experiment stations; such students in normal schools, colleges, and universities of the state who are employed by the state or a political subdivision of the state in student or intern classifications; and such unskilled labor positions as the director of administrative services or any municipal civil service commission may find it impracticable to include in the competitive classified service; provided such exemptions shall be by order of the commission or the director, duly entered on the record of the commission or the director with the reasons for each such exemption;

(13) Any physician or dentist who is a full-time employee of the department of mental health, the department of mental retardation and developmental disabilities, or an institution under the jurisdiction of either department; and physicians who are in residency programs at the institutions;

(14) Up to twenty positions at each institution under the jurisdiction of the department of mental health or the department of mental retardation and developmental disabilities that the department director determines to be primarily administrative or managerial; and up to fifteen positions in any division of either department, excluding administrative assistants to the director and division chiefs, which are within the immediate staff of a division chief and which the director determines to be primarily and distinctively administrative and managerial;

(15) Noncitizens of the United States employed by the state, or its counties or cities, as physicians or nurses who are duly licensed to practice their respective professions under the laws of this state, or medical

assistants, in mental or chronic disease hospitals, or institutions;

(16) Employees of the governor's office;

(17) Fire chiefs and chiefs of police in civil service townships appointed by boards of township trustees under section 505.38 or 505.49 of the Revised Code;

(18) Executive directors, deputy directors, and program directors employed by boards of alcohol, drug addiction, and mental health services under Chapter 340. of the Revised Code, and secretaries of the executive directors, deputy directors, and program directors;

(19) Superintendents, and management employees as defined in section 5126.20 of the Revised Code, of county boards of mental retardation and developmental disabilities;

(20) Physicians, nurses, and other employees of a county hospital who are appointed pursuant to sections 339.03 and 339.06 of the Revised Code;

(21) The executive director of the state medical board, who is appointed pursuant to division (B) of section 4731.05 of the Revised Code;

(22) County directors of job and family services as provided in section 329.02 of the Revised Code and administrators appointed under section 329.021 of the Revised Code;

(23) A director of economic development who is hired pursuant to division (A) of section 307.07 of the Revised Code;

(24) Chiefs of construction and compliance, of operations and maintenance, of worker protection, and of licensing and certification in the division of ~~industrial compliance labor~~ in the department of commerce;

(25) The executive director of a county transit system appointed under division (A) of section 306.04 of the Revised Code;

(26) Up to five positions at each of the administrative departments listed in section 121.02 of the Revised Code and at the department of taxation, department of the adjutant general, department of education, Ohio board of regents, bureau of workers' compensation, industrial commission, state lottery commission, and public utilities commission of Ohio that the head of that administrative department or of that other state agency determines to be involved in policy development and implementation. The head of the administrative department or other state agency shall set the compensation for employees in these positions at a rate that is not less than the minimum compensation specified in pay range 41 but not more than the maximum compensation specified in pay range 44 of salary schedule E-2 in section 124.152 of the Revised Code. The authority to establish positions in the unclassified service under division (A)(26) of this section is in addition to and does not limit any other authority that an administrative department or

state agency has under the Revised Code to establish positions, appoint employees, or set compensation.

(27) Employees of the department of agriculture employed under section 901.09 of the Revised Code;

(28) For cities, counties, civil service townships, city health districts, general health districts, and city school districts, the deputies and assistants of elective or principal executive officers authorized to act for and in the place of their principals or holding a fiduciary relation to their principals;

(29) Employees who receive intermittent or temporary appointments under division (B) of section 124.30 of the Revised Code;

(30) Employees appointed to administrative staff positions for which an appointing authority is given specific statutory authority to set compensation;

(31) Employees appointed to highway patrol cadet or highway patrol cadet candidate classifications;

(32) Employees placed in the unclassified service by another section of the Revised Code.

(B) The classified service shall comprise all persons in the employ of the state and the several counties, cities, city health districts, general health districts, and city school districts of the state, not specifically included in the unclassified service. Upon the creation by the board of trustees of a civil service township civil service commission, the classified service shall also comprise, except as otherwise provided in division (A)(17) or (C) of this section, all persons in the employ of a civil service township police or fire department having ten or more full-time paid employees. The classified service consists of two classes, which shall be designated as the competitive class and the unskilled labor class.

(1) The competitive class shall include all positions and employments in the state and the counties, cities, city health districts, general health districts, and city school districts of the state, and, upon the creation by the board of trustees of a civil service township of a township civil service commission, all positions in a civil service township police or fire department having ten or more full-time paid employees, for which it is practicable to determine the merit and fitness of applicants by competitive examinations. Appointments shall be made to, or employment shall be given in, all positions in the competitive class that are not filled by promotion, reinstatement, transfer, or reduction, as provided in this chapter, and the rules of the director of administrative services, by appointment from those certified to the appointing officer in accordance with this chapter.

(2) The unskilled labor class shall include ordinary unskilled laborers.

Vacancies in the labor class for positions in service of the state shall be filled by appointment from lists of applicants registered by the director. Vacancies in the labor class for all other positions shall be filled by appointment from lists of applicants registered by a commission. The director or the commission, as applicable, by rule, shall require an applicant for registration in the labor class to furnish evidence or take tests as the director or commission considers proper with respect to age, residence, physical condition, ability to labor, honesty, sobriety, industry, capacity, and experience in the work or employment for which application is made. Laborers who fulfill the requirements shall be placed on the eligible list for the kind of labor or employment sought, and preference shall be given in employment in accordance with the rating received from that evidence or in those tests. Upon the request of an appointing officer, stating the kind of labor needed, the pay and probable length of employment, and the number to be employed, the director or commission, as applicable, shall certify from the highest on the list double the number to be employed; from this number, the appointing officer shall appoint the number actually needed for the particular work. If more than one applicant receives the same rating, priority in time of application shall determine the order in which their names shall be certified for appointment.

(C) A municipal or civil service township civil service commission may place volunteer firefighters who are paid on a fee-for-service basis in either the classified or the unclassified civil service.

(D) This division does not apply to persons in the unclassified service who have the right to resume positions in the classified service under sections 4121.121, 5119.071, 5120.38, 5120.381, 5120.382, 5123.08, 5139.02, and 5501.19 of the Revised Code.

An appointing authority whose employees are paid directly by warrant of the director of budget and management may appoint a person who holds a certified position in the classified service within the appointing authority's agency to a position in the unclassified service within that agency. A person appointed pursuant to this division to a position in the unclassified service shall retain the right to resume the position and status held by the person in the classified service immediately prior to the person's appointment to the position in the unclassified service, regardless of the number of positions the person held in the unclassified service. An employee's right to resume a position in the classified service may only be exercised when an appointing authority demotes the employee to a pay range lower than the employee's current pay range or revokes the employee's appointment to the unclassified service. An employee forfeits the right to resume a position in the classified

service when the employee is removed from the position in the unclassified service due to incompetence, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of this chapter or the rules of the director of administrative services, any other failure of good behavior, any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of a felony. An employee also forfeits the right to resume a position in the classified service upon transfer to a different agency.

Reinstatement to a position in the classified service shall be to a position substantially equal to that position in the classified service held previously, as certified by the director of administrative services. If the position the person previously held in the classified service has been placed in the unclassified service or is otherwise unavailable, the person shall be appointed to a position in the classified service within the appointing authority's agency that the director of administrative services certifies is comparable in compensation to the position the person previously held in the classified service. Service in the position in the unclassified service shall be counted as service in the position in the classified service held by the person immediately prior to the person's appointment to the position in the unclassified service. When a person is reinstated to a position in the classified service as provided in this division, the person is entitled to all rights, status, and benefits accruing to the position in the classified service during the person's time of service in the position in the unclassified service.

Sec. 124.134. (A) Each full-time permanent state employee paid in accordance with section 124.152 of the Revised Code and those employees listed in divisions (B)(2) and (4) of section 124.14 of the Revised Code; ~~after service of one year, shall have earned and will be due upon the attainment of the first year of employment, and annually thereafter, eighty hours of vacation leave with full pay. One year of service shall be computed on the basis of twenty-six biweekly pay periods. A full-time permanent state employee with five or more years of service shall have earned and is entitled to one hundred twenty hours of vacation leave with full pay. A full-time permanent state employee with ten or more years of service shall have earned and is entitled to one hundred sixty hours of vacation leave with full pay. A full-time permanent state employee with fifteen or more years of service shall have earned and is entitled to one hundred eighty hours of vacation leave with full pay. A full-time permanent state employee with twenty or more years of service shall have earned and is entitled to two hundred hours of vacation leave with full pay. A full-time permanent state employee with twenty-five or more years of service shall have earned and is~~

~~entitled to two hundred forty hours of vacation leave with full pay. Such vacation leave shall accrue to the employee at the rate of three and one-tenth hours each biweekly period for those entitled to eighty hours per year; four and six-tenths hours each biweekly period for those entitled to one hundred twenty hours per year; six and two-tenths hours each biweekly period for those entitled to one hundred sixty hours per year; six and nine-tenths hours each biweekly period for those entitled to one hundred eighty hours per year; seven and seven-tenths hours each biweekly period for those entitled to two hundred hours per year; and nine and two-tenths hours each biweekly period for those entitled to two hundred forty hours per year shall be credited with vacation leave with full pay according to length of service and accruing at a corresponding rate per biweekly pay period, as follows:~~

<u>Length of Service</u>	<u>Accrual Rate Per Pay Period</u>
<u>Less than 4 years</u>	<u>3.1 hours</u>
<u>4 but less than 9 years</u>	<u>4.6 hours</u>
<u>9 but less than 14 years</u>	<u>6.2 hours</u>
<u>14 but less than 19 years</u>	<u>6.9 hours</u>
<u>19 but less than 24 years</u>	<u>7.7 hours</u>
<u>24 years or more</u>	<u>9.2 hours</u>

Fifty-two weeks equal one year of service.

The amount of an employee's service shall be determined in accordance with the standard specified in section 9.44 of the Revised Code. Credit for prior service, including an increased vacation accrual rate and longevity supplement, shall take effect during the first pay period that begins immediately following the date the director of administrative services approves granting credit for that prior service. No employee, other than an employee who submits proof of prior service within ninety days after the date of the employee's hiring, shall receive any amount of vacation leave for the period prior to the date of the director's approval of the grant of credit for prior service.

Part-time permanent employees who are paid in accordance with section 124.152 of the Revised Code and full-time permanent employees subject to this section who are in active pay status for less than eighty hours in a pay period shall earn vacation leave on a prorated basis. The ratio between the hours worked and the vacation hours earned by these classes of employees shall be the same as the ratio between the hours worked and the vacation hours earned by a full-time permanent employee with the same amount of service as provided for in this section.

Vacation leave is not available for use until it appears on the employee's earning statement and the compensation described in the earning statement

is available to the employee. An employee may begin using accrued vacation leave upon completion of the employee's initial probation period. A probationary period that follows a separation from service that is less than thirty-one days is not considered an initial probation period for purposes of this section.

(B) Employees granted leave under this section shall forfeit their right to take or to be paid for any vacation leave to their credit which is in excess of the accrual for three years. Any excess leave shall be eliminated from the employees' leave balance. ~~If an~~

(C) Except as provided in division (D) of this section, beginning in fiscal year 2012, an employee may be paid for up to eighty hours of vacation leave each fiscal year if the employee requested and was denied the use of vacation leave during that fiscal year. No employee shall receive payment for more than eighty hours of denied vacation leave in a single fiscal year. An employee is only eligible to receive payment for vacation leave when the employee's vacation leave credit is at, or will reach in the immediately following pay period, the maximum of the accrual for three years and the employee has been denied the use of vacation leave during the immediately preceding twelve months, the employee, at the employee's request, shall be paid in a pay period for the vacation leave the employee was denied, up to the maximum amount the employee would be entitled to be paid for in any pay period. An employee is not entitled to receive payment for vacation leave denied in any pay period in which the employee's vacation leave credit is not at, or will not reach in the immediately following pay period, the maximum of accrual for three years. Any vacation leave for which an employee receives payment shall be deducted from the employee's vacation leave balance. Payment shall not be made for any leave accrued in the same calendar year in which the payment is made. No employee is eligible to receive payment for denied vacation leave in either fiscal year 2010 or fiscal year 2011.

(D) The supreme court, general assembly, secretary of state, auditor of state, treasurer of state, and attorney general may establish by policy an alternate payment structure for employees whose vacation leave credit is at, or will reach in the immediately following pay period, the maximum of accrual for three years and the employee has been denied the use of vacation leave. An employee is not entitled to receive payment for vacation leave denied in any pay period in which the employee's vacation leave credit is not at, or will not reach in the immediately following pay period, the maximum of accrual for three years. Any vacation leave for which the employee receives payment shall be deducted from the employee's vacation

leave balance.

~~(C)~~ (E) Upon separation from state service, an employee granted leave under this section is entitled to compensation at the employee's current rate of pay for all unused vacation leave accrued under this section or section 124.13 of the Revised Code to the employee's credit. In case of transfer of an employee from one state agency to another, the employee shall retain the accrued and unused vacation leave. In case of the death of an employee, the unused vacation leave shall be paid in accordance with section 2113.04 of the Revised Code, or to the employee's estate. An employee serving in a temporary work level who is eligible to receive compensation under this division shall be compensated at the base rate of pay of the employee's normal classification.

Sec. 124.14. (A)(1) The director of administrative services shall establish, and may modify or rescind, by rule, a job classification plan for all positions, offices, and employments the salaries of which are paid in whole or in part by the state. The director shall group jobs within a classification so that the positions are similar enough in duties and responsibilities to be described by the same title, to have the same pay assigned with equity, and to have the same qualifications for selection applied. The director shall, by rule, assign a classification title to each classification within the classification plan. However, the director shall consider in establishing classifications, including classifications with parenthetical titles, and assigning pay ranges such factors as duties performed only on one shift, special skills in short supply in the labor market, recruitment problems, separation rates, comparative salary rates, the amount of training required, and other conditions affecting employment. The director shall describe the duties and responsibilities of the class, establish the qualifications for being employed in each position in the class, and file with the secretary of state a copy of specifications for all of the classifications. The director shall file new, additional, or revised specifications with the secretary of state before they are used.

The director shall, by rule, assign each classification, either on a statewide basis or in particular counties or state institutions, to a pay range established under section 124.15 or section 124.152 of the Revised Code. The director may assign a classification to a pay range on a temporary basis for a period of six months. The director may establish, by rule adopted under Chapter 119. of the Revised Code, experimental classification plans for some or all employees paid directly by warrant of the director of budget and management. The rule shall include specifications for each classification within the plan and shall specifically address compensation ranges, and

methods for advancing within the ranges, for the classifications, which may be assigned to pay ranges other than the pay ranges established under section 124.15 or 124.152 of the Revised Code.

(2) The director of administrative services may reassign to a proper classification those positions that have been assigned to an improper classification. If the compensation of an employee in such a reassigned position exceeds the maximum rate of pay for the employee's new classification, the employee shall be placed in pay step X and shall not receive an increase in compensation until the maximum rate of pay for that classification exceeds the employee's compensation.

(3) The director may reassign an exempt employee, as defined in section 124.152 of the Revised Code, to a bargaining unit classification if the director determines that the bargaining unit classification is the proper classification for that employee. Notwithstanding Chapter 4117. of the Revised Code or instruments and contracts negotiated under it, these placements are at the director's discretion.

(4) The director shall, by rule, assign related classifications, which form a career progression, to a classification series. The director shall, by rule, assign each classification in the classification plan a five-digit number, the first four digits of which shall denote the classification series to which the classification is assigned. When a career progression encompasses more than ten classifications, the director shall, by rule, identify the additional classifications belonging to a classification series. The additional classifications shall be part of the classification series, notwithstanding the fact that the first four digits of the number assigned to the additional classifications do not correspond to the first four digits of the numbers assigned to other classifications in the classification series.

(5) ~~The director, in accordance with rules adopted under Chapter 119. of the Revised Code, shall establish, and may establish, modify, or rescind, a classification plan for county agencies that elect not to use the services and facilities of a county personnel department. The director shall establish any such classification plan by means of rules adopted under Chapter 119. of the Revised Code. The rules shall include a methodology for the establishment of titles unique to county agencies, the use of state classification titles and classification specifications for common positions, the criteria for a county to meet in establishing its own classification plan, and the establishment of what constitutes a classification series for county agencies. The director may assess a county agency that chooses to use the classification plan a usage fee the director determines. All usage fees the department of administrative services receives shall be paid into the state treasury to the credit of the~~

human resources fund created in section 124.07 of the Revised Code.

(B) Division (A) of this section and sections 124.15 and 124.152 of the Revised Code do not apply to the following persons, positions, offices, and employments:

(1) Elected officials;

(2) Legislative employees, employees of the legislative service commission, employees in the office of the governor, employees who are in the unclassified civil service and exempt from collective bargaining coverage in the office of the secretary of state, auditor of state, treasurer of state, and attorney general, and employees of the supreme court;

(3) Employees of a county children services board that establishes compensation rates under section 5153.12 of the Revised Code;

(4) Any position for which the authority to determine compensation is given by law to another individual or entity;

(5) Employees of the bureau of workers' compensation whose compensation the administrator of workers' compensation establishes under division (B) of section 4121.121 of the Revised Code.

(C) The director may employ a consulting agency to aid and assist the director in carrying out this section.

(D)(1) When the director proposes to modify a classification or the assignment of classes to appropriate pay ranges, the director shall send written notice of the proposed rule to the appointing authorities of the affected employees thirty days before a hearing on the proposed rule. The appointing authorities shall notify the affected employees regarding the proposed rule. The director also shall send those appointing authorities notice of any final rule that is adopted within ten days after adoption.

(2) When the director proposes to reclassify any employee so that the employee is adversely affected, the director shall give to the employee affected and to the employee's appointing authority a written notice setting forth the proposed new classification, pay range, and salary. Upon the request of any classified employee who is not serving in a probationary period, the director shall perform a job audit to review the classification of the employee's position to determine whether the position is properly classified. The director shall give to the employee affected and to the employee's appointing authority a written notice of the director's determination whether or not to reclassify the position or to reassign the employee to another classification. An employee or appointing authority desiring a hearing shall file a written request for the hearing with the state personnel board of review within thirty days after receiving the notice. The board shall set the matter for a hearing and notify the employee and

appointing authority of the time and place of the hearing. The employee, the appointing authority, or any authorized representative of the employee who wishes to submit facts for the consideration of the board shall be afforded reasonable opportunity to do so. After the hearing, the board shall consider anew the reclassification and may order the reclassification of the employee and require the director to assign the employee to such appropriate classification as the facts and evidence warrant. As provided in division (A)(1) of section 124.03 of the Revised Code, the board may determine the most appropriate classification for the position of any employee coming before the board, with or without a job audit. The board shall disallow any reclassification or reassignment classification of any employee when it finds that changes have been made in the duties and responsibilities of any particular employee for political, religious, or other unjust reasons.

(E)(1) Employees of each county department of job and family services shall be paid a salary or wage established by the board of county commissioners. The provisions of section 124.18 of the Revised Code concerning the standard work week apply to employees of county departments of job and family services. A board of county commissioners may do either of the following:

(a) Notwithstanding any other section of the Revised Code, supplement the sick leave, vacation leave, personal leave, and other benefits of any employee of the county department of job and family services of that county, if the employee is eligible for the supplement under a written policy providing for the supplement;

(b) Notwithstanding any other section of the Revised Code, establish alternative schedules of sick leave, vacation leave, personal leave, or other benefits for employees not inconsistent with the provisions of a collective bargaining agreement covering the affected employees.

(2) Division (E)(1) of this section does not apply to employees for whom the state employment relations board establishes appropriate bargaining units pursuant to section 4117.06 of the Revised Code, except in either of the following situations:

(a) The employees for whom the state employment relations board establishes appropriate bargaining units elect no representative in a board-conducted representation election.

(b) After the state employment relations board establishes appropriate bargaining units for such employees, all employee organizations withdraw from a representation election.

(F)(1) Notwithstanding any contrary provision of sections 124.01 to 124.64 of the Revised Code, the board of trustees of each state university or

college, as defined in section 3345.12 of the Revised Code, shall carry out all matters of governance involving the officers and employees of the university or college, including, but not limited to, the powers, duties, and functions of the department of administrative services and the director of administrative services specified in this chapter. Officers and employees of a state university or college shall have the right of appeal to the state personnel board of review as provided in this chapter.

(2) Each board of trustees shall adopt rules under section 111.15 of the Revised Code to carry out the matters of governance described in division (F)(1) of this section. Until the board of trustees adopts those rules, a state university or college shall continue to operate pursuant to the applicable rules adopted by the director of administrative services under this chapter.

(G)(1) Each board of county commissioners may, by a resolution adopted by a majority of its members, establish a county personnel department to exercise the powers, duties, and functions specified in division (G) of this section. As used in division (G) of this section, "county personnel department" means a county personnel department established by a board of county commissioners under division (G)(1) of this section.

(2)(a) Each board of county commissioners, by a resolution adopted by a majority of its members, may designate the county personnel department of the county to exercise the powers, duties, and functions ~~of the department of administrative services and the director of administrative services~~ specified in sections 124.01 to 124.64 and Chapter 325. of the Revised Code with regard to employees in the service of the county, except for the powers and duties of the state personnel board of review, which powers and duties shall not be construed as having been modified or diminished in any manner by division (G)(2) of this section, with respect to the employees for whom the board of county commissioners is the appointing authority or co-appointing authority. ~~The board of county commissioners shall deliver a certified copy of the resolution to the director of administrative services not later than ten working days after the resolution is adopted, and the director shall inform the board in a writing sent by certified mail of the date of receipt of the copy of the resolution.~~

~~(b) Upon the director's receipt of the copy of the resolution, the powers, duties, and functions referred to in division (G)(2)(a) of this section that may be exercised shall be vested in and assigned to the county personnel department with respect to the employees for whom the board of county commissioners is the appointing authority or co-appointing authority.~~

~~(c) Nothing in division (G)(2) of this section shall be construed to limit the right of any employee who possesses the right of appeal to the state~~

personnel board of review to continue to possess that right of appeal.

~~(d)~~(c) Any board of county commissioners that has established a county personnel department may contract with the department of administrative services, another political subdivision, or an appropriate public or private entity to provide competitive testing services or other appropriate services.

(3) After the county personnel department of a county has ~~assumed the powers, duties, and functions of the department of administrative services and the director of administrative services~~ been established as described in division (G)(2) of this section, any elected official, board, agency, or other appointing authority of that county, upon written notification to the ~~director~~ county personnel department, may elect to use the services and facilities of the county personnel department. Upon ~~the acceptance by the director of that written notification~~ receipt of the notification by the county personnel department, the county personnel department shall exercise the powers, duties, and functions ~~of the department of administrative services and the director~~ as described in division (G)(2) of this section with respect to the employees of that elected official, board, agency, or other appointing authority. ~~The director shall inform the elected official, board, agency, or other appointing authority in a writing sent by certified mail of the date of acceptance of that written notification. Except for those employees under the jurisdiction of the county personnel department, the director shall continue to exercise these powers, duties, and functions with respect to employees of the county.~~

(4) ~~When at least two years have passed since the creation of a county personnel department, a~~ Each board of county commissioners, by a resolution adopted by a majority of its members, may disband the county personnel department ~~and return to the department of administrative services for the administration of sections 124.01 to 124.64 and Chapter 325. of the Revised Code. The board shall deliver a certified copy of the resolution to the director of administrative services not later than ten working days after the resolution is adopted, and the director shall inform the board in a writing sent by certified mail of the date of receipt of the copy of the resolution. Upon the director's receipt of the copy of the resolution, all powers, duties, and functions previously vested in and assigned to the county personnel department shall return to the director.~~

(5) ~~When at least two years have passed since electing to use the services and facilities of a county personnel department, an~~ Any elected official, board, agency, or appointing authority of a county may ~~return to the department of administrative services for the administration of sections 124.01 to 124.64 and Chapter 325. of the Revised Code. The elected~~

~~official, board, agency, or appointing authority shall send the director of administrative services a certified copy of the resolution that states its decision to return to the department of administrative services' jurisdiction; and the director shall inform the elected official, board, agency, or appointing authority in a writing sent by certified mail of the date of receipt of the copy of the resolution. Upon the director's receipt of the copy of the resolution, all powers, duties, and functions previously vested in and assigned to the county personnel department with respect to the employees of that elected official, board, agency, or appointing authority shall return to the director end its involvement with a county personnel department upon actual receipt by the department of a certified copy of the notification that contains the decision to no longer participate.~~

(6) The director of administrative services may, by rule adopted in accordance with Chapter 119. of the Revised Code, ~~shall~~ prescribe criteria and procedures for ~~granting to each county personnel department the powers, duties, and functions of the department of administrative services and the director as described in division (G)(2) of this section with respect to the employees of an elected official, board, agency, or other appointing authority or co-appointing authority. The rules shall cover the following criteria and procedures:~~

~~(a) The notification to the department of administrative services that an elected official, board, agency, or other appointing authority of a county has elected to use the services and facilities of the county personnel department; the following:~~

~~(b)(a) A requirement that each county personnel department, in carrying out its duties, adhere to merit system principles with regard to employees of county departments of job and family services, child support enforcement agencies, and public child welfare agencies so that there is no threatened loss of federal funding for these agencies, and a requirement that the county be financially liable to the state for any loss of federal funds due to the action or inaction of the county personnel department. The costs associated with audits conducted to monitor compliance with division (G)(6)(b)(a) of this section shall be borne equally by~~ reimbursed to the department of administrative services and the county as determined by the director. All money the department receives for these audits shall be paid into the state treasury to the credit of the human resources fund created in section 124.07 of the Revised Code.

~~(c) The termination of services and facilities rendered by the department of administrative services, to include rate adjustments, time periods for termination, and other related matters;~~

~~(d)~~(b) Authorization for the director of administrative services to conduct periodic audits and reviews of county personnel departments to guarantee the uniform application of ~~this granting of the director's powers, duties, and functions exercised pursuant to division (G)(2)(a) of this section.~~ The costs of the audits and reviews shall be ~~borne equally by~~ reimbursed to the department of administrative services and as determined by the director by the county for which the services are performed. All money the department receives shall be paid into the state treasury to the credit of the human resources fund created in section 124.07 of the Revised Code.

~~(e) The dissemination of audit findings under division (G)(6)(d) of this section, any appeals process relating to adverse findings by the department, and the methods whereby the county personnel program will revert to the authority of the director of administrative services due to misuse or nonuniform application of the authority granted to the county under division (G)(2) or (3) of this section.~~

(H) The director of administrative services shall establish the rate and method of compensation for all employees who are paid directly by warrant of the director of budget and management and who are serving in positions that the director of administrative services has determined impracticable to include in the state job classification plan. This division does not apply to elected officials, legislative employees, employees of the legislative service commission, employees who are in the unclassified civil service and exempt from collective bargaining coverage in the office of the secretary of state, auditor of state, treasurer of state, and attorney general, employees of the courts, employees of the bureau of workers' compensation whose compensation the administrator of workers' compensation establishes under division (B) of section 4121.121 of the Revised Code, or employees of an appointing authority authorized by law to fix the compensation of those employees.

(I) The director shall set the rate of compensation for all intermittent, seasonal, temporary, emergency, and casual employees in the service of the state who are not considered public employees under section 4117.01 of the Revised Code. Those employees are not entitled to receive employee benefits. This rate of compensation shall be equitable in terms of the rate of employees serving in the same or similar classifications. This division does not apply to elected officials, legislative employees, employees of the legislative service commission, employees who are in the unclassified civil service and exempt from collective bargaining coverage in the office of the secretary of state, auditor of state, treasurer of state, and attorney general, employees of the courts, employees of the bureau of workers' compensation

whose compensation the administrator establishes under division (B) of section 4121.121 of the Revised Code, or employees of an appointing authority authorized by law to fix the compensation of those employees.

Sec. 124.152. (A)(1) Except as provided in divisions (A)(2) and (3) of this section, each exempt employee shall be paid a salary or wage in accordance with schedule E-1 or schedule E-2 of division (B), ~~(C), or (D)~~ of this section, ~~as applicable~~.

(2) Each exempt employee who holds a position in the unclassified civil service pursuant to division (A)(26) or (30) of section 124.11 of the Revised Code may be paid a salary or wage in accordance with schedule E-1, schedule E-1 for step seven only, or schedule E-2 of division (B); or (C); ~~(D), (E), (F), or (G)~~ of this section, as applicable.

(3)(a) Except as provided in division (A)(3)(b) of this section, each exempt employee who was paid a salary or wage at step 7 in the employee's pay range on June 28, 2003, in accordance with the applicable schedule E-1 of former section 124.152 of the Revised Code and who continued to be so paid on June 29, 2003, shall be paid a salary or wage in the corresponding pay range in schedule E-1 for step seven only of division ~~(E), (F), or (G)~~ (C) of this section, ~~as applicable~~, for as long as the employee remains in the position the employee held as of July 1, 2003.

(b) Except as provided in division (A)(3)(c) of this section, if an exempt employee who is being paid a salary or wage in accordance with schedule E-1 for step seven only of division ~~(E), (F), or (G)~~ (C) of this section, ~~as applicable~~, moves to another position, the employee shall not receive a salary or wage for that position or any other position in the future in accordance with that schedule.

(c) If an exempt employee who is being paid a salary or wage in accordance with schedule E-1 for step seven only of division ~~(E), (F), or (G)~~ (C) of this section, ~~as applicable~~, moves to another position assigned to pay range 12 or above, the appointing authority may assign the employee to be paid a salary or wage in the appropriate pay range for that position in accordance with the ~~applicable~~ schedule E-1 for step seven only of division (C) of this section, provided that the appointing authority so notifies the director of administrative services in writing at the time the employee is appointed to that position.

~~(B) Beginning on the first day of the pay period that includes July 1, 2006, each exempt employee who must be paid in accordance with schedule E-1 or schedule E-2 of this section shall be paid a salary or wage in accordance with the following schedule of rates:~~
Schedule E-1

Pay Ranges and Step Values

	Range	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
1	Hourly	9.40	9.82	10.24	10.68		
	Annually	19552	20426	21299	22214		
2	Hourly	11.40	11.88	12.40	12.94		
	Annually	23712	24710	25792	26915		
3	Hourly	11.94	12.48	13.03	13.60		
	Annually	24835	25958	27102	28288		
4	Hourly	12.54	13.10	13.72	14.34		
	Annually	26083	27248	28538	29827		
5	Hourly	13.15	13.75	14.34	14.97		
	Annually	27352	28600	29827	31138		
6	Hourly	13.86	14.43	15.07	15.69		
	Annually	28829	30014	31346	32635		
7	Hourly	14.72	15.27	15.88	16.44	17.08	
	Annually	30618	31762	33030	34195	35526	
8	Hourly	15.56	16.24	16.95	17.71	18.46	
	Annually	32365	33779	35256	36837	38397	
9	Hourly	16.60	17.46	18.32	19.23	20.21	
	Annually	34528	36317	38106	39998	42037	
10	Hourly	17.91	18.89	19.90	21.05	22.18	
	Annually	37253	39291	41392	43784	46134	
11	Hourly	19.50	20.64	21.84	23.06	24.38	
	Annually	40560	42931	45427	47965	50710	
12	Hourly	21.51	22.72	23.94	25.27	26.68	28.13
	Annually	44741	47258	49795	52562	55494	58510
13	Hourly	23.71	25.01	26.39	27.80	29.36	30.96
	Annually	49317	52021	54891	57824	61069	64397
14	Hourly	26.08	27.55	29.03	30.62	32.35	34.15
	Annually	54246	57304	60382	63690	67288	71032
15	Hourly	28.64	30.25	31.96	33.72	35.59	37.55
	Annually	59571	62920	66477	70138	74027	78104
16	Hourly	31.58	33.33	35.17	37.14	39.19	41.43
	Annually	65686	69326	73154	77251	81515	86174
17	Hourly	34.80	36.72	38.78	40.92	43.20	45.61
	Annually	72384	76378	80662	85114	89856	94869
18	Hourly	38.35	40.47	42.75	45.10	47.60	50.26
	Annually	79768	84178	88920	93808	99008	104541

	Range	Minimum	Maximum
41	Hourly	16.23	34.77
	Annually	33758	72322
42	Hourly	17.89	38.41
	Annually	37211	79893
43	Hourly	19.70	42.30
	Annually	40976	87984
44	Hourly	21.73	46.21
	Annually	45198	96117
45	Hourly	24.01	50.44
	Annually	49941	104915
46	Hourly	26.43	55.13
	Annually	54974	114670
47	Hourly	29.14	60.16
	Annually	60611	125133
48	Hourly	32.14	65.65
	Annually	66851	136552
49	Hourly	35.44	70.89
	Annually	73715	147451

(C) ~~Beginning on the first day of the pay period that includes July 1, 2007, each exempt employee who must be paid in accordance with schedule E-1 or schedule E-2 of this section shall be paid a salary or wage in accordance with the following schedule of rates:~~

Schedule E-1

		Pay Ranges and Step Values					
	Range	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
1	Hourly	9.73	10.16	10.60	11.05		
	Annually	20238	21133	22048	22984		
2	Hourly	11.80	12.30	12.83	13.39		
	Annually	24544	25584	26686	27851		
3	Hourly	12.36	12.92	13.49	14.08		
	Annually	25709	26874	28059	29286		
4	Hourly	12.98	13.56	14.20	14.84		
	Annually	26998	28205	29536	30867		
5	Hourly	13.61	14.23	14.84	15.49		
	Annually	28309	29598	30867	32219		
6	Hourly	14.35	14.94	15.60	16.24		
	Annually	29848	31075	32448	33779		
7	Hourly	15.24	15.80	16.44	17.02	17.68	

	Annually	31699	32864	34195	35402	36774
8	Hourly	16.10	16.81	17.54	18.33	19.11
	Annually	33488	34965	36483	38126	39749
9	Hourly	17.18	18.07	18.96	19.90	20.92
	Annually	35734	37586	39437	41392	43514
10	Hourly	18.54	19.55	20.60	21.79	22.96
	Annually	38563	40664	42848	45323	47757
11	Hourly	20.18	21.36	22.60	23.87	25.23
	Annually	41974	44429	47008	49650	52478
12	Hourly	22.26	23.52	24.78	26.15	27.61
	Annually	46301	48922	51542	54392	57429
13	Hourly	24.54	25.89	27.31	28.77	30.39
	Annually	51043	53851	56805	59842	63211
14	Hourly	26.99	28.51	30.05	31.69	33.48
	Annually	56139	59301	62504	65915	69638
15	Hourly	29.64	31.31	33.08	34.90	36.84
	Annually	61651	65125	68806	72592	76627
16	Hourly	32.69	34.50	36.40	38.44	40.56
	Annually	67995	71760	75712	79955	84365
17	Hourly	36.02	38.01	40.14	42.35	44.71
	Annually	74922	79061	83491	88088	92997
18	Hourly	39.69	41.89	44.25	46.68	49.27
	Annually	82555	87131	92040	97094	102482

Schedule E-2

	Range	Minimum	Maximum
41	Hourly	16.23	35.99
	Annually	33758	74859
42	Hourly	17.89	39.75
	Annually	37211	82680
43	Hourly	19.70	43.78
	Annually	40976	91062
44	Hourly	21.73	47.83
	Annually	45198	99486
45	Hourly	24.01	52.21
	Annually	49941	108597
46	Hourly	26.43	57.06
	Annually	54974	118685
47	Hourly	29.14	62.27
	Annually	60611	129522
48	Hourly	32.14	67.95

	Annually	66851	141336
49	Hourly	35.44	73.37
	Annually	73715	152610

(D) Beginning on the first day of the pay period that includes July 1, 2008, each exempt employee who must be paid in accordance with schedule E-1 or schedule E-2 of this section shall be paid a salary or wage in accordance with the following schedule of rates:

Schedule E-1

		Pay Ranges and Step Values					
	Range	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
1	Hourly	10.07	10.52	10.97	11.44		
	Annually	20946	21882	22818	23795		
2	Hourly	12.21	12.73	13.28	13.86		
	Annually	25397	26478	27622	28829		
3	Hourly	12.79	13.37	13.96	14.57		
	Annually	26603	27810	29037	30306		
4	Hourly	13.43	14.03	14.70	15.36		
	Annually	27934	29182	30576	31949		
5	Hourly	14.09	14.73	15.36	16.03		
	Annually	29307	30638	31949	33342		
6	Hourly	14.85	15.46	16.15	16.81		
	Annually	30888	32157	33592	34965		
7	Hourly	15.77	16.35	17.02	17.62	18.30	
	Annually	32802	34008	35402	36650	38064	
8	Hourly	16.66	17.40	18.15	18.97	19.78	
	Annually	34653	36192	37752	39458	41142	
9	Hourly	17.78	18.70	19.62	20.60	21.65	
	Annually	36982	38896	40810	42848	45032	
10	Hourly	19.19	20.23	21.32	22.55	23.76	
	Annually	39915	42078	44346	46904	49421	
11	Hourly	20.89	22.11	23.39	24.71	26.11	
	Annually	43451	45989	48651	51397	54309	
12	Hourly	23.04	24.34	25.65	27.07	28.58	30.13
	Annually	47923	50627	53352	56306	59446	62670
13	Hourly	25.40	26.80	28.27	29.78	31.45	33.16
	Annually	52832	55744	58802	61942	65416	68973
14	Hourly	27.93	29.51	31.10	32.80	34.65	36.59
	Annually	58094	61381	64688	68224	72072	76107
15	Hourly	30.68	32.41	34.24	36.12	38.13	40.22

	Annually	63814	67413	71219	75130	79310	83658
16	Hourly	33.83	35.71	37.67	39.79	41.98	44.38
	Annually	70366	74277	78354	82763	87318	92310
17	Hourly	37.28	39.34	41.54	43.83	46.27	48.86
	Annually	77542	81827	86403	91166	96242	101629
18	Hourly	41.08	43.36	45.80	48.31	50.99	53.84
	Annually	85446	90189	95264	100485	106059	111987

Schedule E-2

	Range	Minimum	Maximum
41	Hourly	16.23	37.25
	Annually	33758	77480
42	Hourly	17.89	41.14
	Annually	37211	85571
43	Hourly	19.70	45.31
	Annually	40976	94245
44	Hourly	21.73	49.50
	Annually	45198	102960
45	Hourly	24.01	54.04
	Annually	49941	112403
46	Hourly	26.43	59.06
	Annually	54974	122845
47	Hourly	29.14	64.45
	Annually	60611	134056
48	Hourly	32.14	70.33
	Annually	66851	146286
49	Hourly	35.44	75.94
	Annually	73715	157955

~~(E) Beginning on the first day of the pay period that includes July 1, 2006, each exempt employee who must be paid in accordance with schedule E-1 for step seven only shall be paid a salary or wage in accordance with the following schedule of rates:~~

~~Schedule E-1 for Step Seven Only~~

~~Pay Ranges and Step Seven Values~~

	Range	
12	Hourly	29.68
	Annually	61734
13	Hourly	32.66
	Annually	67933
14	Hourly	36.01
	Annually	74901

15	Hourly	39.61
	Annually	82389
16	Hourly	43.70
	Annually	90896
17	Hourly	48.13
	Annually	100110
18	Hourly	53.02
	Annually	110282

~~(F)~~ Beginning on the first day of the pay period that includes July 1, 2007, each exempt employee who must be paid in accordance with schedule E-1 for step seven only shall be paid a salary or wage in accordance with the following schedule of rates:

~~Schedule E-1 for Step Seven Only~~

~~Pay Ranges and Step Values~~

	Range	
12	Hourly	30.72
	Annually	63898
13	Hourly	33.80
	Annually	70304
14	Hourly	37.27
	Annually	77522
15	Hourly	41.00
	Annually	85280
16	Hourly	45.23
	Annually	94078
17	Hourly	49.81
	Annually	103605
18	Hourly	54.88
	Annually	114150

~~(G)~~~~(C)~~ Beginning on the first day of the pay period that includes July 1, 2008, each exempt employee who must be paid in accordance with salary schedule E-1 for step seven only shall be paid a salary or wage in accordance with the following schedule of rates:

~~Schedule E-1 for Step Seven Only~~

~~Pay Ranges and Step Values~~

	Range	
12	Hourly	31.80
	Annually	66144
13	Hourly	34.98
	Annually	72758

14	Hourly	38.57
	Annually	80226
15	Hourly	42.44
	Annually	88275
16	Hourly	46.81
	Annually	97365
17	Hourly	51.55
	Annually	107224
18	Hourly	56.80
	Annually	118144

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

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

(B)(1) Except as provided in section 124.183 of the Revised Code, in computing any of the pay supplements provided in this section for an employee paid in accordance with schedule B of section 124.15 of the Revised Code, the classification salary base shall be the minimum hourly rate of the pay range, provided in that section, in which the employee is assigned at the time of computation.

(2) Except as provided in section 124.183 of the Revised Code, in computing any of the pay supplements provided in this section for an employee paid in accordance with schedule E-1 of section 124.152 of the Revised Code, the classification salary base shall be the minimum hourly rate of the pay range, provided in that section, in which the employee is assigned at the time of computation.

(3) Except as provided in section 124.183 of the Revised Code, in computing any of the pay supplements provided in this section for an employee paid in accordance with schedule E-1 for step seven only of section 124.152 of the Revised Code, the classification salary base shall be the minimum hourly rate in the corresponding pay range, provided in schedule E-1 of that section, to which the employee is assigned at the time of the computation.

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

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

(E)(1) Except as otherwise provided in this division, beginning on the first day of the pay period within which the employee completes five years of total service with the state government or any of its political subdivisions, each employee in positions paid in accordance with schedule B of section 124.15 of the Revised Code or in accordance with schedule E-1 or schedule E-1 for step seven only of section 124.152 of the Revised Code shall receive an automatic salary adjustment equivalent to two and one-half per cent of the classification salary base, to the nearest whole cent. Each employee shall receive thereafter an annual adjustment equivalent to one-half of one per cent of the employee's classification salary base, to the nearest whole cent, for each additional year of qualified employment until a maximum of ten per cent of the employee's classification salary base is reached. The granting of longevity adjustments shall not be affected by promotion, demotion, or other changes in classification held by the employee, nor by any change in pay range for the employee's class or grade. Longevity pay adjustments shall become effective at the beginning of the pay period within which the employee completes the necessary length of service, except that when an employee requests credit for prior service, the effective date of the prior service credit and of any longevity adjustment shall be the first day of the pay period following approval of the credit by the director of administrative services. No employee, other than an employee who submits proof of prior service within ninety days after the date of the employee's hiring, shall receive any longevity adjustment for the period prior to the director's approval of a prior service credit. Time spent on authorized leave of absence shall be counted for this purpose.

(2) An employee who has retired in accordance with the provisions of any retirement system offered by the state and who is employed by the state or any political subdivision of the state on or after June 24, 1987, shall not

have prior service with the state or any political subdivision of the state counted for the purpose of determining the amount of the salary adjustment provided under this division.

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

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

(F) When an exceptional condition exists that creates a temporary or a permanent hazard for one or more positions in a class paid in accordance with schedule B of section 124.15 of the Revised Code or in accordance with schedule E-1 or schedule E-1 for step seven only of section 124.152 of the Revised Code, a special hazard salary adjustment may be granted for the time the employee is subjected to the hazardous condition. All special hazard conditions shall be identified for each position and incidence from information submitted to the director on an appropriate form provided by the director and categorized into standard conditions of: some unusual hazard not common to the class; considerable unusual hazard not common to the class; and exceptional hazard not common to the class.

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

(2) A hazardous salary adjustment of seven and one-half per cent of the employee's classification salary base may be applied in the case of some

considerable hazardous condition not common to the class for those hours worked, or a fraction of those hours worked, while the employee was subject to the considerable hazard condition.

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

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

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

(H) When a certain position or positions paid in accordance with schedule B of section 124.15 of the Revised Code or in accordance with schedule E-1 or schedule E-1 for step seven only of section 124.152 of the Revised Code require the ability to speak or write a language other than English, a special pay supplement may be granted to attract bilingual individuals, to encourage present employees to become proficient in other languages, or to retain qualified bilingual employees. The bilingual pay supplement provided in this division may be granted in the amount of five per cent of the employee's classification salary base for each required foreign language and shall remain in effect as long as the bilingual requirement exists.

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

division.

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

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

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

(2) The professional achievement pay supplement provided in this division shall be granted in an amount up to ten per cent of the employee's classification salary base and shall remain in effect as long as the mandate exists.

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

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

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

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

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

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

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

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

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

(N) Notwithstanding sections 117.28, 117.30, 117.33, 117.36, 117.42, and 131.02 of the Revised Code, the state shall not institute any civil action to recover and shall not seek reimbursement for overpayments made in

violation of division (E) of this section or division (C) of section 9.44 of the Revised Code for the period starting after June 24, 1987, and ending on October 31, 1993.

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

(P) Intermittent employees appointed under section 124.30 of the Revised Code are not eligible for the pay supplements provided by this section.

(Q) Employees of the office of the auditor of state who are exempt from collective bargaining and who are paid in accordance with schedule E-1 or in accordance with schedule E-1 for step 7 only and are paid a salary or wage in accordance with the schedule of rates in division (B) or (C) of section 124.152 of the Revised Code shall receive a reduction of two per cent in their hourly and annual pay calculation beginning with the pay period that immediately follows July 1, 2009.

Sec. 124.183. (A) As used in this section, "active payroll" means ~~when an employee is actively working; on military, workers' compensation, occupational injury, or disability leave; or on an approved leave of absence conditions under which an employee is in active pay status or eligible to receive pay for an approved leave of absence including, but not limited to, occupational injury leave, disability leave, or workers' compensation.~~

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

~~(2) Each permanent employee paid in accordance with schedule E-1 for step seven only of section 124.152 of the Revised Code who was appointed on or before March 6, 2003, and remains continuously on the active payroll through November 14, 2004, shall receive a one-time pay supplement. The supplement shall be a two per cent lump sum payment that is based on the annualization of step 6 of the pay range in schedule E-1 of section 124.152 of the Revised Code that corresponds with the pay range in schedule E-1 for step seven only that the employee is in on November 14, 2004.~~

~~(3) Each permanent employee paid under schedule E-2 of section 124.152 of the Revised Code who was appointed on or before March 6, 2003, and remains continuously on the active payroll through November 14, 2004, shall receive a one-time pay supplement. The supplement shall be a two per cent lump sum payment that is based upon the annualization of the maximum hourly rate of the pay range in schedule E-2 that the employee is in on November 14, 2004.~~

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

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

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

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

~~(F) This section applies only to employees who are eligible to receive personal leave under section 124.138 or 124.386 of the Revised Code, except as otherwise provided in division (E) of this section.~~

(C)(1) Employees who are in active payroll status on July 30, 2011, shall receive a one-time pay supplement in the earnings statements they receive on August 26, 2011. Full-time employees shall receive the lesser of either a one-time pay supplement equivalent to thirty-two hours of personal leave or a one-time pay supplement equivalent to half the hours of personal leave the employee lost during the moratorium established under either division (A) of section 124.386 of the Revised Code or pursuant to a rule of the director of administrative services. Part-time employees shall receive a one-time pay supplement equivalent to sixteen hours of personal leave.

(2) Employees who are not in active payroll status on July 30, 2011, due to military leave or an absence taken under the federal Family and Medical Leave Act are eligible to receive the one-time pay supplement.

(D) Notwithstanding any provision of law to the contrary, a one-time

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

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

~~(2)(E) This section does not apply to employees of the supreme court, the general assembly, the legislative service commission, the secretary of state, the auditor of state, the treasurer of state, or the attorney general unless the supreme court, the general assembly, the legislative service commission, the secretary of state, the auditor of state, the treasurer of state, or the attorney general decides that the office's employees should be eligible for the one-time pay supplement and so notifies participated in the moratorium under division (H) or (I) of section 124.386 of the Revised Code and notifies the director of administrative services in writing on or before ~~July 1, 2004~~ June 1, 2011, of the decision to participate in the one-time pay supplement. Written notice under this division shall be signed by the appointing authority for employees of the supreme court, general assembly, or legislative service commission, as the case may be.~~

Sec. 124.22. Rules establishing educational requirements as a condition of taking a civil service examination shall only be adopted with respect to positions for which educational requirements are expressly imposed by a section of the Revised Code or federal requirements or for which the director determines that the educational requirements are job-related. An applicant for a civil service examination must be a United States citizen or have ~~legally declared the intention of becoming a United States citizen a~~ valid permanent resident card.

Sec. 124.23. (A) All applicants for positions and places in the classified service shall be subject to examination, except for applicants for positions as professional or certified service and paraprofessional employees of county boards of mental retardation and developmental disabilities, who shall be hired in the manner provided in section 124.241 of the Revised Code.

(B) Any examination administered under this section shall be public and be open to all citizens of the United States and those persons who have legally declared their intentions of becoming United States citizens, ~~within certain limitations to be determined by.~~ For examinations administered for positions in the service of the state, the director of administrative services may determine certain limitations as to citizenship, age, experience, education, health, habit, and moral character. ~~Any~~

(C) Any person who has completed service in the uniformed services, who has been honorably discharged from the uniformed services or transferred to the reserve with evidence of satisfactory service, and who is a resident of this state and any member of the national guard or a reserve component of the armed forces of the United States who has completed more than one hundred eighty days of active duty service pursuant to an executive order of the president of the United States or an act of the congress of the United States may file with the director a certificate of service or honorable discharge, and, upon this filing, the person shall receive additional credit of twenty per cent of the person's total grade given in the regular examination in which the person receives a passing grade.

As used in this division, "service in the uniformed services" and "uniformed services" have the same meanings as in the "Uniformed Services Employment and Reemployment Rights Act of 1994," 108 Stat. 3149, 38 U.S.C.A. 4303.

~~(C)~~(D) An examination may include an evaluation of such factors as education, training, capacity, knowledge, manual dexterity, and physical or psychological fitness. An examination shall consist of one or more tests in any combination. Tests may be written, oral, physical, demonstration of skill, or an evaluation of training and experiences and shall be designed to fairly test the relative capacity of the persons examined to discharge the particular duties of the position for which appointment is sought. Tests may include structured interviews, assessment centers, work simulations, examinations of knowledge, skills, and abilities, and any other acceptable testing methods. If minimum or maximum requirements are established for any examination, they shall be specified in the examination announcement.

~~(D)~~(E) The director of administrative services shall have control of all examinations administered for positions in the service of the state and all other examinations the director administers as provided in section 124.07 of the Revised Code, except as otherwise provided in sections 124.01 to 124.64 of the Revised Code. ~~No~~

(F) No questions in any examination shall relate to political or religious opinions or affiliations. No credit for seniority, efficiency, or any other reason shall be added to an applicant's examination grade unless the applicant achieves at least the minimum passing grade on the examination without counting that extra credit.

~~(E)~~(G) Except as otherwise provided in sections 124.01 to 124.64 of the Revised Code, the director of administrative services shall give reasonable notice of the time, place, and general scope of every competitive examination for appointment ~~to a position in the civil service~~ that the

director administers for positions in the service of the state. The director shall send written, printed, or electronic notices of every examination to be conducted for positions in the ~~state~~ classified civil service of the state to each agency of the type the director of job and family services specifies and, in the case of a county in which no such agency is located, to the clerk of the court of common pleas of that county and to the clerk of each city located within that county. Those notices shall be posted in conspicuous public places in the designated agencies or the courthouse, and city hall of the cities, of the counties in which no designated agency is located for at least two weeks preceding any examination involved, and in a conspicuous place in the office of the director of administrative services for at least two weeks preceding any examination involved. In case of examinations limited by the director to a district, county, city, or department, the director shall provide by rule for adequate publicity of an examination in the district, county, city, or department within which competition is permitted.

Sec. 124.27. (A) The head of a department, office, or institution, in which a position in the classified service is to be filled, shall notify the director of administrative services of the fact, and the director shall, except as otherwise provided in this section and sections 124.30 and 124.31 of the Revised Code, certify to the appointing authority the names and addresses of the ten candidates standing highest on the eligible list for the class or grade to which the position belongs, except that the director may certify less than ten names if ten names are not available. When less than ten names are certified to an appointing authority, appointment from that list shall not be mandatory. When a position in the classified service in the department of mental health or the department of mental retardation and developmental disabilities is to be filled, the director of administrative services shall make such certification to the appointing authority within seven working days of the date the eligible list is requested.

(B) The appointing authority shall notify the director of a position in the classified service to be filled, and the appointing authority shall fill the vacant position by appointment of one of the ten persons certified by the director. If more than one position is to be filled, the director may certify a group of names from the eligible list, and the appointing authority shall appoint in the following manner: beginning at the top of the list, each time a selection is made, it must be from one of the first ten candidates remaining on the list who is willing to accept consideration for the position. If an eligible list becomes exhausted, and until a new list can be created, or when no eligible list for a position exists, names may be certified from eligible lists most appropriate for the group or class in which the position to be filled

is classified. A person who is certified from an eligible list more than three times to the same appointing authority for the same or similar positions may be omitted from future certification to that appointing authority, provided that certification for a temporary appointment shall not be counted as one of those certifications. Every person who qualifies for veteran's preference under section 124.23 of the Revised Code, who is a resident of this state, and whose name is on the eligible list for a position shall be entitled to preference in original appointments to any such competitive position in the civil service of the state and its civil divisions over all other persons eligible for those appointments and standing on the relevant eligible list with a rating equal to that of the person qualifying for veteran's preference. Appointments to all positions in the classified service, that are not filled by promotion, transfer, or reduction, as provided in sections 124.01 to 124.64 of the Revised Code and the rules of the director prescribed under those sections, shall be made only from those persons whose names are certified to the appointing authority, and no employment, except as provided in those sections, shall be otherwise given in the classified service of this state or any political subdivision of the state.

(C) All original and promotional appointments, including appointments made pursuant to section 124.30 of the Revised Code, but not intermittent appointments, shall be for a probationary period, not less than sixty days nor more than one year, to be fixed by the rules of the director, except as provided in section 124.231 of the Revised Code, and except for original appointments to a police department as a police officer or to a fire department as a firefighter which shall be for a probationary period of one year. No appointment or promotion is final until the appointee has satisfactorily served the probationary period. If the service of the probationary employee is unsatisfactory, the employee may be removed or reduced at any time during the probationary period. If the appointing authority decides to remove a probationary employee in the service of the state, the appointing authority shall communicate to the director the reason for that decision. A probationary employee duly removed or reduced in position for unsatisfactory service does not have the right to appeal the removal or reduction under section 124.34 of the Revised Code.

Sec. 124.321. (A) Whenever it becomes necessary for an appointing authority to reduce its work force, the appointing authority shall lay off employees or abolish their positions in accordance with sections 124.321 to 124.327 of the Revised Code ~~and~~. If the affected work force is in the service of the state, the reduction shall also be in compliance with the rules of the director of administrative services.

(B)(1) Employees may be laid off as a result of a lack of funds within an appointing authority. For appointing authorities that employ persons whose salary or wage is paid by warrant of the director of budget and management, the director of budget and management shall be responsible for determining, consistent with the rules adopted under division (B)(3) of this section, whether a lack of funds exists. For appointing authorities that employ persons whose salary or wage is paid other than by warrant of the director of budget and management, the appointing authority itself shall determine whether a lack of funds exists ~~and shall file a statement of rationale and supporting documentation with the director of administrative services prior to sending the layoff notice.~~

(2) As used in this division, a "lack of funds" means an appointing authority has a current or projected deficiency of funding to maintain current, or to sustain projected, levels of staffing and operations. This section does not require any transfer of money between funds in order to offset a deficiency or projected deficiency of funding for programs funded by the federal government, special revenue accounts, or proprietary accounts. Whenever a program receives funding through a grant or similar mechanism, a lack of funds shall be presumed for the positions assigned to and the employees who work under the grant or similar mechanism if, for any reason, the funding is reduced or withdrawn.

(3) The director of budget and management shall adopt rules, under Chapter 119. of the Revised Code, for agencies whose employees are paid by warrant of the director of budget and management, for determining whether a lack of funds exists.

(C)(1) Employees may be laid off as a result of lack of work within an appointing authority. For appointing authorities whose employees are paid by warrant of the director of budget and management, the director of administrative services shall determine, consistent with the rules adopted under division (F) of this section, whether a lack of work exists ~~and shall file a statement of rationale and supporting documentation with the director of administrative services prior to sending the layoff notice.~~

(2) As used in this division, a "lack of work" means an appointing authority has a current or projected decrease in workload that requires a reduction of current or projected staffing levels in its organization or structure. The determination of a lack of work shall indicate the current or projected decrease in workload and whether the current or projected staffing levels of the appointing authority will be excessive.

(D)(1) Employees may be laid off as a result of abolishment of positions. As used in this division, "abolishment" means the deletion of a position or positions from the organization or structure of an appointing authority.

For purposes of this division, an appointing authority may abolish positions for any one or any combination of the following reasons: as a result of a reorganization for the efficient operation of the appointing authority, for reasons of economy, or for lack of work.

(2)(a) Reasons of economy permitting an appointing authority to abolish a position and to lay off the holder of that position under this division shall be determined at the time the appointing authority proposes to abolish the position. The reasons of economy shall be based on the appointing authority's estimated amount of savings with respect to salary, benefits, and other matters associated with the abolishment of the position, except that the reasons of economy associated with the position's abolishment instead may be based on the appointing authority's estimated amount of savings with respect to salary and benefits only, if:

(i) Either the appointing authority's operating appropriation has been reduced by an executive or legislative action, or the appointing authority has a current or projected deficiency in funding to maintain current or projected levels of staffing and operations; and

(ii) In the case of a position in the service of the state, it files a notice of the position's abolishment with the director of administrative services within one year of the occurrence of the applicable circumstance described in division (D)(2)(a)(i) of this section.

(b) The following principles apply when a circumstance described in division (D)(2)(a)(i) of this section would serve to authorize an appointing authority to abolish a position and to lay off the holder of the position under this division based on the appointing authority's estimated amount of savings with respect to salary and benefits only:

(i) The position's abolishment shall be done in good faith and not as a subterfuge for discipline.

(ii) If a circumstance affects a specific program only, the appointing authority only may abolish a position within that program.

(iii) If a circumstance does not affect a specific program only, the appointing authority may identify a position that it considers appropriate for abolishment based on the reasons of economy.

(3) Each appointing authority shall determine itself whether any position should be abolished. An appointing authority abolishing any position in the service of the state shall file a statement of rationale and supporting

documentation with the director of administrative services prior to sending the notice of abolishment.

If an abolishment results in a reduction of the work force, the appointing authority shall follow the procedures for laying off employees, subject to the following modifications:

(a) The employee whose position has been abolished shall have the right to fill an available vacancy within the employee's classification.

(b) If the employee whose position has been abolished has more retention points than any other employee serving in the same classification, the employee with the fewest retention points shall be displaced.

(c) If the employee whose position has been abolished has the fewest retention points in the classification, the employee shall have the right to fill an available vacancy in a lower classification in the classification series.

(d) If the employee whose position has been abolished has the fewest retention points in the classification, the employee shall displace the employee with the fewest retention points in the next or successively lower classification in the classification series.

(E) Notwithstanding any contrary provision of the displacement procedure described in section 124.324 of the Revised Code for employees to displace other employees during a layoff, the director of administrative services or a county appointing authority may establish a paper lay-off process under which employees who are to be laid off or displaced may be required, before the date of their paper layoff, to preselect their options for displacing other employees.

(F) The director of administrative services shall adopt rules under Chapter 119. of the Revised Code for the determination of lack of work within an appointing authority, for the abolishment of positions by an appointing authority, and for the implementation of this section as it relates to positions in the service of the state.

Sec. 124.324. (A) A laid-off employee has the right to displace the employee with the fewest retention points in the following order:

- (1) Within the classification from which the employee was laid off;
- (2) Within the classification series from which the employee was laid off;
- (3) Within the classification the employee held immediately prior to holding the classification from which the employee was laid off, except that the employee may not displace employees in a classification if the employee does not meet the minimum qualifications of the classification or if the employee last held the classification more than three years prior to the date on which the employee was laid off.

If, after exercising displacement rights, an employee is subject to further layoff action, the employee's displacement rights shall be in accordance with the classification from which the employee was first laid off.

The director of administrative services shall verify the calculation of the retention points of all employees in the service of the state in an affected classification in accordance with section 124.325 of the Revised Code.

(B) Following the order of layoff, an employee laid off in the classified civil service shall displace another employee within the same appointing authority or independent institution and layoff jurisdiction in the following manner:

(1) Each laid-off employee possessing more retention points shall displace the employee with the fewest retention points in the next lower classification or successively lower classification in the same classification series.

(2) Any employee displaced by an employee possessing more retention points shall displace the employee with the fewest retention points in the next lower classification or successively lower classification in the same classification series. This process shall continue, if necessary, until the employee with the fewest retention points in the lowest classification of the classification series of the same appointing authority or independent institution has been reached and, if necessary, laid off.

(C) Employees shall notify the appointing authority of their intention to exercise their displacement rights, within five days after receiving notice of layoff. This division does not apply if the director of administrative services has established a paper lay-off process pursuant to division (E) of section 124.321 of the Revised Code that includes a different notification requirement for employees exercising their displacement rights under that process.

(D) No employee shall displace an employee for whose position or classification there are certain position-specific minimum qualifications, as established by the appointing authority and reviewed for validity by the department of administrative services, or as established by bona fide occupational qualification, unless the employee desiring to displace another employee possesses the requisite position-specific minimum qualifications for the position or classification.

(E) If an employee exercising displacement rights must displace an employee in another county within the same layoff district, the displacement shall not be construed to be a transfer.

(F) The director of administrative services shall adopt rules under Chapter 119. of the Revised Code for the implementation of this section as it

relates to positions in the service of the state.

Sec. 124.325. (A) Retention points to reflect the length of continuous service and efficiency in service for all employees affected by a layoff shall be verified by the director of administrative services for positions in the service of the state.

(B) An employee's length of continuous service will be carried from one layoff jurisdiction to another so long as no break in service occurs between transfers or appointments.

(C) If two or more employees have an identical number of retention points, employees having the shortest period of continuous service shall be laid off first.

(D)(1) As used in this division, "affected employee" means a city employee who becomes a county employee, or a county employee who becomes a city employee, as the result of any of the following:

- (a) The merger of a city and a county office;
- (b) The merger of city and county functions or duties;
- (c) The transfer of functions or duties between a city and county.

(2) For purposes of this section, the new employer of any affected employee shall treat the employee's prior service with a former employer as if it had been served with the new employer.

(E) The director of administrative services shall adopt rules in accordance with Chapter 119. of the Revised Code to establish a system for the assignment of retention points for each employee in the service of the state in a classification affected by a layoff and for determining, in those instances where employees in the service of the state have identical retention points, which employee shall be laid off first.

Sec. 124.34. (A) The tenure of every officer or employee in the classified service of the state and the counties, civil service townships, cities, city health districts, general health districts, and city school districts of the state, holding a position under this chapter, shall be during good behavior and efficient service. No officer or employee shall be reduced in pay or position, fined, suspended, or removed, or have the officer's or employee's longevity reduced or eliminated, except as provided in section 124.32 of the Revised Code, and for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of any policy or work rule of the officer's or employee's appointing authority, violation of this chapter or the rules of the director of administrative services or the commission, any other failure of good behavior, any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of a felony. The denial of a one-time

pay supplement or a bonus to an officer or employee is not a reduction in pay for purposes of this section.

This section does not apply to any modifications or reductions in pay authorized by division (Q) of section 124.181 or section 124.392 or 124.393 of the Revised Code.

An appointing authority may require an employee who is suspended to report to work to serve the suspension. An employee serving a suspension in this manner shall continue to be compensated at the employee's regular rate of pay for hours worked. The disciplinary action shall be recorded in the employee's personnel file in the same manner as other disciplinary actions and has the same effect as a suspension without pay for the purpose of recording disciplinary actions.

A finding by the appropriate ethics commission, based upon a preponderance of the evidence, that the facts alleged in a complaint under section 102.06 of the Revised Code constitute a violation of Chapter 102., section 2921.42, or section 2921.43 of the Revised Code may constitute grounds for dismissal. Failure to file a statement or falsely filing a statement required by section 102.02 of the Revised Code may also constitute grounds for dismissal. The tenure of an employee in the career professional service of the department of transportation is subject to section 5501.20 of the Revised Code.

Conviction of a felony is a separate basis for reducing in pay or position, suspending, or removing an officer or employee, even if the officer or employee has already been reduced in pay or position, suspended, or removed for the same conduct that is the basis of the felony. An officer or employee may not appeal to the state personnel board of review or the commission any disciplinary action taken by an appointing authority as a result of the officer's or employee's conviction of a felony. If an officer or employee removed under this section is reinstated as a result of an appeal of the removal, any conviction of a felony that occurs during the pendency of the appeal is a basis for further disciplinary action under this section upon the officer's or employee's reinstatement.

A person convicted of a felony immediately forfeits the person's status as a classified employee in any public employment on and after the date of the conviction for the felony. If an officer or employee is removed under this section as a result of being convicted of a felony or is subsequently convicted of a felony that involves the same conduct that was the basis for the removal, the officer or employee is barred from receiving any compensation after the removal notwithstanding any modification or disaffirmance of the removal, unless the conviction for the felony is

subsequently reversed or annulled.

Any person removed for conviction of a felony is entitled to a cash payment for any accrued but unused sick, personal, and vacation leave as authorized by law. If subsequently reemployed in the public sector, the person shall qualify for and accrue these forms of leave in the manner specified by law for a newly appointed employee and shall not be credited with prior public service for the purpose of receiving these forms of leave.

As used in this division, "felony" means any of the following:

(1) A felony that is an offense of violence as defined in section 2901.01 of the Revised Code;

(2) A felony that is a felony drug abuse offense as defined in section 2925.01 of the Revised Code;

(3) A felony under the laws of this or any other state or the United States that is a crime of moral turpitude;

(4) A felony involving dishonesty, fraud, or theft;

(5) A felony that is a violation of section 2921.05, 2921.32, or 2921.42 of the Revised Code.

(B) In case of a reduction, a suspension of more than forty ~~or more~~ work hours in the case of an employee exempt from the payment of overtime compensation, a suspension of more than twenty-four ~~or more~~ work hours in the case of an employee required to be paid overtime compensation, a fine of more than forty ~~or more~~ hours' pay in the case of an employee exempt from the payment of overtime compensation, a fine of more than twenty-four ~~or more~~ hours' pay in the case of an employee required to be paid overtime compensation, or removal, except for the reduction or removal of a probationary employee, the appointing authority shall serve the employee with a copy of the order of reduction, fine, suspension, or removal, which order shall state the reasons for the action.

Within ten days following the date on which the order is served or, in the case of an employee in the career professional service of the department of transportation, within ten days following the filing of a removal order, the employee, except as otherwise provided in this section, may file an appeal of the order in writing with the state personnel board of review or the commission. For purposes of this section, the date on which an order is served is the date of hand delivery of the order or the date of delivery of the order by certified United States mail, whichever occurs first. If an appeal is filed, the board or commission shall forthwith notify the appointing authority and shall hear, or appoint a trial board to hear, the appeal within thirty days from and after its filing with the board or commission. The board, commission, or trial board may affirm, disaffirm, or modify the

judgment of the appointing authority. However, in an appeal of a removal order based upon a violation of a last chance agreement, the board, commission, or trial board may only determine if the employee violated the agreement and thus affirm or disaffirm the judgment of the appointing authority.

In cases of removal or reduction in pay for disciplinary reasons, either the appointing authority or the officer or employee may appeal from the decision of the state personnel board of review or the commission, and any such appeal shall be to the court of common pleas of the county in which the appointing authority is located, or to the court of common pleas of Franklin county, as provided by section 119.12 of the Revised Code.

(C) In the case of the suspension for any period of time, or a fine, demotion, or removal, of a chief of police, a chief of a fire department, or any member of the police or fire department of a city or civil service township, who is in the classified civil service, the appointing authority shall furnish the chief or member with a copy of the order of suspension, fine, demotion, or removal, which order shall state the reasons for the action. The order shall be filed with the municipal or civil service township civil service commission. Within ten days following the filing of the order, the chief or member may file an appeal, in writing, with the commission. If an appeal is filed, the commission shall forthwith notify the appointing authority and shall hear, or appoint a trial board to hear, the appeal within thirty days from and after its filing with the commission, and it may affirm, disaffirm, or modify the judgment of the appointing authority. An appeal on questions of law and fact may be had from the decision of the commission to the court of common pleas in the county in which the city or civil service township is situated. The appeal shall be taken within thirty days from the finding of the commission.

(D) A violation of division (A)(7) of section 2907.03 of the Revised Code is grounds for termination of employment of a nonteaching employee under this section.

(E) As used in this section, "last chance agreement" means an agreement signed by both an appointing authority and an officer or employee of the appointing authority that describes the type of behavior or circumstances that, if it occurs, will automatically lead to removal of the officer or employee without the right of appeal to the state personnel board of review or the appropriate commission.

Sec. 124.381. ~~Each~~ (A)(1)(a) An employee in the service of the state may be eligible to receive salary continuation not to exceed four hundred eighty hours at the employee's total rate of pay for absence as a result of

injury incurred during the performance of, or arising out of, state employment. When an eligible employee's absence as a result of such an injury extends beyond four hundred eighty hours, the employee immediately becomes subject to sections 124.382 and 124.385 of the Revised Code regarding sick leave and disability leave benefits.

An employee is ineligible to receive salary continuation until the date of implementation is established in the rules adopted under division (C)(1) of this section.

(b) Employees of the secretary of state, auditor of state, treasurer of state, attorney general, supreme court, general assembly, or legislative service commission are not subject to division (A)(1)(a) of this section unless the relevant appointing authority notifies the director of administrative services in writing of the intent to have all of the appointing authority's employees participate in salary continuation. The relevant appointing authority also may discontinue salary continuation for all of its employees by providing written notice of the discontinuation to the director.

Participation in salary continuation is subject to rules adopted under division (C)(1) of this section.

(2) Each employee of the department of rehabilitation and correction, the department of mental health, the department of mental retardation and developmental disabilities, the ~~Ohio veteran's home agency~~ department of veterans services, or the Ohio schools for the deaf and blind, and each employee of the department of youth services as established in division (A) of section 124.14 of the Revised Code who ~~suffers bodily injury inflicted by an inmate, patient, client, youth, or student in the facilities~~ sustains a qualifying physical condition inflicted by a ward of these agencies during the time the employee is lawfully carrying out the assigned duties of the employee's position shall be paid occupational injury leave at the employee's total rate of pay during the period the employee is disabled as a result of that ~~injury~~ qualifying physical condition, but in no case to exceed ~~one hundred twenty work days~~ nine hundred sixty hours, in lieu of workers' compensation. Pay made according to this ~~section~~ division shall not be charged to the employee's accumulation of sick leave credit. In any case when an employee's disability as a result of such a qualifying physical condition extends beyond nine hundred sixty hours, the employee immediately becomes subject to sections 124.382 and 124.385 of the Revised Code regarding sick leave and disability leave benefits.

(B) An employee who is receiving salary continuation or occupational injury leave under division (A)(1) or (2) of this section is not eligible for other paid leave, including holiday pay, while receiving benefits under

either division. While an employee is receiving salary continuation or occupational injury leave under division (A)(1) or (2) of this section, vacation leave credit ceases to accrue to the employee under section 124.134 of the Revised Code, but sick leave credit and personal leave credit continue to accrue to the employee under sections 124.382 and 124.386 of the Revised Code.

(C)(1) The director of administrative services shall adopt rules for the administration of both the salary continuation program and the occupational injury leave program. The rules shall include, but not be limited to, provisions for determining a disability, for filing a claim for leave under this section, and for allowing or denying claims for the leave.

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

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

(2) The director also may adopt rules for the payment of health benefits while an employee is on workers' compensation leave.

(D) An appointing authority may apply to the director of administrative services to grant salary continuation under division (A)(1) of this section or occupational injury leave in accordance with under division (A)(2) of this section to law enforcement personnel employed by the agency.

Sec. 124.382. (A) As used in this section and sections 124.383, 124.386, 124.387, and 124.388 of the Revised Code:

(1) "Pay period" means the fourteen-day period of time during which the payroll is accumulated, as determined by the director of administrative services.

(2) "Active pay status" means the conditions under which an employee is eligible to receive pay, and includes, but is not limited to, vacation leave, sick leave, personal leave, bereavement leave, and administrative leave.

(3) "No pay status" means the conditions under which an employee is ineligible to receive pay and includes, but is not limited to, leave without pay, leave of absence, and disability leave.

(4) "Disability leave" means the leave granted pursuant to section 124.385 of the Revised Code.

(5) "Full-time permanent employee" means an employee whose regular

hours of duty total eighty hours in a pay period in a state agency and whose appointment is not for a limited period of time.

(6) "Base rate of pay" means the rate of pay established under schedule B or C of section 124.15 of the Revised Code or under schedule E-1, schedule E-1 for step seven only, or schedule E-2 of section 124.152 of the Revised Code, plus any supplement provided under section 124.181 of the Revised Code, plus any supplements enacted into law which are added to schedule B or C of section 124.15 of the Revised Code or to schedule E-1, schedule E-1 for step seven only, or schedule E-2 of section 124.152 of the Revised Code.

(7) "Part-time permanent employee" means an employee whose regular hours of duty total less than eighty hours in a pay period in a state agency and whose appointment is not for a limited period of time.

(B) Each full-time permanent and part-time permanent employee whose salary or wage is paid directly by warrant of the director of budget and management shall be credited with sick leave of three and one-tenth hours for each completed eighty hours of service, excluding overtime hours worked. Sick leave is not available for use until it appears on the employee's earning statement and the compensation described in the earning statement is available to the employee.

(C) Any sick leave credit provided pursuant to division (B) of this section, remaining as of the last day of the pay period preceding the first paycheck the employee receives in December, shall be converted pursuant to section 124.383 of the Revised Code.

(D) Employees may use sick leave, provided a credit balance is available, upon approval of the responsible administrative officer of the employing unit, for absence due to personal illness, pregnancy, injury, exposure to contagious disease that could be communicated to other employees, and illness, injury, or death in the employee's immediate family. When sick leave is used, it shall be deducted from the employee's credit on the basis of absence from previously scheduled work in such increments of an hour and at such a compensation rate as the director of administrative services determines. The appointing authority of each employing unit may require an employee to furnish a satisfactory, signed statement to justify the use of sick leave.

If, after having utilized the credit provided by this section, an employee utilizes sick leave that was accumulated prior to November 15, 1981, compensation for such sick leave used shall be at a rate as the director determines.

(E)(1) The previously accumulated sick leave balance of an employee

who has been separated from the public service, for which separation payments pursuant to section 124.384 of the Revised Code have not been made, shall be placed to the employee's credit upon the employee's reemployment in the public service, if the reemployment takes place within ten years of the date on which the employee was last terminated from public service.

(2) The previously accumulated sick leave balance of an employee who has separated from a school district shall be placed to the employee's credit upon the employee's appointment as an unclassified employee of the state department of education, if all of the following apply:

(a) The employee accumulated the sick leave balance while employed by the school district.

(b) The employee did not receive any separation payments for the sick leave balance.

(c) The employee's employment with the department takes place within ten years after the date on which the employee separated from the school district.

(F) An employee who transfers from one public agency to another shall be credited with the unused balance of the employee's accumulated sick leave.

(G) The director of administrative services shall establish procedures to uniformly administer this section. No sick leave may be granted to a state employee upon or after the employee's retirement or termination of employment.

(H) As used in this division, "active payroll" means conditions under which an employee is in active pay status or eligible to receive pay for an approved leave of absence, including, but not limited to, occupational injury leave, disability leave, or workers' compensation.

(1) Employees who are in active payroll status on June 18, 2011, shall receive a one-time credit of additional sick leave in the pay period that begins on July 1, 2011. Full-time employees shall receive the lesser of either a one-time credit of thirty-two hours of additional sick leave or a one-time credit of additional sick leave equivalent to half the hours of personal leave the employee lost during the moratorium established under either division (A) of section 124.386 of the Revised Code or pursuant to a rule of the director of administrative services. Part-time employees shall receive a one-time credit of sixteen hours of additional sick leave.

(2) Employees who are not in active payroll status due to military leave or an absence taken in accordance with the federal "Family and Medical Leave Act" are eligible to receive the one-time additional sick leave credit.

(3) The one-time additional sick leave credit does not apply to employees of the supreme court, general assembly, legislative service commission, secretary of state, auditor of state, treasurer of state, or attorney general unless the supreme court, general assembly, legislative service commission, secretary of state, auditor of state, treasurer of state, or attorney general participated in the moratorium under division (H) or (I) of section 124.386 of the Revised Code and notifies in writing the director of administrative services on or before June 1, 2011, of the decision to participate in the one-time additional sick leave credit. Written notice under this division shall be signed by the appointing authority for employees of the supreme court, general assembly, or legislative service commission, as the case may be.

Sec. 124.385. (A) An employee is eligible for disability leave benefits under this section if the employee has completed one year of continuous state service immediately prior to the date of the disability and if any of the following applies:

(1) The employee is a full-time permanent employee and is eligible for sick leave credit pursuant to division (B) of section 124.382 of the Revised Code.

(2) The employee is a part-time permanent employee who has worked at least fifteen hundred hours within the twelve-month period immediately preceding the date of disability and is eligible for sick leave credit under division (B) of section 124.382 of the Revised Code.

(3) The employee is a full-time permanent or part-time permanent employee, is on disability leave or leave of absence for medical reasons, and would be eligible for sick leave credit pursuant to division (B) of section 124.382 of the Revised Code except that the employee is in no pay status due to the employee's medical condition.

(B) The director of administrative services, by rule adopted in accordance with Chapter 119. of the Revised Code, shall establish a disability leave program. The rule shall include, but shall not be limited to, the following:

(1) Procedures to be followed for determining disability;

(2) Provisions for the allowance of disability leave due to illness or injury;

(3) Provisions for the continuation of service credit for employees granted disability leave, including service credit towards retirement, as provided by the applicable statute;

(4) The establishment of a minimum level of benefit and of a waiting period before benefits begin;

(5) Provisions setting a maximum length of benefit and requiring that employees eligible to apply for disability retirement shall do so prior to completing the first six months of their period of disability. The director's rules shall indicate those employees required to apply for disability retirement. If an employee is approved to receive disability retirement, the employee shall receive the retirement benefit and a supplement payment that equals a percentage of the employee's base rate of pay and that, when added to the retirement benefit, equals no more than the percentage of pay received by employees after the first six months of disability. This supplemental payment shall not be considered earnable salary, compensation, or salary, and is not subject to contributions, under Chapter 145., 742., 3307., 3309., or 5505. of the Revised Code.

(6) Provisions that allow employees to utilize available sick leave, personal leave, compensatory time, or vacation leave balances to supplement the benefits payable under this section. The balances used to supplement the benefits, plus any amount contributed by the state as provided in division (D) of this section, shall be paid at the employee's base rate of pay in an amount sufficient to give employees up to one hundred per cent of pay for time on disability.

(7) Procedures for appealing denial of payment of a claim, including the following:

(a) A maximum of thirty days to file an appeal by the employee;

(b) A maximum of fifteen days for the parties to select a third-party opinion pursuant to division (F) of this section, unless an extension is agreed to by the parties;

(c) A maximum of thirty days for the third party to render an opinion.

(8) Provisions for approving leave of absence for medical reasons where an employee is in no pay status because the employee has used all the employee's sick leave, personal leave, vacation leave, and compensatory time;

(9) Provisions for precluding the payment of benefits if the injury for which the benefits are sought is covered by a workers' compensation plan;

(10) Provisions for precluding the payment of benefits in order to ensure that benefits are provided in a consistent manner.

(C) Except as provided in division (B)(6) of this section, time off for an employee granted disability leave is not chargeable to any other leave granted by other sections of the Revised Code.

(D) While an employee is on an approved disability leave, the ~~employer's and employee's share of health, life, and other insurance benefits shall be paid by the state, and the retirement contribution shall be paid as~~

follows:

~~(1) The employee shall be responsible for paying the employee's share of retirement contributions and the employer's share shall be paid by the state.~~

~~(2) For the first three months, the employee's share shall be paid by the employee.~~

~~(3) After the first three months, the employee's share shall be paid by the state.~~

(E) The approval for disability leave shall be made by the director, upon recommendation by the appointing authority. The director may delegate to any appointing authority the authority to approve disability benefits for a standard recovery period.

(F) If a request for disability leave is denied based on a medical determination, the director shall obtain a medical opinion from a third party. The decision of the third party is binding.

(G) The rule adopted by the director under division (B) of this section shall not deny disability leave benefits for an illness or injury to an employee who is a veteran of the United States armed forces because the employee contracted the illness or received the injury in the course of or as a result of military service and the illness or injury is or may be covered by a compensation plan administered by the United States department of veterans affairs.

Sec. 124.386. (A) Each full-time permanent employee paid in accordance with section 124.152 of the Revised Code and those full-time permanent employees listed in divisions (B)(2) and (4) of section 124.14 of the Revised Code shall be credited with thirty-two hours of personal leave each year. Each part-time permanent employee paid in accordance with section 124.152 of the Revised Code and those part-time permanent employees listed in divisions (B)(2) and (4) of section 124.14 of the Revised Code shall receive a pro-rated personal leave credit as determined by rule of the director of administrative services. The credit shall be made to each eligible employee in the first pay the employee receives in December. Employees, upon giving reasonable notice to the responsible administrative officer of the appointing authority, may use personal leave for absence due to mandatory court appearances, legal or business matters, family emergencies, unusual family obligations, medical appointments, weddings, religious holidays not listed in section 124.19 of the Revised Code, or any other matter of a personal nature. Personal leave may not be used on a holiday when an employee is scheduled to work.

Personal leave is not available for use until it appears on the employee's

earning statement and the compensation described in the earning statement is available to the employee.

There shall be a moratorium on personal leave accrual beginning with the credit employees would have received in December 2009, except as otherwise provided in divisions (H)(1) and (2) of this section. Personal leave accrual shall resume with employees receiving credit in December 2011 and there shall be no retroactive grant of credit for the period the moratorium was in effect.

(B) When personal leave is used, it shall be deducted from the unused balance of the employee's personal leave on the basis of absence in such increments of an hour as the director of administrative services determines. Compensation for personal leave shall be equal to the employee's base rate of pay.

(C) A newly appointed full-time permanent employee or a ~~nonfull-time non-full-time~~ employee who receives a full-time permanent appointment shall be credited with personal leave of thirty-two hours, less one and two-tenths hours for each pay period that has elapsed following the first paycheck the employee receives in December, until the first day of the pay period during which the appointment was effective.

(D) The director of administrative services shall allow employees to elect one of the following options with respect to the unused balance of personal leave:

(1) Carry forward the balance. The maximum credit that shall be available to an employee at any one time is forty hours.

(2) Convert the balance to accumulated sick leave, to be used in the manner provided by section 124.382 of the Revised Code;

(3) Receive a cash benefit. The cash benefit shall equal one hour of the employee's base rate of pay for every hour of unused credit that is converted. An employee serving in a temporary work level who elects to convert unused personal leave to cash shall do so at the base rate of pay of the employee's normal classification. Such cash benefit shall not be subject to contributions to any of the retirement systems, either by the employee or the employer.

There shall be a moratorium on the payment for conversion of unused personal leave until December 2011, except as otherwise provided in divisions (H)(1) and (2) of this section.

(E) A full-time permanent employee who separates from state service or becomes ineligible to be credited with leave under this section shall receive a reduction of personal leave credit of one and two-tenths hours for each pay period that remains beginning with the first pay period following the date of

separation or the effective date of the employee's ineligibility until the pay period preceding the next base pay period. After calculation of the reduction of an employee's personal leave credit, the employee is entitled to compensation for any remaining personal leave credit at the employee's current base rate of pay. If the reduction results in a number of hours less than zero, the cash equivalent value of such number of hours shall be deducted from any compensation that remains payable to the employee, or from the cash conversion value of any vacation or sick leave that remains credited to the employee. An employee serving in a temporary work level who is eligible to receive compensation under this section shall be compensated at the base rate of pay of the employee's normal classification.

(F) An employee who transfers from one public agency to another public agency in which the employee is eligible for the credit provided under this section shall be credited with the unused balance of personal leave.

(G) The director of administrative services shall establish procedures to uniformly administer this section. No personal leave may be granted to a state employee upon or after retirement or termination of employment.

(H)(1) The moratoria imposed under divisions (A) and (D)(3) of this section shall apply to employees of the secretary of state, auditor of state, treasurer of state, and attorney general who are subject to this section unless the secretary of state, auditor of state, treasurer of state, or attorney general decides to exempt the office's employees from the moratoria and so notifies the director of administrative services in writing on or before November 1, 2009.

(2) The moratoria imposed under divisions (A) and (D)(3) of this section do not apply to employees of the supreme court, the general assembly, and the legislative service commission who are subject to this section, unless the supreme court, general assembly, or legislative service commission decides to include those employees in the moratoria and so notifies the director of administrative services in writing on or before November 1, 2009. Written notice shall be signed by the appointing authority for employees of the supreme court, general assembly, or legislative service commission as the case may be.

Sec. 124.392. (A) As used in this section, ~~"exempt:~~

(1) "Exempt employee" has the same meaning as in section 124.152 of the Revised Code.

(2) "Fiscal emergency" means a fiscal emergency declared by the governor under section 126.05 of the Revised Code.

(B) The director of administrative services may establish a voluntary

cost savings program for exempt employees. ~~The~~

(C) The director of administrative services shall establish a mandatory cost savings program applicable to exempt employees. Subject to division (C)(1) of this section, the program may include, but is not limited to, a loss of pay or loss of holiday pay as determined by the director. The program may be administered differently among exempt employees based on their classifications, appointment categories, appointing authorities, or other relevant distinctions.

(1) Each full-time exempt employee shall participate in the program for a total of eighty hours of mandatory cost savings in both fiscal year 2010 and fiscal year 2011. Each part-time exempt employee shall participate in the program by not receiving holiday pay during both fiscal year 2010 and fiscal year 2011. Each employee of the secretary of state, auditor of state, treasurer of state, and attorney general shall participate in the program unless the secretary of state, auditor of state, treasurer of state, or attorney general decides to exempt the officer's employees from the program and so notifies the director of administrative services in writing on or before July 1, 2009.

After July 1, 2009, the secretary of state, auditor of state, treasurer of state, or attorney general may decide to begin participation in the program for eighty hours or less and shall notify the director of administrative services in writing. The secretary of state, auditor of state, treasurer of state, or attorney general and the director shall mutually agree upon an implementation date.

(2) After June 30, 2011, the director of administrative services, in consultation with the director of budget and management, may implement mandatory cost savings days applicable to exempt employees in the event of a fiscal emergency. Each employee of the secretary of state, auditor of state, treasurer of state, and attorney general shall participate in the mandatory cost savings days unless the secretary of state, auditor of state, treasurer of state, or attorney general decides to exempt the officer's employees from the mandatory cost savings days and so notifies the director of administrative services in the manner the director of administrative services prescribes by rule adopted under this section.

(D) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to provide for the administration of the ~~program~~ voluntary cost savings program and the mandatory cost savings program.

(E) Cost savings days provided pursuant to this section or by a labor-management contract or agreement shall be considered remuneration for purposes of section 4141.31 of the Revised Code.

(F) The cost savings fund is hereby created in the state treasury. Savings accrued through employee participation in the mandatory cost savings program and in mandatory cost savings days shall be allocated to the fund. The fund may be used to pay employees who participated in the mandatory cost savings program or in mandatory cost savings days. Any investment earnings of the fund shall be credited to the fund.

Sec. 124.393. (A) As used in this section:

(1) "County exempt employee" means a permanent full-time or permanent part-time county employee who is not subject to a collective bargaining agreement between a public employer and an exclusive representative.

(2) "Fiscal emergency" means any of the following:

(a) A fiscal emergency declared by the governor under section 126.05 of the Revised Code.

(b) Lack of funds as defined in section 124.321 of the Revised Code.

(c) Reasons of economy as described in section 124.321 of the Revised Code.

(B)(1) A county appointing authority may establish a mandatory cost savings program applicable to its county exempt employees. Each county exempt employee shall participate in the program of mandatory cost savings for not more than eighty hours, as determined by the appointing authority, in each of state fiscal years 2010 and 2011. The program may include, but is not limited to, a loss of pay or loss of holiday pay. The program may be administered differently among employees based on their classifications, appointment categories, or other relevant distinctions.

(2) After June 30, 2011, a county appointing authority may implement mandatory cost savings days as described in division (B)(1) of this section that apply to its county exempt employees in the event of a fiscal emergency.

(C) A county appointing authority shall issue guidelines concerning how the appointing authority will implement the cost savings program.

Sec. 124.81. (A) Except as provided in division ~~(E)~~(F) of this section, the department of administrative services in consultation with the superintendent of insurance shall negotiate with and, in accordance with the competitive selection procedures of Chapter 125. of the Revised Code, contract with one or more insurance companies authorized to do business in this state, for the issuance of one of the following:

(1) A policy of group life insurance covering all state employees who are paid directly by warrant of the state auditor, including elected state officials;

(2) A combined policy, or coordinated policies of one or more insurance companies or health insuring corporations in combination with one or more insurance companies providing group life and health, medical, hospital, dental, or surgical insurance, or any combination thereof, covering all such employees;

(3) A policy that may include, but is not limited to, hospitalization, surgical, major medical, dental, vision, and medical care, disability, hearing aids, prescription drugs, group life, life, sickness, and accident insurance, group legal services, or a combination of the above benefits for some or all of the employees paid in accordance with section 124.152 of the Revised Code and for some or all of the employees listed in divisions (B)(2) and (4) of section 124.14 of the Revised Code, and their immediate dependents.

(B) The department of administrative services in consultation with the superintendent of insurance shall negotiate with and, in accordance with the competitive selection procedures of Chapter 125. of the Revised Code, contract with one or more insurance companies authorized to do business in this state, for the issuance of a policy of group life insurance covering all municipal and county court judges. The amount of such coverage shall be an amount equal to the aggregate salary set forth for each municipal court judge in sections 141.04 and 1901.11 of the Revised Code, and set forth for each county court judge in sections 141.04 and 1907.16 of the Revised Code. On and after the effective date of the policy of group life insurance coverage, a municipal or county court judge is ineligible for life insurance coverage from a county or other political subdivision.

(C) If a state employee uses all accumulated sick leave and then goes on an extended medical disability, the policyholder shall continue at no cost to the employee the coverage of the group life insurance for such employee for the period of such extended leave, but not beyond three years.

~~(C)~~(D) If a state employee insured under a group life insurance policy as provided in division (A) of this section is laid off pursuant to section 124.32 of the Revised Code, such employee by request to the policyholder, made no later than the effective date of the layoff, may elect to continue the employee's group life insurance for the one-year period through which the employee may be considered to be on laid-off status by paying the policyholder through payroll deduction or otherwise twelve times the monthly premium computed at the existing average rate for the group life case for the amount of the employee's insurance thereunder at the time of the employee's layoff. The policyholder shall pay the premiums to the insurance company at the time of the next regular monthly premium payment for the actively insured employees and furnish the company

appropriate data as to such laid-off employees. At the time an employee receives written notice of a layoff, the policyholder shall also give such employee written notice of the opportunity to continue group life insurance in accordance with this division. When such laid-off employee is reinstated for active work before the end of the one-year period, the employee shall be reclassified as insured again as an active employee under the group and appropriate refunds for the number of full months of unearned premium payment shall be made by the policyholder.

~~(D)~~(E) This section does not affect the conversion rights of an insured employee when the employee's group insurance terminates under the policy.

~~(E)~~(F) Notwithstanding division (A) of this section, the department may provide benefits equivalent to those that may be paid under a policy issued by an insurance company, or the department may, to comply with a collectively bargained contract, enter into an agreement with a jointly administered trust fund which receives contributions pursuant to a collective bargaining agreement entered into between this state, or any of its political subdivisions, and any collective bargaining representative of the employees of this state or any political subdivision for the purpose of providing for self-insurance of all risk in the provision of fringe benefits similar to those that may be paid pursuant to division (A) of this section, and the jointly administered trust fund may provide through the self-insurance method specific fringe benefits as authorized by the rules of the board of trustees of the jointly administered trust fund. Amounts from the fund may be used to pay direct and indirect costs that are attributable to consultants or a third-party administrator and that are necessary to administer this section. Benefits provided under this section include, but are not limited to, hospitalization, surgical care, major medical care, disability, dental care, vision care, medical care, hearing aids, prescription drugs, group life insurance, sickness and accident insurance, group legal services, or a combination of the above benefits, for the employees and their immediate dependents.

~~(F)~~(G) Notwithstanding any other provision of the Revised Code, any public employer, including the state, and any of its political subdivisions, including, but not limited to, any county, county hospital, municipal corporation, township, park district, school district, state institution of higher education, public or special district, state agency, authority, commission, or board, or any other branch of public employment, and any collective bargaining representative of employees of the state or any political subdivision may agree in a collective bargaining agreement that any mutually agreed fringe benefit including, but not limited to, hospitalization,

surgical care, major medical care, disability, dental care, vision care, medical care, hearing aids, prescription drugs, group life insurance, sickness and accident insurance, group legal services, or a combination thereof, for employees and their dependents be provided through a mutually agreed upon contribution to a jointly administered trust fund. Amounts from the fund may be used to pay direct and indirect costs that are attributable to consultants or a third-party administrator and that are necessary to administer this section. The amount, type, and structure of fringe benefits provided under this division is subject to the determination of the board of trustees of the jointly administered trust fund. Notwithstanding any other provision of the Revised Code, competitive bidding does not apply to the purchase of fringe benefits for employees under this division through a jointly administered trust fund.

Sec. 124.821. The health care spending account fund is hereby created in the state treasury. The director of administrative services shall use money in the fund to make payments with regard to the participation of state employees in flexible spending accounts for certain nonreimbursed medical and dental expenses under section 125 of the Internal Revenue Code. All investment earnings on money in the fund shall be credited to the fund.

Sec. 124.822. The dependent care spending account fund is hereby created in the state treasury. The director of administrative services shall use money in the fund to make payments with regard to the participation of state employees in flexible spending accounts for work-related dependent care expenses under section 125 of the Internal Revenue Code. All investment earnings on money in the fund shall be credited to the fund.

Sec. 124.86. There is hereby created in the state treasury the employee educational development fund, to be used to pay the state administrative costs of any education program undertaken pursuant to specific collective bargaining agreements identified in uncodified law governing expenditure of the fund. The director of administrative services shall establish, and shall obtain the approval of the director of budget and management for, a charge for each such program that is sufficient only to recover those costs. All money collected from such a charge shall be deposited to the credit of the fund, and all interest earned on the fund shall accrue to the fund. The director of administrative services shall administer the fund in accordance with the respective collective bargaining agreements and may adopt rules for the purpose of this administration.

Sec. 125.11. (A) Subject to division (B) of this section, contracts awarded pursuant to a reverse auction under section 125.072 of the Revised Code or pursuant to competitive sealed bidding, including contracts awarded

under section 125.081 of the Revised Code, shall be awarded to the lowest responsive and responsible bidder on each item in accordance with section 9.312 of the Revised Code. When the contract is for meat products as defined in section 918.01 of the Revised Code or poultry products as defined in section 918.21 of the Revised Code, only those bids received from vendors offering products from establishments on the current list of meat and poultry vendors established and maintained by the director of administrative services under section 125.17 of the Revised Code shall be eligible for acceptance. The department of administrative services may accept or reject any or all bids in whole or by items, except that when the contract is for services or products available from a qualified nonprofit agency pursuant to sections 125.60 to 125.6012 or 4115.31 to 4115.35 of the Revised Code, the contract shall be awarded to that agency.

(B) Prior to awarding a contract under division (A) of this section, the department of administrative services or the state agency responsible for evaluating a contract for the purchase of products shall evaluate the bids received according to the criteria and procedures established pursuant to divisions (C)(1) and (2) of section 125.09 of the Revised Code for determining if a product is produced or mined in the United States and if a product is produced or mined in this state. The department or other state agency shall first remove bids that offer products that have not been or that will not be produced or mined in the United States. From among the remaining bids, the department or other state agency shall select the lowest responsive and responsible bid, in accordance with section 9.312 of the Revised Code, from among the bids that offer products that have been produced or mined in this state where sufficient competition can be generated within this state to ensure that compliance with these requirements will not result in an excessive price for the product or acquiring a disproportionately inferior product. If there are ~~two~~ four or more qualified bids that offer products that have been produced or mined in this state, it shall be deemed that there is sufficient competition to prevent an excessive price for the product or the acquiring of a disproportionately inferior product.

(C) Division (B) of this section applies to contracts for which competitive bidding is waived by the controlling board.

(D) Division (B) of this section does not apply to the purchase by the division of liquor control of spirituous liquor.

(E) The director of administrative services shall publish in the form of a model act for use by counties, townships, municipal corporations, or any other political subdivision described in division (B) of section 125.04 of the

Revised Code, a system of preferences for products mined and produced in this state and in the United States and for Ohio-based contractors. The model act shall reflect substantial equivalence to the system of preferences in purchasing and public improvement contracting procedures under which the state operates pursuant to this chapter and section 153.012 of the Revised Code. To the maximum extent possible, consistent with the Ohio system of preferences in purchasing and public improvement contracting procedures, the model act shall incorporate all of the requirements of the federal "Buy America Act," 47 Stat. 1520 (1933), 41 U.S.C. 10a to 10d, as amended, and the rules adopted under that act.

Before and during the development and promulgation of the model act, the director shall consult with appropriate statewide organizations representing counties, townships, and municipal corporations so as to identify the special requirements and concerns these political subdivisions have in their purchasing and public improvement contracting procedures. The director shall promulgate the model act by rule adopted pursuant to Chapter 119. of the Revised Code and shall revise the act as necessary to reflect changes in this chapter or section 153.012 of the Revised Code.

The director shall make available copies of the model act, supporting information, and technical assistance to any township, county, or municipal corporation wishing to incorporate the provisions of the act into its purchasing or public improvement contracting procedure.

Sec. 125.18. (A) There is hereby established the office of information technology within the department of administrative services. The office shall be under the supervision of a state chief information officer to be appointed by the director of administrative services and subject to removal at the pleasure of the director. The chief information officer is an assistant director of administrative services.

(B) Under the direction of the director of administrative services, the state chief information officer shall lead, oversee, and direct state agency activities related to information technology development and use. In that regard, the state chief information officer shall do all of the following:

(1) Coordinate and superintend statewide efforts to promote common use and development of technology by state agencies. The office of information technology shall establish policies and standards that govern and direct state agency participation in statewide programs and initiatives.

(2) Establish policies and standards for the acquisition and use of common information technology by state agencies, including, but not limited to, hardware, software, technology services, and security, and the extension of the service life of information technology systems, with which

state agencies shall comply;

(3) Establish criteria and review processes to identify state agency information technology projects or purchases that require alignment or oversight. As appropriate, the department of administrative services shall provide the governor and the director of budget and management with notice and advice regarding the appropriate allocation of resources for those projects. The state chief information officer may require state agencies to provide, and may prescribe the form and manner by which they must provide, information to fulfill the state chief information officer's alignment and oversight role;

(4) Establish policies and procedures for the security of personal information that is maintained and destroyed by state agencies;

(5) Employ a chief information security officer who is responsible for the implementation of the policies and procedures described in division (B)(4) of this section and for coordinating the implementation of those policies and procedures in all of the state agencies;

(6) Employ a chief privacy officer who is responsible for advising state agencies when establishing policies and procedures for the security of personal information and developing education and training programs regarding the state's security procedures;

(7) Establish policies on the purchasing, use, and reimbursement for use of handheld computing and telecommunications devices by state agency employees;

(8) Establish policies for the reduction of printing and the use of electronic records by state agencies;

(9) Establish policies for the reduction of energy consumption by state agencies.

(C)(1) The chief information security officer shall assist each state agency with the development of an information technology security strategic plan and review that plan, and each state agency shall submit that plan to the state chief information officer. The chief information security officer may require that each state agency update its information technology security strategic plan annually as determined by the state chief information officer.

(2) Prior to the implementation of any information technology data system, a state agency shall prepare or have prepared a privacy impact statement for that system.

(D) When a state agency requests a purchase of information technology supplies or services under Chapter 125. of the Revised Code, the state chief information officer may review and reject the requested purchase for noncompliance with information technology direction, plans, policies,

standards, or project-alignment criteria.

(E) The office of information technology may operate technology services for state agencies in accordance with this chapter.

(F) With the approval of the director of administrative services, the office of information technology may establish cooperative agreements with federal and local government agencies and state agencies that are not under the authority of the governor for the provision of technology services and the development of technology projects.

(G) As used in this section:

(1) "Personal information" has the same meaning as in section 149.45 of the Revised Code.

(2) "State agency" means every organized body, office, or agency established by the laws of the state for the exercise of any function of state government, other than any state-supported institution of higher education, the office of the auditor of state, treasurer of state, secretary of state, or attorney general, the adjutant general's department, the bureau of workers' compensation, the industrial commission, the public employees retirement system, the Ohio police and fire pension fund, the state teachers retirement system, the school employees retirement system, the state highway patrol retirement system, the general assembly or any legislative agency, or the courts or any judicial agency.

Sec. 125.181. The director of administrative services shall establish the state information technology investment board within the department of administrative services. The board shall consist of representatives from various state elective offices and state agencies, including the office of budget and management. The board shall identify and recommend to the state chief information officer opportunities for consolidation and cost-savings measures relating to information technology. Members of the board are not entitled to compensation for their services.

Sec. 125.20. (A) Within one hundred eighty days after the effective date of this section, the director of administrative services shall establish an electronic site accessible through the internet to publish the following:

(1) A database containing each state employee's year-to-date gross pay and pay from the most recent pay period. The database shall contain searchable fields including the name of the agency, position title, and employee name.

(2) A database containing agency expenditures for goods and services that shall contain searchable fields including the name of the agency, expenditure amount, category of good or service for which an expenditure is made, and contractor or vendor name;

(3) A database containing tax credits issued by the director of development to business entities that shall contain searchable fields, including the name under which the tax credit is known, the name of the entity receiving the credit, and the county in which the credit recipient's principal place of business in this state is located.

(B) Daily, each executive agency shall provide to the department of administrative services information to be published in the databases under division (A) of this section. The director of administrative services may adopt rules governing the means by which information is submitted and databases are updated.

Sec. 125.831. As used in sections 125.831 to 125.834 of the Revised Code:

(A) "Alternative fuel" means any of the following fuels used in a motor vehicle:

- (1) E85 blend fuel;
- (2) Blended biodiesel;
- (3) Natural gas;
- (4) Liquefied petroleum gas;
- (5) Hydrogen;
- (6) Compressed air;

(7) Any power source, including electricity;

~~(7)~~(8) Any fuel not described in divisions (A)(1) to ~~(6)~~(7) of this section that the United States department of energy determines, by final rule, to be substantially not petroleum, and that would yield substantial energy security and environmental benefits.

(B) "Biodiesel" means a mono-alkyl ester combustible liquid fuel that is derived from vegetable oils or animal fats, or any combination of those reagents that meets the American society for testing and materials specification for biodiesel fuel (B100) blend stock distillate fuels and any other standards that the director of administrative services adopts by rule.

(C) "Blended biodiesel" means a blend of biodiesel with petroleum based diesel fuel in which the resultant product contains not less than twenty per cent biodiesel that meets the American society for testing and materials specification for blended diesel fuel and any other standards that the director of administrative services adopts by rule.

(D) "Diesel fuel" means any liquid fuel that is capable of use in discrete form or as a blend component in the operation of engines of the diesel type.

(E) "E85 blend fuel" means fuel containing eighty-five per cent or more ethanol as defined in section 5733.46 of the Revised Code or containing any other percentage of not less than seventy per cent ethanol if the United

States department of energy determines, by rule, that the lower percentage is necessary to provide for the requirements of cold start, safety, or vehicle functions, and that meets the American society for testing and materials specification for E85 blend fuel and any other standards that the director of administrative services adopts by rule.

(F) "Law enforcement officer" means an officer, agent, or employee of a state agency upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority, but does not include such an officer, agent, or employee if that duty and authority is location specific.

(G)(1) "Motor vehicle" means any automobile, car minivan, cargo van, passenger van, sport utility vehicle, or pickup truck with a gross vehicle weight of under twelve thousand pounds.

(2) "Motor vehicle" does not include, except for the purposes of division (C) of section 125.832 of the Revised Code, any vehicle described in division (G)(1) of this section that is used by a law enforcement officer and law enforcement agency or any vehicle that is so described and that is equipped with specialized equipment that is not normally found in such a vehicle and that is used to carry out a state agency's specific and specialized duties and responsibilities.

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

(I) "State agency" means every organized body, office, board, authority, commission, or agency established by the laws of the state for the exercise of any governmental or quasi-governmental function of state government regardless of the funding source for that entity, other than any state institution of higher education, the office of the governor, lieutenant governor, auditor of state, treasurer of state, secretary of state, or attorney general, the general assembly or any legislative agency, the courts or any judicial agency, or any state retirement system or retirement program established by or referenced in the Revised Code.

(J) "State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

Sec. 126.05. On or before the tenth day of each month, the director of budget and management shall furnish to the governor statements in such form as the governor requires showing the condition of the general revenue fund. The statements shall provide a summary of the status of appropriations to enable the governor to exercise and maintain effective supervision and

control over the expenditures of the state. The director shall also furnish statements the governor requests showing the condition of any other fund.

If the governor ascertains that the available revenue receipts and balances for the general revenue fund for the current fiscal year will in all probability be less than the appropriations for the year, ~~he~~ the governor shall issue such orders to the state agencies as will prevent their expenditures and incurred obligations from exceeding such revenue receipts and balances.

If the governor ascertains that the available revenue receipts and balances for any fund other than the general revenue fund for the current fiscal year will in all probability be less than the appropriations for the year, ~~he~~ the governor may issue such orders to the state agencies as will prevent their expenditures and incurred obligations from exceeding such revenue receipts and balances.

If the governor determines that the available revenue receipts and balances in any fund or across funds will likely be less than the appropriations for the year, the governor may declare a fiscal emergency and may issue such orders as necessary to the director of budget and management to reduce expenditures, or to the director of administrative services to implement personnel actions consistent therewith, including, but not limited to, mandatory cost savings days under section 124.392 of the Revised Code.

As used in this section, "expenditures and incurred obligations" includes all moneys expended or obligated pursuant to appropriations by the general assembly that are calculated and distributed pursuant to a distribution formula in law.

Sec. 126.10. No certificate of participation or any similar debt instrument may be obtained or entered into by the state without the prior approval of the general assembly.

Sec. 126.21. (A) The director of budget and management shall do all of the following:

- (1) Keep all necessary accounting records;
- (2) Prescribe and maintain the accounting system of the state and establish appropriate accounting procedures and charts of accounts;
- (3) Establish procedures for the use of written, electronic, optical, or other communications media for approving and reviewing payment vouchers;
- (4) Reconcile, in the case of any variation between the amount of any appropriation and the aggregate amount of items of the appropriation, with the advice and assistance of the state agency affected by it and the legislative service commission, totals so as to correspond in the aggregate

with the total appropriation. In the case of a conflict between the item and the total of which it is a part, the item shall be considered the intended appropriation.

(5) Evaluate on an ongoing basis and, if necessary, recommend improvements to the internal controls used in state agencies;

(6) Authorize the establishment of petty cash accounts. The director may withdraw approval for any petty cash account and require the officer in charge to return to the state treasury any unexpended balance shown by the officer's accounts to be on hand. Any officer who is issued a warrant for petty cash shall render a detailed account of the expenditures of the petty cash and shall report when requested the balance of petty cash on hand at any time.

(7) Process orders, invoices, vouchers, claims, and payrolls and prepare financial reports and statements;

(8) Perform extensions, reviews, and compliance checks prior to or after approving a payment as the director considers necessary;

(9) Issue the official comprehensive annual financial report of the state. The report shall cover all funds of the state reporting entity and shall include basic financial statements and required supplementary information prepared in accordance with generally accepted accounting principles and other information as the director provides. All state agencies, authorities, institutions, offices, retirement systems, and other component units of the state reporting entity as determined by the director shall furnish the director whatever financial statements and other information the director requests for the report, in the form, at the times, covering the periods, and with the attestation the director prescribes. The information for state institutions of higher education, as defined in section 3345.011 of the Revised Code, shall be submitted to the chancellor by the Ohio board of regents. The board shall establish a due date by which each such institution shall submit the information to the board, but no such date shall be later than one hundred twenty days after the end of the state fiscal year unless a later date is approved by the director.

(B) In addition to the director's duties under division (A) of this section, the director may establish and administer one or more state payment card programs that permit or require state agencies to use a payment card to purchase equipment, materials, supplies, or services in accordance with guidelines issued by the director. The chief administrative officer of a state agency that uses a payment card for such purposes shall ensure that purchases made with the card are made in accordance with the guidelines issued by the director and do not exceed the unexpended, unencumbered,

unobligated balance in the appropriation to be charged for the purchase. State agencies may participate in only those state payment card programs that the director establishes pursuant to this section.

(C) In addition to the director's duties under divisions (A) and (B) of this section, the director may enter into any contract or agreement necessary for and incidental to the performance of the director's duties or the duties of the office of budget and management.

(D) In consultation with the director of administrative services, the director may appoint and fix the compensation of employees of the office of budget and management whose primary duties include the consolidation of statewide financing functions and common transactional processes.

Sec. 126.35. (A) The director of budget and management shall draw warrants against the treasurer of state pursuant to all requests for payment that the director has approved under section 126.07 of the Revised Code.

(B) ~~Unless the director of job and family services has provided for the making of payments~~ a cash assistance payment is to be made by electronic benefit transfer, ~~if a financial institution and account have been designated by the participant or recipient,~~ payment by the director of budget and management to a participant in the Ohio works first program pursuant to Chapter 5107. of the Revised Code ~~or,~~ a recipient of disability financial assistance pursuant to Chapter 5115. of the Revised Code, or a recipient of cash assistance provided under the refugee assistance program established under section 5101.49 of the Revised Code shall be made by direct deposit to the account of the participant or recipient in the financial institution designated under section 329.03 of the Revised Code. Payment by the director of budget and management to a recipient of benefits distributed through the medium of electronic benefit transfer pursuant to section 5101.33 of the Revised Code shall be by electronic benefit transfer. Payment by the director of budget and management as compensation to an employee of the state who has, pursuant to section 124.151 of the Revised Code, designated a financial institution and account for the direct deposit of such payments shall be made by direct deposit to the account of the employee. Payment to any other payee who has designated a financial institution and account for the direct deposit of such payment may be made by direct deposit to the account of the payee in the financial institution as provided in section 9.37 of the Revised Code. Accounts maintained by the director of budget and management or the director's agent in a financial institution for the purpose of effectuating payment by direct deposit or electronic benefit transfer shall be maintained in accordance with section 135.18 of the Revised Code.

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

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

Sec. 126.50. As used in sections 126.50, 126.501, 126.502, 126.503, 126.504, 126.505, 126.506, and 126.507 of the Revised Code:

(A) "Critical services" means a service provided by the state the deferral or cancellation of which would cause at least one of the following:

(1) An immediate risk to the health, safety, or welfare of the citizens of the state;

(2) A undermining of activity aimed at creating or retaining jobs in the state;

(3) An interference with the receipt of revenue to the state or the realization of savings to the state.

"Critical services" does not mean a deferral or cancellation of a service provided by the state that would result in inconvenience, sustainable delay, or other similar compromise to the normal provision of state-provided services.

(B) "State agency" has the same meaning as in section 1.60 of the Revised Code, but does not include the elected state officers, the general assembly or any legislative agency, a court or any judicial agency, or a state institution of higher education.

Sec. 126.501. By November 1, 2009, each state agency shall submit to the general assembly and the director of budget and management a spending plan that outlines a thirty per cent overall reduction in spending on supplies and services for fiscal years 2010 and 2011. Each spending plan shall address any potential savings, lack of savings, or costs that may be realized by each of the following strategies:

(A) Gaining approval from the state agency's director or the director's designee for any purchase of supplies or services costing one thousand

dollars or more.

(B) Renegotiating, if not otherwise prohibited, contracts entered into before July 1, 2009, and especially those contracts in which a vendor is willing to reduce costs by fifteen per cent or more while maintaining substantial equivalency on other terms.

(C) With the approval of the director of administrative services, allowing contracts for critical services that are up for renewal to expire and be rebid.

(D) With the approval of the director of budget and management, cancelling all contracts entered into before July 1, 2009, that are supported by noncapital funds.

(E) Cooperatively purchasing supplies and services with other state agencies.

(F) Using other state agencies to provide needed services.

(G) Purchasing equipment and furniture in compliance with any control-on-equipment directive issued by the office of budget and management.

(H) Reducing parking expenses, including expenses for purchased and leased spaces for state agency employees, spaces for fleet vehicles, and spaces and parking reimbursement for state agency employees on agency business. The spending plan shall include a review of a loss of efficiency or other benefits related to the reduction in parking expenses.

By December 1, 2009, the director of budget and management shall issue guidance to each state agency on which spending plan strategies the agency is expected to implement for fiscal years 2010 and 2011.

Sec. 126.502. By the first day of February of each odd-numbered year, beginning in 2011, the director of each state agency shall submit to the general assembly and the director of budget and management a spending plan for purchasing supplies and services for the following two fiscal years. Each spending plan shall address any potential savings, lack of savings, or costs that may be realized by each of the strategies enumerated in section 126.501 of the Revised Code.

By the first day of March of each odd-numbered year, beginning in 2011, the director of budget and management shall issue guidance to each state agency on which spending plan strategies the agency is expected to implement for the following two fiscal years.

Sec. 126.503. All state agencies shall control nonessential travel expenses by doing all of the following:

(A) Complying with any travel directives issued by the director of budget and management;

(B) Using, when possible, the online travel authorization and expense reimbursement process;

(C) Conducting meetings, whenever possible and in compliance with section 121.22 of the Revised Code, using conference calls, teleconferences, webinars, or other technology tools;

(D) Using fleet vehicles for official state travel whenever possible; and

(E) Following restrictions set by the department of administrative services regarding mileage reimbursement pursuant to section 125.832 of the Revised Code.

The director of budget and management shall not reimburse any state agency employee for unauthorized travel expenses.

Sec. 126.504. (A) Each state agency shall use the interoffice mailing service provided by the department of administrative services for all mail deliveries to other state agencies located within a reasonable distance.

(B) By October 1, 2009, each state agency shall direct all major printing, copying, mail preparation, and related services through the department of administrative services and shall eliminate any internal operations providing those services.

Sec. 126.505. (A) Each state agency shall comply with any purchasing standardization and strategic sourcing policy directives issued by the director of administrative services.

(B) Each state agency shall comply with any control-on-equipment directives issued by the director of budget and management. The director shall issue and revise as necessary control-on-equipment directives that apply to all furniture and equipment purchases.

Sec. 126.506. (A) Each state agency shall participate in information technology consolidation projects implemented by the state chief information officer under section 125.18 of the Revised Code.

(B) At the direction of and in the format specified by the director of administrative services, each state agency shall maintain a list of information technology assets possessed by the agency and associated costs related to those assets.

Sec. 126.507. In consultation with the director of budget and management, the director of administrative services shall monitor the implementation of spending plan strategies by state agencies and shall report to the governor and the general assembly semiannually regarding the effectiveness of the implemented strategies and any unintended consequences of implemented strategies. The report to the general assembly shall be made under section 101.68 of the Revised Code.

Sec. 127.16. (A) Upon the request of either a state agency or the director

of budget and management and after the controlling board determines that an emergency or a sufficient economic reason exists, the controlling board may approve the making of a purchase without competitive selection as provided in division (B) of this section.

(B) Except as otherwise provided in this section, no state agency, using money that has been appropriated to it directly, shall:

(1) Make any purchase from a particular supplier, that would amount to fifty thousand dollars or more when combined with both the amount of all disbursements to the supplier during the fiscal year for purchases made by the agency and the amount of all outstanding encumbrances for purchases made by the agency from the supplier, unless the purchase is made by competitive selection or with the approval of the controlling board;

(2) Lease real estate from a particular supplier, if the lease would amount to seventy-five thousand dollars or more when combined with both the amount of all disbursements to the supplier during the fiscal year for real estate leases made by the agency and the amount of all outstanding encumbrances for real estate leases made by the agency from the supplier, unless the lease is made by competitive selection or with the approval of the controlling board.

(C) Any person who authorizes a purchase in violation of division (B) of this section shall be liable to the state for any state funds spent on the purchase, and the attorney general shall collect the amount from the person.

(D) Nothing in division (B) of this section shall be construed as:

(1) A limitation upon the authority of the director of transportation as granted in sections 5501.17, 5517.02, and 5525.14 of the Revised Code;

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

(3) Applying to the purchase of examinations from a sole supplier by a state licensing board under Title XLVII of the Revised Code;

(4) Applying to entertainment contracts for the Ohio state fair entered into by the Ohio expositions commission, provided that the controlling board has given its approval to the commission to enter into such contracts and has approved a total budget amount for such contracts as agreed upon by commission action, and that the commission causes to be kept itemized records of the amounts of money spent under each contract and annually files those records with the clerk of the house of representatives and the clerk of the senate following the close of the fair;

(5) Limiting the authority of the chief of the division of mineral

resources management to contract for reclamation work with an operator mining adjacent land as provided in section 1513.27 of the Revised Code;

(6) Applying to investment transactions and procedures of any state agency, except that the agency shall file with the board the name of any person with whom the agency contracts to make, broker, service, or otherwise manage its investments, as well as the commission, rate, or schedule of charges of such person with respect to any investment transactions to be undertaken on behalf of the agency. The filing shall be in a form and at such times as the board considers appropriate.

(7) Applying to purchases made with money for the per cent for arts program established by section 3379.10 of the Revised Code;

(8) Applying to purchases made by the rehabilitation services commission of services, or supplies, that are provided to persons with disabilities, or to purchases made by the commission in connection with the eligibility determinations it makes for applicants of programs administered by the social security administration;

(9) Applying to payments by the department of job and family services under section 5111.13 of the Revised Code for group health plan premiums, deductibles, coinsurance, and other cost-sharing expenses;

(10) Applying to any agency of the legislative branch of the state government;

(11) Applying to agreements or contracts entered into under section 5101.11, 5101.20, 5101.201, 5101.21, or 5101.214 of the Revised Code;

(12) Applying to purchases of services by the adult parole authority under section 2967.14 of the Revised Code or by the department of youth services under section 5139.08 of the Revised Code;

(13) Applying to dues or fees paid for membership in an organization or association;

(14) Applying to purchases of utility services pursuant to section 9.30 of the Revised Code;

(15) Applying to purchases made in accordance with rules adopted by the department of administrative services of motor vehicle, aviation, or watercraft fuel, or emergency repairs of such vehicles;

(16) Applying to purchases of tickets for passenger air transportation;

(17) Applying to purchases necessary to provide public notifications required by law or to provide notifications of job openings;

(18) Applying to the judicial branch of state government;

(19) Applying to purchases of liquor for resale by the division of liquor control;

(20) Applying to purchases of motor courier and freight services made

in accordance with department of administrative services rules;

(21) Applying to purchases from the United States postal service and purchases of stamps and postal meter replenishment from vendors at rates established by the United States postal service;

(22) Applying to purchases of books, periodicals, pamphlets, newspapers, maintenance subscriptions, and other published materials;

(23) Applying to purchases from other state agencies, including state-assisted institutions of higher education;

(24) Limiting the authority of the director of environmental protection to enter into contracts under division (D) of section 3745.14 of the Revised Code to conduct compliance reviews, as defined in division (A) of that section;

(25) Applying to purchases from a qualified nonprofit agency pursuant to sections 125.60 to 125.6012 or 4115.31 to 4115.35 of the Revised Code;

(26) Applying to payments by the department of job and family services to the United States department of health and human services for printing and mailing notices pertaining to the tax refund offset program of the internal revenue service of the United States department of the treasury;

(27) Applying to contracts entered into by the department of mental retardation and developmental disabilities under section 5123.18 of the Revised Code;

(28) Applying to payments made by the department of mental health under a physician recruitment program authorized by section 5119.101 of the Revised Code;

(29) Applying to contracts entered into with persons by the director of commerce for unclaimed funds collection and remittance efforts as provided in division (F) of section 169.03 of the Revised Code. The director shall keep an itemized accounting of unclaimed funds collected by those persons and amounts paid to them for their services.

(30) Applying to purchases made by a state institution of higher education in accordance with the terms of a contract between the vendor and an inter-university purchasing group comprised of purchasing officers of state institutions of higher education;

(31) Applying to the department of job and family services' purchases of health assistance services under the children's health insurance program part I provided for under section 5101.50 of the Revised Code, the children's health insurance program part II provided for under section 5101.51 of the Revised Code, or the children's health insurance program part III provided for under section 5101.52 of the Revised Code, or the children's buy-in program provided for under sections 5101.5211 to 5101.5216 of the Revised

Code;

(32) Applying to payments by the attorney general from the reparations fund to hospitals and other emergency medical facilities for performing medical examinations to collect physical evidence pursuant to section 2907.28 of the Revised Code;

(33) Applying to contracts with a contracting authority or administrative receiver under division (B) of section 5126.056 of the Revised Code;

~~(34) Applying to reimbursements paid to the United States department of veterans affairs for pharmaceutical and patient supply purchases made on behalf of the Ohio veterans' home agency purchases of goods and services by the department of veterans services in accordance with the terms of contracts entered into by the United States department of veterans affairs;~~

~~(35) Applying to agreements entered into with terminal distributors of dangerous drugs under section 173.79 of the Revised Code;~~

~~(36)~~(35) Applying to payments by the superintendent of the bureau of criminal identification and investigation to the federal bureau of investigation for criminal records checks pursuant to section 109.572 of the Revised Code.

(E) When determining whether a state agency has reached the cumulative purchase thresholds established in divisions (B)(1) and (2) of this section, all of the following purchases by such agency shall not be considered:

(1) Purchases made through competitive selection or with controlling board approval;

(2) Purchases listed in division (D) of this section;

(3) For the purposes of the threshold of division (B)(1) of this section only, leases of real estate.

(F) As used in this section, "competitive selection," "purchase," "supplies," and "services" have the same meanings as in section 125.01 of the Revised Code.

Sec. 131.23. The various political subdivisions of this state may issue bonds, and any indebtedness created by that issuance shall not be subject to the limitations or included in the calculation of indebtedness prescribed by sections 133.05, 133.06, 133.07, and 133.09 of the Revised Code, but the bonds may be issued only under the following conditions:

(A) The subdivision desiring to issue the bonds shall obtain from the county auditor a certificate showing the total amount of delinquent taxes due and unpayable to the subdivision at the last semiannual tax settlement.

(B) The fiscal officer of that subdivision shall prepare a statement, from the books of the subdivision, verified by the fiscal officer under oath, which

shall contain the following facts of the subdivision:

- (1) The total bonded indebtedness;
 - (2) The aggregate amount of notes payable or outstanding accounts of the subdivision, incurred prior to the commencement of the current fiscal year, which shall include all evidences of indebtedness issued by the subdivision except notes issued in anticipation of bond issues and the indebtedness of any nontax-supported public utility;
 - (3) Except in the case of school districts, the aggregate current year's requirement for disability financial assistance ~~and disability medical assistance~~ provided under Chapter 5115. of the Revised Code that the subdivision is unable to finance except by the issue of bonds;
 - (4) The indebtedness outstanding through the issuance of any bonds or notes pledged or obligated to be paid by any delinquent taxes;
 - (5) The total of any other indebtedness;
 - (6) The net amount of delinquent taxes unpledged to pay any bonds, notes, or certificates, including delinquent assessments on improvements on which the bonds have been paid;
 - (7) The budget requirements for the fiscal year for bond and note retirement;
 - (8) The estimated revenue for the fiscal year.
- (C) The certificate and statement provided for in divisions (A) and (B) of this section shall be forwarded to the tax commissioner together with a request for authority to issue bonds of the subdivision in an amount not to exceed seventy per cent of the net unobligated delinquent taxes and assessments due and owing to the subdivision, as set forth in division (B)(6) of this section.
- (D) No subdivision may issue bonds under this section in excess of a sufficient amount to pay the indebtedness of the subdivision as shown by division (B)(2) of this section and, except in the case of school districts, to provide funds for disability financial assistance ~~and disability medical assistance~~, as shown by division (B)(3) of this section.
- (E) The tax commissioner shall grant to the subdivision authority requested by the subdivision as restricted by divisions (C) and (D) of this section and shall make a record of the certificate, statement, and grant in a record book devoted solely to such recording and which shall be open to inspection by the public.
- (F) The commissioner shall immediately upon issuing the authority provided in division (E) of this section notify the proper authority having charge of the retirement of bonds of the subdivision by forwarding a copy of the grant of authority and of the statement provided for in division (B) of

this section.

(G) Upon receipt of authority, the subdivision shall proceed according to law to issue the amount of bonds authorized by the commissioner, and authorized by the taxing authority, provided the taxing authority of that subdivision may submit, by resolution, to the electors of that subdivision the question of issuing the bonds. The resolution shall make the declarations and statements required by section 133.18 of the Revised Code. The county auditor and taxing authority shall thereupon proceed as set forth in divisions (C) and (D) of that section. The election on the question of issuing the bonds shall be held under divisions (E), (F), and (G) of that section, except that publication of the notice of the election shall be made on two separate days prior to the election in one or more newspapers of general circulation in the subdivision, and, if the board of elections operates and maintains a web site, notice of the election also shall be posted on that web site for thirty days prior to the election. The bonds may be exchanged at their face value with creditors of the subdivision in liquidating the indebtedness described and enumerated in division (B)(2) of this section or may be sold as provided in Chapter 133. of the Revised Code, and in either event shall be uncontestable.

(H) The per cent of delinquent taxes and assessments collected for and to the credit of the subdivision after the exchange or sale of bonds as certified by the commissioner shall be paid to the authority having charge of the sinking fund of the subdivision, which money shall be placed in a separate fund for the purpose of retiring the bonds so issued. The proper authority of the subdivisions shall provide for the levying of a tax sufficient in amount to pay the debt charges on all such bonds issued under this section.

(I) This section is for the sole purpose of assisting the various subdivisions in paying their unsecured indebtedness, and providing funds for disability financial assistance ~~and disability medical assistance~~. The bonds issued under authority of this section shall not be used for any other purpose, and any exchange for other purposes, or the use of the money derived from the sale of the bonds by the subdivision for any other purpose, is misapplication of funds.

(J) The bonds authorized by this section shall be redeemable or payable in not to exceed ten years from date of issue and shall not be subject to or considered in calculating the net indebtedness of the subdivision. The budget commission of the county in which the subdivision is located shall annually allocate such portion of the then delinquent levy due the subdivision which is unpledged for other purposes to the payment of debt

charges on the bonds issued under authority of this section.

(K) The issue of bonds under this section shall be governed by Chapter 133. of the Revised Code, respecting the terms used, forms, manner of sale, and redemption except as otherwise provided in this section.

The board of county commissioners of any county may issue bonds authorized by this section and distribute the proceeds of the bond issues to any or all of the cities and townships of the county, according to their relative needs for disability financial assistance ~~and disability medical assistance~~ as determined by the county.

All sections of the Revised Code inconsistent with or prohibiting the exercise of the authority conferred by this section are inoperative respecting bonds issued under this section.

Sec. 131.33. (A) No state agency shall incur an obligation which exceeds the agency's current appropriation authority. ~~Unexpended~~ Except as provided in division (D) of this section, unexpended balances of appropriations shall, at the close of the period for which the appropriations are made, revert to the funds from which the appropriations were made, except that the director of budget and management shall transfer such unexpended balances from the first fiscal year to the second fiscal year of an agency's appropriations to the extent necessary for voided warrants to be reissued pursuant to division (C) of section 126.37 of the Revised Code.

Except as provided in this section, appropriations made to a specific fiscal year shall be expended only to pay liabilities incurred within that fiscal year.

(B) All payrolls shall be charged to the allotments of the fiscal quarters in which the applicable payroll vouchers are certified by the director of budget and management in accordance with section 126.07 of the Revised Code. As used in this ~~section~~ division, "payrolls" means any payment made in accordance with section 125.21 of the Revised Code.

(C) Legal liabilities from prior fiscal years for which there is no reappropriation authority shall be discharged from the unencumbered balances of current appropriations.

(D)(1) Federal grant funds obligated by the department of job and family services for financial allocations to county family services agencies and local workforce investment boards may, at the discretion of the director of job and family services, be available for expenditure for the duration of the federal grant period of obligation and liquidation, as follows:

(a) At the end of the state fiscal year, all unexpended county family services agency and local workforce investment board financial allocations obligated from federal grant funds may continue to be valid for expenditure

during subsequent state fiscal years.

(b) The financial allocations described in division (D)(1)(a) of this section shall be reconciled at the end of the federal grant period of availability or as required by federal law, regardless of the state fiscal year of the appropriation.

(2) The director of job and family services may adopt rules in accordance with section 111.15 of the Revised Code, as if they were internal management rules, as necessary to implement division (D) of this section.

(3) As used in division (D) of this section:

(a) "County family services agency" has the same meaning as in section 307.981 of the Revised Code.

(b) "Local workforce investment board" means a local workforce investment board established under section 117 of the "Workforce Investment Act of 1998," 112 Stat. 936, 29 U.S.C. 2832, as amended.

Sec. 131.38. (A) As used in this section, "segregated custodial fund" means a fund of a state agency that is established by law that consists of moneys, claims, bonds, notes, other obligations, stocks, and other securities, receipts or other evidences of ownership, and other intangible assets that is neither required to be kept in the custody of the treasurer of state nor required to be part of the state treasury.

(B) A state agency that possesses, controls, maintains, or holds a segregated custodial fund or otherwise evidences ownership of the contents of a segregated custodial fund shall provide to the director of budget and management a report related to such fund by the first day of May of each fiscal year. The report shall be in such form and contain such information as the director requires.

Sec. 133.01. As used in this chapter, in sections 9.95, 9.96, and 2151.655 of the Revised Code, in other sections of the Revised Code that make reference to this chapter unless the context does not permit, and in related proceedings, unless otherwise expressly provided:

(A) "Acquisition" as applied to real or personal property includes, among other forms of acquisition, acquisition by exercise of a purchase option, and acquisition of interests in property, including, without limitation, easements and rights-of-way, and leasehold and other lease interests initially extending or extendable for a period of at least sixty months.

(B) "Anticipatory securities" means securities, including notes, issued in anticipation of the issuance of other securities.

(C) "Board of elections" means the county board of elections of the county in which the subdivision is located. If the subdivision is located in more than one county, "board of elections" means the county board of

elections of the county that contains the largest portion of the population of the subdivision or that otherwise has jurisdiction in practice over and customarily handles election matters relating to the subdivision.

(D) "Bond retirement fund" means the bond retirement fund provided for in section 5705.09 of the Revised Code, and also means a sinking fund or any other special fund, regardless of the name applied to it, established by or pursuant to law or the proceedings for the payment of debt charges. Provision may be made in the applicable proceedings for the establishment in a bond retirement fund of separate accounts relating to debt charges on particular securities, or on securities payable from the same or common sources, and for the application of moneys in those accounts only to specified debt charges on specified securities or categories of securities. Subject to law and any provisions in the applicable proceedings, moneys in a bond retirement fund or separate account in a bond retirement fund may be transferred to other funds and accounts.

(E) "Capitalized interest" means all or a portion of the interest payable on securities from their date to a date stated or provided for in the applicable legislation, which interest is to be paid from the proceeds of the securities.

(F) "Chapter 133. securities" means securities authorized by or issued pursuant to or in accordance with this chapter.

(G) "County auditor" means the county auditor of the county in which the subdivision is located. If the subdivision is located in more than one county, "county auditor" means the county auditor of the county that contains the highest amount of the tax valuation of the subdivision or that otherwise has jurisdiction in practice over and customarily handles property tax matters relating to the subdivision. In the case of a county that has adopted a charter, "county auditor" means the officer who generally has the duties and functions provided in the Revised Code for a county auditor.

(H) "Credit enhancement facilities" means letters of credit, lines of credit, stand-by, contingent, or firm securities purchase agreements, insurance, or surety arrangements, guarantees, and other arrangements that provide for direct or contingent payment of debt charges, for security or additional security in the event of nonpayment or default in respect of securities, or for making payment of debt charges to and at the option and on demand of securities holders or at the option of the issuer or upon certain conditions occurring under put or similar arrangements, or for otherwise supporting the credit or liquidity of the securities, and includes credit, reimbursement, marketing, remarketing, indexing, carrying, interest rate hedge, and subrogation agreements, and other agreements and arrangements for payment and reimbursement of the person providing the credit

enhancement facility and the security for that payment and reimbursement.

(I) "Current operating expenses" or "current expenses" means the lawful expenditures of a subdivision, except those for permanent improvements and for payments of debt charges of the subdivision.

(J) "Debt charges" means the principal, including any mandatory sinking fund deposits and mandatory redemption payments, interest, and any redemption premium, payable on securities as those payments come due and are payable. The use of "debt charges" for this purpose does not imply that any particular securities constitute debt within the meaning of the Ohio Constitution or other laws.

(K) "Financing costs" means all costs and expenses relating to the authorization, including any required election, issuance, sale, delivery, authentication, deposit, custody, clearing, registration, transfer, exchange, fractionalization, replacement, payment, and servicing of securities, including, without limitation, costs and expenses for or relating to publication and printing, postage, delivery, preliminary and final official statements, offering circulars, and informational statements, travel and transportation, underwriters, placement agents, investment bankers, paying agents, registrars, authenticating agents, remarketing agents, custodians, clearing agencies or corporations, securities depositories, financial advisory services, certifications, audits, federal or state regulatory agencies, accounting and computation services, legal services and obtaining approving legal opinions and other legal opinions, credit ratings, redemption premiums, and credit enhancement facilities. Financing costs may be paid from any moneys available for the purpose, including, unless otherwise provided in the proceedings, from the proceeds of the securities to which they relate and, as to future financing costs, from the same sources from which debt charges on the securities are paid and as though debt charges.

(L) "Fiscal officer" means the following, or, in the case of absence or vacancy in the office, a deputy or assistant authorized by law or charter to act in the place of the named officer, or if there is no such authorization then the deputy or assistant authorized by legislation to act in the place of the named officer for purposes of this chapter, in the case of the following subdivisions:

- (1) A county, the county auditor;
- (2) A municipal corporation, the city auditor or village clerk or clerk-treasurer, or the officer who, by virtue of a charter, has the duties and functions provided in the Revised Code for the city auditor or village clerk or clerk-treasurer;
- (3) A school district, the treasurer of the board of education;

(4) A regional water and sewer district, the secretary of the board of trustees;

(5) A joint township hospital district, the treasurer of the district;

(6) A joint ambulance district, the clerk of the board of trustees;

(7) A joint recreation district, the person designated pursuant to section 755.15 of the Revised Code;

(8) A detention facility district or a district organized under section 2151.65 of the Revised Code or a combined district organized under sections 2152.41 and 2151.65 of the Revised Code, the county auditor of the county designated by law to act as the auditor of the district;

(9) A township, a fire district organized under division (C) of section 505.37 of the Revised Code, or a township police district, the fiscal officer of the township;

(10) A joint fire district, the clerk of the board of trustees of that district;

(11) A regional or county library district, the person responsible for the financial affairs of that district;

(12) A joint solid waste management district, the fiscal officer appointed by the board of directors of the district under section 343.01 of the Revised Code;

(13) A joint emergency medical services district, the person appointed as fiscal officer pursuant to division (D) of section 307.053 of the Revised Code;

(14) A fire and ambulance district, the person appointed as fiscal officer under division (B) of section 505.375 of the Revised Code;

(15) A subdivision described in division (MM)(17) of this section, the officer who is designated by law as or performs the functions of its chief fiscal officer.

(M) "Fiscal year" has the same meaning as in section 9.34 of the Revised Code.

(N) "Fractionalized interests in public obligations" means participations, certificates of participation, shares, or other instruments or agreements, separate from the public obligations themselves, evidencing ownership of interests in public obligations or of rights to receive payments of, or on account of, principal or interest or their equivalents payable by or on behalf of an obligor pursuant to public obligations.

(O) "Fully registered securities" means securities in certificated or uncertificated form, registered as to both principal and interest in the name of the owner.

(P) "Fund" means to provide for the payment of debt charges and expenses related to that payment at or prior to retirement by purchase, call

for redemption, payment at maturity, or otherwise.

(Q) "General obligation" means securities to the payment of debt charges on which the full faith and credit and the general property taxing power, including taxes within the tax limitation if available to the subdivision, of the subdivision are pledged.

(R) "Interest" or "interest equivalent" means those payments or portions of payments, however denominated, that constitute or represent consideration for forbearing the collection of money, or for deferring the receipt of payment of money to a future time.

(S) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1 et seq., as amended, and includes any laws of the United States providing for application of that code.

(T) "Issuer" means any public issuer and any nonprofit corporation authorized to issue securities for or on behalf of any public issuer.

(U) "Legislation" means an ordinance or resolution passed by a majority affirmative vote of the then members of the taxing authority unless a different vote is required by charter provisions governing the passage of the particular legislation by the taxing authority.

(V) "Mandatory sinking fund redemption requirements" means amounts required by proceedings to be deposited in a bond retirement fund for the purpose of paying in any year or fiscal year by mandatory redemption prior to stated maturity the principal of securities that is due and payable, except for mandatory prior redemption requirements as provided in those proceedings, in a subsequent year or fiscal year.

(W) "Mandatory sinking fund requirements" means amounts required by proceedings to be deposited in a year or fiscal year in a bond retirement fund for the purpose of paying the principal of securities that is due and payable in a subsequent year or fiscal year.

(X) "Net indebtedness" has the same meaning as in division (A) of section 133.04 of the Revised Code.

(Y) "Obligor," in the case of securities or fractionalized interests in public obligations issued by another person the debt charges or their equivalents on which are payable from payments made by a public issuer, means that public issuer.

(Z) "One purpose" relating to permanent improvements means any one permanent improvement or group or category of permanent improvements for the same utility, enterprise, system, or project, development or redevelopment project, or for or devoted to the same general purpose, function, or use or for which self-supporting securities, based on the same or different sources of revenues, may be issued or for which special

assessments may be levied by a single ordinance or resolution. "One purpose" includes, but is not limited to, in any case any off-street parking facilities relating to another permanent improvement, and:

(1) Any number of roads, highways, streets, bridges, sidewalks, and viaducts;

(2) Any number of off-street parking facilities;

(3) In the case of a county, any number of permanent improvements for courthouse, jail, county offices, and other county buildings, and related facilities;

(4) In the case of a school district, any number of facilities and buildings for school district purposes, and related facilities.

(AA) "Outstanding," referring to securities, means securities that have been issued, delivered, and paid for, except any of the following:

(1) Securities canceled upon surrender, exchange, or transfer, or upon payment or redemption;

(2) Securities in replacement of which or in exchange for which other securities have been issued;

(3) Securities for the payment, or redemption or purchase for cancellation prior to maturity, of which sufficient moneys or investments, in accordance with the applicable legislation or other proceedings or any applicable law, by mandatory sinking fund redemption requirements, mandatory sinking fund requirements, or otherwise, have been deposited, and credited for the purpose in a bond retirement fund or with a trustee or paying or escrow agent, whether at or prior to their maturity or redemption, and, in the case of securities to be redeemed prior to their stated maturity, notice of redemption has been given or satisfactory arrangements have been made for giving notice of that redemption, or waiver of that notice by or on behalf of the affected security holders has been filed with the subdivision or its agent for the purpose.

(BB) "Paying agent" means the one or more banks, trust companies, or other financial institutions or qualified persons, including an appropriate office or officer of the subdivision, designated as a paying agent or place of payment of debt charges on the particular securities.

(CC) "Permanent improvement" or "improvement" means any property, asset, or improvement certified by the fiscal officer, which certification is conclusive, as having an estimated life or period of usefulness of five years or more, and includes, but is not limited to, real estate, buildings, and personal property and interests in real estate, buildings, and personal property, equipment, furnishings, and site improvements, and reconstruction, rehabilitation, renovation, installation, improvement,

enlargement, and extension of property, assets, or improvements so certified as having an estimated life or period of usefulness of five years or more. The acquisition of all the stock ownership of a corporation is the acquisition of a permanent improvement to the extent that the value of that stock is represented by permanent improvements. A permanent improvement for parking, highway, road, and street purposes includes resurfacing, but does not include ordinary repair.

(DD) "Person" has the same meaning as in section 1.59 of the Revised Code and also includes any federal, state, interstate, regional, or local governmental agency, any subdivision, and any combination of those persons.

(EE) "Proceedings" means the legislation, certifications, notices, orders, sale proceedings, trust agreement or indenture, mortgage, lease, lease-purchase agreement, assignment, credit enhancement facility agreements, and other agreements, instruments, and documents, as amended and supplemented, and any election proceedings, authorizing, or providing for the terms and conditions applicable to, or providing for the security or sale or award of, public obligations, and includes the provisions set forth or incorporated in those public obligations and proceedings.

(FF) "Public issuer" means any of the following that is authorized by law to issue securities or enter into public obligations:

(1) The state, including an agency, commission, officer, institution, board, authority, or other instrumentality of the state;

(2) A taxing authority, subdivision, district, or other local public or governmental entity, and any combination or consortium, or public division, district, commission, authority, department, board, officer, or institution, thereof;

(3) Any other body corporate and politic, or other public entity.

(GG) "Public obligations" means both of the following:

(1) Securities;

(2) Obligations of a public issuer to make payments under installment sale, lease, lease purchase, or similar agreements, which obligations may bear interest or interest equivalent.

(HH) "Refund" means to fund and retire outstanding securities, including advance refunding with or without payment or redemption prior to maturity.

(II) "Register" means the books kept and maintained by the registrar for registration, exchange, and transfer of registered securities.

(JJ) "Registrar" means the person responsible for keeping the register for the particular registered securities, designated by or pursuant to the

proceedings.

(KK) "Securities" means bonds, notes, certificates of indebtedness, commercial paper, and other instruments in writing, including, unless the context does not admit, anticipatory securities, issued by an issuer to evidence its obligation to repay money borrowed, or to pay interest, by, or to pay at any future time other money obligations of, the issuer of the securities, but not including public obligations described in division (GG)(2) of this section.

(LL) "Self-supporting securities" means securities or portions of securities issued for the purpose of paying costs of permanent improvements to the extent that receipts of the subdivision, other than the proceeds of taxes levied by that subdivision, derived from or with respect to the improvements or the operation of the improvements being financed, or the enterprise, system, project, or category of improvements of which the improvements being financed are part, are estimated by the fiscal officer to be sufficient to pay the current expenses of that operation or of those improvements or enterprise, system, project, or categories of improvements and the debt charges payable from those receipts on securities issued for the purpose. Until such time as the improvements or increases in rates and charges have been in operation or effect for a period of at least six months, the receipts therefrom, for purposes of this definition, shall be those estimated by the fiscal officer, except that those receipts may include, without limitation, payments made and to be made to the subdivision under leases or agreements in effect at the time the estimate is made. In the case of an operation, improvements, or enterprise, system, project, or category of improvements without at least a six-month history of receipts, the estimate of receipts by the fiscal officer, other than those to be derived under leases and agreements then in effect, shall be confirmed by the taxing authority.

(MM) "Subdivision" means any of the following:

- (1) A county, including a county that has adopted a charter under Article X, Ohio Constitution;
- (2) A municipal corporation, including a municipal corporation that has adopted a charter under Article XVIII, Ohio Constitution;
- (3) A school district;
- (4) A regional water and sewer district organized under Chapter 6119. of the Revised Code;
- (5) A joint township hospital district organized under section 513.07 of the Revised Code;
- (6) A joint ambulance district organized under section 505.71 of the Revised Code;

(7) A joint recreation district organized under division (C) of section 755.14 of the Revised Code;

(8) A detention facility district organized under section 2152.41, a district organized under section 2151.65, or a combined district organized under sections 2152.41 and 2151.65 of the Revised Code;

(9) A township police district organized under section 505.48 of the Revised Code;

(10) A township;

(11) A joint fire district organized under section 505.371 of the Revised Code;

(12) A county library district created under section 3375.19 or a regional library district created under section 3375.28 of the Revised Code;

(13) A joint solid waste management district organized under section 343.01 or 343.012 of the Revised Code;

(14) A joint emergency medical services district organized under section 307.052 of the Revised Code;

(15) A fire and ambulance district organized under section 505.375 of the Revised Code;

(16) A fire district organized under division (C) of section 505.37 of the Revised Code;

(17) Any other political subdivision or taxing district or other local public body or agency authorized by this chapter or other laws to issue Chapter 133. securities.

(NN) "Taxing authority" means in the case of the following subdivisions:

(1) A county, a county library district, or a regional library district, the board or boards of county commissioners, or other legislative authority of a county that has adopted a charter under Article X, Ohio Constitution, but with respect to such a library district acting solely as agent for the board of trustees of that district;

(2) A municipal corporation, the legislative authority;

(3) A school district, the board of education;

(4) A regional water and sewer district, a joint ambulance district, a joint recreation district, a fire and ambulance district, or a joint fire district, the board of trustees of the district;

(5) A joint township hospital district, the joint township hospital board;

(6) A detention facility district or a district organized under section 2151.65 of the Revised Code, a combined district organized under sections 2152.41 and 2151.65 of the Revised Code, or a joint emergency medical services district, the joint board of county commissioners;

(7) A township, a fire district organized under division (C) of section 505.37 of the Revised Code, or a township police district, the board of township trustees;

(8) A joint solid waste management district organized under section 343.01 or 343.012 of the Revised Code, the board of directors of the district;

(9) A subdivision described in division (MM)(17) of this section, the legislative or governing body or official.

(OO) "Tax limitation" means the "ten-mill limitation" as defined in section 5705.02 of the Revised Code without diminution by reason of section 5705.313 of the Revised Code or otherwise, or, in the case of a municipal corporation or county with a different charter limitation on property taxes levied to pay debt charges on unvoted securities, that charter limitation. Those limitations shall be respectively referred to as the "ten-mill limitation" and the "charter tax limitation."

(PP) "Tax valuation" means the aggregate of the valuations of property subject to ad valorem property taxation by the subdivision on the real property, personal property, and public utility property tax lists and duplicates most recently certified for collection, and shall be calculated without deductions of the valuations of otherwise taxable property exempt in whole or in part from taxation by reason of exemptions of certain amounts of taxable value under division (C) of section 5709.01, tax reductions under section 323.152 of the Revised Code, or similar laws now or in the future in effect.

For purposes of section 133.06 of the Revised Code, "tax valuation" shall not include the valuation of tangible personal property used in business, telephone or telegraph property, interexchange telecommunications company property, or personal property owned or leased by a railroad company and used in railroad operations listed under or described in section 5711.22, division (B) or (F) of section 5727.111, or section 5727.12 of the Revised Code.

(QQ) "Year" means the calendar year.

(RR) "Administrative agent," "agent," "commercial paper," "floating rate interest structure," "indexing agent," "interest rate hedge," "interest rate period," "put arrangement," and "remarketing agent" have the same meanings as in section 9.98 of the Revised Code.

(SS) "Sales tax supported" means obligations to the payment of debt charges on which an additional sales tax or additional sales taxes have been pledged by the taxing authority of a county pursuant to section 133.081 of the Revised Code.

Sec. 133.02. (A) Securities lawfully authorized and issued by an issuer,

and fractionalized interests in public obligations, subject to applicable provisions for registration or of the proceedings, are negotiable instruments and securities under Chapters 1303. and 1308. of the Revised Code, notwithstanding that the promise to pay debt charges on the particular securities or fractionalized interests may be limited to payment out of a particular fund or the proceeds from a particular source.

(B) Unless a judicial action or proceeding challenging the validity of public obligations or of fractionalized interests in public obligations is commenced by personal service on the chief executive officer or legal officer or fiscal officer of the issuer and, if applicable, the obligor, prior to the initial delivery of the public obligations or the fractionalized interests in public obligations, the public obligations or the fractionalized interests in them and the proceedings relating to them are incontestable and the public obligations or the fractionalized interests in them shall be conclusively considered to be and to have been issued, secured, entered into, payable, sold, executed, and delivered, and the proceedings relating to them taken, in conformity with all legal requirements if all of the following apply:

(1) They state that they are issued or entered into under or pursuant to authorizing provisions of law or of any applicable charter or the Ohio Constitution and comply on their face with those provisions.

(2) They are issued or entered into for a lawful purpose, as stated in the securities or the legislation authorizing their issuance, and within any limitations prescribed by law.

(3) Their purchase price, if any, has been paid in full.

(4) The transcript of the proceedings contains a statement by the officer having charge of the applicable records, or by the legal officer or fiscal officer, of the issuer and, if applicable, of the obligor that all the proceedings were held in compliance with law, which statement creates a conclusive presumption that the proceedings were held in compliance with all laws, including, as applicable, section 121.22 of the Revised Code, and rules.

(C) An individual as such, or as an officer, director, stockholder, or employee of or owner of any interest in an entity, or relatives or business associates of such individual, purchasing securities or fractionalized interests in public obligations as the original or subsequent purchaser, or providing a credit enhancement facility, or acting as a lessor, trustee, fiscal agent, financial adviser, paying agent, or registrar related thereto, shall not be deemed to be interested, either directly or indirectly, solely by reason of such purchase, provision, or relationship, in such purchase or sale or servicing or in the contract evidenced by the securities or the fractionalized interests in public obligations or the credit enhancement facility, for the

purpose of any law of this state that prohibits a public officer, servant, or employee, or his relatives or business associates, from being interested in any contract of the particular issuer or obligor.

(D) As used in this division, "tax compliance payments" means any amounts determined or estimated as amounts required to be paid to the federal government in order to maintain the exclusion from gross income for federal income tax purposes of interest on those obligations, including any amounts computed at the time to represent the portion of investment income to be rebated, or amounts in lieu of or in addition to any rebate amount and any penalty or interest to be paid, for that purpose pursuant to the Internal Revenue Code; and "public obligations" includes any bond within the meaning of section 150(a) of the Internal Revenue Code.

Notwithstanding any other law, an issuer and an obligor may agree, in specific or general terms, to do or cause or require to be done all things necessary for, and not to do or permit or authorize to be done anything that would adversely affect, the exclusion of interest on public obligations or on fractionalized interests in public obligations from gross income for federal income tax purposes under the Internal Revenue Code, or the classification or qualification of the public obligations or the interest on the public obligations or fractionalized interests in public obligations for, or their exemption from, other treatment under the Internal Revenue Code, including compliance with the provisions for tax compliance payments to the United States in accordance with the Internal Revenue Code. Those actions and covenants and compliance therewith shall be valid, incontestable, final, and conclusive to the extent that they support that exclusion from gross income or those classifications, qualifications, or exemptions. The authorization in this division is solely for the purpose of satisfying such federal conditions or requirements, and is in addition to and not a limitation upon other authorization granted by or pursuant to law or the Ohio Constitution, and does not preclude or exclude any actions or covenants by the issuer or obligor, or its officer, to satisfy the federal conditions or requirements for the purpose, including actions and covenants previously taken or made. Subject to the terms of those covenants, compliance with covenants referred to in this division by the issuer or obligor and its officers are acts specifically enjoined by law as duties resulting from their office, trust, and station for purposes of section 2731.01 of the Revised Code. The issuer or obligor, and its officers, employees, and agents responsible in the circumstances, shall do all things necessary or appropriate to comply with such covenants and shall take all actions to account for, calculate, report, make available, and make tax compliance payments pursuant to the Internal

Revenue Code to the extent required to comply with such covenants. In order to protect the tax exemption of interest or other qualification, classification, or exemption for tax purposes, and to reduce tax compliance payments:

(1) Moneys from the funds to which any such interest is credited, and from any fund that is generally available for the general purposes of the issuer or obligor, available for the purpose of the securities issue, or available for operating and maintenance expenses of any improvements financed or refinanced by that issue or of any system or enterprise of which those improvements are a part, shall be appropriated and are deemed appropriated for all purposes to the payment of such amounts pursuant to such covenant, and may be so appropriated in the absence of such a covenant. Subject to the provisions of the applicable proceedings and notwithstanding any statutory or administrative limitations on the use or transfer of those funds or receipts, the appropriate official of the issuer or obligor may:

(a) Withdraw or transfer tax compliance payments from the fund or funds designated by the issuer or obligor for the purpose, including any bond, improvement, or special fund, and any bond retirement fund after provision for current debt charges requirements, or direct the deposit from receipts, and deposit tax compliance payments in or credit them to the fund or account established for the purpose, which establishment is hereby authorized, and disburse moneys from that fund or account for that purpose.

(b) Withdraw or transfer investment income from any bond or improvement fund, from any bond retirement fund after provision for current debt charges requirements, and from any other special fund established with respect to an issue of securities, and deposit that investment income in or credit that investment income to any other fund or account.

(2) An issuer or obligor may invest any proceeds or gross proceeds, as defined in the Internal Revenue Code, of public obligations or fractionalized interests in public obligations in tax-exempt bonds of any person authorized to issue tax-exempt bonds under the Internal Revenue Code, and in any regulated investment company, the investment in which is treated as an investment in tax-exempt bonds for purposes of provisions of section 148 of the Internal Revenue Code, and in any special series of obligations of the United States made available for purposes of compliance with provisions of section 148 of the Internal Revenue Code. The authority to invest proceeds under this division is in addition to and not restricted or conditioned by any other authority of an issuer to invest its moneys.

Nothing in this division or in other prior or current provisions of law

requires that an issuer or obligor comply with provisions of federal tax law or regulations to exclude interest on its public obligations from gross income for federal income tax purposes or otherwise to have the public obligations or interest thereon treated in any particular way under federal tax laws, except to the extent, if any, that the issuer or obligor covenants to do so, and the validity of the public obligations shall not be adversely affected by the absence of that compliance or of compliance with any covenants made pursuant to this division.

This division applies to public obligations and fractionalized interests in public obligations, outstanding on or entered into prior to, or issued or entered into on or after, October 30, 1989.

(E) Notwithstanding any other law, the income from the investment of proceeds of public obligations or fractionalized interests in public obligations of a public issuer, or payments received by or on behalf of a public issuer under section 6341 of the Internal Revenue Code, 26 U.S.C. 6431, may be credited to the fund or account in which those proceeds are held, to the fund or account from which debt charges on those public obligations are paid, or to the general fund or other fund or account as the public issuer authorizes, and used for the purposes of that fund or account.

Sec. 133.022. (A) As used in this section:

(1) "Large local educational agency" and "qualified school construction bond" have the same meaning as in section 54F of the Internal Revenue Code, 26 U.S.C. 54F.

(2) "National limit" means, as applicable, the limitation on the aggregate amount of qualified school construction bonds that may be issued by the states each calendar year under section 54F of the Internal Revenue Code.

(3) "State portion" means the portion of the national limit allocated to this state pursuant to section 54F of the Internal Revenue Code.

(B)(1) To provide for the orderly and prompt issuance of qualified school construction bonds, the Ohio school facilities commission, in consultation with the director of budget and management, shall allocate the state portion among those issuers authorized to issue qualified school construction bonds. The Ohio school facilities commission may also accept from any large local educational agency the allocation received by that agency under section 54F(d)(2) of the Internal Revenue Code and reallocate it to any issuer or issuers authorized to issue obligations, including any large local educational agency.

(2) The factors to be considered when making allocations of the state portion or reallocations of any amounts received by a large local educational agency include the following:

(a) The interests of the state with regard to education and economic development;

(b) The need and ability of each issuer to issue obligations.

(3) The Ohio school facilities commission, in consultation with the director of budget and management, shall establish procedures for making allocations, including those from any carryover of the state portion, and shall adopt guidelines to carry out the purposes of this section.

Sec. 133.06. (A) A school district shall not incur, without a vote of the electors, net indebtedness that exceeds an amount equal to one-tenth of one per cent of its tax valuation, except as provided in divisions (G) and (H) of this section and in division (C) of section 3313.372 of the Revised Code, or as prescribed in section 3318.052 or 3318.44 of the Revised Code, or as provided in division (J) of this section.

(B) Except as provided in divisions (E), (F), and (I) of this section, a school district shall not incur net indebtedness that exceeds an amount equal to nine per cent of its tax valuation.

(C) A school district shall not submit to a vote of the electors the question of the issuance of securities in an amount that will make the district's net indebtedness after the issuance of the securities exceed an amount equal to four per cent of its tax valuation, unless the superintendent of public instruction, acting under policies adopted by the state board of education, and the tax commissioner, acting under written policies of the commissioner, consent to the submission. A request for the consents shall be made at least one hundred five days prior to the election at which the question is to be submitted.

The superintendent of public instruction shall certify to the district the superintendent's and the tax commissioner's decisions within thirty days after receipt of the request for consents.

If the electors do not approve the issuance of securities at the election for which the superintendent of public instruction and tax commissioner consented to the submission of the question, the school district may submit the same question to the electors on the date that the next special election may be held under section 3501.01 of the Revised Code without submitting a new request for consent. If the school district seeks to submit the same question at any other subsequent election, the district shall first submit a new request for consent in accordance with this division.

(D) In calculating the net indebtedness of a school district, none of the following shall be considered:

(1) Securities issued to acquire school buses and other equipment used in transporting pupils or issued pursuant to division (D) of section 133.10 of

the Revised Code;

(2) Securities issued under division (F) of this section, under section 133.301 of the Revised Code, and, to the extent in excess of the limitation stated in division (B) of this section, under division (E) of this section;

(3) Indebtedness resulting from the dissolution of a joint vocational school district under section 3311.217 of the Revised Code, evidenced by outstanding securities of that joint vocational school district;

(4) Loans, evidenced by any securities, received under sections 3313.483, 3317.0210, 3317.0211, and 3317.64 of the Revised Code;

(5) Debt incurred under section 3313.374 of the Revised Code;

(6) Debt incurred pursuant to division (B)(5) of section 3313.37 of the Revised Code to acquire computers and related hardware;

(7) Debt incurred under section 3318.042 of the Revised Code.

(E) A school district may become a special needs district as to certain securities as provided in division (E) of this section.

(1) A board of education, by resolution, may declare its school district to be a special needs district by determining both of the following:

(a) The student population is not being adequately serviced by the existing permanent improvements of the district.

(b) The district cannot obtain sufficient funds by the issuance of securities within the limitation of division (B) of this section to provide additional or improved needed permanent improvements in time to meet the needs.

(2) The board of education shall certify a copy of that resolution to the superintendent of public instruction with a statistical report showing all of the following:

(a) A history of and a projection of the growth of the student population;

(b) The history of and a projection of the growth of the tax valuation;

(c) The projected needs;

(d) The estimated cost of permanent improvements proposed to meet such projected needs.

(3) The superintendent of public instruction shall certify the district as an approved special needs district if the superintendent finds both of the following:

(a) The district does not have available sufficient additional funds from state or federal sources to meet the projected needs.

(b) The projection of the potential average growth of tax valuation during the next five years, according to the information certified to the superintendent and any other information the superintendent obtains, indicates a likelihood of potential average growth of tax valuation of the

district during the next five years of an average of not less than three per cent per year. The findings and certification of the superintendent shall be conclusive.

(4) An approved special needs district may incur net indebtedness by the issuance of securities in accordance with the provisions of this chapter in an amount that does not exceed an amount equal to the greater of the following:

(a) Nine per cent of the sum of its tax valuation plus an amount that is the product of multiplying that tax valuation by the percentage by which the tax valuation has increased over the tax valuation on the first day of the sixtieth month preceding the month in which its board determines to submit to the electors the question of issuing the proposed securities;

(b) Nine per cent of the sum of its tax valuation plus an amount that is the product of multiplying that tax valuation by the percentage, determined by the superintendent of public instruction, by which that tax valuation is projected to increase during the next ten years.

(F) A school district may issue securities for emergency purposes, in a principal amount that does not exceed an amount equal to three per cent of its tax valuation, as provided in this division.

(1) A board of education, by resolution, may declare an emergency if it determines both of the following:

(a) School buildings or other necessary school facilities in the district have been wholly or partially destroyed, or condemned by a constituted public authority, or that such buildings or facilities are partially constructed, or so constructed or planned as to require additions and improvements to them before the buildings or facilities are usable for their intended purpose, or that corrections to permanent improvements are necessary to remove or prevent health or safety hazards.

(b) Existing fiscal and net indebtedness limitations make adequate replacement, additions, or improvements impossible.

(2) Upon the declaration of an emergency, the board of education may, by resolution, submit to the electors of the district pursuant to section 133.18 of the Revised Code the question of issuing securities for the purpose of paying the cost, in excess of any insurance or condemnation proceeds received by the district, of permanent improvements to respond to the emergency need.

(3) The procedures for the election shall be as provided in section 133.18 of the Revised Code, except that:

(a) The form of the ballot shall describe the emergency existing, refer to this division as the authority under which the emergency is declared, and state that the amount of the proposed securities exceeds the limitations

prescribed by division (B) of this section;

(b) The resolution required by division (B) of section 133.18 of the Revised Code shall be certified to the county auditor and the board of elections at least seventy-five days prior to the election;

(c) The county auditor shall advise and, not later than sixty-five days before the election, confirm that advice by certification to, the board of education of the information required by division (C) of section 133.18 of the Revised Code;

(d) The board of education shall then certify its resolution and the information required by division (D) of section 133.18 of the Revised Code to the board of elections not less than sixty days prior to the election.

(4) Notwithstanding division (B) of section 133.21 of the Revised Code, the first principal payment of securities issued under this division may be set at any date not later than sixty months after the earliest possible principal payment otherwise provided for in that division.

(G) The board of education may contract with an architect, professional engineer, or other person experienced in the design and implementation of energy conservation measures for an analysis and recommendations pertaining to installations, modifications of installations, or remodeling that would significantly reduce energy consumption in buildings owned by the district. The report shall include estimates of all costs of such installations, modifications, or remodeling, including costs of design, engineering, installation, maintenance, repairs, and debt service, and estimates of the amounts by which energy consumption and resultant operational and maintenance costs, as defined by the Ohio school facilities commission, would be reduced.

If the board finds after receiving the report that the amount of money the district would spend on such installations, modifications, or remodeling is not likely to exceed the amount of money it would save in energy and resultant operational and maintenance costs over the ensuing fifteen years, the board may submit to the commission a copy of its findings and a request for approval to incur indebtedness to finance the making or modification of installations or the remodeling of buildings for the purpose of significantly reducing energy consumption.

If the commission determines that the board's findings are reasonable, it shall approve the board's request. Upon receipt of the commission's approval, the district may issue securities without a vote of the electors in a principal amount not to exceed nine-tenths of one per cent of its tax valuation for the purpose of making such installations, modifications, or remodeling, but the total net indebtedness of the district without a vote of

the electors incurred under this and all other sections of the Revised Code, except section 3318.052 of the Revised Code, shall not exceed one per cent of the district's tax valuation.

So long as any securities issued under division (G) of this section remain outstanding, the board of education shall monitor the energy consumption and resultant operational and maintenance costs of buildings in which installations or modifications have been made or remodeling has been done pursuant to division (G) of this section and shall maintain and annually update a report documenting the reductions in energy consumption and resultant operational and maintenance cost savings attributable to such installations, modifications, or remodeling. The report shall be certified by an architect or engineer independent of any person that provided goods or services to the board in connection with the energy conservation measures that are the subject of the report. The resultant operational and maintenance cost savings shall be certified by the school district treasurer. The report shall be made available to the commission upon request.

(H) With the consent of the superintendent of public instruction, a school district may incur without a vote of the electors net indebtedness that exceeds the amounts stated in divisions (A) and (G) of this section for the purpose of paying costs of permanent improvements, if and to the extent that both of the following conditions are satisfied:

(1) The fiscal officer of the school district estimates that receipts of the school district from payments made under or pursuant to agreements entered into pursuant to section 725.02, 1728.10, 3735.671, 5709.081, 5709.082, 5709.40, 5709.41, 5709.62, 5709.63, 5709.632, 5709.73, 5709.78, or 5709.82 of the Revised Code, or distributions under division (C) of section 5709.43 of the Revised Code, or any combination thereof, are, after accounting for any appropriate coverage requirements, sufficient in time and amount, and are committed by the proceedings, to pay the debt charges on the securities issued to evidence that indebtedness and payable from those receipts, and the taxing authority of the district confirms the fiscal officer's estimate, which confirmation is approved by the superintendent of public instruction;

(2) The fiscal officer of the school district certifies, and the taxing authority of the district confirms, that the district, at the time of the certification and confirmation, reasonably expects to have sufficient revenue available for the purpose of operating such permanent improvements for their intended purpose upon acquisition or completion thereof, and the superintendent of public instruction approves the taxing authority's confirmation.

The maximum maturity of securities issued under division (H) of this section shall be the lesser of twenty years or the maximum maturity calculated under section 133.20 of the Revised Code.

(I) A school district may incur net indebtedness by the issuance of securities in accordance with the provisions of this chapter in excess of the limit specified in division (B) or (C) of this section when necessary to raise the school district portion of the basic project cost and any additional funds necessary to participate in a project under Chapter 3318. of the Revised Code, including the cost of items designated by the Ohio school facilities commission as required locally funded initiatives and the cost for site acquisition. The school facilities commission shall notify the superintendent of public instruction whenever a school district will exceed either limit pursuant to this division.

(J) A school district whose portion of the basic project cost of its classroom facilities project under sections 3318.01 to 3318.20 of the Revised Code is greater than or equal to one hundred million dollars may incur without a vote of the electors net indebtedness in an amount up to two per cent of its tax valuation through the issuance of general obligation securities in order to generate all or part of the amount of its portion of the basic project cost if the controlling board has approved the school facilities commission's conditional approval of the project under section 3318.04 of the Revised Code. The school district board and the Ohio school facilities commission shall include the dedication of the proceeds of such securities in the agreement entered into under section 3318.08 of the Revised Code. No state moneys shall be released for a project to which this section applies until the proceeds of any bonds issued under this section that are dedicated for the payment of the school district portion of the project are first deposited into the school district's project construction fund.

Sec. 133.18. (A) The taxing authority of a subdivision may by legislation submit to the electors of the subdivision the question of issuing any general obligation bonds, for one purpose, that the subdivision has power or authority to issue.

(B) When the taxing authority of a subdivision desires or is required by law to submit the question of a bond issue to the electors, it shall pass legislation that does all of the following:

- (1) Declares the necessity and purpose of the bond issue;
- (2) States the date of the authorized election at which the question shall be submitted to the electors;
- (3) States the amount, approximate date, estimated net average rate of interest, and maximum number of years over which the principal of the

bonds may be paid;

(4) Declares the necessity of levying a tax outside the tax limitation to pay the debt charges on the bonds and any anticipatory securities.

The estimated net average interest rate shall be determined by the taxing authority based on, among other factors, then existing market conditions, and may reflect adjustments for any anticipated direct payments expected to be received by the taxing authority from the government of the United States relating to the bonds and the effect of any federal tax credits anticipated to be available to owners of all or a portion of the bonds. The estimated net average rate of interest, and any statutory or charter limit on interest rates that may then be in effect and that is subsequently amended, shall not be a limitation on the actual interest rate or rates on the securities when issued.

(C)(1) The taxing authority shall certify a copy of the legislation passed under division (B) of this section to the county auditor. The county auditor shall promptly calculate and advise and, not later than seventy-five days before the election, confirm that advice by certification to, the taxing authority the estimated average annual property tax levy, expressed in cents or dollars and cents for each one hundred dollars of tax valuation and in mills for each one dollar of tax valuation, that the county auditor estimates to be required throughout the stated maturity of the bonds to pay the debt charges on the bonds. In calculating the estimated average annual property tax levy for this purpose, the county auditor shall assume that the bonds are issued in one series bearing interest and maturing in substantially equal principal amounts in each year over the maximum number of years over which the principal of the bonds may be paid as stated in that legislation, and that the amount of the tax valuation of the subdivision for the current year remains the same throughout the maturity of the bonds, except as otherwise provided in division (C)(2) of this section. If the tax valuation for the current year is not determined, the county auditor shall base the calculation on the estimated amount of the tax valuation submitted by the county auditor to the county budget commission. If the subdivision is located in more than one county, the county auditor shall obtain the assistance of the county auditors of the other counties, and those county auditors shall provide assistance, in establishing the tax valuation of the subdivision for purposes of certifying the estimated average annual property tax levy.

(2) When considering the tangible personal property component of the tax valuation of the subdivision, the county auditor shall take into account the assessment percentages prescribed in section 5711.22 of the Revised

Code. The tax commissioner may issue rules, orders, or instructions directing how the assessment percentages must be utilized.

(D) After receiving the county auditor's advice under division (C) of this section, the taxing authority by legislation may determine to proceed with submitting the question of the issue of securities, and shall, not later than the seventy-fifth day before the day of the election, file the following with the board of elections:

(1) Copies of the legislation provided for in divisions (B) and (D) of this section;

(2) The amount of the estimated average annual property tax levy, expressed in cents or dollars and cents for each one hundred dollars of tax valuation and in mills for each one dollar of tax valuation, as estimated and certified to the taxing authority by the county auditor.

(E)(1) The board of elections shall prepare the ballots and make other necessary arrangements for the submission of the question to the electors of the subdivision. If the subdivision is located in more than one county, the board shall inform the boards of elections of the other counties of the filings with it, and those other boards shall if appropriate make the other necessary arrangements for the election in their counties. The election shall be conducted, canvassed, and certified in the manner provided in Title XXXV of the Revised Code.

(2) The election shall be held at the regular places for voting in the subdivision. If the electors of only a part of a precinct are qualified to vote at the election the board of elections may assign the electors in that part to an adjoining precinct, including an adjoining precinct in another county if the board of elections of the other county consents to and approves the assignment. Each elector so assigned shall be notified of that fact prior to the election by notice mailed by the board of elections, in such manner as it determines, prior to the election.

(3) The board of elections shall publish a notice of the election, in one or more newspapers of general circulation in the subdivision, at least once no later than ten days prior to the election. The notice shall state all of the following:

(a) The principal amount of the proposed bond issue;

(b) The stated purpose for which the bonds are to be issued;

(c) The maximum number of years over which the principal of the bonds may be paid;

(d) The estimated additional average annual property tax levy, expressed in cents or dollars and cents for each one hundred dollars of tax valuation and in mills for each one dollar of tax valuation, to be levied

outside the tax limitation, as estimated and certified to the taxing authority by the county auditor;

(e) The first calendar year in which the tax is expected to be due.

(F)(1) The form of the ballot to be used at the election shall be substantially either of the following, as applicable:

(a) "Shall bonds be issued by the (name of subdivision) for the purpose of (purpose of the bond issue) in the principal amount of (principal amount of the bond issue), to be repaid annually over a maximum period of (the maximum number of years over which the principal of the bonds may be paid) years, and an annual levy of property taxes be made outside the (as applicable, "ten-mill" or "...charter tax") limitation, estimated by the county auditor to average over the repayment period of the bond issue (number of mills) mills for each one dollar of tax valuation, which amounts to (rate expressed in cents or dollars and cents, such as "36 cents" or "\$1.41") for each one hundred dollars of tax valuation, commencing in (first year the tax will be levied), first due in calendar year (first calendar year in which the tax shall be due), to pay the annual debt charges on the bonds, and to pay debt charges on any notes issued in anticipation of those bonds?"

	For the bond issue	"
	Against the bond issue	

(b) In the case of an election held pursuant to legislation adopted under section 3375.43 or 3375.431 of the Revised Code:

"Shall bonds be issued for (name of library) for the purpose of (purpose of the bond issue), in the principal amount of (amount of the bond issue) by (the name of the subdivision that is to issue the bonds and levy the tax) as the issuer of the bonds, to be repaid annually over a maximum period of (the maximum number of years over which the principal of the bonds may be paid) years, and an annual levy of property taxes be made outside the ten-mill limitation, estimated by the county auditor to average over the repayment period of the bond issue (number of mills) mills for each one dollar of tax valuation, which amounts to (rate expressed in cents or dollars and cents, such as "36 cents" or "\$1.41") for each one hundred dollars of tax valuation, commencing in (first year the tax will be levied), first due in calendar year (first calendar year in which the tax shall be due), to pay the annual debt charges on the bonds, and to pay debt charges on any notes issued in anticipation of those bonds?"

	For the bond issue	"
	Against the bond issue	

(2) The purpose for which the bonds are to be issued shall be printed in the space indicated, in boldface type.

(G) The board of elections shall promptly certify the results of the election to the tax commissioner, the county auditor of each county in which any part of the subdivision is located, and the fiscal officer of the subdivision. The election, including the proceedings for and result of the election, is incontestable other than in a contest filed under section 3515.09 of the Revised Code in which the plaintiff prevails.

(H) If a majority of the electors voting upon the question vote for it, the taxing authority of the subdivision may proceed under sections 133.21 to 133.33 of the Revised Code with the issuance of the securities and with the levy and collection of a property tax outside the tax limitation during the period the securities are outstanding sufficient in amount to pay the debt charges on the securities, including debt charges on any anticipatory securities required to be paid from that tax. If legislation passed under section 133.22 or 133.23 of the Revised Code authorizing those securities is filed with the county auditor on or before the last day of November, the amount of the voted property tax levy required to pay debt charges or estimated debt charges on the securities payable in the following year shall if requested by the taxing authority be included in the taxes levied for collection in the following year under section 319.30 of the Revised Code.

(I)(1) If, before any securities authorized at an election under this section are issued, the net indebtedness of the subdivision exceeds that applicable to that subdivision or those securities, then and so long as that is the case none of the securities may be issued.

(2) No securities authorized at an election under this section may be initially issued after the first day of the sixth January following the election, but this period of limitation shall not run for any time during which any part of the permanent improvement for which the securities have been authorized, or the issuing or validity of any part of the securities issued or to be issued, or the related proceedings, is involved or questioned before a court or a commission or other tribunal, administrative agency, or board.

(3) Securities representing a portion of the amount authorized at an election that are issued within the applicable limitation on net indebtedness are valid and in no manner affected by the fact that the balance of the securities authorized cannot be issued by reason of the net indebtedness

limitation or lapse of time.

(4) Nothing in this division (I) shall be interpreted or applied to prevent the issuance of securities in an amount to fund or refund anticipatory securities lawfully issued.

(5) The limitations of divisions (I)(1) and (2) of this section do not apply to any securities authorized at an election under this section if at least ten per cent of the principal amount of the securities, including anticipatory securities, authorized has theretofore been issued, or if the securities are to be issued for the purpose of participating in any federally or state-assisted program.

(6) The certificate of the fiscal officer of the subdivision is conclusive proof of the facts referred to in this division.

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

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

(1) Fifty years:

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

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

(c) Pursuant to section 307.675 of the Revised Code, constructing or repairing a bridge using long life expectancy material for the bridge deck, and purchasing, installing, and maintaining any performance equipment to monitor the physical condition of a bridge so constructed or repaired. Additionally, the average maturity of the bonds shall not exceed the expected useful life of the bridge deck as determined by the county engineer under that section.

(2) Forty years:

(a) General waterworks or water system permanent improvements,

including buildings, water mains, or other structures and facilities in connection therewith;

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

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

(3) Thirty-five years:

(a) An arena, a convention center, or a combination of an arena and convention center under section 307.695 of the Revised Code;

(b) Sports facilities.

(4) Thirty years:

(a) Municipal recreation, excluding recreational equipment;

(b) Urban redevelopment projects;

(c) Acquisition of real property, except as provided in division (F) of this section;

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

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

(6) Fifteen years:

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

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

(c) Passenger buses used for mass transportation;

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

(7) Ten years:

(a) Water meters;

(b) Fire department apparatus and equipment;

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

(d) Furniture, equipment, and furnishings;

(e) Landscape planting and other site improvements;

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

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

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

(C) Bonds issued for any permanent improvements not within the categories set forth in division (B) of this section shall have maximum maturities of from five to thirty years as the fiscal officer estimates is the estimated life or period of usefulness of those permanent improvements. Bonds issued under section 133.51 of the Revised Code for purposes other than permanent improvements shall have the maturities, not to exceed forty years, that the taxing authority shall specify. Bonds issued for energy conservation measures under section 307.041 of the Revised Code shall have maximum maturities not exceeding the lesser of the average life of the energy conservation measures as detailed in the energy conservation report prepared under that section or thirty years.

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

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

(F) Securities issued by a school district to acquire or construct real property shall have a maximum maturity longer than thirty years, but not longer than forty years, if the school district's fiscal officer estimates the real property's useful life to be longer than thirty years, and certifies that estimate to the board of education.

Sec. 133.21. (A) Except as provided in divisions (B) and (C) of this section, the principal amount of securities issued by any subdivision shall be payable in semiannual or annual installments, as serial securities or by mandatory sinking fund or mandatory sinking fund redemption requirements, in:

- (1) Substantially equal principal installments; or
- (2) In such principal installments that the total principal and interest payments on those securities in any fiscal year in which principal is payable is:
 - (a) Not more than three times the amount of those payments in any other fiscal year; or
 - (b) Substantially equal; or
 - (c) In the case of self-supporting securities, those payments on the securities and on other securities, except anticipatory securities, issued for the self-supporting purpose, substantially equal.

(B) Except for refunding securities issued pursuant to section 133.34 of the Revised Code, and except for securities issued to fund or refund anticipatory securities to the extent required to comply with division (C)(2) or (3) of section 133.22 of the Revised Code, the first principal payment of securities issued with semiannual payments shall not be later than the first day of the second February following the fifteenth day of July next following the passage of the legislation that authorized the issue of the securities and of securities issued with annual payments shall not be later than the first day of the third August next following the fifteenth day of July next following such passage.

(C) Divisions (A) and (B) of this section do not apply to any of the following:

- (1) Anticipatory securities;
- (2) Securities that are not general obligation securities;

(3) General obligation securities issued for the purpose of the acquisition of real property and the clearance and preparation thereof for redevelopment as an urban development project, which may mature or be payable in annual or semiannual installments and in such amounts as may be determined by the taxing authority of the municipal corporation issuing the securities, and which may have a first principal payment date set at any date not later than sixty months from the date the securities are issued.

(D) For purposes of this section, payments of principal, in the case of principal payable in accordance with mandatory sinking fund or mandatory sinking fund redemption requirements, means the sinking fund deposits on account of principal; and, in the case of securities issued in multiple installments or series for the same purpose, the principal payment requirement of division (A) of this section may be met either with respect to each installment or series of the securities or with respect to all installments or series on a consolidated basis.

Sec. 133.34. (A) Upon the determination of the taxing authority that such ~~issuance~~ funding or refunding will be in the subdivision's best interest, the subdivision may:

(1) Issue general obligation securities to fund or refund any outstanding revenue or mortgage revenue, sales tax supported, or other special obligation securities previously issued by it for permanent improvements pursuant to authorization by law or the Ohio Constitution. Any general obligation bonds issued pursuant to this division (A)(1) shall be payable as to principal at such times and in such installments as determined by the taxing authority consistent with section 133.21 of the Revised Code, but their last maturity shall not be later than thirty years from the date of

issuance of the original securities issued for the original purpose.

(2) Issue revenue or mortgage revenue securities, if authorized by other law or the Ohio Constitution to issue such securities for the original purpose, to fund or refund any outstanding general obligation or ~~sale~~ sales tax supported securities previously issued by it pursuant to authorization by law. The taxing authority shall establish the maturity date or dates, the interest payable, and other terms of such securities as it considers necessary or appropriate for their issuance.

(3) Issue general obligation securities to fund or refund outstanding general obligation bonds issued in one or more issues for any purpose or purposes. General obligation securities issued pursuant to this division (A)(3) shall be payable as to principal at such times and in such installments as determined by the taxing authority. Section 133.21 of the Revised Code is not applicable to these refunding securities, but the last maturity of these refunding securities shall not be later than the year of last maturity permitted by law for the general obligation bonds refunded. Tax levies for debt charges on the refunding general obligation securities shall be considered to have the same status with respect to the provisions of the applicable tax limitation as the levies for debt charges on, and the refunding general obligation securities shall be considered to have the same status with respect to net indebtedness limitations as, the general obligation bonds that are refunded.

(4) Issue sales tax supported securities to fund or refund any outstanding revenue or mortgage revenue or general obligation or other special obligation securities previously issued by it for permanent improvements pursuant to authorization by law or the Ohio Constitution. Any sales tax supported bonds issued pursuant to this division (A)(4) shall be payable as to principal at such times and in such installments as determined by the taxing authority consistent with division (E) of section 133.081 of the Revised Code, but their last maturity shall be consistent with division (B) of section 133.081 of the Revised Code.

(5) Apply moneys from other sources to fund any outstanding securities or public obligations issued by the taxing authority pursuant to authorization by law or the Ohio Constitution, including the funding of any mandatory sinking fund redemption requirements.

(B) Securities issued pursuant to this section shall be considered to be issued for the same purpose or purposes as the securities that they are issued to fund or refund, and their proceeds shall be used as determined by the taxing authority consistent with their purpose. That use may include the payment of the outstanding principal amount of, any redemption premium

on, and any interest to redemption or maturity on, the securities being funded or refunded, and any expenses relating to the funding or refunding or the issuance of the refunding bonds, including financing costs, all as determined by the taxing authority. Proceeds of securities issued pursuant to this section may also be used to provide additional money for the purpose or purposes for which the securities being funded or refunded, or which they funded or refunded, were issued, but section 133.21 of the Revised Code is applicable to any such portion of general obligation securities.

(C) Securities may be issued and other moneys may be applied pursuant to this section to fund or refund all or any portion of the outstanding securities, and whether or not the securities to be funded or refunded were issued subject to call or redemption prior to maturity or are the original securities or are themselves refunding securities.

(D) Moneys derived from the proceeds of securities issued pursuant to this section to fund or refund general obligation bonds, or moneys from other sources, and required for the purpose shall, under an escrow agreement or otherwise, to the extent required by the legislation be placed in an escrow fund, which may be in the bond retirement fund in the case of the funded or refunded bonds being payable within ninety days of issuance of the refunding securities, and other moneys applied pursuant to this section to fund general obligation bonds shall, under an escrow agreement or otherwise, to the extent required by the legislation, be placed in an escrow fund that may be in the sinking fund or bond retirement fund, and in either case are pledged for the purpose of funding or refunding the refunded general obligation bonds and shall be used, together with any other available funds as provided in this section, for that purpose. Pending that use, the moneys in escrow shall be invested in direct obligations of or obligations guaranteed as to payment by the United States that mature or are subject to redemption by and at the option of the holder not later than the date or dates when the moneys, together with interest or other investment income accrued on those moneys, will be required for that use. Any moneys in the escrow fund derived from the issuance of revenue or mortgage revenue or sales tax supported securities that will not be needed to pay debt charges on the funded or refunded general obligation bonds may be used for and pledged to the payment of debt charges on the refunding securities and on any securities issued on a parity with the refunding securities. Any moneys in the escrow fund derived from the proceeds of refunding general obligation securities and that will not be needed to pay debt charges on the refunded general obligation bonds shall be transferred to the bond retirement fund. When the subdivision has placed in escrow moneys, derived from proceeds

of refunding obligations or otherwise, or those direct or guaranteed obligations of the United States, or a combination of both, determined by an independent public accounting firm to be sufficient, with the interest or other investment income accruing on those direct or guaranteed obligations, for the payment of debt charges on the funded or refunded general obligation bonds, the funded or refunded general obligation bonds shall no longer be considered to be outstanding, shall not be considered for purposes of determining any limitation, direct or indirect, on the indebtedness or net indebtedness of the subdivision, and the levy of taxes or other charges for the payment of debt charges on the funded or refunded general obligation bonds under this chapter, Chapter 5705., or other provisions of the Revised Code, shall not be required. For purposes of this division, "direct obligations of or obligations guaranteed as to payment by the United States" includes rights to receive payment or portions of payments of the principal of or interest or other investment income on:

(1) Those obligations; and

(2) Other obligations fully secured as to payment by those obligations and the interest or other investment income on those obligations.

(E) The authority granted by this section is in addition to and not a limitation on any other authorizations granted by or pursuant to law or the Ohio Constitution for the same or similar purposes, and does not limit or restrict the authority of municipal corporations to issue, under authority of Article XVIII, Ohio Constitution, revenue or mortgage revenue securities to fund or refund either general obligation securities or other revenue or mortgage revenue securities.

Sec. 135.03. Any national bank, any bank doing business under authority granted by the superintendent of financial institutions, or any bank doing business under authority granted by the regulatory authority of another state of the United States, located in this state ~~and any bank as defined by section 1101.01 of the Revised Code, subject to inspection by the superintendent of financial institutions,~~ is eligible to become a public depository, subject to sections 135.01 to 135.21 of the Revised Code. No bank shall receive or have on deposit at any one time public moneys, including public moneys as defined in section 135.31 of the Revised Code, in an aggregate amount in excess of thirty per cent of its total assets, as shown in its latest report to the ~~superintendent of financial institutions or~~ comptroller of the currency, the superintendent of financial institutions, the federal deposit insurance corporation, or the board of governors of the federal reserve system.

~~Any domestic association as defined in section 1151.01 of the Revised~~

~~Code, or any savings bank as defined in section 1161.01 of the Revised Code, federal savings association, any savings and loan association or savings bank doing business under authority granted by the superintendent of financial institutions, or any savings and loan association or savings bank doing business under authority granted by the regulatory authority of another state of the United States, located in this state, and authorized to accept deposits is eligible to become a public depository, subject to sections 135.01 to 135.21 of the Revised Code. No domestic savings association, savings and loan association, or savings bank shall receive or have on deposit at any one time public moneys, including public moneys as defined in section 135.31 of the Revised Code, in an aggregate amount in excess of thirty per cent of its total assets, as shown in its latest report to the superintendent of financial institutions or federal home loan bank board office of thrift supervision, the superintendent of financial institutions, the federal deposit insurance corporation, or the board of governors of the federal reserve system.~~

Sec. 135.06. Each eligible institution desiring to be a public depository of the inactive deposits of the public moneys of the state or of the inactive deposits of the public moneys of the subdivision shall, not more than thirty days prior to the date fixed by section 135.12 of the Revised Code for the designation of such public depositories, make application therefor in writing to the proper governing board. Such application shall specify the maximum amount of such public moneys which the applicant desires to receive and have on deposit as an inactive deposit at any one time during the period covered by the designation, provided that, ~~where such applicant is a bank, it shall not apply for more than thirty per cent of its total assets as revealed by its latest report to the superintendent of banks or financial institutions, the comptroller of the currency, and provided that where such applicant is a building and loan association, it shall not apply for more than thirty per cent of its total assets as revealed by its latest report to the superintendent of building and loan associations or the federal home loan bank board~~ the office of thrift supervision, the federal deposit insurance corporation, or the board of governors of the federal reserve system, and the rate of interest which the applicant, ~~whether it be a bank or a building and loan association,~~ will pay thereon, subject to the limitations of sections 135.01 to 135.21 of the Revised Code. Each application shall be accompanied by a financial statement of the applicant, under oath of its cashier, treasurer, or other officer, in such detail as to show the capital funds of the applicant, as of the date of its latest report to the superintendent ~~of banks, superintendent of building and loan associations, federal home loan bank board, or of financial~~

institutions, the comptroller of the currency, the office of thrift supervision, the federal deposit insurance corporation, or the board of governors of the federal reserve system, and adjusted to show any changes therein made prior to the date of the application. Such application may be combined with an application for designation as a public depository of active deposits, interim deposits, or both.

Sec. 135.08. Each eligible institution desiring to be a public depository of interim deposits of the public moneys of the state or of the interim deposits of the public moneys of the subdivision shall, not more than thirty days prior to the date fixed by section 135.12 of the Revised Code for the designation of public depositories, make application therefor in writing to the proper governing board. Such application shall specify the maximum amount of such public moneys which the applicant desires to receive and have on deposit as interim deposits at any one time during the period covered by the designation, provided that, ~~where such applicant is a bank, it shall not apply for more than thirty per cent of its total assets as revealed by its latest report to the superintendent of banks or~~ financial institutions, the comptroller of the currency, and provided that where such applicant is a building and loan association, it shall not apply for more than thirty per cent of its total assets as revealed by its latest report to the superintendent of building and loan associations or the federal home loan bank board the office of thrift supervision, the federal deposit insurance corporation, or the board of governors of the federal reserve system, and the rate of interest which the applicant, ~~whether it be a bank or a building and loan association,~~ will pay thereon, subject to the limitations of sections 135.01 to 135.21 of the Revised Code.

Each application shall be accompanied by a financial statement of the applicant, under oath of its cashier, treasurer, or other officer, in such detail as to show the capital funds of the applicant, as of the date of its latest report to the superintendent of ~~banks, superintendent of building and loan associations, federal home loan bank board, or~~ financial institutions, the comptroller of the currency, the office of thrift supervision, the federal deposit insurance corporation, or the board of governors of the federal reserve system, and adjusted to show any changes therein made prior to the date of the application. Such application may be combined with an application for designation as a public depository of inactive deposits, active deposits, or both.

Sec. 135.32. (A) Any national bank, any bank doing business under authority granted by the superintendent of financial institutions, or any bank doing business under authority granted by the regulatory authority of

another state of the United States, located in this state and any bank as defined in section 1101.01 of the Revised Code, subject to inspection by the superintendent of financial institutions, is eligible to become a public depository, subject to sections 135.31 to 135.40 of the Revised Code. No bank shall receive or have on deposit at any one time public moneys, including public moneys as defined in section 135.01 of the Revised Code, in an aggregate amount in excess of thirty per cent of its total assets, as shown in its latest report to the superintendent of financial institutions or comptroller of the currency, the superintendent of financial institutions, the federal deposit insurance corporation, or the board of governors of the federal reserve system.

(B) Any domestic association as defined in section 1151.01 of the Revised Code, or any savings bank as defined in section 1161.01 of the Revised Code, federal savings association, any savings and loan association or savings bank doing business under authority granted by the superintendent of financial institutions, or any savings and loan association or savings bank doing business under authority granted by the regulatory authority of another state of the United States, located in this state, and authorized to accept deposits is eligible to become a public depository, subject to sections 135.31 to 135.40 of the Revised Code. No domestic savings association, savings and loan association, or savings bank shall receive or have on deposit at any one time public moneys, including public moneys as defined in section 135.01 of the Revised Code, in an aggregate amount in excess of thirty per cent of its total assets, as shown in its latest report to the superintendent of financial institutions or federal home loan bank board the office of thrift supervision, the superintendent of financial institutions, the federal deposit insurance corporation, or the board of governors of the federal reserve system.

Sec. 141.04. (A) The annual salaries of the chief justice of the supreme court and of the justices and judges named in this section payable from the state treasury are as follows, rounded to the nearest fifty dollars:

(1) For the chief justice of the supreme court, the following amounts effective in the following years:

(a) Beginning January 1, 2000, one hundred twenty-four thousand nine hundred dollars;

(b) Beginning January 1, 2001, one hundred twenty-eight thousand six hundred fifty dollars;

(c) After 2001, the amount determined under division (E)(1) of this section.

(2) For the justices of the supreme court, the following amounts

effective in the following years:

(a) Beginning January 1, 2000, one hundred seventeen thousand two hundred fifty dollars;

(b) Beginning January 1, 2001, one hundred twenty thousand seven hundred fifty dollars;

(c) After 2001, the amount determined under division (E)(1) of this section.

(3) For the judges of the courts of appeals, the following amounts effective in the following years:

(a) Beginning January 1, 2000, one hundred nine thousand two hundred fifty dollars;

(b) Beginning January 1, 2001, one hundred twelve thousand five hundred fifty dollars;

(c) After 2001, the amount determined under division (E)(1) of this section.

(4) For the judges of the courts of common pleas, the following amounts effective in the following years:

(a) Beginning January 1, 2000, one hundred thousand five hundred dollars, reduced by an amount equal to the annual compensation paid to that judge from the county treasury pursuant to section 141.05 of the Revised Code;

(b) Beginning January 1, 2001, one hundred three thousand five hundred dollars, reduced by an amount equal to the annual compensation paid to that judge from the county treasury pursuant to section 141.05 of the Revised Code;

(c) After 2001, the aggregate annual salary amount determined under division (E)(2) of this section reduced by an amount equal to the annual compensation paid to that judge from the county treasury pursuant to section 141.05 of the Revised Code.

(5) For the full-time judges of a municipal court or the part-time judges of a municipal court of a territory having a population of more than fifty thousand, the following amounts effective in the following years, which amounts shall be in addition to all amounts received pursuant to divisions (B)(1)(a) and (2) of section 1901.11 of the Revised Code from municipal corporations and counties:

(a) Beginning January 1, 2000, thirty-two thousand six hundred fifty dollars;

(b) Beginning January 1, 2001, thirty-five thousand five hundred dollars;

(c) After 2001, the amount determined under division (E)(3) of this

section.

(6) For judges of a municipal court designated as part-time judges by section 1901.08 of the Revised Code, other than part-time judges to whom division (A)(5) of this section applies, and for judges of a county court, the following amounts effective in the following years, which amounts shall be in addition to any amounts received pursuant to division (A) of section 1901.11 of the Revised Code from municipal corporations and counties or pursuant to division (A) of section 1907.16 of the Revised Code from counties:

- (a) Beginning January 1, 2000, eighteen thousand eight hundred dollars;
- (b) Beginning January 1, 2001, twenty thousand four hundred fifty dollars;
- (c) After 2001, the amount determined under division (E)(4) of this section.

(B) Except as provided in section 1901.121 of the Revised Code, except as otherwise provided in this division, and except for the compensation to which the judges described in division (A)(5) of this section are entitled pursuant to divisions (B)(1)(a) and (2) of section 1901.11 of the Revised Code, the annual salary of the chief justice of the supreme court and of each justice or judge listed in division (A) of this section shall be paid in equal monthly installments from the state treasury. If the chief justice of the supreme court or any justice or judge listed in division (A)(2), (3), or (4) of this section delivers a written request to be paid biweekly to the administrative director of the supreme court prior to the first day of January of any year, the annual salary of the chief justice or the justice or judge that is listed in division (A)(2), (3), or (4) of this section shall be paid, during the year immediately following the year in which the request is delivered to the administrative director of the supreme court, biweekly from the state treasury.

(C) Upon the death of the chief justice or a justice of the supreme court during that person's term of office, an amount shall be paid in accordance with section 2113.04 of the Revised Code, or to that person's estate. The amount shall equal the amount of the salary that the chief justice or justice would have received during the remainder of the unexpired term or an amount equal to the salary of office for two years, whichever is less.

(D) Neither the chief justice of the supreme court nor any justice or judge of the supreme court, the court of appeals, the court of common pleas, or the probate court shall hold any other office of trust or profit under the authority of this state or the United States.

(E)(1) Each ~~calendar~~ year from 2002 through 2008, the annual salaries

of the chief justice of the supreme court and of the justices and judges named in divisions (A)(2) and (3) of this section shall be increased by an amount equal to the adjustment percentage for that year multiplied by the compensation paid the preceding year pursuant to division (A)(1), (2), or (3) of this section.

(2) Each ~~calendar~~ year from 2002 through 2008, the aggregate annual salary payable under division (A)(4) of this section to the judges named in that division shall be increased by an amount equal to the adjustment percentage for that year multiplied by the aggregate compensation paid the preceding year pursuant to division (A)(4) of this section and section 141.05 of the Revised Code.

(3) Each ~~calendar~~ year from 2002 through 2008, the salary payable from the state treasury under division (A)(5) of this section to the judges named in that division shall be increased by an amount equal to the adjustment percentage for that year multiplied by the aggregate compensation paid the preceding year pursuant to division (A)(5) of this section and division (B)(1)(a) of section 1901.11 of the Revised Code.

(4) Each ~~calendar~~ year from 2002 through 2008, the salary payable from the state treasury under division (A)(6) of this section to the judges named in that division shall be increased by an amount equal to the adjustment percentage for that year multiplied by the aggregate compensation paid the preceding year pursuant to division (A)(6) of this section and division (A) of section 1901.11 of the Revised Code from municipal corporations and counties or division (A) of section 1907.16 of the Revised Code from counties.

(F) In addition to the salaries payable pursuant to this section, the chief justice of the supreme court and the justices of the supreme court shall be entitled to a vehicle allowance of five hundred dollars per month, payable from the state treasury. The allowance shall be increased on the first day of January of each odd numbered year by an amount equal to the percentage increase, if any, in the consumer price index for the immediately preceding twenty-four month period for which information is available.

(G) As used in this section:

(1) The "adjustment percentage" for a year is the lesser of the following:

(a) Three per cent;

(b) The percentage increase, if any, in the consumer price index over the twelve-month period that ends on the thirtieth day of September of the immediately preceding year, rounded to the nearest one-tenth of one per cent.

(2) "Consumer price index" has the same meaning as in section 101.27

of the Revised Code.

(3) "Salary" does not include any portion of the cost, premium, or charge for health, medical, hospital, dental, or surgical benefits, or any combination of those benefits, covering the chief justice of the supreme court or a justice or judge named in this section and paid on the chief justice's or the justice's or judge's behalf by a governmental entity.

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

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

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

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

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

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

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

(a) Any firefighter who has elected under section 145.013 of the Revised Code to remain a contributing member of the public employees retirement system;

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

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

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

appropriate;

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

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

(10) Who is a member of the unemployment compensation advisory council.

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

Sec. 145.298. (A) As used in this section:

(1) "State employing unit" means an employing unit described in division (A)(2) of section 145.297 of the Revised Code, except that it does not mean an employing unit with fifty or fewer employees.

(2) "State institution" means a state correctional facility, a state institution for the mentally ill, or a state institution for the care, treatment, and training of the mentally retarded.

(B) ~~It~~ (1) Prior to the effective date of this amendment, in the event of a proposal to close a state institution or lay off, within a six-month period, a number of persons employed at an institution that equals or exceeds the lesser of fifty or ten per cent of the persons employed at the institution, the employing unit responsible for the institution's operation shall establish a retirement incentive plan for persons employed at the institution.

(2) On and after the effective date of this amendment, in the event of a proposal to close a state institution or lay off, within a six-month period, a number of persons employed at an institution that equals or exceeds the lesser of three hundred fifty or forty per cent of the persons employed at the institution, the employing unit responsible for the institution's operation shall establish a retirement incentive plan for persons employed at the institution.

(C) ~~In~~ (1) Prior to the effective date of this amendment, in the event of a proposal, other than a proposal the proposals described in division (B) of this section, to lay off, within a six-month period, a number of employees of a state employing unit that equals or exceeds the lesser of fifty or ten per cent of the employing unit's employees, the employing unit shall establish a retirement incentive plan for employees of the employing unit.

(2) On and after the effective date of this amendment, in the event of a proposal, other than the proposals described in division (B) of this section, to lay off, within a six-month period, a number of employees of a state employing unit that equals or exceeds the lesser of three hundred fifty or forty per cent of the employing unit's employees, the employing unit shall establish a retirement incentive plan for employees of the employing unit.

(D)(1) A retirement incentive plan established under this section shall be consistent with the requirements of section 145.297 of the Revised Code, except as provided in division (D)(2) of this section and except that the plan shall go into effect at the time the layoffs or proposed closings are announced and shall remain in effect until the date of the layoffs or closings.

(2) A retirement incentive plan established under this section due to the proposed closing of a state institution by the department of mental health prior to July 1, 1997, shall be consistent with the requirements of section 145.297 of the Revised Code, except as follows:

(a) The employing unit shall purchase at least three years of service credit for each participating employee, except that it shall not purchase more service credit than the amount allowed by division (D) of section 145.297 of the Revised Code;

(b) The plan shall go into effect at the time the proposed closing is announced and shall remain in effect at least until the date of the closing.

(3) If the employing unit already has a retirement incentive plan in effect, the plan shall remain in effect at least until the date of the layoffs or closings. The employing unit may revise the existing plan to provide greater benefits, but if it revises the plan, it shall give written notice of the changes to all employees who have elected to participate in the original plan, and it shall provide the greater benefits to all employees who participate in the plan, whether their elections to participate were made before or after the date of the revision.

Sec. 148.02. The Ohio public employees deferred compensation board shall be comprised of a member of the house of representatives and a member of the senate, who shall not be of the same political party, each to be appointed to serve at the pleasure of the member's respective leadership, and the members of the public employees retirement board as constituted by

section 145.04 of the Revised Code, who are hereby created as a separate legal entity for the purpose of administering a deferred compensation system for all eligible employees. The public employees retirement board may utilize its employees and property in the administration of the system on behalf of the Ohio public employees deferred compensation board, in consideration of a reasonable service charge to be applied in a nondiscriminatory manner to all amounts of compensation deferred under this system.

The Ohio public employees deferred compensation board may exercise the same powers granted by section 145.09 of the Revised Code necessary to its functions. The attorney general shall be the legal adviser of the board. The Ohio public employees deferred compensation receiving account shall be in the custody of the treasurer of state, but shall not be part of the state treasury.

Sec. 148.04. (A) The Ohio public employees deferred compensation board shall initiate, plan, expedite, and, subject to an appropriate assurance of the approval of the internal revenue service, promulgate and offer to all eligible employees, and thereafter administer on behalf of all participating employees and continuing members, and alter as required, a program for deferral of compensation, including a reasonable number of options to the employee for the investment of deferred funds, ~~including life insurance, annuities, variable annuities, pooled investment funds managed by the board, or other forms of investment approved by the board,~~ always in such form as will assure the desired tax treatment of such funds. The members of the board are the trustees of any deferred funds and shall discharge their duties with respect to the funds solely in the interest of and for the exclusive benefit of participating employees, continuing members, and their beneficiaries. With respect to such deferred funds, section 148.09 of the Revised Code shall apply to claims against participating employees or continuing members and their employers.

(B) The Ohio public employees deferred compensation program shall provide informational materials and acknowledgment forms to employers required to comply with division (C) of this section.

(C)(1) Whenever an individual becomes employed in a position paid by warrant of the director of budget and management, the individual's employer shall do both of the following at the time the employee completes the employee's initial employment paperwork:

(a) Provide to the employee materials provided by the Ohio public employees deferred compensation program under division (B) of this section regarding the benefits of long-term savings through deferred compensation;

(b) Secure, in writing or by electronic means, the employee's acknowledgment form regarding the employee's desire to participate or not participate in a deferred compensation program offered by the board.

An election regarding participation under this section shall be made in such manner and form as is prescribed by the Ohio public employees deferred compensation program and shall be filed with the program.

The employer shall forward each acknowledgment form completed under this division to the deferred compensation program not later than forty-five days after the date on which the employee's employment begins.

~~(2) Every employer of an eligible employee shall contract with the employee upon the employee's application for participation in a deferred compensation program offered by the board. Every retirement system serving an eligible employee shall serve as collection agent for compensation deferred by any of its members and account for and deliver such sums to the board.~~

~~(C)(D)~~ The board shall, subject to any applicable contract provisions, undertake to obtain as favorable conditions of tax treatment as possible, both in the initial programs and any permitted alterations of them or additions to them, as to such matters as terms of distribution, designation of beneficiaries, withdrawal upon disability, financial hardship, or termination of public employment, and other optional provisions.

~~(D)(E)~~ In no event shall the total of the amount of deferred compensation to be set aside under a deferred compensation program and the employee's nondeferred income for any year exceed the total annual salary or compensation under the existing salary schedule or classification plan applicable to the employee in that year.

Such a deferred compensation program shall be in addition to any retirement or any other benefit program provided by law for employees of this state. The board shall adopt rules pursuant to Chapter 119. of the Revised Code to provide any necessary standards or conditions for the administration of its programs, including any limits on the portion of a participating employee's compensation that may be deferred in order to avoid adverse treatment of the program by the internal revenue service or the occurrence of deferral, withholding, or other deductions in excess of the compensation available for any pay period.

Any income deferred under such a plan shall continue to be included as regular compensation for the purpose of computing the contributions to and benefits from the retirement system of such employee. Any sum so deferred shall not be included in the computation of any federal and state income taxes withheld on behalf of any such employee.

~~(E)~~(F) This section does not limit the authority of any municipal corporation, county, township, park district, conservancy district, sanitary district, health district, public library, county law library, public institution of higher education, or school district to provide separate authorized plans or programs for deferring compensation of their officers and employees in addition to the program for the deferral of compensation offered by the board. Any municipal corporation, township, public institution of higher education, or school district that offers such plans or programs shall include a reasonable number of options to its officers or employees for the investment of the deferred funds, including annuities, variable annuities, regulated investment trusts, or other forms of investment approved by the municipal corporation, township, public institution of higher education, or school district, that will assure the desired tax treatment of the funds.

Sec. 148.05. (A)(1) As used in this division, "personal history record" means information maintained by the Ohio public employees deferred compensation board on an individual who is a participating employee or continuing member that includes the address, telephone number, social security number, record of contributions, records of benefits, correspondence with the Ohio public employees deferred compensation program, or other information the board determines to be confidential.

(2) The records of the board shall be open to public inspection, except that the following shall be excluded, except with the written authorization of the individual concerned:

- (a) Information pertaining to an individual's participant account;
- (b) The individual's personal history record.

(B)(1) All medical reports, records, and recommendations of a participating employee or a continuing member that are in the possession of the board are privileged.

(2) All tax information of a participating employee, continuing member, or former participant or member that is in the possession of the board shall be confidential to the extent the information is confidential under Title LVII or any other provision of the Revised Code.

(C) Notwithstanding the exceptions to public inspection in division (A)(2) of this section, the board may furnish the following information:

(1) If a participating employee, continuing member, or former participant or member is subject to an order issued under section 2907.15 of the Revised Code or is convicted of or pleads guilty to a violation of section 2921.41 of the Revised Code, on written request of a prosecutor as defined in section 2935.01 of the Revised Code, the board shall furnish to the prosecutor the information requested from the individual's personal history

record or participant account.

(2) Pursuant to a court or administrative order issued pursuant to Chapter 3119., 3121., 3123., or 3125. of the Revised Code, the board shall furnish to a court or child support enforcement agency the information required under that section.

(3) Pursuant to an administrative subpoena issued by a state agency, the board shall furnish the information required by the subpoena.

(4) The board shall comply with orders issued under section 3105.87 of the Revised Code.

(D) A statement that contains information obtained from the program's records that is signed by the executive director or the director's designee and to which the board's official seal is affixed, or copies of the program's records to which the signature and seal are attached, shall be received as true copies of the board's records in any court or before any officer of this state.

Sec. 149.43. (A) As used in this section:

(1) "Public record" means records kept by any public office, including, but not limited to, state, county, city, village, township, and school district units, and records pertaining to the delivery of educational services by an alternative school in this state kept by the nonprofit or for-profit entity operating the alternative school pursuant to section 3313.533 of the Revised Code. "Public record" does not mean any of the following:

(a) Medical records;

(b) Records pertaining to probation and parole proceedings or to proceedings related to the imposition of community control sanctions and post-release control sanctions;

(c) Records pertaining to actions under section 2151.85 and division (C) of section 2919.121 of the Revised Code and to appeals of actions arising under those sections;

(d) Records pertaining to adoption proceedings, including the contents of an adoption file maintained by the department of health under section 3705.12 of the Revised Code;

(e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;

(f) Records listed in division (A) of section 3107.42 of the Revised Code or specified in division (A) of section 3107.52 of the Revised Code;

(g) Trial preparation records;

(h) Confidential law enforcement investigatory records;

(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;

(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;

(k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code;

(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;

(m) Intellectual property records;

(n) Donor profile records;

(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;

(p) Peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, ~~or EMT~~, or investigator of the bureau of criminal identification and investigation residential and familial information;

(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code;

(r) Information pertaining to the recreational activities of a person under the age of eighteen;

(s) Records provided to, statements made by review board members during meetings of, and all work products of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code, and child fatality review data submitted by the child fatality review board to the department of health or a national child death review database, other than the report prepared pursuant to division (A) of section 307.626 of the Revised Code;

(t) Records provided to and statements made by the executive director of a public children services agency or a prosecuting attorney acting pursuant to section 5153.171 of the Revised Code other than the information released under that section;

(u) Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that the board of examiners of nursing home administrators administers under section 4751.04 of the Revised Code or contracts under that section with a private

or government entity to administer;

(v) Records the release of which is prohibited by state or federal law;

(w) Proprietary information of or relating to any person that is submitted to or compiled by the Ohio venture capital authority created under section 150.01 of the Revised Code;

(x) Information reported and evaluations conducted pursuant to section 3701.072 of the Revised Code;

(y) Financial statements and data any person submits for any purpose to the Ohio housing finance agency or the controlling board in connection with applying for, receiving, or accounting for financial assistance from the agency, and information that identifies any individual who benefits directly or indirectly from financial assistance from the agency;

(z) Records listed in section 5101.29 of the Revised Code.

(aa) Discharges recorded with a county recorder under section 317.24 of the Revised Code, as specified in division (B)(2) of that section.

(2) "Confidential law enforcement investigatory record" means any record that pertains to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature, but only to the extent that the release of the record would create a high probability of disclosure of any of the following:

(a) The identity of a suspect who has not been charged with the offense to which the record pertains, or of an information source or witness to whom confidentiality has been reasonably promised;

(b) Information provided by an information source or witness to whom confidentiality has been reasonably promised, which information would reasonably tend to disclose the source's or witness's identity;

(c) Specific confidential investigatory techniques or procedures or specific investigatory work product;

(d) Information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential information source.

(3) "Medical record" means any document or combination of documents, except births, deaths, and the fact of admission to or discharge from a hospital, that pertains to the medical history, diagnosis, prognosis, or medical condition of a patient and that is generated and maintained in the process of medical treatment.

(4) "Trial preparation record" means any record that contains information that is specifically compiled in reasonable anticipation of, or in defense of, a civil or criminal action or proceeding, including the independent thought processes and personal trial preparation of an attorney.

(5) "Intellectual property record" means a record, other than a financial or administrative record, that is produced or collected by or for faculty or staff of a state institution of higher learning in the conduct of or as a result of study or research on an educational, commercial, scientific, artistic, technical, or scholarly issue, regardless of whether the study or research was sponsored by the institution alone or in conjunction with a governmental body or private concern, and that has not been publicly released, published, or patented.

(6) "Donor profile record" means all records about donors or potential donors to a public institution of higher education except the names and reported addresses of the actual donors and the date, amount, and conditions of the actual donation.

(7) "Peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, ~~or EMT~~, or investigator of the bureau of criminal identification and investigation residential and familial information" means any information that discloses any of the following about a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, ~~or EMT~~, or investigator of the bureau of criminal identification and investigation:

(a) The address of the actual personal residence of a peace officer, parole officer, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, ~~or EMT~~, or an investigator of the bureau of criminal identification and investigation, except for the state or political subdivision in which the peace officer, parole officer, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, ~~or EMT~~, or investigator of the bureau of criminal identification and investigation resides;

(b) Information compiled from referral to or participation in an employee assistance program;

(c) The social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information pertaining to, a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, ~~or EMT~~, or investigator of the bureau of criminal identification and investigation;

(d) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional

employee, youth services employee, firefighter, ~~or EMT~~, or investigator of the bureau of criminal identification and investigation by the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, ~~or EMT's~~, or investigator of the bureau of criminal identification and investigation's employer;

(e) The identity and amount of any charitable or employment benefit deduction made by the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, ~~or EMT's~~, or investigator of the bureau of criminal identification and investigation's employer from the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, ~~or EMT's~~, or investigator of the bureau of criminal identification and investigation's compensation unless the amount of the deduction is required by state or federal law;

(f) The name, the residential address, the name of the employer, the address of the employer, the social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of the spouse, a former spouse, or any child of a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, ~~or EMT~~, or investigator of the bureau of criminal identification and investigation;

(g) A photograph of a peace officer who holds a position or has an assignment that may include undercover or plain clothes positions or assignments as determined by the peace officer's appointing authority.

As used in divisions (A)(7) and (B)(9) of this section, "peace officer" has the same meaning as in section 109.71 of the Revised Code and also includes the superintendent and troopers of the state highway patrol; it does not include the sheriff of a county or a supervisory employee who, in the absence of the sheriff, is authorized to stand in for, exercise the authority of, and perform the duties of the sheriff.

As used in divisions (A)(7) and (B)(5) of this section, "correctional employee" means any employee of the department of rehabilitation and correction who in the course of performing the employee's job duties has or has had contact with inmates and persons under supervision.

As used in divisions (A)(7) and (B)(5) of this section, "youth services employee" means any employee of the department of youth services who in the course of performing the employee's job duties has or has had contact

with children committed to the custody of the department of youth services.

As used in divisions (A)(7) and (B)(9) of this section, "firefighter" means any regular, paid or volunteer, member of a lawfully constituted fire department of a municipal corporation, township, fire district, or village.

As used in divisions (A)(7) and (B)(9) of this section, "EMT" means EMTs-basic, EMTs-I, and paramedics that provide emergency medical services for a public emergency medical service organization. "Emergency medical service organization," "EMT-basic," "EMT-I," and "paramedic" have the same meanings as in section 4765.01 of the Revised Code.

As used in divisions (A)(7) and (B)(9) of this section, "investigator of the bureau of criminal identification and investigation" has the meaning defined in section 2903.11 of the Revised Code.

(8) "Information pertaining to the recreational activities of a person under the age of eighteen" means information that is kept in the ordinary course of business by a public office, that pertains to the recreational activities of a person under the age of eighteen years, and that discloses any of the following:

(a) The address or telephone number of a person under the age of eighteen or the address or telephone number of that person's parent, guardian, custodian, or emergency contact person;

(b) The social security number, birth date, or photographic image of a person under the age of eighteen;

(c) Any medical record, history, or information pertaining to a person under the age of eighteen;

(d) Any additional information sought or required about a person under the age of eighteen for the purpose of allowing that person to participate in any recreational activity conducted or sponsored by a public office or to use or obtain admission privileges to any recreational facility owned or operated by a public office.

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

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

(11) "Redaction" means obscuring or deleting any information that is exempt from the duty to permit public inspection or copying from an item that otherwise meets the definition of a "record" in section 149.011 of the Revised Code.

(12) "Designee" and "elected official" have the same meanings as in section 109.43 of the Revised Code.

(B)(1) Upon request and subject to division (B)(8) of this section, all

public records responsive to the request shall be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours. Subject to division (B)(8) of this section, upon request, a public office or person responsible for public records shall make copies of the requested public record available at cost and within a reasonable period of time. If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the public office or the person responsible for the public record shall make available all of the information within the public record that is not exempt. When making that public record available for public inspection or copying that public record, the public office or the person responsible for the public record shall notify the requester of any redaction or make the redaction plainly visible. A redaction shall be deemed a denial of a request to inspect or copy the redacted information, except if federal or state law authorizes or requires a public office to make the redaction.

(2) To facilitate broader access to public records, a public office or the person responsible for public records shall organize and maintain public records in a manner that they can be made available for inspection or copying in accordance with division (B) of this section. A public office also shall have available a copy of its current records retention schedule at a location readily available to the public. If a requester makes an ambiguous or overly broad request or has difficulty in making a request for copies or inspection of public records under this section such that the public office or the person responsible for the requested public record cannot reasonably identify what public records are being requested, the public office or the person responsible for the requested public record may deny the request but shall provide the requester with an opportunity to revise the request by informing the requester of the manner in which records are maintained by the public office and accessed in the ordinary course of the public office's or person's duties.

(3) If a request is ultimately denied, in part or in whole, the public office or the person responsible for the requested public record shall provide the requester with an explanation, including legal authority, setting forth why the request was denied. If the initial request was provided in writing, the explanation also shall be provided to the requester in writing. The explanation shall not preclude the public office or the person responsible for the requested public record from relying upon additional reasons or legal authority in defending an action commenced under division (C) of this section.

(4) Unless specifically required or authorized by state or federal law or

in accordance with division (B) of this section, no public office or person responsible for public records may limit or condition the availability of public records by requiring disclosure of the requester's identity or the intended use of the requested public record. Any requirement that the requester disclose the requestor's identity or the intended use of the requested public record constitutes a denial of the request.

(5) A public office or person responsible for public records may ask a requester to make the request in writing, may ask for the requester's identity, and may inquire about the intended use of the information requested, but may do so only after disclosing to the requester that a written request is not mandatory and that the requester may decline to reveal the requester's identity or the intended use and when a written request or disclosure of the identity or intended use would benefit the requester by enhancing the ability of the public office or person responsible for public records to identify, locate, or deliver the public records sought by the requester.

(6) If any person chooses to obtain a copy of a public record in accordance with division (B) of this section, the public office or person responsible for the public record may require that person to pay in advance the cost involved in providing the copy of the public record in accordance with the choice made by the person seeking the copy under this division. The public office or the person responsible for the public record shall permit that person to choose to have the public record duplicated upon paper, upon the same medium upon which the public office or person responsible for the public record keeps it, or upon any other medium upon which the public office or person responsible for the public record determines that it reasonably can be duplicated as an integral part of the normal operations of the public office or person responsible for the public record. When the person seeking the copy makes a choice under this division, the public office or person responsible for the public record shall provide a copy of it in accordance with the choice made by the person seeking the copy. Nothing in this section requires a public office or person responsible for the public record to allow the person seeking a copy of the public record to make the copies of the public record.

(7) Upon a request made in accordance with division (B) of this section and subject to division (B)(6) of this section, a public office or person responsible for public records shall transmit a copy of a public record to any person by United States mail or by any other means of delivery or transmission within a reasonable period of time after receiving the request for the copy. The public office or person responsible for the public record may require the person making the request to pay in advance the cost of

postage if the copy is transmitted by United States mail or the cost of delivery if the copy is transmitted other than by United States mail, and to pay in advance the costs incurred for other supplies used in the mailing, delivery, or transmission.

Any public office may adopt a policy and procedures that it will follow in transmitting, within a reasonable period of time after receiving a request, copies of public records by United States mail or by any other means of delivery or transmission pursuant to this division. A public office that adopts a policy and procedures under this division shall comply with them in performing its duties under this division.

In any policy and procedures adopted under this division, a public office may limit the number of records requested by a person that the office will transmit by United States mail to ten per month, unless the person certifies to the office in writing that the person does not intend to use or forward the requested records, or the information contained in them, for commercial purposes. For purposes of this division, "commercial" shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research.

(8) A public office or person responsible for public records is not required to permit a person who is incarcerated pursuant to a criminal conviction or a juvenile adjudication to inspect or to obtain a copy of any public record concerning a criminal investigation or prosecution or concerning what would be a criminal investigation or prosecution if the subject of the investigation or prosecution were an adult, unless the request to inspect or to obtain a copy of the record is for the purpose of acquiring information that is subject to release as a public record under this section and the judge who imposed the sentence or made the adjudication with respect to the person, or the judge's successor in office, finds that the information sought in the public record is necessary to support what appears to be a justiciable claim of the person.

(9) Upon written request made and signed by a journalist on or after December 16, 1999, a public office, or person responsible for public records, having custody of the records of the agency employing a specified peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, ~~or~~ E.M.T., or investigator of the bureau of criminal identification and investigation shall disclose to the journalist the address of the actual personal residence of the peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services

employee, firefighter, ~~or~~ EMT, or investigator of the bureau of criminal identification and investigation and, if the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, ~~or~~ EMT's, or investigator of the bureau of criminal identification and investigation's spouse, former spouse, or child is employed by a public office, the name and address of the employer of the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, ~~or~~ EMT's, or investigator of the bureau of criminal identification and investigation's spouse, former spouse, or child. The request shall include the journalist's name and title and the name and address of the journalist's employer and shall state that disclosure of the information sought would be in the public interest.

As used in this division, "journalist" means a person engaged in, connected with, or employed by any news medium, including a newspaper, magazine, press association, news agency, or wire service, a radio or television station, or a similar medium, for the purpose of gathering, processing, transmitting, compiling, editing, or disseminating information for the general public.

(C)(1) If a person allegedly is aggrieved by the failure of a public office or the person responsible for public records to promptly prepare a public record and to make it available to the person for inspection in accordance with division (B) of this section or by any other failure of a public office or the person responsible for public records to comply with an obligation in accordance with division (B) of this section, the person allegedly aggrieved may commence a mandamus action to obtain a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section, that awards court costs and reasonable attorney's fees to the person that instituted the mandamus action, and, if applicable, that includes an order fixing statutory damages under division (C)(1) of this section. The mandamus action may be commenced in the court of common pleas of the county in which division (B) of this section allegedly was not complied with, in the supreme court pursuant to its original jurisdiction under Section 2 of Article IV, Ohio Constitution, or in the court of appeals for the appellate district in which division (B) of this section allegedly was not complied with pursuant to its original jurisdiction under Section 3 of Article IV, Ohio Constitution.

If a requestor transmits a written request by hand delivery or certified mail to inspect or receive copies of any public record in a manner that fairly describes the public record or class of public records to the public office or

person responsible for the requested public records, except as otherwise provided in this section, the requestor shall be entitled to recover the amount of statutory damages set forth in this division if a court determines that the public office or the person responsible for public records failed to comply with an obligation in accordance with division (B) of this section.

The amount of statutory damages shall be fixed at one hundred dollars for each business day during which the public office or person responsible for the requested public records failed to comply with an obligation in accordance with division (B) of this section, beginning with the day on which the requester files a mandamus action to recover statutory damages, up to a maximum of one thousand dollars. The award of statutory damages shall not be construed as a penalty, but as compensation for injury arising from lost use of the requested information. The existence of this injury shall be conclusively presumed. The award of statutory damages shall be in addition to all other remedies authorized by this section.

The court may reduce an award of statutory damages or not award statutory damages if the court determines both of the following:

(a) That, based on the ordinary application of statutory law and case law as it existed at the time of the conduct or threatened conduct of the public office or person responsible for the requested public records that allegedly constitutes a failure to comply with an obligation in accordance with division (B) of this section and that was the basis of the mandamus action, a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records did not constitute a failure to comply with an obligation in accordance with division (B) of this section;

(b) That a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

(2)(a) If the court issues a writ of mandamus that orders the public office or the person responsible for the public record to comply with division (B) of this section and determines that the circumstances described in division (C)(1) of this section exist, the court shall determine and award to the relator all court costs.

(b) If the court renders a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section, the court may award reasonable attorney's fees subject to reduction

as described in division (C)(2)(c) of this section. The court shall award reasonable attorney's fees, subject to reduction as described in division (C)(2)(c) of this section when either of the following applies:

(i) The public office or the person responsible for the public records failed to respond affirmatively or negatively to the public records request in accordance with the time allowed under division (B) of this section.

(ii) The public office or the person responsible for the public records promised to permit the relator to inspect or receive copies of the public records requested within a specified period of time but failed to fulfill that promise within that specified period of time.

(c) Court costs and reasonable attorney's fees awarded under this section shall be construed as remedial and not punitive. Reasonable attorney's fees shall include reasonable fees incurred to produce proof of the reasonableness and amount of the fees and to otherwise litigate entitlement to the fees. The court may reduce an award of attorney's fees to the relator or not award attorney's fees to the relator if the court determines both of the following:

(i) That, based on the ordinary application of statutory law and case law as it existed at the time of the conduct or threatened conduct of the public office or person responsible for the requested public records that allegedly constitutes a failure to comply with an obligation in accordance with division (B) of this section and that was the basis of the mandamus action, a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records did not constitute a failure to comply with an obligation in accordance with division (B) of this section;

(ii) That a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records as described in division (C)(2)(c)(i) of this section would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

(D) Chapter 1347. of the Revised Code does not limit the provisions of this section.

(E)(1) To ensure that all employees of public offices are appropriately educated about a public office's obligations under division (B) of this section, all elected officials or their appropriate designees shall attend training approved by the attorney general as provided in section 109.43 of the Revised Code. In addition, all public offices shall adopt a public records

policy in compliance with this section for responding to public records requests. In adopting a public records policy under this division, a public office may obtain guidance from the model public records policy developed and provided to the public office by the attorney general under section 109.43 of the Revised Code. Except as otherwise provided in this section, the policy may not limit the number of public records that the public office will make available to a single person, may not limit the number of public records that it will make available during a fixed period of time, and may not establish a fixed period of time before it will respond to a request for inspection or copying of public records, unless that period is less than eight hours.

(2) The public office shall distribute the public records policy adopted by the public office under division (E)(1) of this section to the employee of the public office who is the records custodian or records manager or otherwise has custody of the records of that office. The public office shall require that employee to acknowledge receipt of the copy of the public records policy. The public office shall create a poster that describes its public records policy and shall post the poster in a conspicuous place in the public office and in all locations where the public office has branch offices. The public office may post its public records policy on the internet web site of the public office if the public office maintains an internet web site. A public office that has established a manual or handbook of its general policies and procedures for all employees of the public office shall include the public records policy of the public office in the manual or handbook.

(F)(1) The bureau of motor vehicles may adopt rules pursuant to Chapter 119. of the Revised Code to reasonably limit the number of bulk commercial special extraction requests made by a person for the same records or for updated records during a calendar year. The rules may include provisions for charges to be made for bulk commercial special extraction requests for the actual cost of the bureau, plus special extraction costs, plus ten per cent. The bureau may charge for expenses for redacting information, the release of which is prohibited by law.

(2) As used in division (F)(1) of this section:

(a) "Actual cost" means the cost of depleted supplies, records storage media costs, actual mailing and alternative delivery costs, or other transmitting costs, and any direct equipment operating and maintenance costs, including actual costs paid to private contractors for copying services.

(b) "Bulk commercial special extraction request" means a request for copies of a record for information in a format other than the format already available, or information that cannot be extracted without examination of all

items in a records series, class of records, or data base by a person who intends to use or forward the copies for surveys, marketing, solicitation, or resale for commercial purposes. "Bulk commercial special extraction request" does not include a request by a person who gives assurance to the bureau that the person making the request does not intend to use or forward the requested copies for surveys, marketing, solicitation, or resale for commercial purposes.

(c) "Commercial" means profit-seeking production, buying, or selling of any good, service, or other product.

(d) "Special extraction costs" means the cost of the time spent by the lowest paid employee competent to perform the task, the actual amount paid to outside private contractors employed by the bureau, or the actual cost incurred to create computer programs to make the special extraction. "Special extraction costs" include any charges paid to a public agency for computer or records services.

(3) For purposes of divisions (F)(1) and (2) of this section, "surveys, marketing, solicitation, or resale for commercial purposes" shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research.

Sec. 149.45. (A) As used in this section:

(1) "Personal information" means any of the following:

(a) An individual's social security number;

(b) An individual's federal tax identification number;

(c) An individual's driver's license number or state identification number;

(d) An individual's checking account number, savings account number, or credit card number.

(2) "Public record" and "peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, ~~or~~ EMT, or investigator of the bureau of criminal identification and investigation residential and familial information" have the same meanings as in section 149.43 of the Revised Code.

(3) "Truncate" means to redact all but the last four digits of an individual's social security number.

(B)(1) No public office or person responsible for a public office's public records shall make available to the general public on the internet any document that contains an individual's social security number without otherwise redacting, encrypting, or truncating the social security number.

(2) A public office or person responsible for a public office's public records that prior to the effective date of this section made available to the general public on the internet any document that contains an individual's social security number shall redact, encrypt, or truncate the social security number from that document.

(3) Divisions (B)(1) and (2) of this section do not apply to documents that are only accessible through the internet with a password.

(C)(1) An individual may request that a public office or a person responsible for a public office's public records redact personal information of that individual from any record made available to the general public on the internet. An individual who makes a request for redaction pursuant to this division shall make the request in writing on a form developed by the attorney general and shall specify the personal information to be redacted and provide any information that identifies the location of that personal information within a document that contains that personal information.

(2) Upon receiving a request for a redaction pursuant to division (C)(1) of this section, a public office or a person responsible for a public office's public records shall act within five business days in accordance with the request to redact the personal information of the individual from any record made available to the general public on the internet, if practicable. If a redaction is not practicable, the public office or person responsible for the public office's public records shall verbally or in writing within five business days after receiving the written request explain to the individual why the redaction is impracticable.

(3) The attorney general shall develop a form to be used by an individual to request a redaction pursuant to division (C)(1) of this section. The form shall include a place to provide any information that identifies the location of the personal information to be redacted.

(D)(1) A peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, ~~or EMT~~, or investigator of the bureau of criminal identification and investigation may request that a public office other than a county auditor or a person responsible for the public records of a public office other than a county auditor redact the address of the person making the request from any record made available to the general public on the internet that includes peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, ~~or EMT~~, or investigator of the bureau of criminal identification and investigation residential and familial information of the person making the request. A person who makes a request for a redaction pursuant to this

division shall make the request in writing and on a form developed by the attorney general.

(2) Upon receiving a written request for a redaction pursuant to division (D)(1) of this section, a public office other than a county auditor or a person responsible for the public records of a public office other than a county auditor shall act within five business days in accordance with the request to redact the address of the peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, ~~or EMT~~, or investigator of the bureau of criminal identification and investigation making the request from any record made available to the general public on the internet that includes peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, ~~or EMT~~, or investigator of the bureau of criminal identification and investigation residential and familial information of the person making the request, if practicable. If a redaction is not practicable, the public office or person responsible for the public office's public records shall verbally or in writing within five business days after receiving the written request explain to the peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, ~~or EMT~~, or investigator of the bureau of criminal identification and investigation why the redaction is impracticable.

(3) Except as provided in this section and section 319.28 of the Revised Code, a public office other than an employer of a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, ~~or EMT~~, or investigator of the bureau of criminal identification and investigation or a person responsible for the public records of the employer is not required to redact the residential and familial information of the peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, ~~or EMT~~, or investigator of the bureau of criminal identification and investigation from other records maintained by the public office.

(4) The attorney general shall develop a form to be used by a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, ~~or EMT~~, or investigator of the bureau of criminal identification and investigation to request a redaction pursuant to division (D)(1) of this section. The form shall include a place to provide any information that identifies the location of the address of a peace officer, parole officer, prosecuting attorney,

assistant prosecuting attorney, correctional employee, youth services employee, firefighter, ~~or EMT~~, or investigator of the bureau of criminal identification and investigation to be redacted.

(E)(1) If a public office or a person responsible for a public office's public records becomes aware that an electronic record of that public office that is made available to the general public on the internet contains an individual's social security number that was mistakenly not redacted, encrypted, or truncated as required by division (B)(1) or (2) of this section, the public office or person responsible for the public office's public records shall redact, encrypt, or truncate the individual's social security number within a reasonable period of time.

(2) A public office or a person responsible for a public office's public records is not liable in damages in a civil action for any harm an individual allegedly sustains as a result of the inclusion of that individual's personal information on any record made available to the general public on the internet or any harm a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, ~~or EMT~~, or investigator of the bureau of criminal identification and investigation sustains as a result of the inclusion of the address of the peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, ~~or EMT~~, or investigator of the bureau of criminal identification and investigation on any record made available to the general public on the internet in violation of this section unless the public office or person responsible for the public office's public records acted with malicious purpose, in bad faith, or in a wanton or reckless manner or division (A)(6)(a) or (c) of section 2744.03 of the Revised Code applies.

Sec. 150.01. (A) As used in this chapter:

(1) "Authority" means the Ohio venture capital authority created under section 150.02 of the Revised Code.

(2) "Issuer" means a port authority organized and existing under applicable provisions of Chapter 4582. of the Revised Code that, pursuant to an agreement entered into under division (E) of section 150.02 of the Revised Code, issues or issued obligations to fund one or more loans to the program fund.

(3) "Lender" means any person that lends money to the program fund as provided in this chapter and includes any issuer and any trustee.

(~~3~~)(4) "Loss" means a loss incurred with respect to a lender's loan to the program fund. Such a loss is incurred only if and to the extent a program administrator fails to satisfy its obligations to the lender to make timely

payments of principal or interest as provided in the loan agreement between the lender and the program administrator. "Loss" does not include either of the following:

(a) Any loss incurred by the program fund, including a loss attributable to any investment made by a program administrator;

(b) Any loss of the capital required to be provided by a program administrator, or income accruing to that capital, under the agreement entered into under division (B) of section 150.05 of the Revised Code.

~~(4)~~(5) "Ohio-based business enterprise" means a person that is engaged in business, that employs at least one individual on a full-time or part-time basis at a place of business in this state, including a person engaged in business if that person is a self-employed individual, and that is in the seed or early stage of business development requiring initial or early stage funding or is an established business enterprise developing new methods or technologies.

~~(5)~~(6) "Ohio-based venture capital fund" means a venture capital fund having its principal office in this state, where the majority of the fund's staff are employed and where at least one investment professional is employed who has at least five years of experience in venture capital investment.

(7) "Program fund" means the fund created under section 150.03 of the Revised Code.

(8) "Research and development purposes" has the same meaning as used in Section 2p of Article VIII, Ohio Constitution, and includes the development of sites and facilities in this state for and in support of those research and development purposes.

(9) "Trustee" means a trust company or a bank with corporate trust powers, in either case having a place of business in this state, being a taxpayer under Chapter 5707., 5725., 5727., 5729., 5733., or 5747 of the Revised Code at the time it may claim and receive a tax credit under division (E) of section 150.07 of the Revised Code, and acting in its capacity as a trustee pursuant to a trust agreement under which an issuer issues obligations to fund loans to the program fund.

(B) The general assembly declares that its purpose in enacting Chapter 150. of the Revised Code is to increase the amount of private investment capital available in this state for Ohio-based business enterprises in the seed or early stages of business development and requiring initial or early stage funding, as well as established Ohio-based business enterprises developing new methods or technologies, including the promotion of research and development purposes, thereby increasing employment, creating additional wealth, and otherwise benefiting the economic welfare of the people of this

state. Accordingly, it is the intention of the general assembly that the program fund make investments in support of Ohio-based business enterprises in accordance with the investment policy authorized and required under section 150.03 of the Revised Code, and that the Ohio venture capital authority focus its investment policy principally on venture capital funds investing in such Ohio-based business enterprises. The general assembly finds and determines that this chapter and the investment policy, and actions taken under and consistent therewith, will promote and implement the public purposes of Section 2p of Article VIII, Ohio Constitution.

Sec. 150.02. (A) There is hereby created the Ohio venture capital authority, which shall exercise the powers and perform the duties prescribed by this chapter. The exercise by the authority of its powers and duties is hereby declared to be an essential state governmental function. The authority is subject to all laws generally applicable to state agencies and public officials, including, but not limited to, Chapter 119. and sections 121.22 and 149.43 of the Revised Code, to the extent those laws do not conflict with this chapter.

(B) The authority shall consist of ~~nine members. Seven of the three~~ members ~~shall be appointed by the governor, with the advice and consent of the senate, from among the general public~~ one of whom the governor shall select from a list of three nominees provided by the president of the senate, and one of whom the governor shall select from a list of three nominees provided by the speaker of the house of representatives. If the governor rejects all the nominees provided in either list, the governor shall request that the president of the senate or speaker of the house, as the case may be, provide another list of three nominees, and the president or speaker, as the case may be, shall provide another list of three nominees. All nominated and appointed members shall have experience in the field of banking, investments, commercial law, or industry relevant to the purpose of the Ohio venture capital program as stated in section 150.01 of the Revised Code. The director of development and tax commissioner or their designees shall be ex officio, nonvoting members serve as advisors to the authority but shall not be members and shall not vote on any matter before the authority.

~~Initial gubernatorial~~ appointees to the authority shall serve staggered terms, with one term expiring on January 31, 2004, two terms expiring on January 31, 2005, two terms expiring on January 31, 2006, and two terms expiring on January 31, 2007. The terms of all members serving on the authority on January 31, 2010, expire on that date, and the three appointees appointed pursuant to the amendment of this section by H.B. 1 of the 128th general assembly shall begin their terms February 1, 2010, with one term

expiring January 31, 2012, one term expiring January 31, 2013, and one term expiring January 31, 2014. Thereafter, terms of office for all appointees shall be for four years, with each term ending on the same day of the same month as did the term that it succeeds. A vacancy on the authority shall be filled in the same manner as the original appointment, except that a person appointed to fill a vacancy shall be appointed to the remainder of the unexpired term. Any appointed member of the authority is eligible for reappointment.

A member of the authority may be removed by the member's appointing authority for misfeasance, malfeasance, willful neglect of duty, or other cause, after notice and a public hearing, unless the notice and hearing are waived in writing by the member.

(C) Members of the authority shall serve without compensation, but shall receive their reasonable and necessary expenses incurred in the conduct of authority business. The governor shall designate a member of the authority to serve as chairperson. A majority of the ~~voting~~ members of the authority constitutes a quorum, and the affirmative vote of a majority of the ~~voting~~ members present is necessary for any action taken by the authority. A vacancy in the ~~voting~~ membership of the authority does not impair the right of a quorum to exercise all rights and perform all duties of the authority.

(D) The department of development shall provide the authority with office space and such technical assistance as the authority requires.

(E) The authority and an issuer may cooperate in promoting the public purposes of the Ohio venture capital program as stated in section 150.01 of the Revised Code and may enter into such agreements as the authority and the issuer deem appropriate, with a view to cooperative action and safeguarding of the respective interests of the parties thereto. Such agreements may provide for the rights, duties, and responsibilities of the parties and any limitations thereon, the terms on which any tax credits that may be issued to a trustee for the benefit of the issuer pursuant to division (E) of section 150.07 of the Revised Code are to be issued and claimed, and such other terms as may be mutually satisfactory to the parties including, but not limited to, requirements for reporting, and a plan, prepared by a program administrator and acceptable to the authority and the issuer, designed to evidence and ensure compliance with division (D) of section 150.03 of the Revised Code and Section 2p of Article VIII, Ohio Constitution.

Sec. 150.03. Within ninety days after ~~the effective date of this section~~ April 9, 2003, the authority shall establish, and subsequently may modify as it considers necessary, a written investment policy governing the investment of money from the program fund, which is hereby created. The program

fund shall consist of the proceeds of loans acquired by a program administrator. The authority is subject to Chapter 119. of the Revised Code with respect to the establishment or modification of the policy. The policy shall meet all the following requirements:

(A) It is consistent with the purpose of the program stated in section 150.01 of the Revised Code.

(B) Subject to divisions (C), (D), and (E) of this section, it permits the investment of money from the program fund in private, for-profit venture capital funds, including funds of funds, that invest in enterprises in the seed or early stage of business development or established business enterprises developing new methods or technologies, and that demonstrate potential to generate high levels of successful investment performance.

(C) It specifies that a program administrator or fund manager employed by the program administrator shall invest not less than seventy-five per cent of program fund money under its investment authority in Ohio-based venture capital funds.

(D) It specifies ~~that~~ both of the following:

(1) That not less than an amount equal to fifty per cent of program fund money invested in any venture capital fund be invested by the venture capital fund in Ohio-based business enterprises;

(2) That, commencing with the first program fund commitment to each venture capital fund, the aggregate amount funded into Ohio-based business enterprises by all venture capital funds to which the program fund has committed be not less than the aggregate amount of all program fund money funded into those venture capital funds.

(E) It specifies that a program administrator or fund manager employed by the program administrator shall not invest money from the program fund in a venture capital fund to the extent that the total amount of program fund money invested in the venture capital fund, when combined with any program fund money invested in a venture capital fund under the same management as that venture capital fund, exceeds the lesser of the following:

(1) Ten million dollars;

(2)(a) In the case of an Ohio-based venture capital fund, fifty per cent of the total amount of capital committed to the fund from all sources, after accounting for capital committed from the program fund;

(b) In the case of any other venture capital fund, twenty per cent of the total amount of capital committed to the fund from all sources, after accounting for capital committed from the program fund.

(F) It specifies that a program administrator or fund manager employed

by the program administrator shall not commit capital from the program fund to a venture capital fund until the venture capital fund receives commitment of at least the same amount from other investors in the fund.

(G) It specifies the general conditions a private, for-profit investment fund must meet to be selected as a program administrator under section 150.05 of the Revised Code, including, as a significant selection standard, direct experience managing external or nonproprietary capital in private equity fund of funds formats.

(H) It specifies the criteria the authority must consider when making a determination under division (B)(1) of section 150.04 of the Revised Code.

(I) It includes investment standards and general limitations on allowable investments that the authority considers reasonable and necessary to achieve the purposes of this chapter as stated in division (B) of section 150.01 of the Revised Code, minimize the need for the authority to grant tax credits under section 150.07 of the Revised Code, ensure compliance of the program administrators with all applicable laws of this state and the United States, and ensure the safety and soundness of investments of money from the program fund.

(J) It prohibits the investment of money from the program fund directly in persons other than venture capital funds, except for temporary investment in investment grade debt securities or temporary deposit in interest-bearing accounts or funds pending permanent investment in venture capital funds.

Sec. 150.04. (A) The investment policy established or modified under section 150.03 of the Revised Code shall specify the terms and conditions under which the authority may grant tax credits under section 150.07 of the Revised Code, subject to that section and division (B) of this section, to provide security against lenders' losses.

(B) Nothing in this chapter authorizes the providing of security against losses on any bases other than the following:

(1) The application first of moneys of the Ohio venture capital fund, created under section 150.08 of the Revised Code, that the authority, under the criteria in its investment policy, determines may be expended without adversely affecting the ability of the authority to continue fulfilling the purpose of this chapter as stated in section 150.01 of the Revised Code; and then

(2) The granting of tax credits pursuant to section 150.07 of the Revised Code, but only to the extent moneys under division (B)(1) of this section are insufficient to satisfy lenders' losses and restore money used to pay losses from reserves established and maintained by a trustee on behalf of an issuer to the extent consistent with an agreement between the authority and the

issuer entered into under division (E) of section 150.02 of the Revised Code. Tax credits shall not be used initially to establish such a reserve or to fund a reserve with respect to any lender's loan as to which no loss has occurred. This division does not prohibit establishment of a reserve from the proceeds of any loan or any obligations issued under section 4582.71 of the Revised Code or from other sources available to the program fund.

Sec. 150.05. (A) The authority shall select, as program administrators, not more than two private, for-profit investment funds to acquire loans for the program fund and to invest money in the program fund as prescribed in the investment policy established or modified by the authority in accordance with sections 150.03 and 150.04 of the Revised Code. The authority shall give equal consideration, in selecting these program administrators, to minority owned and controlled investment funds, to funds owned and controlled by women, to ventures involving minority owned and controlled funds, and to ventures involving funds owned and controlled by women that otherwise meet the policies and criteria established by the authority. To be eligible for selection, an investment fund must be incorporated or organized under Chapter 1701., 1705., 1775., 1776., 1782., or 1783. of the Revised Code, must have an established business presence in this state, and must be capitalized in accordance with any state and federal laws applicable to the issuance or sale of securities.

The authority shall select program administrators only after soliciting and evaluating requests for proposals as prescribed in this section. The authority shall publish a notice of a request for proposals in newspapers of general circulation in this state once each week for two consecutive weeks before a date specified by the authority as the date on which it will begin accepting proposals. The notices shall contain a general description of the subject of the proposed agreement and the location where the request for proposals may be obtained. The request for proposals shall include all the following:

(1) Instructions and information to respondents concerning the submission of proposals, including the name and address of the office where proposals are to be submitted;

(2) Instructions regarding the manner in which respondents may communicate with the authority, including the names, titles, and telephone numbers of the individuals to whom such communications shall be directed;

(3) Description of the performance criteria that will be used to evaluate whether a respondent selected by the authority is satisfying the authority's investment policy;

(4) Description of the factors and criteria to be considered in evaluating

respondents' proposals, the relative importance of each factor or criterion, and description of the authority's evaluation procedure;

(5) Description of any documents that may be incorporated by reference into the request for proposals, provided that the request specifies where such documents may be obtained and such documents are readily available to all interested parties.

After the date specified for receiving proposals, the authority shall evaluate submitted proposals. The authority may discuss a respondent's proposal with that respondent to clarify or revise a proposal or the terms of the agreement.

The authority shall choose for review proposals from at least three respondents the authority considers qualified to operate the program in the best interests of the investment policy adopted by the authority. If three or fewer proposals are submitted, the authority shall review each proposal. The authority may cancel a request for proposals at any time before entering into an agreement with a respondent. The authority shall provide respondents fair and equal opportunity for such discussions. The authority may terminate discussions with any respondent upon written notice to the respondent.

(B) After reviewing the chosen proposals, the authority may select not more than two such respondents and enter into a written agreement with each of the selected respondents, provided that at no time shall there be agreements with more than two persons.

The agreement shall do all of the following:

(1) Specify that borrowing and investing by the program administrator will be budgeted to guarantee that no tax credits will be granted during the first four years of the Ohio venture capital program, and will be structured to ensure that payments of principal, interest, or interest equivalent due in any fiscal year, when added to such payments due from any other program administrator, does not exceed twenty million dollars;

(2) Require investment by the program administrator or the fund manager employed by the program administrator to be in compliance with the investment policy established or modified in accordance with sections 150.03 and 150.04 of the Revised Code that is in effect at the time the investment is made, and prohibit the program administrator or fund manager from engaging in any investment activities other than activities to carry out that policy;

(3) Require periodic financial reporting by the program administrator to the authority, which reporting shall include an annual audit by an independent auditor and such other financial reporting as is specified in the agreement or otherwise required by the authority for the purpose of ensuring

that the program administrator is carrying out the investment policy;

(4) Specify any like standards or general limitations in addition to or in furtherance of investment standards or limitations that apply pursuant to division (H) of section 150.03 of the Revised Code;

(5) Require the program administrator to apply program fund revenue first to the payment of principal borrowed by the program administrator for investment under the program, then to interest related to that principal, and then to amounts necessary to cover the program administrator's pro rata share required under division (B)(9) of this section; and require the program administrator to pay the authority not less than ninety per cent of the amount by which program fund revenue attributable to investments under the program administrator's investment authority exceeds amounts so applied;

(6) Specify the procedures by which the program administrator shall certify immediately to the authority the necessity for the authority to issue tax credit certificates pursuant to contracts entered into under section 150.07 of the Revised Code;

(7) Specify any general limitations regarding the employment of a fund manager by the program administrator, in addition to an express limitation that the fund manager be a person with demonstrated, substantial, successful experience in the design and management of seed and venture capital investment programs and in capital formation. The fund manager may be, but need not be, an equity owner or affiliate of the program administrator.

(8) Specify the terms and conditions under which the authority or the program administrator may terminate the agreement, including in the circumstance that the program administrator or fund manager violates the investment policy;

(9) Require the program administrator or fund manager employed by the program administrator to provide capital in the form of a loan equal to one per cent of the amount of outstanding loans by lenders to the program fund. The loan from the program administrator or fund manager shall be on the same terms and conditions as loans from other lenders, except that the loan from the program administrator or fund manager shall not be secured by the Ohio venture capital fund or tax credits available to other lenders under division (B) of section 150.04 of the Revised Code. Such capital shall be placed at the same risk as the proceeds from such loans. The program administrator shall receive a pro rata share of the net income, including net loss, from the investment of money from the program fund, but is not entitled to the security against losses provided under section 150.04 of the Revised Code.

Sec. 150.051. (A) As used in this section:

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

(2) "Women's business enterprise" means a business, or a partnership, corporation, limited liability company, or joint venture of any kind, that is owned and controlled by women who are United States citizens and residents of this state.

(B) The Ohio venture capital authority shall submit annually to the governor and to the general assembly (under section 101.68 of the Revised Code) a report containing the following information:

(1) The name of each program administrator that is a minority business enterprise or a women's business enterprise with which the authority contracts;

(2) The amount of assets managed by program administrators that are minority business enterprises or women's business enterprises, expressed as a percentage of assets managed by program administrators with which the authority has contracted.

(3) Efforts by the authority to increase utilization of program administrators that are minority business enterprises or women's business enterprises.

Sec. 150.07. (A) For the purpose stated in section 150.01 of the Revised Code, the authority may authorize a lender to claim one of the refundable tax credits allowed under section 5707.031, 5725.19, 5727.241, 5729.08, 5733.49, or 5747.80 of the Revised Code. The credits shall be authorized by a written contract with the lender. The contract shall specify the terms under which the lender may claim the credit, including the amount of loss, if any, the lender must incur before the lender may claim the credit; specify that the credit shall not exceed the amount of the loss; and specify that the lender may claim the credit only for a loss certified by a program administrator to the authority under the procedures prescribed under division (B)(6) of section 150.05 of the Revised Code. The program administrator shall provide to the authority an estimate of the amount of tax credits, if any, that are likely, in the administrator's reasonable judgment, to be claimed by a lender during the current and next succeeding state fiscal years. The estimate shall be provided at the same time each year that the administrator is required to report the annual audit to the authority under section 150.05 of the Revised Code.

(B) Tax credits may be authorized at any time after the authority establishes the investment policy under section 150.03 of the Revised Code, but a tax credit so authorized may not be claimed ~~until the beginning of the fifth year after the authority establishes the investment policy.~~ A before July

1, 2007, or after June 30, 2026, except, with respect to loans made from the proceeds of obligations issued under section 4582.71 of the Revised Code, a tax credit may not be claimed before July 1, 2012, or after June 30, 2026 2036.

(C)(1) Upon receiving certification of a lender's loss from a program administrator pursuant to the procedures in the investment policy, the authority shall issue a tax credit certificate to the lender, except as otherwise provided in division (D) of this section.

(2) If the lender is a pass-through entity, as defined in section 5733.04 of the Revised Code, then each equity investor in the lender pass-through entity shall be entitled to claim one of the tax credits allowed under division (A) of this section for that equity investor's taxable year in which or with which ends the taxable year of the lender pass-through entity in an amount based on the equity investor's distributive or proportionate share of the credit amount set forth in the certificate issued by the authority. If all equity investors of the lender pass-through entity are not eligible to claim a credit against the same tax set forth in division (A) of this section, then each equity investor may elect to claim a credit against the tax to which the equity investor is subject to in an amount based on the equity investor's distributive or proportionate share of the credit amount set forth in the certificate issued by the authority.

(3) The certificate shall state the amount of the credit and the calendar year under section 5707.031, 5725.19, 5727.241, or 5729.08, the tax year under section 5733.49, or the taxable year under section 5747.80 of the Revised Code for which the credit may be claimed. The authority, in conjunction with the tax commissioner, shall develop a system for issuing tax credit certificates for the purpose of verifying that any credit claimed is a credit issued under this section and is properly taken in the year specified in the certificate and in compliance with division (B) of this section.

(D) The authority shall not, in any fiscal year, issue tax credit certificates under this section in a total amount exceeding twenty million dollars. The authority shall not issue tax credit certificates under this section in a total amount exceeding three hundred eighty million dollars.

(E) Notwithstanding any other section of this chapter or any provision of Chapter 5707., 5725., 5727., 5729., 5733., or 5747. of the Revised Code, if provided by the terms of an agreement entered into by the issuer and the authority under division (E) of section 150.02 of the Revised Code, and subject to the limitations of divisions (B) and (D) of this section, a trustee shall have the right, for the benefit of the issuer, to receive and claim the credits authorized under division (A) of this section solely for the purpose

provided for in section 150.04 of the Revised Code, and the trustee shall be entitled to file a tax return, an amended tax return, or an estimated tax return at such times as are permitted or required under the applicable provisions of Chapter 5707., 5725., 5727., 5729., 5733., or 5747. of the Revised Code for the purpose of claiming credits issued to the trustee. The trustee shall receive the proceeds of such a tax credit for the benefit of the issuer, and shall apply the proceeds solely to satisfy a loss or restore a reserve as provided in section 150.04 of the Revised Code. Nothing in this section shall require a trustee to file a tax return under any chapter for any purpose other than claiming such credits if the trustee is not otherwise required to make such a filing.

The general assembly may from time to time modify or repeal any of the taxes against which the credits authorized under division (A) of this section may be claimed, and may authorize those credits to be claimed for the purposes provided for in section 150.04 of the Revised Code with respect to any other tax imposed by this state; provided, that if any obligations issued under section 4582.71 of the Revised Code are then outstanding and such modification or repeal would have the effect of impairing any covenant made in or pursuant to an agreement under division (E) of section 150.02 of the Revised Code regarding the maintenance or restoration of reserves established and maintained with a trustee consistent with division (B)(2) of section 150.04 of the Revised Code and such agreement, the state shall provide other security to the extent necessary to avoid or offset the impairment of such covenant.

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

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

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

(3) "Bond service charges" means principal, including mandatory

sinking fund requirements for retirement of obligations, and interest, and redemption premium, if any, required to be paid by the Ohio building authority on obligations.

(4) "Capital facilities" means buildings, structures, and other improvements, and equipment, real estate, and interests in real estate therefor, within the state, and any one, part of, or combination of the foregoing, for housing of branches and agencies of state government, including capital facilities for the purpose of housing personnel, equipment, or functions, or any combination thereof that the state agencies are responsible for housing, for which the Ohio building authority is authorized to issue obligations pursuant to Chapter 152. of the Revised Code, and includes storage and parking facilities related to such capital facilities. For purposes of sections 152.10 to 152.15 of the Revised Code, "capital facilities" includes community or technical college capital facilities.

(5) "Cost of capital facilities" means the costs of assessing, planning, acquiring, constructing, reconstructing, rehabilitating, remodeling, renovating, enlarging, improving, altering, maintaining, equipping, furnishing, repairing, painting, decorating, managing, or operating capital facilities, and the financing thereof, including the cost of clearance and preparation of the site and of any land to be used in connection with capital facilities, the cost of participating in capital facilities pursuant to section 152.33 of the Revised Code, the cost of any indemnity and surety bonds and premiums on insurance, all related direct administrative expenses and allocable portions of direct costs of the authority and lessee state agencies, cost of engineering and architectural services, designs, plans, specifications, surveys, and estimates of cost, legal fees, fees and expenses of trustees, depositories, and paying agents for the obligations, cost of issuance of the obligations and financing charges and fees and expenses of financial advisers and consultants in connection therewith, interest on obligations from the date thereof to the time when interest is to be covered from sources other than proceeds of obligations, amounts that represent the portion of investment earnings to be rebated or to be paid to the federal government in order to maintain the exclusion from gross income for federal income tax purposes of interest on those obligations pursuant to section 148(f) of the Internal Revenue Code, amounts necessary to establish reserves as required by the resolutions or the obligations, trust agreements, or indentures, costs of audits, the reimbursement of all moneys advanced or applied by or borrowed from any governmental entity, whether to or by the authority or others, from whatever source provided, for the payment of any item or items of cost of the capital facilities, any share of the cost undertaken by the

authority pursuant to arrangements made with governmental entities under division (J) of section 152.21 of the Revised Code, and all other expenses necessary or incident to assessing, planning, or determining the feasibility or practicability with respect to capital facilities, and such other expenses as may be necessary or incident to the assessment, planning, acquisition, construction, reconstruction, rehabilitation, remodeling, renovation, enlargement, improvement, alteration, maintenance, equipment, furnishing, repair, painting, decoration, management, or operation of capital facilities, the financing thereof and the placing of the same in use and operation, including any one, part of, or combination of such classes of costs and expenses.

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

(7) "Governing body" means:

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

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

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

(9) "Available community or technical college receipts" means all

money received by a community or technical college or community or technical college district, including income, revenues, and receipts from the operation, ownership, or control of facilities, grants, gifts, donations, and pledges and receipts therefrom, receipts from fees and charges, the allocated state share of instruction as defined in section 3333.90 of the Revised Code, and the proceeds of the sale of obligations, including proceeds of obligations issued to refund obligations previously issued, but excluding any special fee, and receipts therefrom, charged pursuant to division (D) of section 154.21 of the Revised Code.

(10) "Community or technical college," "college," "community or technical college district," and "district" have the same meanings as in section 3333.90 of the Revised Code.

(11) "Community or technical college capital facilities" means auxiliary facilities, education facilities, and housing and dining facilities, as those terms are defined in section 3345.12 of the Revised Code, to the extent permitted to be financed by the issuance of obligations under division (A)(2) of section 3357.112 of the Revised Code, that are authorized by sections 3354.121, 3357.112, and 3358.10 of the Revised Code to be financed by obligations issued by a community or technical college district, and for which the Ohio building authority is authorized to issue obligations pursuant to Chapter 152. of the Revised Code, and includes any one, part of, or any combination of the foregoing, and further includes site improvements, utilities, machinery, furnishings, and any separate or connected buildings, structures, improvements, sites, open space and green space areas, utilities, or equipment to be used in, or in connection with the operation or maintenance of, or supplementing or otherwise related to the services or facilities to be provided by, such facilities.

(12) "Cost of community or technical college capital facilities" means the costs of acquiring, constructing, reconstructing, rehabilitating, remodeling, renovating, enlarging, improving, equipping, or furnishing community or technical college capital facilities, and the financing thereof, including the cost of clearance and preparation of the site and of any land to be used in connection with community or technical college capital facilities, the cost of any indemnity and surety bonds and premiums on insurance, all related direct administrative expenses and allocable portions of direct costs of the authority, community or technical college or community or technical college district, cost of engineering, architectural services, design, plans, specifications and surveys, estimates of cost, legal fees, fees and expenses of trustees, depositories, bond registrars, and paying agents for the obligations, cost of issuance of the obligations and financing costs and fees and expenses

of financial advisers and consultants in connection therewith, interest on the obligations from the date thereof to the time when interest is to be covered by available receipts or other sources other than proceeds of the obligations, amounts that represent the portion of investment earnings to be rebated or to be paid to the federal government in order to maintain the exclusion from gross income for federal income tax purposes of interest on those obligations pursuant to section 148(f) of the Internal Revenue Code, amounts necessary to establish reserves as required by the bond proceedings, costs of audits, the reimbursements of all moneys advanced or applied by or borrowed from the community or technical college, community or technical college district, or others, from whatever source provided, including any temporary advances from state appropriations, for the payment of any item or items of cost of community or technical college facilities, and all other expenses necessary or incident to planning or determining feasibility or practicability with respect to such facilities, and such other expenses as may be necessary or incident to the acquisition, construction, reconstruction, rehabilitation, remodeling, renovation, enlargement, improvement, equipment, and furnishing of community or technical college capital facilities, the financing thereof and the placing of them in use and operation, including any one, part of, or combination of such classes of costs and expenses.

(B) Pursuant to the powers granted to the general assembly under Section 2i of Article VIII, Ohio Constitution, to authorize the issuance of revenue obligations and other obligations, the owners or holders of which are not given the right to have excises or taxes levied by the general assembly for the payment of principal thereof or interest thereon, the Ohio building authority may issue obligations, in accordance with Chapter 152. of the Revised Code, and shall cause the net proceeds thereof, after any deposits of accrued interest for the payment of bond service charges and after any deposit of all or such lesser portion as the authority may direct of the premium received upon the sale of those obligations for the payment of the bond service charges, to be applied to the costs of capital facilities designated by or pursuant to act of the general assembly for housing state agencies as authorized by Chapter 152. of the Revised Code. The authority shall provide by resolution for the issuance of such obligations. The bond service charges and all other payments required to be made by the trust agreement or indenture securing such obligations shall be payable solely from available receipts of the authority pledged thereto as provided in such resolution. The available receipts pledged and thereafter received by the authority are immediately subject to the lien of such pledge without any

physical delivery thereof or further act, and the lien of any such pledge is valid and binding against all parties having claims of any kind against the authority, irrespective of whether those parties have notice thereof, and creates a perfected security interest for all purposes of Chapter 1309. of the Revised Code and a perfected lien for purposes of any real property interest, all without the necessity for separation or delivery of funds or for the filing or recording of the resolution, trust agreement, indenture, or other agreement by which such pledge is created or any certificate, statement, or other document with respect thereto; and the pledge of such available receipts is effective and the money therefrom and thereof may be applied to the purposes for which pledged. Every pledge, and every covenant and agreement made with respect to the pledge, made in the resolution may therein be extended to the benefit of the owners and holders of obligations authorized by Chapter 152. of the Revised Code, the net proceeds of which are to be applied to the costs of capital facilities, and to any trustee therefor, for the further securing of the payment of the bond service charges, and all or any rights under any agreement or lease made under this section may be assigned for such purpose. Obligations may be issued at one time or from time to time, and each issue shall be dated, shall mature at such time or times as determined by the authority not exceeding forty years from the date of issue, and may be redeemable before maturity at the option of the authority at such price or prices and under such terms and conditions as are fixed by the authority prior to the issuance of the obligations. The authority shall determine the form of the obligations, fix their denominations, establish their interest rate or rates, which may be a variable rate or rates, or the maximum interest rate, and establish within or without this state a place or places of payment of bond service charges.

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

Any obligations may be executed on behalf of the authority by an officer who, on the date of execution, is the proper officer although on the

date of such obligations such person was not the proper officer.

(D) All obligations issued by the authority shall have all the qualities and incidents of negotiable instruments and may be issued in coupon or in registered form, or both, as the authority determines. Provision may be made for the registration of any obligations with coupons attached thereto as to principal alone or as to both principal and interest, their exchange for obligations so registered, and for the conversion or reconversion into obligations with coupons attached thereto of any obligations registered as to both principal and interest, and for reasonable charges for such registration, exchange, conversion, and reconversion. The authority may sell its obligations in any manner and for such prices as it determines, except that the authority shall sell obligations sold at public or private sale in accordance with section 152.091 of the Revised Code.

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

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

(G) The authority is authorized to issue revenue obligations under Section 2i of Article VIII, Ohio Constitution, on behalf of a community or technical college district and shall cause the net proceeds thereof, after any deposits of accrued interest for the payment of bond service charges and after any deposit of all or such lesser portion as the authority may direct of the premium received upon the sale of those obligations for the payment of the bond service charges, to be applied to the cost of community or technical college capital facilities, provided that the issuance of such obligations is subject to the execution of a written agreement in accordance with division (C) of section 3333.90 of the Revised Code for the withholding and

depositing of funds otherwise due the district, or the college it operates, in respect of its allocated state share of instruction.

The authority shall provide by resolution for the issuance of such obligations. The bond service charges and all other payments required to be made by the trust agreement or indenture securing the obligations shall be payable solely from available community or technical college receipts pledged thereto as provided in the resolution. The available community or technical college receipts pledged and thereafter received by the authority are immediately subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge is valid and binding against all parties having claims of any kind against the authority, irrespective of whether those parties have notice thereof, and creates a perfected security interest for all purposes of Chapter 1309. of the Revised Code and a perfected lien for purposes of any real property interest, all without the necessity for separation or delivery of funds or for the filing or recording of the resolution, trust agreement, indenture, or other agreement by which such pledge is created or any certificate, statement, or other document with respect thereto; and the pledge of such available community or technical college receipts is effective and the money therefrom and thereof may be applied to the purposes for which pledged. Every pledge, and every covenant and agreement made with respect to the pledge, made in the resolution may therein be extended to the benefit of the owners and holders of obligations authorized by this division, and to any trustee therefor, for the further securing of the payment of the bond service charges, and all or any rights under any agreement or lease made under this section may be assigned for such purpose. Obligations may be issued at one time or from time to time, and each issue shall be dated, shall mature at such time or times as determined by the authority not exceeding forty years from the date of issue, and may be redeemable before maturity at the option of the authority at such price or prices and under such terms and conditions as are fixed by the authority prior to the issuance of the obligations. The authority shall determine the form of the obligations, fix their denominations, establish their interest rate or rates, which may be a variable rate or rates, or the maximum interest rate, and establish within or without this state a place or places of payment of bond service charges.

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

(A) Pledging all or such portion as it determines of the available receipts of the authority for the payment of bond service charges and all other

payments required to be made by the trust agreement or indenture securing such obligations, or restricting the security for a particular issue of obligations to specific revenues or receipts of the authority;

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

(C) Other terms of the obligations;

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

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

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

(G) Limitations on the issuance of additional obligations;

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

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

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

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

(L) A covenant that the state and any using state agency or any using community or technical college or community or technical college district

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

Sec. 152.12. (A) As used in this section, "prior community or technical college obligations" means bonds or notes previously issued by a community or technical college district under section 3354.121, 3357.112, or 3358.10 of the Revised Code to pay costs of community or technical college capital facilities.

(B) The Ohio building authority may authorize and issue obligations for the refunding of prior obligations or prior community or technical college obligations for any of the following purposes:

(A)(1) Refunding any obligations previously issued by the authority or any prior community or technical college obligations, when the revenues pledged for the payment of such obligations are insufficient to pay obligations or prior community or technical college obligations which have matured or are about to mature or to maintain reserve or other funds required by the resolution or trust agreement or indenture;

(B)(2) Refunding any obligations previously issued by the authority as an incident to providing funds for reconstructing, equipping, furnishing, improving, extending, or enlarging any or any prior community or technical college obligations to fund, or to refund any obligations issued to refund, capital facilities of the authority;

(C)(3) Refunding all of the outstanding obligations or prior community or technical college obligations of any issue, both matured and unmatured, when the revenues pledged for the payment of such obligations or prior community or technical college obligations are insufficient to pay obligations which have matured or are about to mature or to maintain reserve or other funds required by the resolution or trust agreement or indenture, if such outstanding obligations or prior community or technical college obligations can be retired by call or at maturity or with the consent of the holders, whether from the proceeds of the sale of the refunding obligations or by exchange for the refunding obligations, provided the

principal amount of the refunding obligations shall not exceed in amount the aggregate of the par value of the obligations or prior community or technical college obligations to be retired, any redemption premium, past due and future interest to the date of maturity or call that cannot otherwise be paid, and funds to reconstruct, equip, furnish, improve, enlarge, or extend any capital facilities of the authority or any community or technical college district or community or technical college;

~~(D)~~(4) Refunding any obligations previously issued by the authority or any prior community or technical college obligations when the refunding obligations will bear interest at a lower rate than the obligations or prior community or technical college obligations to be refunded, or when the interest cost of the refunding obligations computed to the absolute maturity will be less than the interest cost of the obligations or prior community or technical college obligations to be refunded;

~~(E)~~(5) Refunding any obligations issued pursuant to section 152.23 of the Revised Code.

(C) Obligations issued pursuant to division ~~(A)~~(B)(1) of this section shall mature not later than twenty years after their issuance and obligations issued pursuant to division (B)(2), ~~(C)~~(3), ~~(D)~~(4), or ~~(E)~~(5) of this section shall mature not later than forty years after their issuance. Except as provided in this section, the terms of issuance and sale of obligations issued under this section shall be as provided in ~~Chapter 152. of the Revised Code~~ this chapter for any other obligations for the benefit of state agencies, community or technical colleges, or community or technical college districts, as the context requires. Obligations authorized under this section shall be deemed to be issued for those purposes for which such prior obligations or prior community or technical college obligations were issued, and may be issued in amounts sufficient for funding and retirement of prior obligations or prior community or technical college obligations, for establishment of reserves as required by the refunding obligations or the resolution authorizing such refunding obligations or the trust agreement or indenture securing the refunding obligations, and for payment of any fees and expenses incurred or to be incurred in connection with such issuance and such refunding.

Sec. 152.15. Obligations issued by the Ohio building authority do not, and they shall state that they do not, represent or constitute a debt of the state or any political subdivision, nor a pledge of the faith and credit of the state or any political subdivision. Pursuant to Section 2i of Article VIII, Ohio Constitution, such obligations shall not be deemed to be debts or bonded indebtedness of the state under other provisions of the Ohio

Constitution.

The holders or owners of obligations issued by the authority shall have no right to have excises or taxes levied by the general assembly for the payment of the bond service charges thereon. The right of such holders and owners to payment of such bond service charges shall be limited to the available receipts or available community or technical college receipts pledged thereto in accordance with ~~Chapter 152. of the Revised Code~~ this chapter, and each such obligation shall bear on its face a statement to that effect. Any available receipts or available community or technical college receipts may be so pledged only to obligations issued for capital facilities which are in whole or in part useful to, constructed by, or financed by the department, board, commission, authority, community or technical college, community or technical college district, or other agency or instrumentality that receives the available receipts or available community or technical college receipts so pledged.

Sec. 152.33. (A) The Ohio building authority is authorized under Chapter 152. of the Revised Code to issue revenue obligations and other obligations to pay the cost of capital facilities described in ~~section~~ sections 111.26 and 307.021 of the Revised Code and the cost of capital facilities in which one or more state agencies are participating with the federal government, municipal corporations, counties, or other governmental entities or any one or more of them, and in which that portion of the facility allocated to the participating state agencies is to be used for the purpose stated in division (F) of section 152.09 of the Revised Code, when authorized by the general assembly in accordance with that division. Such participation may be by grants, loans, or contributions to other participating governmental entities for any of such capital facilities. Such obligations shall be deemed to be issued under sections 152.09 and 152.23 of the Revised Code and shall conform to all requirements of sections 152.09 to 152.17 and 152.23 of the Revised Code. The right of holders and owners of obligations issued under this section to payment of bond service charges shall be limited to the revenues and receipts of the authority derived from rentals or other charges for use of the capital facilities constructed with the proceeds of the obligations to which such revenues and receipts are pledged, including revenues and receipts from or on behalf of any participating governmental entity.

(B) Any lease of space by a state agency in a capital facility described in division (A) of this section shall conform to the requirements of division (D) of section 152.24 of the Revised Code.

Sec. 153.013. If a project for the construction, alteration, or other

improvement of a building or structure is administered by the director of administrative services or by another state agency authorized to administer a project under this chapter, if the project is located in a municipal corporation with a population of at least four hundred thousand that is in a county with a population of at least one million two hundred thousand, and if a political subdivision contributes at least one hundred thousand dollars to the project, then a contractor for the project shall comply with regulations or ordinances of the political subdivision that are in effect before July 1, 2009, and that specifically relate to the employment of residents and local businesses of the political subdivision in the performance of the work of the project, and such ordinances or regulations shall be included by reference unambiguously in the contract between the administering state agency and the contractor for the project.

Sec. 156.01. As used in ~~this chapter~~ sections 156.01 to 156.05 of the Revised Code:

(A) "Avoided capital costs" means a measured reduction in the cost of future equipment or other capital purchases that results from implementation of one or more energy or water conservation measures, when compared to an established baseline for previous such cost.

(B) "Energy conservation measure" means an installation or modification of an installation in, or a remodeling of, an existing building in order to reduce energy consumption and operating costs. The term includes any of the following:

(1) Installation or modification of insulation in the building structure and systems within the building;

(2) Installation or modification of storm windows and doors, multiglazed windows and doors, and heat absorbing or heat reflective glazed and coated window and door systems; installation of additional glazing; reductions in glass area; and other window and door system modifications that reduce energy consumption and operating costs;

(3) Installation or modification of automatic energy control systems;

(4) Replacement or modification of heating, ventilating, or air conditioning systems;

(5) Application of caulking and weather stripping;

(6) Replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a building unless the increase in illumination is necessary to conform to the applicable state or local building code for the proposed lighting system;

(7) Installation or modification of energy recovery systems;

(8) Installation or modification of cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;

(9) Any other modification, installation, or remodeling approved by the director of administrative services as an energy conservation measure for one or more buildings owned by the state.

~~(B)~~(C) "Energy saving measure" means the acquisition and installation, by purchase, lease, lease-purchase, lease with an option to buy, or installment purchase, of an energy conservation measure and any attendant architectural and engineering consulting services.

(D) "Energy, water, or wastewater cost savings" means a measured reduction in, as applicable, the cost of fuel, energy or water consumption, wastewater production, or stipulated operation or maintenance resulting from the implementation of one or more energy or water conservation measures, when compared to an established baseline for previous such costs, respectively.

(E) "Operating cost savings" means a measured reduction in the cost of stipulated operation or maintenance created by the installation of new equipment or implementation of a new service, when compared with an established baseline for previous such stipulated costs.

(F) "Water conservation measure" means an installation or modification of an installation in, or a remodeling of, an existing building or the surrounding grounds in order to reduce water consumption. The term includes any of the following:

(1) Water-conserving fixture, appliance, or equipment, or the substitution of a nonwater-using fixture, appliance, or equipment;

(2) Water-conserving, landscape irrigation equipment;

(3) Landscaping measure that reduces storm water runoff demand and capture and hold applied water and rainfall, including landscape contouring such as the use of a berm, swale, or terrace and including the use of a soil amendment, including compost, that increases the water-holding capacity of the soil;

(4) Rainwater harvesting equipment or equipment to make use of water collected as part of a storm water system installed for water quality control;

(5) Equipment for recycling or reuse of water originating on the premises or from another source, including treated, municipal effluent;

(6) Equipment needed to capture water for nonpotable uses from any nonconventional, alternate source, including air conditioning condensate or gray water;

(7) Any other modification, installation, or remodeling approved by the

board of trustees of a state institution of higher education as defined in section 3345.011 of the Revised Code as a water conservation measure for one or more buildings or the surrounding grounds owned by the institution.

(G) "Water saving measure" means the acquisition and installation, by the purchase, lease, lease-purchase, lease with an option to buy, or installment purchases of a water conservation measure and any attendant architectural and engineering consulting services.

Sec. 156.02. (A) The director of administrative services may contract with an energy services company, contractor, architect, professional engineer, or other person experienced in the design and implementation of energy conservation measures for a report containing an analysis and recommendations pertaining to the implementation of energy conservation measures that would significantly reduce energy consumption and operating costs in any buildings owned by the state ~~and, upon request of its board of trustees or managing authority, any building owned by an institution of higher education as defined in section 3345.12 of the Revised Code.~~ The report shall include estimates of all costs of such measures, including the costs of design, engineering, installation, maintenance, repairs, and debt service, and estimates of the amounts by which energy consumption and operating costs would be reduced.

(B) Upon the request of the board of trustees or managing authority of a state institution of higher education as defined in section 3345.011 of the Revised Code, the director may contract with a water services company, architect, professional engineer, contractor, or other person experienced in the design and implementation of energy or water conservation measures for a report containing an analysis and recommendations pertaining to the implementation of energy or water conservation measures that result in energy, water, or wastewater cost savings, operating cost savings, or avoided capital costs for the institution. The report shall include estimates of all costs of such installations, including the costs of design, engineering, installation, maintenance, repairs, and debt service, and estimates of the energy, water, or wastewater cost savings, operating cost savings, and avoided capital costs created.

Sec. 156.03. (A) If the director of administrative services wishes to enter into an installment payment contract pursuant to section 156.04 of the Revised Code or any other contract to implement one or more energy saving measures or, in the case of a state institution of higher education pursuant to division (B) of section 156.02 of the Revised Code, energy or water saving measures, ~~he the director~~ may proceed under Chapter 153. of the Revised Code, or, alternatively, ~~he the director~~ may request the controlling board to

exempt the contract from Chapter 153. of the Revised Code.

If the controlling board by a majority vote approves an exemption, that chapter shall not apply to the contract and instead the director shall request proposals from at least three parties for the implementation of the energy or water saving measures. Prior to providing any interested party a copy of any such request, the director shall advertise, in a newspaper of general circulation in the county where the contract is to be performed, ~~his~~ the director's intent to request proposals for the implementation of the energy or water saving measures. The notice shall invite interested parties to submit proposals for consideration and shall be published at least thirty days prior to the date for accepting proposals.

(B) Upon receiving the proposals, the director shall analyze them and, after considering the cost estimates of each proposal and the availability of funds to pay for each with current appropriations or by financing the cost of each through an installment payment contract under section 156.04 of the Revised Code, may select one or more proposals or reject all proposals. In selecting proposals, the director shall select the one or more proposals most likely to result in the greatest savings when the cost of the proposal is compared to the reduced energy and operating costs that will result from implementing the proposal. However, in the case of a state institution of higher education pursuant to division (B) of section 156.02 of the Revised Code, the director shall select the one or more proposals most likely to result in the greatest energy, water, or wastewater savings, operating costs savings, and avoided capital costs created.

(C)(1) No contract shall be awarded to implement energy saving measures under this section, other than in the case of a state institution of higher education, unless the director finds that one or both of the following circumstances exists, as applicable:

~~(A)~~(a) In the case of a contract for a cogeneration system described in division (H) of section 156.01 of the Revised Code, the cost of the contract is not likely to exceed the amount of money that would be saved in energy and operating costs over no more than five years;

~~(B)~~(b) In the case of any contract for any energy saving measure other than a cogeneration system, the cost of the contract is not likely to exceed the amount of money that would be saved in energy and operating costs over no more than ten years.

(2) In the case of a state institution of higher education pursuant to division (B) of section 156.02 of the Revised Code, no contract shall be awarded to implement energy or water saving measures for the institution under this section unless the director finds that both of the following

circumstances exists:

(a) Not less than one-fifteenth of the costs of the contract shall be paid within two years from the date of purchase;

(b) The remaining balance of the cost of the contract shall be paid within fifteen years from the date of purchase.

Sec. 156.04. (A) In accordance with this section and section 156.03 of the Revised Code, the director of administrative services may enter into an installment payment contract for the implementation of one or more energy or water saving measures. If the director wishes an installment payment contract to be exempted from Chapter 153. of the Revised Code, the director shall proceed pursuant to section 156.03 of the Revised Code.

(B)(1) Any installment payment contract under this section, other than in the case of a state institution of higher education, for one or more energy saving measures shall provide that all payments, except payments for repairs and obligations on termination of the contract prior to its expiration, are to be a stated percentage of calculated savings of energy and operating costs attributable to the one or more measures over a defined period of time and are to be made only to the extent that those savings actually occur. No such contract shall contain any of the following:

~~(1)(a)~~ A requirement of any additional capital investment or contribution of funds, other than funds available from state or federal grants;

~~(2)(b)~~ In the case of a contract for an energy saving measure that is a cogeneration system described in division (H) of section 156.01 of the Revised Code, a payment term longer than five years;

~~(3)(c)~~ In the case of a contract for any energy saving measure that is not a cogeneration system, a payment term longer than ten years.

(2) Any installment payment contract under this section for one or more energy or water saving measures for a state institution of higher education pursuant to division (B) of section 156.02 of the Revised Code, shall provide that all payments, except payments for repairs and obligations on termination of the contract prior to its expiration, are to be a stated percentage of calculated energy, water, or wastewater cost savings, operating costs, and avoided capital costs attributable to the one or more measures over a defined period of time and are to be made only to the extent that those calculated amounts actually occur. No such contract shall contain either of the following:

(a) A requirement of any additional capital investment or contribution of funds, other than funds available from state or federal grants;

(b) A payment term longer than fifteen years.

(C) Any installment payment contract entered into under this section

shall terminate no later than the last day of the fiscal biennium for which funds have been appropriated to the department of administrative services by the general assembly and shall be renewed in each succeeding fiscal biennium in which any balance of the contract remains unpaid, provided that both an appropriation for that succeeding fiscal biennium and the certification required by section 126.07 of the Revised Code are made.

Sec. 166.02. (A) The general assembly finds that many local areas throughout the state are experiencing economic stagnation or decline, and that the economic development programs provided for in this chapter will constitute deserved, necessary reinvestment by the state in those areas, materially contribute to their economic revitalization, and result in improving the economic welfare of all the people of the state. Accordingly, it is declared to be the public policy of the state, through the operations of this chapter and other applicable laws adopted pursuant to Section 2p or 13 of Article VIII, Ohio Constitution, and other authority vested in the general assembly, to assist in and facilitate the establishment or development of eligible projects or assist and cooperate with any governmental agency in achieving such purpose.

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

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

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

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

(4) Subject to release thereof by the controlling board, from moneys in the facilities establishment fund acquire or contract to acquire by gift, exchange, or purchase, including the obtaining and exercise of purchase options, property, and convey or otherwise dispose of, or provide for the

conveyance or disposition of, property so acquired or contracted to be acquired by sale, exchange, lease, lease purchase, conditional or installment sale, transfer, or other disposition, including the grant of an option to purchase, to any governmental agency or to any other person without necessity for competitive bidding and upon such terms and conditions and manner of consideration pursuant to and as the director determines to be appropriate to satisfy the objectives of sections 166.01 to 166.11 of the Revised Code;

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

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

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

(8) Do all other acts and enter into contracts and execute all instruments necessary or appropriate to carry out the provisions of this chapter;

(9) Adopt rules to implement any of the provisions of this chapter applicable to the director.

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

(D) Except as otherwise prescribed in this chapter, all expenses and obligations incurred by the director in carrying out the director's powers and in exercising the director's duties under this chapter, shall be payable solely from, as appropriate, moneys in the facilities establishment fund, the loan guarantee fund, the innovation Ohio loan guarantee fund, the innovation Ohio loan fund, the research and development loan fund, the logistics and distribution infrastructure fund, the logistics and distribution infrastructure taxable bond fund, or moneys appropriated for such purpose by the general assembly. This chapter does not authorize the director or the issuing authority under section 166.08 of the Revised Code to incur bonded

indebtedness of the state or any political subdivision thereof, or to obligate or pledge moneys raised by taxation for the payment of any bonds or notes issued or guarantees made pursuant to this chapter.

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

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

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

- (1) The project is an eligible project and is economically sound;
- (2) The borrower is unable to finance the necessary allowable costs through ordinary financial channels upon comparable terms;

(3) The amount to be lent from the facilities establishment fund will not exceed seventy-five per cent of the total allowable costs of the eligible project, except that if any part of the amount to be lent from the facilities establishment fund is derived from the issuance and sale of project financing obligations the amount to be lent will not exceed ninety per cent of the total allowable costs of the eligible project;

(4) The eligible project could not be achieved in the local area in which it is to be located if the portion of the project to be financed by the loan instead were to be financed by a loan guaranteed under section 166.06 of the Revised Code;

(5) The repayment of the loan from the facilities establishment fund will be adequately secured by a mortgage, assignment, pledge, or lien provided for under section 9.661 of the Revised Code, at such level of priority as the director may require;

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

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

(C) In furtherance of the public policy of this chapter, there is hereby established the micro-lending program for the purpose of paying the allowable costs of eligible projects of eligible small businesses. From any amount of the facilities establishment fund that the general assembly designates for the purpose of the micro-lending program, the director of development shall, either directly or indirectly, make loans under this section to eligible small businesses. The director shall establish eligibility criteria and loan terms for the program that supplement eligibility criteria and loan terms otherwise prescribed for loans under this section, and may prescribe reduced service charges and fees. For the purpose of lending under the micro-lending program, the director of development shall give precedence to projects of eligible small businesses that foster the development of small entrepreneurial enterprises, notwithstanding the considerations prescribed by divisions (A)(1)(a) and (b) of section 166.05 of the Revised Code to the extent those considerations otherwise may have the effect of disqualifying projects of eligible small businesses. The director may enter into agreements with for-profit or non-profit organizations in this state to originate and administer loans made under the micro-lending program.

(D) Fees, charges, rates of interest, times of payment of interest and principal, and other terms, conditions, and provisions of and security for

loans made from the facilities establishment fund pursuant to this section shall be such as the director determines to be appropriate and in furtherance of the purpose for which the loans are made. The moneys used in making such loans shall be disbursed from the facilities establishment fund upon order of the director. The director shall give special consideration in setting the required job creation ratios and interest rates for loans that are for voluntary actions.

~~(D)~~(E) The director may take actions necessary or appropriate to collect or otherwise deal with any loan made under this section, including any action authorized by section 9.661 of the Revised Code.

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

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

(1) "Bond proceedings" means the resolution, order, trust agreement, indenture, lease, and other agreements, amendments and supplements to the foregoing, or any one or more or combination thereof, authorizing or providing for the terms and conditions applicable to, or providing for the security or liquidity of, obligations issued pursuant to this section, and the provisions contained in such obligations.

(2) "Bond service charges" means principal, including mandatory sinking fund requirements for retirement of obligations, and interest, and redemption premium, if any, required to be paid by the state on obligations.

(3) "Bond service fund" means the applicable fund and accounts therein created for and pledged to the payment of bond service charges, which may be, or may be part of, the economic development bond service fund created by division (S) of this section including all moneys and investments, and earnings from investments, credited and to be credited thereto.

(4) "Issuing authority" means the treasurer of state, or the officer who by law performs the functions of such officer.

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

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

disposition, or use, of project facilities, and from the repayment, including interest, of loans made from proceeds received from the sale of obligations; accrued interest received from the sale of obligations; income from the investment of the special funds; and any gifts, grants, donations, and pledges, and receipts therefrom, available for the payment of bond service charges.

(7) "Special funds" or "funds" means, except where the context does not permit, the bond service fund, and any other funds, including reserve funds, created under the bond proceedings, and the economic development bond service fund created by division (S) of this section to the extent provided in the bond proceedings, including all moneys and investments, and earnings from investment, credited and to be credited thereto.

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

this chapter or needed for the purposes of funds established in accordance with or pursuant to sections 122.35, 122.42, 122.54, 122.55, 122.56, 122.561, 122.57, and 122.80 of the Revised Code which are within the authorization of Section 13 of Article VIII, Ohio Constitution, or, with respect to certain eligible advanced energy projects, Section 2p of Article VIII, Ohio Constitution, shall issue obligations of the state under this section in the required amount; provided that such obligations may be issued to satisfy the covenants in contracts of guarantee made under section 166.06 or 166.15 of the Revised Code, notwithstanding limitations otherwise applicable to the issuance of obligations under this section. The proceeds of such obligations, except for the portion to be deposited in special funds, including reserve funds, as may be provided in the bond proceedings, shall as provided in the bond proceedings be deposited by the director of development to the facilities establishment fund, the loan guarantee fund, the innovation Ohio loan guarantee fund, the innovation Ohio loan fund, the research and development loan fund, ~~or the logistics and distribution infrastructure fund,~~ or the logistics and distribution infrastructure taxable bond fund, or be deposited by the Ohio air quality development authority to the advanced energy research and development fund or the advanced energy research and development taxable fund. Bond proceedings for project financing obligations may provide that the proceeds derived from the issuance of such obligations shall be deposited into such fund or funds provided for in the bond proceedings and, to the extent provided for in the bond proceedings, such proceeds shall be deemed to have been deposited into the facilities establishment fund and transferred to such fund or funds. The issuing authority may appoint trustees, paying agents, and transfer agents and may retain the services of financial advisors, accounting experts, and attorneys, and retain or contract for the services of marketing, remarketing, indexing, and administrative agents, other consultants, and independent contractors, including printing services, as are necessary in the issuing authority's judgment to carry out this section. The costs of such services are allowable costs payable from the facilities establishment fund or the research and development loan fund, allowable innovation costs payable from the innovation Ohio loan fund, or allowable costs payable from the logistics and distribution infrastructure fund, the logistics and distribution infrastructure taxable bond fund, the advanced energy research and development fund, or the advanced energy research and development taxable fund, as applicable.

(C) The holders or owners of such obligations shall have no right to have moneys raised by taxation obligated or pledged, and moneys raised by

taxation shall not be obligated or pledged, for the payment of bond service charges. Such holders or owners shall have no rights to payment of bond service charges from any moneys accruing to the state from the lease, sale, or other disposition, or use, of project facilities, or from payment of the principal of or interest on loans made, or fees charged for guarantees made, or from any money or property received by the director, treasurer of state, or the state under Chapter 122. of the Revised Code, or from any other use of the proceeds of the sale of the obligations, and no such moneys may be used for the payment of bond service charges, except for accrued interest, capitalized interest, and reserves funded from proceeds received upon the sale of the obligations and except as otherwise expressly provided in the applicable bond proceedings pursuant to written directions by the director. The right of such holders and owners to payment of bond service charges is limited to all or that portion of the pledged receipts and those special funds pledged thereto pursuant to the bond proceedings in accordance with this section, and each such obligation shall bear on its face a statement to that effect.

(D) Obligations shall be authorized by resolution or order of the issuing authority and the bond proceedings shall provide for the purpose thereof and the principal amount or amounts, and shall provide for or authorize the manner or agency for determining the principal maturity or maturities, not exceeding twenty-five years from the date of issuance, the interest rate or rates or the maximum interest rate, the date of the obligations and the dates of payment of interest thereon, their denomination, and the establishment within or without the state of a place or places of payment of bond service charges. Sections 9.98 to 9.983 of the Revised Code are applicable to obligations issued under this section, subject to any applicable limitation under section 166.11 of the Revised Code. The purpose of such obligations may be stated in the bond proceedings in terms describing the general purpose or purposes to be served. The bond proceedings also shall provide, subject to the provisions of any other applicable bond proceedings, for the pledge of all, or such part as the issuing authority may determine, of the pledged receipts and the applicable special fund or funds to the payment of bond service charges, which pledges may be made either prior or subordinate to other expenses, claims, or payments, and may be made to secure the obligations on a parity with obligations theretofore or thereafter issued, if and to the extent provided in the bond proceedings. The pledged receipts and special funds so pledged and thereafter received by the state are immediately subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledges is valid and binding

against all parties having claims of any kind against the state or any governmental agency of the state, irrespective of whether such parties have notice thereof, and shall create a perfected security interest for all purposes of Chapter 1309. of the Revised Code, without the necessity for separation or delivery of funds or for the filing or recording of the bond proceedings by which such pledge is created or any certificate, statement or other document with respect thereto; and the pledge of such pledged receipts and special funds is effective and the money therefrom and thereof may be applied to the purposes for which pledged without necessity for any act of appropriation. Every pledge, and every covenant and agreement made with respect thereto, made in the bond proceedings may therein be extended to the benefit of the owners and holders of obligations authorized by this section, and to any trustee therefor, for the further security of the payment of the bond service charges.

(E) The bond proceedings may contain additional provisions as to:

(1) The redemption of obligations prior to maturity at the option of the issuing authority at such price or prices and under such terms and conditions as are provided in the bond proceedings;

(2) Other terms of the obligations;

(3) Limitations on the issuance of additional obligations;

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

(5) The deposit, investment and application of special funds, and the safeguarding of moneys on hand or on deposit, without regard to Chapter 131. or 135. of the Revised Code, but subject to any special provisions of this chapter, with respect to particular funds or moneys, provided that any bank or trust company which acts as depository of any moneys in the special funds may furnish such indemnifying bonds or may pledge such securities as required by the issuing authority;

(6) Any or every provision of the bond proceedings being binding upon such officer, board, commission, authority, agency, department, or other person or body as may from time to time have the authority under law to take such actions as may be necessary to perform all or any part of the duty required by such provision;

(7) Any provision that may be made in a trust agreement or indenture;

(8) Any other or additional agreements with the holders of the obligations, or the trustee therefor, relating to the obligations or the security therefor, including the assignment of mortgages or other security obtained or to be obtained for loans under section 122.43, 166.07, or 166.16 of the Revised Code.

(F) The obligations may have the great seal of the state or a facsimile thereof affixed thereto or printed thereon. The obligations and any coupons pertaining to obligations shall be signed or bear the facsimile signature of the issuing authority. Any obligations or coupons may be executed by the person who, on the date of execution, is the proper issuing authority although on the date of such bonds or coupons such person was not the issuing authority. If the issuing authority whose signature or a facsimile of whose signature appears on any such obligation or coupon ceases to be the issuing authority before delivery thereof, such signature or facsimile is nevertheless valid and sufficient for all purposes as if the former issuing authority had remained the issuing authority until such delivery; and if the seal to be affixed to obligations has been changed after a facsimile of the seal has been imprinted on such obligations, such facsimile seal shall continue to be sufficient as to such obligations and obligations issued in substitution or exchange therefor.

(G) All obligations are negotiable instruments and securities under Chapter 1308. of the Revised Code, subject to the provisions of the bond proceedings as to registration. The obligations may be issued in coupon or in registered form, or both, as the issuing authority determines. Provision may be made for the registration of any obligations with coupons attached thereto as to principal alone or as to both principal and interest, their exchange for obligations so registered, and for the conversion or reconversion into obligations with coupons attached thereto of any obligations registered as to both principal and interest, and for reasonable charges for such registration, exchange, conversion, and reconversion.

(H) Obligations may be sold at public sale or at private sale, as determined in the bond proceedings.

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

(I) Pending preparation of definitive obligations, the issuing authority may issue interim receipts or certificates which shall be exchanged for such definitive obligations.

(J) In the discretion of the issuing authority, obligations may be secured additionally by a trust agreement or indenture between the issuing authority and a corporate trustee which may be any trust company or bank having a place of business within the state. Any such agreement or indenture may contain the resolution or order authorizing the issuance of the obligations, any provisions that may be contained in any bond proceedings, and other provisions which are customary or appropriate in an agreement or indenture

of such type, including, but not limited to:

(1) Maintenance of each pledge, trust agreement, indenture, or other instrument comprising part of the bond proceedings until the state has fully paid the bond service charges on the obligations secured thereby, or provision therefor has been made;

(2) In the event of default in any payments required to be made by the bond proceedings, or any other agreement of the issuing authority made as a part of the contract under which the obligations were issued, enforcement of such payments or agreement by mandamus, the appointment of a receiver, suit in equity, action at law, or any combination of the foregoing;

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

(4) The replacement of any obligations that become mutilated or are destroyed, lost, or stolen;

(5) Such other provisions as the trustee and the issuing authority agree upon, including limitations, conditions, or qualifications relating to any of the foregoing.

(K) Any holders of obligations or trustees under the bond proceedings, except to the extent that their rights are restricted by the bond proceedings, may by any suitable form of legal proceedings, protect and enforce any rights under the laws of this state or granted by such bond proceedings. Such rights include the right to compel the performance of all duties of the issuing authority, the director of development, the Ohio air quality development authority, or the division of liquor control required by this chapter or the bond proceedings; to enjoin unlawful activities; and in the event of default with respect to the payment of any bond service charges on any obligations or in the performance of any covenant or agreement on the part of the issuing authority, the director of development, the Ohio air quality development authority, or the division of liquor control in the bond proceedings, to apply to a court having jurisdiction of the cause to appoint a receiver to receive and administer the pledged receipts and special funds, other than those in the custody of the treasurer of state, which are pledged to the payment of the bond service charges on such obligations or which are the subject of the covenant or agreement, with full power to pay, and to provide for payment of bond service charges on, such obligations, and with such powers, subject to the direction of the court, as are accorded receivers in general equity cases, excluding any power to pledge additional revenues or receipts or other income or moneys of the issuing authority or the state or governmental agencies of the state to the payment of such principal and

interest and excluding the power to take possession of, mortgage, or cause the sale or otherwise dispose of any project facilities.

Each duty of the issuing authority and the issuing authority's officers and employees, and of each governmental agency and its officers, members, or employees, undertaken pursuant to the bond proceedings or any agreement or lease, lease-purchase agreement, or loan made under authority of this chapter, and in every agreement by or with the issuing authority, is hereby established as a duty of the issuing authority, and of each such officer, member, or employee having authority to perform such duty, specifically enjoined by the law resulting from an office, trust, or station within the meaning of section 2731.01 of the Revised Code.

The person who is at the time the issuing authority, or the issuing authority's officers or employees, are not liable in their personal capacities on any obligations issued by the issuing authority or any agreements of or with the issuing authority.

(L) The issuing authority may authorize and issue obligations for the refunding, including funding and retirement, and advance refunding with or without payment or redemption prior to maturity, of any obligations previously issued by the issuing authority. Such obligations may be issued in amounts sufficient for payment of the principal amount of the prior obligations, any redemption premiums thereon, principal maturities of any such obligations maturing prior to the redemption of the remaining obligations on a parity therewith, interest accrued or to accrue to the maturity dates or dates of redemption of such obligations, and any allowable costs including expenses incurred or to be incurred in connection with such issuance and such refunding, funding, and retirement. Subject to the bond proceedings therefor, the portion of proceeds of the sale of obligations issued under this division to be applied to bond service charges on the prior obligations shall be credited to an appropriate account held by the trustee for such prior or new obligations or to the appropriate account in the bond service fund for such obligations. Obligations authorized under this division shall be deemed to be issued for those purposes for which such prior obligations were issued and are subject to the provisions of this section pertaining to other obligations, except as otherwise provided in this section; provided that, unless otherwise authorized by the general assembly, any limitations imposed by the general assembly pursuant to this section with respect to bond service charges applicable to the prior obligations shall be applicable to the obligations issued under this division to refund, fund, advance refund or retire such prior obligations.

(M) The authority to issue obligations under this section includes

authority to issue obligations in the form of bond anticipation notes and to renew the same from time to time by the issuance of new notes. The holders of such notes or interest coupons pertaining thereto shall have a right to be paid solely from the pledged receipts and special funds that may be pledged to the payment of the bonds anticipated, or from the proceeds of such bonds or renewal notes, or both, as the issuing authority provides in the resolution or order authorizing such notes. Such notes may be additionally secured by covenants of the issuing authority to the effect that the issuing authority and the state will do such or all things necessary for the issuance of such bonds or renewal notes in appropriate amount, and apply the proceeds thereof to the extent necessary, to make full payment of the principal of and interest on such notes at the time or times contemplated, as provided in such resolution or order. For such purpose, the issuing authority may issue bonds or renewal notes in such principal amount and upon such terms as may be necessary to provide funds to pay when required the principal of and interest on such notes, notwithstanding any limitations prescribed by or for purposes of this section. Subject to this division, all provisions for and references to obligations in this section are applicable to notes authorized under this division.

The issuing authority in the bond proceedings authorizing the issuance of bond anticipation notes shall set forth for such bonds an estimated interest rate and a schedule of principal payments for such bonds and the annual maturity dates thereof, and for purposes of any limitation on bond service charges prescribed under division (A) of section 166.11 of the Revised Code, the amount of bond service charges on such bond anticipation notes is deemed to be the bond service charges for the bonds anticipated thereby as set forth in the bond proceedings applicable to such notes, but this provision does not modify any authority in this section to pledge receipts and special funds to, and covenant to issue bonds to fund, the payment of principal of and interest and any premium on such notes.

(N) Obligations issued under this section are lawful investments for banks, societies for savings, savings and loan associations, deposit guarantee associations, trust companies, trustees, fiduciaries, insurance companies, including domestic for life and domestic not for life, trustees or other officers having charge of sinking and bond retirement or other special funds of political subdivisions and taxing districts of this state, the commissioners of the sinking fund of the state, the administrator of workers' compensation, the state teachers retirement system, the public employees retirement system, the school employees retirement system, and the Ohio police and fire pension fund, notwithstanding any other provisions of the Revised Code

or rules adopted pursuant thereto by any governmental agency of the state with respect to investments by them, and are also acceptable as security for the deposit of public moneys.

(O) Unless otherwise provided in any applicable bond proceedings, moneys to the credit of or in the special funds established by or pursuant to this section may be invested by or on behalf of the issuing authority only in notes, bonds, or other obligations of the United States, or of any agency or instrumentality of the United States, obligations guaranteed as to principal and interest by the United States, obligations of this state or any political subdivision of this state, and certificates of deposit of any national bank located in this state and any bank, as defined in section 1101.01 of the Revised Code, subject to inspection by the superintendent of banks. If the law or the instrument creating a trust pursuant to division (J) of this section expressly permits investment in direct obligations of the United States or an agency of the United States, unless expressly prohibited by the instrument, such moneys also may be invested in no-front-end-load money market mutual funds consisting exclusively of obligations of the United States or an agency of the United States and in repurchase agreements, including those issued by the fiduciary itself, secured by obligations of the United States or an agency of the United States; and in common trust funds established in accordance with section 1111.20 of the Revised Code and consisting exclusively of any such securities, notwithstanding division (A)(4) of that section. The income from such investments shall be credited to such funds as the issuing authority determines, and such investments may be sold at such times as the issuing authority determines or authorizes.

(P) Provision may be made in the applicable bond proceedings for the establishment of separate accounts in the bond service fund and for the application of such accounts only to the specified bond service charges on obligations pertinent to such accounts and bond service fund and for other accounts therein within the general purposes of such fund. Unless otherwise provided in any applicable bond proceedings, moneys to the credit of or in the several special funds established pursuant to this section shall be disbursed on the order of the treasurer of state, provided that no such order is required for the payment from the bond service fund when due of bond service charges on obligations.

(Q) The issuing authority may pledge all, or such portion as the issuing authority determines, of the pledged receipts to the payment of bond service charges on obligations issued under this section, and for the establishment and maintenance of any reserves, as provided in the bond proceedings, and make other provisions therein with respect to pledged receipts as authorized

by this chapter, which provisions are controlling notwithstanding any other provisions of law pertaining thereto.

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

(1) Maintain statutory authority for and cause to be charged and collected wholesale and retail prices for spirituous liquor sold by the state or its agents so that the pledged receipts are sufficient in amount to meet bond service charges, and the establishment and maintenance of any reserves and other requirements provided for in the bond proceedings, and, as necessary, to meet covenants contained in contracts of guarantee made under section 166.06 of the Revised Code;

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

(S) There is hereby created the economic development bond service fund, which shall be in the custody of the treasurer of state but shall be separate and apart from and not a part of the state treasury. All moneys received by or on account of the issuing authority or state agencies and required by the applicable bond proceedings, consistent with this section, to be deposited, transferred, or credited to a bond service fund or the economic development bond service fund, and all other moneys transferred or allocated to or received for the purposes of the fund, shall be deposited and credited to such fund and to any separate accounts therein, subject to applicable provisions of the bond proceedings, but without necessity for any act of appropriation. During the period beginning with the date of the first issuance of obligations and continuing during such time as any such obligations are outstanding, and so long as moneys in the pertinent bond service funds are insufficient to pay all bond services charges on such obligations becoming due in each year, a sufficient amount of the gross profit on the sale of spirituous liquor included in pledged receipts are committed and shall be paid to the bond service fund or economic development bond service fund in each year for the purpose of paying the bond service charges becoming due in that year without necessity for further act of appropriation for such purpose and notwithstanding anything to the contrary in Chapter 4301. of the Revised Code. The economic development bond service fund is a trust fund and is hereby pledged to the payment of bond service charges to the extent provided in the applicable bond

proceedings, and payment thereof from such fund shall be made or provided for by the treasurer of state in accordance with such bond proceedings without necessity for any act of appropriation.

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

Sec. 166.11. (A) The aggregate principal amount of project financing obligations that may be issued under section 166.08 of the Revised Code is three hundred million dollars, plus the principal amount of such project financing obligations retired by payments. The aggregate principal amount of obligations, exclusive of project financing obligations, that may be issued under section 166.08 of the Revised Code is six hundred thirty million dollars, plus the principal amount of any such obligations retired by payment, the amounts held or obligations pledged for the payment of the principal amount of any such obligations outstanding, amounts in special funds held as reserves to meet bond service charges, and amounts of obligations issued to provide moneys required to meet payments from the loan guarantee fund created in section 166.06 of the Revised Code and the innovation Ohio loan guarantee fund created in section 166.15 of the Revised Code. Of that six hundred thirty million dollars, not more than eighty-four million principal amount of obligations may be issued for eligible advanced energy projects and not more than one hundred million principal amount of obligations may be issued for eligible logistics and distribution projects. The terms of the obligations issued under section 166.08 of the Revised Code, other than obligations issued to meet guarantees that cannot be satisfied from amounts then held in the loan guarantee fund or the innovation Ohio loan guarantee fund, shall be such that the aggregate amount of moneys used from profit from the sale of spirituous liquor, and not from other sources, in any fiscal year shall not exceed sixty-three million dollars. For purposes of the preceding sentence, "other sources" include the annual investment income on special funds to the extent it will be available for payment of any bond service charges in lieu of use of profit from the sale of spirituous liquor, and shall be estimated on the basis of the expected funding of those special funds and assumed investment earnings thereon at a rate equal to the weighted average yield on investments of those special funds determined as of any date within sixty days immediately preceding the date of issuance of the bonds in respect of which the determination is being made. Amounts received in any fiscal year under section 6341 of the Internal Revenue Code, 26 U.S.C. 6341, shall not be included when determining the sixty-three million dollar limit. The

determinations required by this division shall be made by the treasurer of state at the time of issuance of an issue of obligations and shall be conclusive for purposes of such issue of obligations from and after their issuance and delivery.

(B) The aggregate amount of the guaranteed portion of the unpaid principal of loans guaranteed under sections 166.06 and 166.15 of the Revised Code and the unpaid principal of loans made under sections 166.07, 166.16, and 166.21 of the Revised Code may not at any time exceed eight hundred million dollars. Of that eight hundred million dollars, the aggregate amount of the guaranteed portion of the unpaid principal of loans guaranteed under sections 166.06 and 166.15 of the Revised Code shall not at any time exceed two hundred million dollars. However, the limitations established under this division do not apply to loans made with proceeds from the issuance and sale of project financing obligations.

Sec. 166.22. (A) There is hereby created in the state treasury the rapid outreach loan fund, which shall consist of money transferred to the fund from the funds created and used under sections 166.20, 166.21, 166.25, and 166.26 of the Revised Code. Money in the fund shall be used for eligible projects only, as limited by the purposes for which money may be used under each fund from which the money is transferred, and applied to allowable costs as provided under those sections. The fund shall also consist of any other money appropriated to it and money received by the state from the repayment of loans and recovery on loan guarantees, including interest thereon, and the repayment and recovery of grants, made from the fund. All investment earnings on the cash balance in the fund shall be credited to the fund. The fund shall not be comprised, in any part, of money raised by taxation.

(B) The director of development, with the approval of the controlling board and subject to other applicable provisions of this chapter, may lend or grant money in the rapid outreach loan fund to persons for the purpose of paying allowable costs of eligible projects, if the director determines that all of the following conditions are met:

(1) The project is economically sound;

(2) The project is an eligible project under division (D) of section 166.01 of the Revised Code or is otherwise eligible for funding under the applicable fund from which the money is transferred to the rapid outreach loan fund;

(3) The amount to be provided from the rapid outreach loan fund is a reasonable amount given the scope of the eligible project as determined by the director;

(4) If the money provided is in the form of a loan, the director shall determine whether the loan is to be repaid or may be forgiven. If the loan must be repaid, the director must determine whether the loan has been secured by a mortgage, assignment, pledge, lien provided for under section 9.661 of the Revised Code, or other interest in property or other assets of the borrower, at such level of priority and value as the director considers necessary, provided that, in making such a determination, the director shall take into account the value of any rights granted by the borrower to the director to control the use of any assets of the borrower under the circumstances described in the loan documents.

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

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

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

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

(G)(1) There shall be credited to the rapid outreach loan fund money received by this state from the repayment of loans, including interest thereon, made from the fund, and money received from the sale, lease, or other disposition of property acquired or constructed with money in the fund derived from the proceeds of the sale of obligations under section 166.08 of the Revised Code. Money in the fund shall be applied as provided in this chapter pursuant to appropriations made by the general assembly.

(2) In addition to the requirements in division (G)(1) of this section, money referred to in that division may be deposited to the credit of separate accounts established by the director within the rapid outreach loan fund or in

the bond service fund and pledged to the security of obligations, applied to the payment of bond service charges without need for appropriation, released from any such pledge and transferred to the rapid outreach loan fund, all as, and to the extent, provided in the bond proceedings pursuant to written directions of the director. Accounts may be established by the director in the rapid outreach loan fund for particular projects or otherwise. The director may withdraw from the fund or, subject to provisions of the applicable bond proceedings, from any special funds established pursuant to the bond proceedings, or from any accounts in such funds, any amounts of investment income required to be rebated and paid to the federal government in order to maintain the exemption from federal income taxation of interest on obligations issued under this chapter, which withdrawal and payment may be made without the necessity for appropriation.

Sec. 166.25. (A) The director of development, with the approval of the controlling board and subject to the other applicable provisions of this chapter, may lend money in the logistics and distribution infrastructure fund and the logistics and distribution infrastructure taxable bond fund to persons for the purpose of paying allowable costs of eligible logistics and distribution projects.

(B) In determining the eligible logistics and distribution projects to be assisted and the nature, amount, and terms of assistance to be provided for an eligible logistics and distribution project, the director shall consult with appropriate governmental agencies, including the department of transportation and the Ohio rail development commission.

(C)(1) The director shall submit to the development financing advisory council the terms of the proposed assistance to be provided for an eligible logistics and distribution project and such other relevant information as the council may request.

(2) The council, on the basis of such information, shall make recommendations as to the appropriateness of the assistance to be provided. The recommendations may be revised to reflect any changes in the proposed assistance the director may submit to the council.

(3) The director shall submit the terms of the proposed assistance to be provided, along with the recommendations, as amended, of the council as to the appropriateness of the proposed assistance, to the controlling board.

(D) Any loan made pursuant to this section shall be evidenced by a loan agreement, which shall contain such terms as the director determines necessary or appropriate, including performance measures and reporting requirements. The director may take actions necessary or appropriate to

collect or otherwise deal with any loan made under this section, including requiring a loan recipient to repay the amount of the loan plus interest at a rate of three per cent above the federal short term interest rate or any other rate determined by the director.

Sec. 166.28. (A) There is hereby created in the state treasury the logistics and distribution infrastructure taxable bond fund. The fund shall consist of grants, gifts, and contributions of money or rights to money lawfully designated for or deposited into the fund, all money and rights to money lawfully appropriated and transferred to the fund, including money received from the issuance of federally taxable obligations under section 166.08 of the Revised Code and subject to section 166.11 of the Revised Code, and money credited to the fund pursuant to division (B) of this section. The fund shall be used for the allowable costs of eligible logistics and distribution projects. All investment earnings on the cash balance in the fund shall be credited to the fund. The fund shall not be comprised, in any part, of money raised by taxation.

(B) There shall be credited to the logistics and distribution infrastructure taxable bond fund the money received by the state from the repayment of loans and recovery on loan guarantees, including interest thereon, made from the fund.

Sec. 169.08. (A) Any person claiming a property interest in unclaimed funds delivered or reported to the state under Chapter 169. of the Revised Code, including the office of child support in the department of job and family services, pursuant to section 3123.88 of the Revised Code, may file a claim thereto on the form prescribed by the director of commerce.

(B) The director shall consider matters relevant to any claim filed under division (A) of this section and shall hold a formal hearing if requested or considered necessary and receive evidence concerning such claim. A finding and decision in writing on each claim filed shall be prepared, stating the substance of any evidence received or heard and the reasons for allowance or disallowance of the claim. The evidence and decision shall be a public record. No statute of limitations shall bar the allowance of a claim.

(C) For the purpose of conducting any hearing, the director may require the attendance of such witnesses and the production of such books, records, and papers as the director desires, and the director may take the depositions of witnesses residing within or without this state in the same manner as is prescribed by law for the taking of depositions in civil actions in the court of common pleas, and for that purpose the director may issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records, or papers, directed to the sheriff of the county where such

witness resides or is found, which shall be served and returned. The fees of the sheriff shall be the same as that allowed in the court of common pleas in criminal cases. Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code. Fees and mileage shall be paid from the unclaimed funds trust fund.

(D) Interest is not payable to claimants of unclaimed funds held by the state. Claims shall be paid from the trust fund. If the amount available in the trust fund is not sufficient to pay pending claims, or other amounts disburseable from the trust fund, the treasurer of state shall certify such fact to the director, who shall then withdraw such amount of funds from the mortgage accounts as the director determines necessary to reestablish the trust fund to a level required to pay anticipated claims but not more than ten per cent of the net unclaimed funds reported to date.

The director ~~shall retain in the trust fund, as a fee for administering the funds, five per cent of the total amount of unclaimed funds payable to the claimant and~~ may withdraw the funds paid to the director by the holders and deposited by the director with the treasurer of state or in a financial institution as agent for such funds. Whenever these funds are inadequate to meet the requirements for the trust fund, the director shall provide for a withdrawal of funds, within a reasonable time, in such amount as is necessary to meet the requirements, from financial institutions in which such funds were retained or placed by a holder and from other holders who have retained funds, in an equitable manner as prescribed by the director. In the event that the amount to be withdrawn from any one such holder is less than five hundred dollars, the amount to be withdrawn shall be at the discretion of the director. Such funds may be reimbursed in the amounts withdrawn when the trust fund has a surplus over the amount required to pay anticipated claims. Whenever the trust fund has a surplus over the amount required to pay anticipated claims, the director may transfer such surplus to the mortgage accounts.

(E) If a claim which is allowed under this section relates to funds which have been retained by the reporting holder, and if the funds, on deposit with the treasurer of state pursuant to this chapter, are insufficient to pay claims, the director may notify such holder in writing of the payment of the claim and such holder shall immediately reimburse the state in the amount of such claim. The reimbursement shall be credited to the unclaimed funds trust fund.

(F) Any person, including the office of child support, adversely affected by a decision of the director may appeal such decision in the manner provided in Chapter 119. of the Revised Code.

In the event the claimant prevails, the claimant shall be reimbursed for reasonable attorney's fees and costs.

(G) Notwithstanding anything to the contrary in this chapter, any holder who has paid moneys to or entered into an agreement with the director pursuant to section 169.05 of the Revised Code on certified checks, cashiers' checks, bills of exchange, letters of credit, drafts, money orders, or travelers' checks, may make payment to any person entitled thereto, including the office of child support, and upon surrender of the document, except in the case of travelers' checks, and proof of such payment, the director shall reimburse the holder for such payment without interest.

Sec. 173.08. (A) The resident services coordinator program is established in the department of aging to fund resident services coordinators. The coordinators shall provide information to low-income and special-needs tenants, including the elderly, who live in financially assisted rental housing complexes, and assist those tenants in identifying and obtaining community and program services and other benefits for which they are eligible.

(B) The resident services coordinator program fund is hereby created in the state treasury to support the resident services coordinator program established pursuant to this section. The fund consists of all moneys the department of development sets aside pursuant to division (A)(4)(3) of section 174.02 of the Revised Code and moneys the general assembly appropriates to the fund.

Sec. 173.28. (A)(1) As used in this division, "incident" means the occurrence of a violation with respect to a resident or recipient, as those terms are defined in section 173.14 of the Revised Code. A violation is a separate incident for each day it occurs and for each resident who is subject to it.

In lieu of the fine that may be imposed under division (A) of section 173.99 of the Revised Code, the director of aging may, under Chapter 119. of the Revised Code, fine a long-term care provider or other entity, or a person employed by a long-term care provider or other entity, for a violation of division (C) of section 173.24 of the Revised Code. The fine shall not exceed one thousand dollars per incident.

(2) In lieu of the fine that may be imposed under division (C) of section 173.99 of the Revised Code, the director may, under Chapter 119. of the Revised Code, fine a long-term care provider or other entity, or a person employed by a long-term care provider or other entity, for violating division (E) of section 173.19 of the Revised Code by denying a representative of the office of the state long-term care ombudsperson program the access required by that division. The fine shall not exceed five hundred dollars for each day

the violation continued.

(B) On request of the director, the attorney general shall bring and prosecute to judgment a civil action to collect any fine imposed under division (A)(1) or (2) of this section that remains unpaid thirty days after the violator's final appeal is exhausted.

(C) All fines collected under this section shall be deposited into the state treasury to the credit of the state long-term care ombudsperson program fund created under section 173.26 of the Revised Code.

Sec. 173.35. (A) As used in this section, "PASSPORT administrative agency" means an entity under contract with the department of aging to provide administrative services regarding the PASSPORT program created under section 173.40 of the Revised Code.

(B) The department of aging shall administer the residential state supplement program under which the state supplements the supplemental security income payments received by aged, blind, or disabled adults under Title XVI of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A., as amended. Residential state supplement payments shall be used for the provision of accommodations, supervision, and personal care services to supplemental security income recipients who the department determines are at risk of needing institutional care.

(C) For an individual to be eligible for residential state supplement payments, all of the following must be the case:

(1) Except as provided by division (G) of this section, the individual must reside in one of the following:

(a) An adult foster home certified under section 173.36 of the Revised Code;

(b) A home or facility, other than a nursing home or nursing home unit of a home for the aging, licensed by the department of health under Chapter 3721. or 3722. of the Revised Code and certified in accordance with standards established by the director of aging under division (D)(2) of this section;

~~(c) A community alternative home licensed under section 3724.03 of the Revised Code and certified in accordance with standards established by the director of aging under division (D)(2) of this section;~~

~~(d)~~ A residential facility as defined in division (A)(1)(d)(ii) of section 5119.22 of the Revised Code licensed by the department of mental health and certified in accordance with standards established by the director of aging under division (D)(2) of this section;

~~(e)~~(d) An apartment or room used to provide community mental health housing services certified by the department of mental health under section

5119.611 of the Revised Code and approved by a board of alcohol, drug addiction, and mental health services under division (A)(14) of section 340.03 of the Revised Code and certified in accordance with standards established by the director of aging under division (D)(2) of this section.

(2) Effective July 1, 2000, a PASSPORT administrative agency must have determined that the environment in which the individual will be living while receiving the payments is appropriate for the individual's needs. If the individual is eligible for supplemental security income payments or social security disability insurance benefits because of a mental disability, the PASSPORT administrative agency shall refer the individual to a community mental health agency for the community mental health agency to issue in accordance with section 340.091 of the Revised Code a recommendation on whether the PASSPORT administrative agency should determine that the environment in which the individual will be living while receiving the payments is appropriate for the individual's needs. Division (C)(2) of this section does not apply to an individual receiving residential state supplement payments on June 30, 2000, until the individual's first eligibility redetermination after that date.

(3) The individual satisfies all eligibility requirements established by rules adopted under division (D) of this section.

(D)(1) The directors of aging and job and family services shall adopt rules in accordance with section 111.15 of the Revised Code as necessary to implement the residential state supplement program.

To the extent permitted by Title XVI of the "Social Security Act," and any other provision of federal law, the director of job and family services shall adopt rules establishing standards for adjusting the eligibility requirements concerning the level of impairment a person must have so that the amount appropriated for the program by the general assembly is adequate for the number of eligible individuals. The rules shall not limit the eligibility of disabled persons solely on a basis classifying disabilities as physical or mental. The director of job and family services also shall adopt rules that establish eligibility standards for aged, blind, or disabled individuals who reside in one of the homes or facilities specified in division (C)(1) of this section but who, because of their income, do not receive supplemental security income payments. The rules may provide that these individuals may include individuals who receive other types of benefits, including, social security disability insurance benefits provided under Title II of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 401, as amended. Notwithstanding division (B) of this section, such payments may be made if funds are available for them.

The director of aging shall adopt rules establishing the method to be used to determine the amount an eligible individual will receive under the program. The amount the general assembly appropriates for the program shall be a factor included in the method that department establishes.

(2) The director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for certification of living facilities described in division (C)(1) of this section.

The directors of aging and mental health shall enter into an agreement to certify facilities that apply for certification and meet the standards established by the director of aging under this division.

(E) The county department of job and family services of the county in which an applicant for the residential state supplement program resides shall determine whether the applicant meets income and resource requirements for the program.

(F) The department of aging shall maintain a waiting list of any individuals eligible for payments under this section but not receiving them because moneys appropriated to the department for the purposes of this section are insufficient to make payments to all eligible individuals. An individual may apply to be placed on the waiting list even though the individual does not reside in one of the homes or facilities specified in division (C)(1) of this section at the time of application. The director of aging, by rules adopted in accordance with Chapter 119. of the Revised Code, shall specify procedures and requirements for placing an individual on the waiting list and priorities for the order in which individuals placed on the waiting list are to begin to receive residential state supplement payments. The rules specifying priorities may give priority to individuals placed on the waiting list on or after July 1, 2006, who receive supplemental security income benefits under Title XVI of the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C. 1381, as amended. The rules shall not affect the place on the waiting list of any person who was on the list on July 1, 2006. The rules specifying priorities may also set additional priorities based on living arrangement, such as whether an individual resides in a facility listed in division (C)(1) of this section or has been admitted to a nursing facility.

(G) An individual in a licensed or certified living arrangement receiving state supplementation on November 15, 1990, under former section 5101.531 of the Revised Code shall not become ineligible for payments under this section solely by reason of the individual's living arrangement as long as the individual remains in the living arrangement in which the individual resided on November 15, 1990.

(H) The department of aging shall notify each person denied approval for payments under this section of the person's right to a hearing. On request, the hearing shall be provided by the department of job and family services in accordance with section 5101.35 of the Revised Code.

Sec. 173.392. (A) The department of aging may pay a person or government entity for providing community-based long-term care services under a program the department administers, even though the person or government entity is not certified under section 173.391 of the Revised Code, if all of the following are the case:

(1) The person or government entity has a contract with the department of aging or the department's designee to provide the services in accordance with the contract or has received a grant from the department or its designee to provide the services in accordance with a grant agreement;

(2) The contract or grant agreement includes detailed conditions of participation for providers of services under a program the department administers and service standards that the person or government entity is required to satisfy;

(3) The person or government entity complies with the contract or grant agreement;

(4) The contract or grant is not for medicaid-funded services, other than services provided under the PACE program administered by the department of aging under section 173.50 of the Revised Code.

(B) The director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code governing both of the following:

(1) Contracts and grant agreements between the department of aging or its designee and persons and government entities regarding community-based long-term care services provided under a program the department administers;

(2) The department's payment for community-based long-term care services ~~provided under such a contract~~ this section.

Sec. 173.40. ~~There~~ As used in sections 173.40 to 173.402 of the Revised Code, "PASSPORT program" means the program created under this section.

~~There is hereby created a medicaid waiver component, as defined in section 5111.85 of the Revised Code, to be known as the preadmission screening system providing options and resources today program, or PASSPORT. The PASSPORT program shall provide home and community-based services as an alternative to nursing facility placement for aged and disabled medicaid recipients. The program shall be operated pursuant to a home and community-based as a separate medicaid waiver granted by component, as defined in section 5111.85 of the Revised Code.~~

until the United States secretary of health and human services approves the consolidated federal medicaid waiver sought under section 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396n, as amended 5111.861 of the Revised Code. The program shall be part of the consolidated federal medicaid waiver sought under that section if the United States secretary approves the waiver. The department of aging shall administer the program through a contract entered into with the department of job and family services under section 5111.91 of the Revised Code. The director of job and family services shall adopt rules under section 5111.85 of the Revised Code and the director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code to implement the program.

Sec. 173.401. (A) As used in this section:

"Area agency on aging" has the same meaning as in section 173.14 of the Revised Code.

"Long-term care consultation program" means the program the department of aging is required to develop under section 173.42 of the Revised Code.

"Long-term care consultation program administrator" or "administrator" means the department of aging or, if the department contracts with an area agency on aging or other entity to administer the long-term care consultation program for a particular area, that agency or entity.

"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

~~"PASSPORT program" means the program created under section 173.40 of the Revised Code.~~

"PASSPORT waiver" means the federal medicaid waiver granted by the United States secretary of health and human services that authorizes the PASSPORT program.

(B) The director of job and family services shall submit to the United States secretary of health and human services an amendment to the PASSPORT waiver that authorizes additional enrollments in the PASSPORT program pursuant to this section. Beginning with the month following the month in which the United States secretary approves the amendment and each month thereafter, each area agency on aging shall determine whether individuals who reside in the area that the area agency on aging serves and are on a waiting list for the PASSPORT program have been admitted to a nursing facility. If an area agency on aging determines that such an individual has been admitted to a nursing facility, the agency shall notify the long-term care consultation program administrator serving the area in which the individual resides about the determination. The

administrator shall determine whether the PASSPORT program is appropriate for the individual and whether the individual would rather participate in the PASSPORT program than continue residing in the nursing facility. If the administrator determines that the PASSPORT program is appropriate for the individual and the individual would rather participate in the PASSPORT program than continue residing in the nursing facility, the administrator shall so notify the department of aging. On receipt of the notice from the administrator, the department of aging shall approve the individual's enrollment in the PASSPORT program regardless of the PASSPORT program's waiting list and even though the enrollment causes enrollment in the program to exceed the limit that would otherwise apply. Each quarter, the department of aging shall certify to the director of budget and management the estimated increase in costs of the PASSPORT program resulting from enrollment of individuals in the PASSPORT program pursuant to this section.

~~(C) Not later than the last day of each calendar year, the director of job and family services shall submit to the general assembly a report regarding the number of individuals enrolled in the PASSPORT program pursuant to this section and the costs incurred and savings achieved as a result of the enrollments.~~

Sec. 173.402. An individual enrolled in the PASSPORT program may request that home-delivered meals provided to the individual under the PASSPORT program be kosher. If such a request is made, the department of aging or the department's designee shall ensure that each home-delivered meal provided to the individual under the PASSPORT program is kosher. In complying with this requirement, the department or department's designee shall require each entity that provides home-delivered meals to the individual to provide the individual with meals that meet, as much as possible, the requirements established in rules adopted under section 173.40 of the Revised Code governing the home-delivered meal service while complying with kosher practices for meal preparation and dietary restrictions.

An entity that provides a kosher home-delivered meal to a PASSPORT program enrollee pursuant to this section shall be reimbursed for the meal at a rate equal to the rate for home-delivered meals furnished to PASSPORT program enrollees requiring a therapeutic diet.

Sec. 173.403. "Choices program" means the program created under this section.

There is hereby created the choices program. The program shall provide home and community-based services. The choices program shall be

operated as a separate medicaid waiver component, as defined in section 5111.85 of the Revised Code, until the United States secretary of health and human services approves the consolidated federal medicaid waiver sought under section 5111.861 of the Revised Code. The program shall be part of the consolidated federal medicaid waiver sought under that section if the United States secretary approves the waiver. The department of aging shall administer the program through a contract entered into with the department of job and family services under section 5111.91 of the Revised Code. Subject to federal approval, the program shall be available statewide.

Sec. 173.42. (A) As used in ~~this section~~ sections 173.42 to 173.434 of the Revised Code:

(1) "Area agency on aging" means a public or private nonprofit entity designated under section 173.011 of the Revised Code to administer programs on behalf of the department of aging.

(2) "Department of aging-administered medicaid waiver component" means each of the following:

(a) The PASSPORT program created under section 173.40 of the Revised Code;

(b) The choices program created under section 173.403 of the Revised Code;

(c) The assisted living program created under section 5111.89 of the Revised Code;

(d) Any other medicaid waiver component, as defined in section 5111.85 of the Revised Code, that the department of aging administers pursuant to an interagency agreement with the department of job and family services under section 5111.91 of the Revised Code.

(3) "Home and community-based services covered by medicaid components the department of aging administers" means all of the following:

(a) Medicaid waiver services available to a participant in a department of aging-administered medicaid waiver component;

(b) The following medicaid state plan services available to a participant in a department of aging-administered medicaid waiver component as specified in rules adopted under section 5111.02 of the Revised Code:

(i) Home health services;

(ii) Private duty nursing services;

(iii) Durable medical equipment;

(iv) Services of a clinical nurse specialist;

(v) Services of a certified nurse practitioner.

(c) Services available to a participant of the PACE program.

~~(4)~~ "Long-term care consultation" or "consultation" means the process used to provide services under consultation service made available by the department of aging or a program administrator through the long-term care consultation program established pursuant to this section, including, but not limited to, such services as the provision of information about long-term care options and costs, the assessment of an individual's functional capabilities, and the conduct of all or part of the reviews, assessments, and determinations specified in sections 5111.202, 5111.204, 5119.061, and 5123.021 of the Revised Code and the rules adopted under those sections.

~~(3)~~(5) "Medicaid" means the medical assistance program established under Chapter 5111. of the Revised Code.

~~(4)~~(6) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

~~(5)~~(7) "PACE program" means the component of the medicaid program the department of aging administers pursuant to section 173.50 of the Revised Code.

(8) "PASSPORT administrative agency" means an entity under contract with the department of aging to provide administrative services regarding the PASSPORT program.

(9) "Program administrator" means an area agency on aging or other entity under contract with the department of aging to administer the long-term care consultation program in a geographic region specified in the contract.

(10) "Representative" means a person acting on behalf of an individual seeking a long-term care consultation, applying for admission to a nursing facility, or residing in a nursing facility specified in division (G) of this section. A representative may be a family member, attorney, hospital social worker, or any other person chosen to act on behalf of the individual.

(B) The department of aging shall develop a long-term care consultation program whereby individuals or their representatives are provided with long-term care consultations and receive through these professional consultations information about options available to meet long-term care needs and information about factors to consider in making long-term care decisions. The long-term care consultations provided under the program may be provided at any appropriate time, as permitted or required under this section and the rules adopted under it, including either prior to or after the individual who is the subject of a consultation has been admitted to a nursing facility or granted assistance in receiving home and community-based services covered by medicaid components the department of aging administers.

(C) The long-term care consultation program shall be administered by the department of aging, except that the department may ~~enter into a contract with an area agency on aging or other entity selected by the department under which the program for a particular area is administered by the area agency on aging or other entity pursuant to the contract~~ have the program administered on a regional basis by one or more program administrators. The department and each program administrator shall administer the program in such a manner that all of the following are included:

(1) Coordination and collaboration with respect to all available funding sources for long-term care services;

(2) Assessments of individuals regarding their long-term care service needs;

(3) Assessments of individuals regarding their on-going eligibility for long-term care services;

(4) Procedures for assisting individuals in obtaining access to, and coordination of, health and supportive services, including department of aging-administered medicaid waiver components;

(5) Priorities for using available resources efficiently and effectively.

(D) The program's long-term care consultations ~~provided for purposes of the program~~ shall be provided by individuals certified by the department under section ~~173.43~~ 173.422 of the Revised Code.

(E) The information provided through a long-term care consultation shall be appropriate to the individual's needs and situation and shall address all of the following:

(1) The availability of any long-term care options open to the individual;

(2) Sources and methods of both public and private payment for long-term care services;

(3) Factors to consider when choosing among the available programs, services, and benefits;

(4) Opportunities and methods for maximizing independence and self-reliance, including support services provided by the individual's family, friends, and community.

(F) An individual's long-term care consultation may include an assessment of the individual's functional capabilities. The consultation may incorporate portions of the determinations required under sections 5111.202, 5119.061, and 5123.021 of the Revised Code and may be provided concurrently with the assessment required under section 5111.204 of the Revised Code.

(G)(1) Unless an exemption specified in division (I) of this section is

applicable, each ~~individual in~~ of the following ~~categories~~ shall be provided with a long-term care consultation:

(a) ~~Individuals~~ An individual who ~~apply~~ applies or ~~indicate~~ indicates an intention to apply for admission to a nursing facility, regardless of the source of payment to be used for ~~their~~ the individual's care in a nursing facility;

~~(b) Nursing facility residents who apply or indicate an intention to apply for medicaid;~~

~~(c) Nursing facility residents who are likely to spend down their resources within six months after admission to a nursing facility to a level at which they are financially eligible for medicaid;~~

~~(d) Individuals~~ An individual who ~~request~~ requests a long-term care consultation;

(c) An individual identified by the department or a program administrator as being likely to benefit from a long-term care consultation.

(2) In addition to the individuals ~~included in the categories~~ specified in division (G)(1) of this section, a long-term care ~~consultations~~ consultation may be provided to a nursing facility ~~residents who have not applied and have not indicated an intention to apply for medicaid~~ resident regardless of the source of payment being used for the resident's care in the nursing facility. The purpose of the consultations provided to these individuals shall be to determine continued need for nursing facility services, to provide information on alternative services, and to make referrals to alternative services.

(H)(1) ~~When~~ Except as provided in division (H)(2) or (3) of this section, a long-term care consultation ~~is required to be~~ provided pursuant to division (G)(1) of this section, ~~the consultation shall be provided as follows or pursuant to division (H)(2) or (3) of this section:~~

(a) If the individual for whom the consultation is being provided has applied for medicaid and the consultation is being provided concurrently with the assessment required under section 5111.204 of the Revised Code, the consultation shall be completed in accordance with the applicable time frames specified in that section for providing a level of care determination based on the assessment.

(b) In all other cases, the consultation shall be provided not later than five calendar days after the department or ~~the~~ program administrator ~~under contract with the department~~ receives notice of the reason for which the consultation is ~~required~~ to be provided pursuant to division (G)(1) of this section.

(2) An individual or the individual's representative may request that a

long-term care consultation be provided on a date that is later than the date required under division (H)(1)(a) or (b) of this section.

(3) If a long-term care consultation cannot be completed within the number of days required by division (H)(1) or (2) of this section, the department or the program administrator ~~under contract with the department~~ may do any of the following:

(a) ~~Exempt~~ In the case of an individual specified in division (G)(1) of this section, exempt the individual from the consultation pursuant to rules that may be adopted under division (L) of this section;

(b) In the case of an applicant for admission to a nursing facility, provide the consultation after the individual is admitted to the nursing facility;

(c) In the case of a resident of a nursing facility, provide the consultation as soon as practicable.

(I) An individual is not required to be provided a long-term care consultation under division (G)(1) of this section if any of the following apply:

(1) ~~The department or program administrator has attempted to provide the consultation, but the individual or the individual's representative chooses to forego participation in the consultation pursuant to criteria specified in rules adopted under division (L) of this section~~ refuses to cooperate;

(2) The individual is to receive care in a nursing facility under a contract for continuing care as defined in section 173.13 of the Revised Code;

(3) The individual has a contractual right to admission to a nursing facility operated as part of a system of continuing care in conjunction with one or more facilities that provide a less intensive level of services, including a residential care facility licensed under Chapter 3721. of the Revised Code, an adult care facility licensed under Chapter 3722. of the Revised Code, or an independent living arrangement;

(4) The individual is to receive continual care in a home for the aged exempt from taxation under section 5701.13 of the Revised Code;

(5) The individual is seeking admission to a facility that is not a nursing facility with a provider agreement under section 5111.22, 5111.671, or 5111.672 of the Revised Code;

~~(6) The individual is to be transferred from another nursing facility;~~

~~(7) The individual is to be readmitted to a nursing facility following a period of hospitalization;~~

~~(8) The individual is exempted from the long-term care consultation requirement by the department or the program administrator pursuant to rules that may be adopted under division (L) of this section.~~

(J) ~~At the conclusion of an individual's~~ As part of the long-term care consultation program, the department or ~~the program administrator under contract with the department~~ shall ~~provide the~~ assist an individual or individual's representative with a written summary of options and resources available to meet the individual's needs in accessing all sources of care and services that are appropriate for the individual and for which the individual is eligible, including all available home and community-based services covered by medicaid components the department of aging administers. Even though the summary may specify that a source of long-term care other than care in a nursing facility is appropriate and available, the individual is not required to seek an alternative source of long-term care and may be admitted to or continue to reside in a nursing facility The assistance shall include providing for the conduct of assessments or other evaluations and the development of individualized plans of care or services under section 173.424 of the Revised Code.

(K) No nursing facility for which an operator has a provider agreement under section 5111.22, 5111.671, or 5111.672 of the Revised Code shall admit ~~or retain~~ any individual as a resident, unless the nursing facility has received evidence that a long-term care consultation has been completed for the individual or division (I) of this section is applicable to the individual.

(L) The director of aging may adopt any rules the director considers necessary for the implementation and administration of this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code and may specify any or all of the following:

(1) Procedures for providing long-term care consultations pursuant to this section;

(2) Information to be provided through long-term care consultations regarding long-term care services that are available;

(3) ~~Criteria under which an individual or the individual's representative may choose to forego participation in~~ and procedures to be used to identify and recommend appropriate service options for an individual receiving a long-term care consultation;

(4) Criteria for exempting individuals from the long-term care consultation requirement;

(5) Circumstances under which it may be appropriate to provide an individual's long-term care consultation after the individual's admission to a nursing facility rather than before admission;

(6) Criteria for identifying nursing facility residents who would benefit from the provision of a long-term care consultation;

(7) A description of the types of information from a nursing facility that

is needed under the long-term care consultation program to assist a resident with relocation from the facility:

(8) Standards to prevent conflicts of interest relative to the referrals made by a person who performs a long-term care consultation, including standards that prohibit the person from being employed by a provider of long-term care services:

(9) Procedures for providing notice and an opportunity for a hearing under division (N) of this section.

(M) To assist the department and each program administrator with identifying individuals who are likely to benefit from a long-term care consultation, the department and program administrator may ask to be given access to nursing facility resident assessment data collected through the use of the resident assessment instrument specified in rules adopted under section 5111.02 of the Revised Code for purposes of the medicaid program. Except when prohibited by state or federal law, the department of health, department of job and family services, or nursing facility holding the data shall grant access to the data on receipt of the request from the department of aging or program administrator.

~~(M)~~(N)(1) The director of aging, after providing notice and an opportunity for a hearing, may fine a nursing facility an amount determined by rules the director shall adopt in accordance with Chapter 119. of the Revised Code ~~if~~ for any of the following reasons:

(a) The nursing facility admits ~~or retains~~ an individual, without evidence that a long-term care consultation has been provided, as required by this section;

(b) The nursing facility denies a person attempting to provide a long-term care consultation access to the facility or a resident of the facility;

(c) The nursing facility denies the department of aging or program administrator access to the facility or a resident of the facility, as the department or administrator considers necessary to administer the program.

(2) In accordance with section 5111.62 of the Revised Code, all fines collected under ~~this~~ division (N)(1) of this section shall be deposited into the state treasury to the credit of the residents protection fund.

Sec. 173.421. As part of the long-term care consultation program established under section 173.42 of the Revised Code, the department of aging may establish procedures for the conduct of periodic or follow-up long-term care consultations for residents of nursing facilities, including annual or more frequent reassessments of the residents' functional capabilities. If the procedures are established, the department or program administrator shall assign individuals to nursing facilities to serve as care

managers within the facilities. The individuals assigned shall be individuals who are certified under section 173.422 of the Revised Code to provide long-term care consultations.

Sec. ~~173.43~~ 173.422. The department of aging shall certify individuals who meet certification requirements established by rule to provide long-term care consultations for purposes of ~~section~~ sections 173.42 and 173.421 of the Revised Code. The director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code governing the certification process and requirements. The rules shall specify the education, experience, or training in long-term care a person must have to qualify for certification.

Sec. 173.423. If an individual who is the subject of a long-term care consultation is eligible for and elects to receive home and community-based services covered by medicaid components the department of aging administers, the department of aging or program administrator shall monitor the individual by doing either or both of the following at least once each year:

(A) Determining whether the services being provided to the individual are appropriate;

(B) Determining whether changes in the types of services being provided to the individual should be made.

Sec. 173.424. If, under federal law, an individual's eligibility for the home and community-based services covered by medicaid components the department of aging administers is dependent on the conduct of an assessment or other evaluation of the individual's needs and capabilities and the development of an individualized plan of care or services, the department shall develop and implement all procedures necessary to comply with the federal law. The procedures shall include the use of long-term care consultations.

Sec. 173.425. Annually, the department of aging shall prepare a report regarding the individuals who are the subjects of long-term care consultations and elect to receive home and community-based services covered by medicaid components the department of aging administers. The department shall prepare the report in consultation with the department of job and family services and office of budget and management. Each annual report shall include all of the following information:

(A) The total savings achieved by providing home and community-based services covered by medicaid components the department of aging administers rather than services that otherwise would be provided in a nursing facility;

(B) The average number of days that individuals receive home and

community-based services covered by medicaid components the department of aging administers before and after receiving nursing facility services;

(C) A categorical analysis of the acuity levels of the individuals who receive home and community-based services covered by medicaid components the department of aging administers;

(D) Any other statistical information the department of aging considers appropriate for inclusion in the report.

Sec. 173.43. (A) Subject to section 173.433 of the Revised Code, the department of aging shall enter into an interagency agreement with the department of job and family services under section 5111.91 of the Revised Code under which the department of aging is required to establish for each biennium a unified long-term care budget for home and community-based services covered by medicaid components the department of aging administers. The interagency agreement shall require the department of aging to do all of the following:

(1) Administer the unified long-term care budget in accordance with sections 173.43 to 173.434 of the Revised Code and the general assembly's appropriations for home and community-based services covered by medicaid components the department of aging administers for the applicable biennium;

(2) Contract with each PASSPORT administrative agency for assistance in the administration of the unified long-term care budget;

(3) Provide individuals who are eligible for home and community-based services covered by medicaid components the department of aging administers a choice of services that meet the individuals' needs and improve their quality of life;

(4) Provide a continuum of services that meet the life-long needs of individuals who are eligible for home and community-based services covered by medicaid components the department of aging administers.

(B) The director of budget and management shall create new appropriation items as necessary for establishment of the unified long-term care budget.

Sec. 173.431. Subject to section 173.433 of the Revised Code, the department of aging shall ensure that the unified long-term care budget established under section 173.43 of the Revised Code is administered in a manner that provides medicaid coverage of and expands access to all of the following as necessary to meet the needs of individuals receiving home and community-based services covered by medicaid components the department of aging administers:

(A) To the extent permitted by the medicaid waivers authorizing

department of aging-administered medicaid waiver components, all of the following medicaid waiver services provided under department of aging-administered medicaid waiver components:

- (1) Personal care services;
- (2) Home-delivered meals;
- (3) Adult day-care;
- (4) Homemaker services;
- (5) Emergency response services;
- (6) Medical equipment and supplies;
- (7) Chore services;
- (8) Social work counseling;
- (9) Nutritional counseling;
- (10) Independent living assistance;
- (11) Medical transportation;
- (12) Nonmedical transportation;
- (13) Home care attendant services;
- (14) Assisted living services;
- (15) Community transition services;
- (16) Enhanced community living services;
- (17) All other medicaid waiver services provided under department of aging-administered medicaid waiver components.

(B) All of the following state medicaid plan services as specified in rules adopted under section 5111.02 of the Revised Code:

- (1) Home health services;
- (2) Private duty nursing services;
- (3) Durable medical equipment;
- (4) Services of a clinical nurse specialist;
- (5) Services of a certified nurse practitioner.

(C) The services that the PACE program provides.

Sec. 173.432. Subject to section 173.433 of the Revised Code, the department of aging or its designee shall provide care management and authorization services with regard to the state plan services specified in division (B) of section 173.431 of the Revised Code that are provided to participants of department of aging-administered medicaid waiver components. The department or its designee shall ensure that no person providing the care management and authorization services performs an activity that may not be performed without a valid certificate or license issued by an agency of this state unless the person holds the valid certificate or license.

Sec. 173.433. (A) The director of job and family services shall do one or

more of the following as necessary for the implementation of sections 173.43 to 173.432 of the Revised Code:

(1) Submit one or more state medicaid plan amendments to the United States secretary of health and human services;

(2) Request one or more federal medicaid waivers from the United States secretary;

(3) Submit one or more federal medicaid waiver amendments to the United States secretary.

(B) No provision of sections 173.43 to 173.432 of the Revised Code that requires the approval of the United States secretary of health and human services shall be implemented until the United States secretary provides the approval.

Sec. 173.434. The director of job and family services shall adopt rules under section 5111.85 of the Revised Code to authorize the director of aging to adopt rules that are needed to implement sections 173.43 to 173.432 of the Revised Code. The director of aging's rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 173.50. (A) Pursuant to a contract entered into with the department of job and family services as an interagency agreement under section 5111.91 of the Revised Code, the department of aging shall carry out the day-to-day administration of the component of the medicaid program established under Chapter 5111. of the Revised Code known as the program of all-inclusive care for the elderly or PACE. The department of aging shall carry out its PACE administrative duties in accordance with the provisions of the interagency agreement and all applicable federal laws, including the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396u-4, as amended.

(B) The department of aging may adopt rules in accordance with Chapter 119. of the Revised Code regarding the PACE program, including rules establishing priorities for enrolling in the program pursuant to section 173.501 of the Revised Code. The department's rules are subject to both of the following:

(1) The rules shall be authorized by rules adopted by the department of job and family services.

(2) The rules shall address only those issues that are not addressed in rules adopted by the department of job and family services for the PACE program.

Sec. 173.501. (A) As used in this section:

"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

"PACE provider" has the same meaning as in 42 U.S.C. 1396u-4(a)(3).

(B) Each month, the department of aging shall determine whether individuals who are on a waiting list for the PACE program have been admitted to a nursing facility. If the department determines that such an individual has been admitted to a nursing facility, the department shall notify the PACE provider serving the area in which the individual resides about the determination. The PACE provider shall determine whether the PACE program is appropriate for the individual and whether the individual would rather participate in the PACE program than continue residing in the nursing facility. If the PACE provider determines that the PACE program is appropriate for the individual and the individual would rather participate in the PACE program than continue residing in the nursing facility, the PACE provider shall so notify the department of aging. On receipt of the notice from the PACE provider, the department of aging shall approve the individual's enrollment in the PACE program in accordance with priorities established in rules adopted under section 173.50 of the Revised Code. Each quarter, the department of aging shall certify to the director of budget and management the estimated increase in costs of the PACE program resulting from enrollment of individuals in the PACE program pursuant to this section.

Sec. 173.70. (A) The director of aging may enter into a contract with any person under which the person operates a program for the provision of outpatient prescription drug discounts to any or all of the following:

(1) Individuals who are sixty years of age or older;

(2) Individuals whose family incomes do not exceed three hundred per cent of the federal poverty guidelines, as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended;

(3) Individuals who are persons with disabilities, as defined in section 173.06 of the Revised Code.

(B) The director may disclose to the person under contract information that identifies the individuals who participated in and individuals who applied for participation in the Ohio's best Rx program that was operated under former sections 173.71 to 173.91 of the Revised Code.

Sec. 173.71. As used in sections 173.71 to 173.91 of the Revised Code:

(A) "Children's health insurance program" means the children's health insurance program part I, part II, and part III established under sections 5101.50 to 5101.529 of the Revised Code.

(B) "~~Disability medical assistance program~~" means the program established under section 5115.10 of the Revised Code.

~~(C)~~ "Medicaid program" or "medicaid" means the medical assistance program established under Chapter 5111. of the Revised Code.

~~(D)~~(C) "National drug code number" means the number registered for a drug pursuant to the listing system established by the United States food and drug administration under the "Drug Listing Act of 1972," 86 Stat. 559, 21 U.S.C. 360, as amended.

~~(E)~~(D) "Ohio's best Rx program participant" or "participant" means an individual determined eligible for the Ohio's best Rx program and included under an Ohio's best Rx program enrollment card.

~~(F)~~(E) "Participating manufacturer" means a drug manufacturer participating in the Ohio's best Rx program pursuant to a manufacturer agreement entered into under section 173.81 of the Revised Code.

~~(G)~~(F) "Participating terminal distributor" means a terminal distributor of dangerous drugs participating in the Ohio's best Rx program pursuant to an agreement entered into under section 173.79 of the Revised Code.

~~(H)~~(G) "Political subdivision" has the same meaning as in section 9.23 of the Revised Code.

~~(I)~~(H) "State agency" has the same meaning as in section 9.23 of the Revised Code.

~~(J)~~(I) "Terminal distributor of dangerous drugs" has the same meaning as in section 4729.01 of the Revised Code.

~~(K)~~(J) "Third-party payer" has the same meaning as in section 3901.38 of the Revised Code.

~~(L)~~(K) "Trade secret" has the same meaning as in section 1333.61 of the Revised Code.

~~(M)~~(L) "Usual and customary charge" means the amount a participating terminal distributor or the drug mail order system included in the Ohio's best Rx program pursuant to section 173.78 of the Revised Code charges when a drug included in the program is purchased by an individual who does not receive a discounted price for the drug pursuant to any drug discount program, including the Ohio's best Rx program or a pharmacy assistance program established by any person or government entity, and for whom no third-party payer or program funded in whole or part with state or federal funds is responsible for all or part of the cost of the drug.

Sec. 173.76. (A) To be eligible for the Ohio's best Rx program, an individual must meet all of the following requirements at the time of application for the program:

(1) The individual must be a resident of this state.

(2) One of the following must be the case:

(a) The individual has family income, as determined under rules adopted

pursuant to section 173.83 of the Revised Code, that does not exceed three hundred per cent of the federal poverty guidelines, as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended;

(b) The individual is sixty years of age or older;

(c) The individual is a person with a disability, as defined in section 173.06 of the Revised Code.

(3) Except as provided in division (B) of this section, the individual must not have coverage for outpatient drugs paid for in whole or in part by any of the following:

(a) A third-party payer, including an employer;

(b) The medicaid program;

(c) The children's health insurance program;

(d) ~~The disability medical assistance program;~~

(e) Another health plan or pharmacy assistance program that uses state or federal funds to pay part or all of the cost of the individual's outpatient drugs.

(4) The individual must not have had coverage for outpatient drugs paid for by any of the entities or programs specified in division (A)(3) of this section during any of the four months preceding the month in which the application for the Ohio's best Rx program is made, unless any of the following applies:

(a) The individual is sixty years of age or older.

(b) The third-party payer, including an employer, that paid for the coverage filed for bankruptcy under federal bankruptcy laws.

(c) The individual is no longer eligible for coverage provided through a retirement plan subject to protection under the "Employee Retirement Income Security Act of 1974," 88 Stat. 832, 29 U.S.C. 1001, as amended.

(d) The individual is no longer eligible for the medicaid program; or children's health insurance program, ~~or disability medical assistance program.~~

(e) The individual is either temporarily or permanently discharged from employment due to a business reorganization.

(B) An individual is not subject to division (A)(3) of this section if the individual has coverage for outpatient drugs paid for in whole or in part by either of the following:

(1) The workers' compensation program;

(2) A medicare prescription drug plan offered pursuant to the "Medicare Prescription Drug, Improvement, and Modernization Act of 2003," 117 Stat.

2071, 42 U.S.C. 1395w-101, as amended, but only if all of the following are the case with respect to the particular drug being purchased through the Ohio's best Rx program:

(a) The individual is responsible for the full cost of the drug.

(b) The drug is not subject to a rebate from the manufacturer under the individual's medicare prescription drug plan.

(c) The manufacturer of the drug has agreed to the Ohio's best Rx program's inclusion of individuals who have coverage through a medicare prescription drug plan.

Sec. 173.99. (A) A long-term care provider, person employed by a long-term care provider, other entity, or employee of such other entity that violates division (C) of section 173.24 of the Revised Code is subject to a fine not to exceed one thousand dollars for each violation.

(B) Whoever violates division (C) of section 173.23 of the Revised Code is guilty of registering a false complaint, a misdemeanor of the first degree.

(C) A long-term care provider, other entity, or person employed by a long-term care provider or other entity that violates division (E) of section 173.19 of the Revised Code by denying a representative of the office of the state long-term care ombudsperson program the access required by that division is subject to a fine not to exceed five hundred dollars for each violation.

(D) Whoever violates division (C) of section 173.44 of the Revised Code is subject to a fine of one hundred dollars.

~~(E) Whoever violates division (B) of section 173.90 of the Revised Code is guilty of a misdemeanor of the first degree.~~

Sec. 174.02. (A) The low- and moderate-income housing trust fund is hereby created in the state treasury. The fund consists of all appropriations made to the fund, housing trust fund fees collected by county recorders pursuant to section 317.36 of the Revised Code and deposited into the fund pursuant to section 319.63 of the Revised Code, and all grants, gifts, loan repayments, and contributions of money made from any source to the department of development for deposit in the fund. All investment earnings of the fund shall be credited to the fund. The director of development shall allocate a portion of the money in the fund to an account of the Ohio housing finance agency. The department shall administer the fund. The agency shall use money allocated to it for implementing and administering its programs and duties under sections 174.03 and 174.05 of the Revised Code, and the department shall use the remaining money in the fund for implementing and administering its programs and duties under sections

174.03 to 174.06 of the Revised Code. Use of all money drawn from the fund is subject to the following restrictions:

~~(1) Not more than six per cent of any current year appropriation authority for the fund shall be used for the transitional and permanent housing program to make grants to municipal corporations, counties, townships, and nonprofit organizations for the acquisition, rehabilitation, renovation, construction, conversion, operation, and cost of supportive services for new and existing transitional and permanent housing for homeless persons.~~

~~(2)~~(a) Not more than five per cent of the current year appropriation authority for the fund shall be allocated between grants to community development corporations for the community development corporation grant program and grants and loans to the Ohio community development finance fund, a private nonprofit corporation.

(b) In any year in which the amount in the fund exceeds one hundred thousand dollars and at least that much is allocated for the uses described in this section, not less than one hundred thousand dollars shall be used to provide training, technical assistance, and capacity building assistance to nonprofit development organizations.

~~(3)~~(2) Not more than ~~seven~~ ten per cent of any current year appropriation authority for the fund shall be used for the emergency shelter housing grants program to make grants to private, nonprofit organizations and municipal corporations, counties, and townships for emergency shelter housing for the homeless and emergency shelter facilities serving unaccompanied youth seventeen years of age and younger. The grants shall be distributed pursuant to rules the director adopts and qualify as matching funds for funds obtained pursuant to the McKinney Act, 101 Stat. 85 (1987), 42 U.S.C.A. 11371 to 11378.

~~(4)~~(3) In any fiscal year in which the amount in the fund exceeds the amount awarded pursuant to division (A)~~(2)~~(1)(b) of this section by at least two hundred fifty thousand dollars, at least two hundred fifty thousand dollars from the fund shall be provided to the department of aging for the resident services coordinator program as established in section 173.08 of the Revised Code.

~~(5)~~(4) Of all current year appropriation authority for the fund, not more than five per cent shall be used for administration.

~~(6)~~(5) Not less than forty-five per cent of the funds awarded during any one fiscal year shall be for grants and loans to nonprofit organizations under section 174.03 of the Revised Code.

~~(7)~~(6) Not less than fifty per cent of the funds awarded during any one

fiscal year, excluding the amounts awarded pursuant to divisions (A)(1), (2), and ~~(3)(7)~~ of this section, shall be for grants and loans for activities that provide housing and housing assistance to families and individuals in rural areas and small cities that are not eligible to participate as a participating jurisdiction under the "HOME Investment Partnerships Act," 104 Stat. 4094 (1990), 42 U.S.C. 12701 note, 12721.

~~(8)(7)~~ No money in the fund shall be used to pay for any legal services other than the usual and customary legal services associated with the acquisition of housing.

~~(9)(8)~~ Money in the fund may be used as matching money for federal funds received by the state, counties, municipal corporations, and townships for the activities listed in section 174.03 of the Revised Code.

(B) If, after the second quarter of any year, it appears to the director that the full amount of the money in the fund designated in that year for activities that provide housing and housing assistance to families and individuals in rural areas and small cities under division (A) of this section will not be used for that purpose, the director may reallocate all or a portion of that amount for other housing activities. In determining whether or how to reallocate money under this division, the director may consult with and shall receive advice from the housing trust fund advisory committee.

Sec. 174.03. (A) The department of development and the Ohio housing finance agency shall each develop programs under which, in accordance with rules adopted under this section, they may make grants, loans, loan guarantees, and loan subsidies to counties, municipal corporations, townships, local housing authorities, and nonprofit organizations and may make loans, loan guarantees, and loan subsidies to private developers and private lenders to assist in activities that provide housing and housing assistance for specifically targeted low- and moderate-income families and individuals. There is no minimum housing project size for awards under this division for any project that is developed for a special needs population and that is supported by a social service agency where the housing project is located. Activities for which grants, loans, loan guarantees, and loan subsidies may be made under this section include all of the following:

(1) Acquiring, financing, constructing, leasing, rehabilitating, remodeling, improving, and equipping publicly or privately owned housing;

(2) Providing supportive services related to housing and the homeless, including housing counseling. Not more than twenty per cent of the current year appropriation authority for the low- and moderate-income housing trust fund that remains after the award of funds made pursuant to divisions (A)(1); and (A)(2); ~~and (A)(3)~~ of section 174.02 of the Revised Code, shall

be awarded in any fiscal year for supportive services.

(3) Providing rental assistance payments or other project operating subsidies that lower tenant rents;

(4) Improving the quality of life of tenants by providing education for tenants and residents of manufactured home communities regarding their rights and responsibilities, planning and implementing activities designed to improve conflict resolution and the capacity of tenants to negotiate and mediate with landlords, and developing tenant and resident councils and organizations;

(5) Promoting capacity building initiatives related to the creation of county housing trust funds.

~~(B) Activities listed under division (A) of this section may include emergency shelter care programs for unaccompanied youth seventeen years of age and younger.~~

~~(C)~~ Grants, loans, loan guarantees, and loan subsidies may be made to counties, municipal corporations, townships, and nonprofit organizations for the additional purposes of providing technical assistance, design and finance services and consultation, and payment of pre-development and administrative costs related to any of the activities listed above.

~~(D)~~ (C) In developing programs under this section, the department and the agency shall invite, accept, and consider public comment, and recommendations from the housing trust fund advisory committee created under section 174.06 of the Revised Code, on how the programs should be designed to most effectively benefit low- and moderate-income families and individuals. The programs developed under this section shall respond collectively to housing and housing assistance needs of low- and moderate-income families and individuals statewide.

~~(E)~~ (D) The department and the agency, in accordance with Chapter 119. of the Revised Code, shall each adopt rules to administer programs developed under this section. The rules shall prescribe procedures and forms that counties, municipal corporations, townships, local housing authorities, and nonprofit organizations shall use in applying for grants, loans, loan guarantees, and loan subsidies and that private developers and private lenders shall use in applying for loans, loan guarantees, and loan subsidies; eligibility criteria for the receipt of funds; procedures for reviewing and granting or denying applications; procedures for paying out funds; conditions on the use of funds; procedures for monitoring the use of funds; and procedures under which a recipient shall be required to repay funds that are improperly used. The rules shall do both of the following:

(1) Require each recipient of a grant or loan made from the low- and

moderate-income housing trust fund for activities that provide, or assist in providing, a rental housing project, to reasonably ensure that the rental housing project will remain affordable to those families and individuals targeted for the rental housing project for the useful life of the rental housing project or for thirty years, whichever is longer;

(2) Require each recipient of a grant or loan made from the low- and moderate-income housing trust fund for activities that provide, or assist in providing, a housing project to prepare and implement a plan to reasonably assist any families and individuals displaced by the housing project in obtaining decent affordable housing.

~~(F)~~ (E) In prescribing eligibility criteria and conditions for the use of funds, neither the department nor the agency is limited to the criteria and conditions specified in this section and each may prescribe additional eligibility criteria and conditions that relate to the purposes for which grants, loans, loan guarantees, and loan subsidies may be made. However, the department and agency are limited by the following specifically targeted low- and moderate-income guidelines:

(1) Not less than seventy-five per cent of the money granted and loaned under this section in any fiscal year shall be for activities that provide affordable housing and housing assistance to families and individuals whose incomes are equal to or less than fifty per cent of the median income for the county in which they live, as determined by the department under section 174.04 of the Revised Code.

(2) Any money granted and loaned under this section in any fiscal year that is not granted or loaned pursuant to division (F)(1) of this section shall be for activities that provide affordable housing and housing assistance to families and individuals whose incomes are equal to or less than eighty per cent of the median income for the county in which they live, as determined by the department under section 174.04 of the Revised Code.

~~(G)~~ (F) In making grants, loans, loan guarantees, and loan subsidies under this section, the department and the agency shall give preference to viable projects and activities that benefit those families and individuals whose incomes are equal to or less than thirty-five per cent of the median income for the county in which they live, as determined by the department under section 174.04 of the Revised Code.

~~(H)~~ (G) The department and the agency shall monitor the programs developed under this section to ensure that money granted and loaned under this section is not used in a manner that violates division (H) of section 4112.02 of the Revised Code or discriminates against families with children.

Sec. 174.06. (A) There is hereby created the housing trust fund advisory

committee. The committee consists of fourteen members the governor appoints as follows to represent organizations committed to housing and housing assistance for low- and moderate-income persons:

- (1) One member to represent lenders.
- (2) One member to represent for-profit builders and developers.
- (3) One member to represent the families and individuals included in the income groups targeted for housing and housing assistance under divisions (E) and (F) and ~~(G)~~ of section 174.03 of the Revised Code.
- (4) One member to represent religious, civic, or social service organizations.
- (5) One member to represent counties.
- (6) One member to represent municipal corporations.
- (7) One member to represent townships.
- (8) One member to represent local housing authorities.
- (9) One member to represent fair housing organizations.
- (10) Three members to represent nonprofit organizations.
- (11) One member to represent real estate brokers licensed under Chapter 4735. of the Revised Code.
- (12) One member to represent the for-profit rental housing industry.

(B)(1) Terms of office are for four years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Vacancies shall be filled in the manner prescribed for the original appointment. A member appointed to fill a vacancy occurring prior to the expiration of a term shall hold office for the remainder of that term. A member shall continue in office subsequent to the expiration of a term until a successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(2) The governor may remove a member for misfeasance, malfeasance, or willful neglect of duty.

(C)(1) The committee shall select a chairperson from among its members. The committee shall meet at least once each calendar year and upon the call of the chair. Members of the committee serve without compensation, but shall be reimbursed for reasonable and necessary expenses incurred in the discharge of duties.

(2) The department of development shall provide the committee with a meeting place, supplies, and staff assistance as the committee requests.

(D) The committee shall assist the department and the Ohio housing finance agency in defining housing needs and priorities, recommend to the department and agency at least annually how the programs developed under

section 174.02 of the Revised Code should be designed to most effectively benefit low- and moderate-income persons, consider an allocation of funds for projects of fifteen units or less, and advise the director of development on whether and how to reallocate money in the low- and moderate-income housing trust fund under division (B) of section 174.02 of the Revised Code.

Sec. 175.01. As used in ~~this chapter~~ sections 175.01 to 175.13 of the Revised Code:

(A) "Bonds" means bonds, notes, debentures, refunding bonds, refunding notes, and other obligations.

(B) "Down payment assistance" means monetary assistance for down payment closing costs, and pre-paid expenses directly related to the purchase of a home.

(C) "Financial assistance" means grants, loans, loan guarantees, an equity position in a project, and loan subsidies.

~~(C)~~(D) "Grant" means funding for which repayment is not required.

~~(D)~~(E) "Homeownership program" means any program for which the Ohio housing finance agency provides financing, directly or indirectly, for the purchase of housing for owner-occupancy.

~~(E)~~(F) "Housing" means housing for owner-occupancy and multifamily rental housing.

~~(F)~~(G) "Housing development fund" means the housing development fund created and administered pursuant to section 175.11 of the Revised Code.

~~(G)~~(H) "Housing finance agency personal services fund" means the housing finance agency personal services fund created and administered pursuant to section 175.051 of the Revised Code.

~~(H)~~(I) "Housing for owner-occupancy" means housing that is intended for occupancy by an owner as a principal residence. "Housing for owner-occupancy" may be any type of structure and may be owned in any form of ownership.

~~(I)~~(J) "Housing trust fund" means the low- and moderate-income housing trust fund created and administered pursuant to Chapter 174. of the Revised Code.

~~(J)~~(K) "Improvement" means any alteration, remodeling, addition, or repair that substantially protects or improves the basic habitability or energy efficiency of housing.

~~(K)~~(L) "Lending institution" means any financial institution qualified to conduct business in this state, a subsidiary corporation that is wholly owned by a financial institution qualified to conduct business in this state, and a mortgage lender whose regular business is originating, servicing, or

brokering real estate loans and who is qualified to do business in this state.

~~(L)~~(M) "Loan" means any extension of credit or other form of financing or indebtedness extended directly or indirectly to a borrower with the expectation that it will be repaid in accordance with the terms of the underlying loan agreement or other pertinent document. "Loan" includes financing the Ohio housing finance agency extends to lending institutions and indebtedness the agency purchases from lending institutions.

~~(M)~~(N) "Loan guarantee" means any agreement in favor of a lending institution, bondholder, or other lender in which the credit and resources of the housing finance agency or the housing trust fund are pledged to secure the payment or collection of financing extended to a borrower for the acquisition, construction, improvement, rehabilitation, or preservation of housing or to refinance any financing previously extended for those purposes.

~~(N)~~(O) "Loan subsidy" means any deposit of funds the Ohio housing finance agency holds or administers into a lending institution with the authorization or direction that the income or revenues the deposit earns, or could have earned at competitive rates, be applied directly or indirectly to the benefit of housing assistance or financial assistance.

~~(O)~~(P) "Low- and moderate-income persons" means individuals and families who qualify as low- and moderate-income persons pursuant to guidelines the agency establishes.

~~(P)~~(Q) "Multifamily rental housing" means multiple unit housing intended for rental occupancy.

~~(Q)~~(R) "Nonprofit organization" means a nonprofit organization in good standing and qualified to conduct business in this state including any corporation whose members are members of a metropolitan housing authority.

~~(R)~~(S) "Owner" means any person who, jointly or severally, has legal or equitable title to housing together with the right to control or possess that housing. "Owner" includes a purchaser of housing pursuant to a land installment contract if that contract vests possession and maintenance responsibilities in the purchaser, and a person who has care or control of housing as executor, administrator, assignee, trustee, or guardian of the estate of the owner of that housing.

~~(S)~~(T) "Security interest" means any lien, encumbrance, pledge, assignment, mortgage, or other form of collateral the Ohio housing finance agency holds as security for financial assistance the agency extends or a loan the agency acquires.

Sec. 175.052. The Ohio housing finance agency, in providing

homeownership program assistance, shall give preference to grants or loans for activities that provide housing and housing assistance to honorably discharged veterans.

Sec. 175.30. As used in sections 175.30 to 175.32 of the Revised Code:

(A) "First home" or "home" means the first residential real property located in this state to be purchased by a recipient who has not owned or had an ownership interest in a principal residence in the three years prior to the purchase.

(B) "Graduate" means an individual who has graduated from an institution of higher education and who is eligible under division (B) of section 175.31 of the Revised Code to apply for a grant, financial assistance, or down payment assistance awarded under the grants for grads program.

(C) "Institution of higher education" means a state university or college located in this state, a private college or university located in this state that possesses a certificate of authorization issued by the Ohio board of regents under Chapter 1713. of the Revised Code, or an accredited college or university located outside this state that is accredited by an accrediting organization or professional accrediting association recognized by the Ohio board of regents.

(D) "Ohio resident" means any of the following:

(1) An individual who was a resident of this state at the time of the individual's graduation from an Ohio public or nonpublic high school that is approved by the state board of education, and who is a resident of this state at the time of applying for the program;

(2) An individual who was a resident of this state at the time of completing, through the twelfth-grade level, a home study program approved by the state board of education, and who is a resident of this state at the time of applying for the program;

(3) An individual whose parent was a resident of this state at the time of the individual's graduation from high school, and who graduated from either of the following:

(a) An out-of-state high school that was accredited by a regional accrediting organization recognized by the United States department of education and met standards at least equivalent to those adopted by the state board of education for approval of nonpublic schools in this state;

(b) A high school approved by the United States department of defense.

(E) "Program" means the grants for grads program created under section 175.31 of the Revised Code.

(F) "Recipient" means an individual who has been awarded a grant or has received financial assistance or down payment assistance under the

program.

Sec. 175.31. (A) There is hereby created the grants for grads program for the purpose of providing grants or other financial assistance or down payment assistance to Ohio residents who have received an associate, baccalaureate, master's, doctoral, or other postgraduate degree, which grants or assistance shall be used by a recipient to pay for the down payment or closing costs on the purchase of a first home. The program shall be administered by the Ohio housing finance agency using moneys available to it. The program shall not be subject to the income limits established by the agency under section 175.05 of the Revised Code. Participation in the program shall require a graduate to be eligible under division (B) of this section.

(B)(1) A graduate is eligible to participate in the program if the graduate:

(a) Is an Ohio resident who has received an associate, baccalaureate, master's, doctoral, or other postgraduate degree from an institution of higher education within the eighteen months immediately preceding the date of application for the program;

(b) Is able to provide to the agency evidence documenting the graduate's Ohio residency and documenting graduation from a high school and an institution of higher education;

(c) Intends to live and work in this state for at least five years after the graduate's graduation or completion of a degree described in division (B)(1)(a) of this section; and

(d) Intends to purchase a first home in this state.

(2) A graduate who is married to an individual who has previously received a grant or financial assistance or downpayment assistance under the program is ineligible to apply for a grant or assistance under this section.

(C) A graduate who has been found by the state to be delinquent in the payment of individual income taxes is ineligible to receive a grant or other assistance under the program.

(D) A graduate who is eligible for the program shall receive down payment assistance and a reduction in the interest rate of the mortgage offered by the Ohio housing finance agency.

(E) The down payment assistance shall be provided to the recipient when the recipient obtains a qualifying mortgage loan through a participating lender in the agency's first time home buyer program.

Sec. 175.32. (A)(1) At the time a first home is purchased under the program, the Ohio housing finance agency shall secure the amount of the down payment assistance by a lien on the home for a period of five years.

Such lien shall attach, and may be perfected, collected, and enforced in the same manner as a mortgage lien on the home, and shall otherwise have the same force and effect as a mortgage lien, except that it shall be subordinate to a mortgage lien securing any money loaned by a financial institution for the purchase of the home.

(2) If the agency finds that a recipient failed to comply with the first home ownership criteria in division (A) of section 175.30 of the Revised Code, or otherwise used fraudulent information to obtain down payment assistance, the agency shall enforce the lien.

(B)(1) If a recipient becomes a resident of another state and does not reside at least five years in a first home purchased with down payment assistance awarded under the program, the amount of the lien created in division (A) of this section that may be collected shall be determined as follows:

<u>Months resided in first home</u>	<u>Collectable amount as per cent of down payment assistance</u>
<u>Less than 12 months</u>	<u>100%</u>
<u>12 months and a day to 24 months</u>	<u>80%</u>
<u>24 months and a day to 36 months</u>	<u>60%</u>
<u>36 months and a day to 48 months</u>	<u>40%</u>
<u>48 months and a day to 60 months</u>	<u>20%</u>

The lien created under division (A) of this section shall be extinguished upon collection pursuant to this division.

(2) A lien created under division (A)(1) of this section shall be extinguished if the recipient, within the five-year period, moves to another residence located in this state.

Sec. 176.05. (A)(1) Notwithstanding any provision of law to the contrary, the rate of wages payable for the various occupations covered by sections 4115.03 to 4115.16 of the Revised Code to persons employed on a project who are not any of the following shall be determined according to this section:

(a) Qualified volunteers;

(b) Persons required to participate in a work activity, developmental activity, or alternative work activity under sections 5107.40 to 5107.69 of the Revised Code except those engaged in paid employment or subsidized employment pursuant to the activity;

(c) ~~Food stamp~~ Supplemental nutrition assistance program benefit recipients required to participate in employment and training activities established by rules adopted under section 5101.54 of the Revised Code.

An association representing the general contractors or subcontractors that engage in the business of residential construction in a certain locality shall negotiate with the applicable building and construction trades council in that locality an agreement or understanding that sets forth the residential prevailing rate of wages, payable on projects in that locality, for each of the occupations employed on those projects.

(2) Notwithstanding any residential prevailing rate of wages established prior to July 1, 1995, if, by October 1, 1995, the parties are unable to agree under division (A)(1) of this section as to the rate of wages payable for each occupation covered by sections 4115.03 to 4115.16 of the Revised Code, the director of commerce shall establish the rate of wages payable for each occupation.

(3) The residential prevailing rate of wages established under division (A)(1) or (2) of this section shall not be equal to or greater than the prevailing rate of wages determined by the director pursuant to sections 4115.03 to 4115.16 of the Revised Code for any of the occupations covered by those sections.

(B) Except for the prevailing rate of wages determined by the director pursuant to sections 4115.03 to 4115.16 of the Revised Code, those sections and section 4115.99 of the Revised Code apply to projects.

(C) The residential prevailing rate of wages established under division (A) of this section is not payable to any individual or member of that individual's family who provides labor in exchange for acquisition of the property for homeownership or who provides labor in place of or as a supplement to any rental payments for the property.

(D) For the purposes of this section:

(1) "Project" means any construction, rehabilitation, remodeling, or improvement of residential housing, whether on a single or multiple site for which a person, as defined in section 1.59 of the Revised Code, or municipal corporation, county, or township receives financing, that is financed in whole or in part from state moneys or pursuant to this chapter, section 133.51 or 307.698 of the Revised Code, or Chapter 174. or 175. of the Revised Code, except for any of the following:

(a) The single-family mortgage revenue bonds homeownership program under Chapter 175. of the Revised Code, including owner-occupied dwellings of one to four units;

(b) Projects consisting of fewer than six units developed by any entity that is not a nonprofit organization exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code;

(c) Projects of fewer than twenty-five units developed by any nonprofit

organization that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code;

(d) Programs undertaken by any municipal corporation, county, or township, including lease-purchase programs, using mortgage revenue bond financing;

(e) Any individual project, that is sponsored or developed by a nonprofit organization that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, for which the federal government or any of its agencies furnishes by loan, grant, low-income housing tax credit, or insurance more than twelve per cent of the costs of the project. For purposes of division (D)(2)(e) of this section, the value of the low-income housing tax credits shall be calculated as the proceeds from the sale of the tax credits, less the costs of the sale.

As used in division (D)(1)(e) of this section, "sponsored" means that a general partner of a limited partnership owning the project or a managing member of a limited liability company owning the project is either a nonprofit organization that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code or a person, as defined in section 1.59 of the Revised Code, or a limited liability company in which such a nonprofit organization maintains controlling interest. For purposes of this division, a general partner of a limited partnership that is a nonprofit organization described under this division is not required to be the sole general partner in the limited partnership, and a managing member of a limited liability company that is a nonprofit organization described under this division is not required to be the sole managing member in the limited liability company.

Nothing in division (D)(1)(e) of this section shall be construed as permitting unrelated projects to be combined for the sole purpose of determining the total percentage of project costs furnished by the federal government or any of its agencies.

(2) A "project" is a "public improvement" and the state or a political subdivision that undertakes or participates in the financing of a project is a "public authority," as both of the last two terms are defined in section 4115.03 of the Revised Code.

(3) "Qualified volunteers" are volunteers who are working without compensation for a nonprofit organization that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, and that is providing housing or housing assistance only to families and individuals in a county whose incomes are not greater than one hundred forty per cent of the median income of that county as determined under section 174.04 of the

Revised Code.

Sec. 303.213. (A) As used in this section, "small wind farm" means wind turbines and associated facilities ~~that are interconnected with a medium voltage power collection system and communications network and are~~ with a single interconnection to the electrical grid and designed for, or capable of, operation at an aggregate capacity of less than five megawatts.

(B) Notwithstanding division (A) of section 303.211 of the Revised Code, sections 303.01 to 303.25 of the Revised Code confer power on a board of county commissioners or board of zoning appeals to adopt zoning regulations governing the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of any small wind farm, whether publicly or privately owned, or the use of land for that purpose, which regulations may be more strict than the regulations prescribed in rules adopted under division (C)(2) of section 4906.20 of the Revised Code.

(C) The designation under this section of a small wind farm as a public utility for purposes of sections 303.01 to 303.25 of the Revised Code shall not affect the classification of a small wind farm for purposes of state or local taxation.

(D) Nothing in division (C) of this section shall be construed as affecting the classification of a telecommunications tower as defined in division (B) or (E) of section 303.211 of the Revised Code or any other public utility for purposes of state and local taxation.

Sec. 305.20. For purposes of a statute or regulation that requires a county to publish a notice, advertisement, list, or other information more than once in a newspaper of general circulation, the second and subsequent publications are satisfied by posting the notice, advertisement, list, or other information on the county's internet web site if the first newspaper publication meets all the following conditions:

(A) It states that the notice, advertisement, list, or other information is posted on the county's internet web site;

(B) It includes the county's internet address on the world wide web; and

(C) It includes instructions for accessing the notice, advertisement, list, or other information on the county's internet web site.

A notice, advertisement, list, or other information posted on a county's internet web site shall provide the same information as does the newspaper publication of the notice, advertisement, list, or other information except that the conditions outlined in divisions (A) to (C) of this section do not need to be included.

If a county does not operate and maintain, or ceases to operate and

maintain, an internet web site, the county is not entitled to publish a notice, advertisement, list, or other information under this section and shall comply with the statutory publication requirements that otherwise apply to the notice, advertisement, list, or other information.

For purposes of this section, "county" means a board of county commissioners, a county elected official, or any contracting authority as defined in section 307.92 of the Revised Code.

Sec. 307.626. (A) By the first day of April of each year, the person convening the child fatality review board shall prepare and submit to the Ohio department of health a report that ~~includes all of~~ summarizes the following information with respect to ~~each the child death~~ deaths that ~~was~~ were reviewed by the review board in the previous calendar year:

- (1) The cause of death;
- (2) Factors contributing to death;
- (3) Age;
- (4) Sex;
- (5) Race;
- (6) The geographic location of death;
- (7) The year of death.

The report shall specify the number of child deaths that ~~have not been reviewed since the effective date of this section~~ were not reviewed during the previous calendar year.

The report may include recommendations for actions that might prevent other deaths, as well as any other information the review board determines should be included.

(B) Reports prepared under division (A) of this section shall be considered public records under section 149.43 of the Revised Code.

(C) The child fatality review board shall submit individual data with respect to each child death review into the Ohio department of health child death review database or the national child death review database. The individual data shall include the information specified in division (A) of this section and any other information the board considers relevant to the review. Individual data related to a child death review that is contained in the Ohio department of health child death review database is not a public record under section 149.43 of the Revised Code.

Sec. 307.629. (A) Except as provided in sections 5153.171 to 5153.173 of the Revised Code, any information, document, or report presented to a child fatality review board, all statements made by review board members during meetings of the review board, ~~and~~ all work products of the review board, and child fatality review data submitted by the child fatality review

board to the department of health or a national child death review database, other than the report prepared pursuant to division (A) of section 307.626 of the Revised Code, are confidential and shall be used by the review board ~~and,~~ its members, and the department of health only in the exercise of the proper functions of the review board and the department.

(B) No person shall permit or encourage the unauthorized dissemination of the confidential information described in division (A) of this section.

(C) Whoever violates division (B) of this section is guilty of a misdemeanor of the second degree.

Sec. 307.79. (A) The board of county commissioners may adopt, amend, and rescind rules establishing technically feasible and economically reasonable standards to achieve a level of management and conservation practices that will abate wind or water erosion of the soil or abate the degradation of the waters of the state by soil sediment in conjunction with land grading, excavating, filling, or other soil disturbing activities on land used or being developed for nonfarm commercial, industrial, residential, or other nonfarm purposes, and establish criteria for determination of the acceptability of those management and conservation practices. The rules shall be designed to implement the applicable areawide waste treatment management plan prepared under section 208 of the "Federal Water Pollution Control Act," 86 Stat. 816 (1972), 33 U.S.C.A. 1228, as amended, and to implement phase II of the storm water program of the national pollutant discharge elimination system established in 40 C.F.R. Part 122. The rules to implement phase II of the storm water program of the national pollutant discharge elimination system shall not be inconsistent with, more stringent than, or broader in scope than the rules or regulations adopted by the environmental protection agency under 40 C.F.R. Part 122. The rules adopted under this section shall not apply inside the limits of municipal corporations or the limits of townships with a limited home rule government that have adopted rules under section 504.21 of the Revised Code, to lands being used in a strip mine operation as defined in section 1513.01 of the Revised Code, or to land being used in a surface mine operation as defined in section 1514.01 of the Revised Code.

The rules adopted under this section may require persons to file plans governing erosion control, sediment control, and water management before clearing, grading, excavating, filling, or otherwise wholly or partially disturbing one or more contiguous acres of land owned by one person or operated as one development unit for the construction of nonfarm buildings, structures, utilities, recreational areas, or other similar nonfarm uses. If the rules require plans to be filed, the rules shall do all of the following:

(1) Designate the board itself, its employees, or another agency or official to review and approve or disapprove the plans;

(2) Establish procedures and criteria for the review and approval or disapproval of the plans;

(3) Require the designated entity to issue a permit to a person for the clearing, grading, excavating, filling, or other project for which plans are approved and to deny a permit to a person whose plans have been disapproved;

(4) Establish procedures for the issuance of the permits;

(5) Establish procedures under which a person may appeal the denial of a permit.

Areas of less than one contiguous acre shall not be exempt from compliance with other provisions of this section or rules adopted under this section. The rules adopted under this section may impose reasonable filing fees for plan review, permit processing, and field inspections.

No permit or plan shall be required for a public highway, transportation, or drainage improvement or maintenance project undertaken by a government agency or political subdivision in accordance with a statement of its standard sediment control policies that is approved by the board or the chief of the division of soil and water ~~conservation~~ resources in the department of natural resources.

(B) Rules or amendments may be adopted under this section only after public hearings at not fewer than two regular sessions of the board. The board of county commissioners shall cause to be published, in a newspaper of general circulation in the county, notice of the public hearings, including time, date, and place, once a week for two weeks immediately preceding the hearings. The proposed rules or amendments shall be made available by the board to the public at the board office or other location indicated in the notice. The rules or amendments shall take effect on the thirty-first day following the date of their adoption.

(C) The board of county commissioners may employ personnel to assist in the administration of this section and the rules adopted under it. The board also, if the action does not conflict with the rules, may delegate duties to review sediment control and water management plans to its employees, and may enter into agreements with one or more political subdivisions, other county officials, or other government agencies, in any combination, in order to obtain reviews and comments on plans governing erosion control, sediment control, and water management or to obtain other services for the administration of the rules adopted under this section.

(D) The board of county commissioners or any duly authorized

representative of the board may, upon identification to the owner or person in charge, enter any land upon obtaining agreement with the owner, tenant, or manager of the land in order to determine whether there is compliance with the rules adopted under this section. If the board or its duly authorized representative is unable to obtain such an agreement, the board or representative may apply for, and a judge of the court of common pleas for the county where the land is located may issue, an appropriate inspection warrant as necessary to achieve the purposes of this chapter.

(E)(1) If the board of county commissioners or its duly authorized representative determines that a violation of the rules adopted under this section exists, the board or representative may issue an immediate stop work order if the violator failed to obtain any federal, state, or local permit necessary for sediment and erosion control, earth movement, clearing, or cut and fill activity. In addition, if the board or representative determines such a rule violation exists, regardless of whether or not the violator has obtained the proper permits, the board or representative may authorize the issuance of a notice of violation. If, after a period of not less than thirty days has elapsed following the issuance of the notice of violation, the violation continues, the board or its duly authorized representative shall issue a second notice of violation. Except as provided in division (E)(3) of this section, if, after a period of not less than fifteen days has elapsed following the issuance of the second notice of violation, the violation continues, the board or its duly authorized representative may issue a stop work order after first obtaining the written approval of the prosecuting attorney of the county if, in the opinion of the prosecuting attorney, the violation is egregious.

Once a stop work order is issued, the board or its duly authorized representative shall request, in writing, the prosecuting attorney of the county to seek an injunction or other appropriate relief in the court of common pleas to abate excessive erosion or sedimentation and secure compliance with the rules adopted under this section. If the prosecuting attorney seeks an injunction or other appropriate relief, then, in granting relief, the court of common pleas may order the construction of sediment control improvements or implementation of other control measures and may assess a civil fine of not less than one hundred or more than five hundred dollars. Each day of violation of a rule or stop work order issued under this section shall be considered a separate violation subject to a civil fine.

(2) The person to whom a stop work order is issued under this section may appeal the order to the court of common pleas of the county in which it was issued, seeking any equitable or other appropriate relief from that order.

(3) No stop work order shall be issued under this section against any

public highway, transportation, or drainage improvement or maintenance project undertaken by a government agency or political subdivision in accordance with a statement of its standard sediment control policies that is approved by the board or the chief of the division of soil and water ~~conservation~~ resources in the department of natural resources.

(F) No person shall violate any rule adopted or order issued under this section. Notwithstanding division (E) of this section, if the board of county commissioners determines that a violation of any rule adopted or administrative order issued under this section exists, the board may request, in writing, the prosecuting attorney of the county to seek an injunction or other appropriate relief in the court of common pleas to abate excessive erosion or sedimentation and secure compliance with the rules or order. In granting relief, the court of common pleas may order the construction of sediment control improvements or implementation of other control measures and may assess a civil fine of not less than one hundred or more than five hundred dollars. Each day of violation of a rule adopted or administrative order issued under this section shall be considered a separate violation subject to a civil fine.

Sec. 311.17. Except as provided in a contract entered into under division (A) of section 3125.141 of the Revised Code, for the services specified in this section, the sheriff shall charge the following fees, which the court or its clerk shall tax in the bill of costs against the judgment debtor or those legally liable therefor for the judgment:

- (A) For the service and return of the following writs and orders:
- (1) Execution:
 - (a) When money is paid without levy or when no property is found, ~~twenty~~ thirty dollars;
 - (b) When levy is made on real property, for the first tract, twenty-five dollars, and for each additional tract, ten dollars;
 - (c) When levy is made on goods and chattels, including inventory, fifty dollars.
 - (2) Writ of attachment of property, except for purpose of garnishment, forty dollars;
 - (3) Writ of attachment for the purpose of garnishment, ten dollars;
 - (4) Writ of replevin, forty dollars;
 - (5) Warrant to arrest, for each person named in the writ, ~~ten~~ twenty dollars;
 - (6) Attachment for contempt, for each person named in the writ, six dollars;
 - (7) Writ of possession or restitution, sixty dollars;

(8) Subpoena, for each person named in the writ, in either a civil or criminal case, ~~six ten~~ dollars;

(9) Venire, for each person named in the writ, in either a civil or criminal case, six dollars;

(10) Summoning each juror, other than on venire, in either a civil or criminal case, six dollars;

(11) Writ of partition, twenty-five dollars;

(12) Order of sale on partition, for the first tract, fifty dollars, and for each additional tract, twenty-five dollars;

(13) Other order of sale of real property, for the first tract, fifty dollars, and for each additional tract, twenty-five dollars;

(14) Administering oath to appraisers, three dollars each;

(15) Furnishing copies for advertisements, one dollar for each hundred words;

(16) Copy of indictment, for each defendant, five dollars;

(17) All summons, writs, orders, or notices, for the first name, six dollars, and for each additional name, one dollar.

(B) In addition to the fee for service and return:

(1) On each summons, writ, order, or notice, a fee of ~~one dollar~~ two dollars per mile for the first mile, and ~~fifty cents~~ one dollar per mile for each additional mile, going and returning, actual mileage to be charged on each additional name;

(2) Taking bail bond, three dollars;

(3) Jail fees, as follows:

(a) For receiving a prisoner, five dollars each time a prisoner is received, and for discharging or surrendering a prisoner, five dollars each time a prisoner is discharged or surrendered. The departure or return of a prisoner from or to a jail in connection with a program established under section 5147.28 of the Revised Code is not a receipt, discharge, or surrender of the prisoner for purposes of this division.

(b) Taking a prisoner before a judge or court, per day, five dollars;

(c) Calling action, one dollar;

(d) Calling jury, three dollars;

(e) Calling each witness, three dollars;

(f) Bringing prisoner before court on habeas corpus, six dollars.

(4) Poundage on all moneys actually made and paid to the sheriff on execution, decree, or sale of real estate, one and one-half per cent;

(5) Making and executing a deed of land sold on execution, decree, or order of the court, to be paid by the purchaser, fifty dollars.

When any of the services described in division (A) or (B) of this section

are rendered by an officer or employee, whose salary or per diem compensation is paid by the county, the applicable legal fees and any other extraordinary expenses, including overtime, provided for the service shall be taxed in the costs in the case and, when collected, shall be paid into the general fund of the county.

The sheriff shall charge the same fees for the execution of process issued in any other state as the sheriff charges for the execution of process of a substantively similar nature that is issued in this state.

Sec. 311.42. (A) Each county shall establish in the county treasury a sheriff's concealed handgun license issuance expense fund. The sheriff of that county shall deposit into that fund all fees paid by applicants for the issuance or renewal of a license or duplicate license to carry a concealed handgun under section 2923.125 of the Revised Code and all fees paid by the person seeking a temporary emergency license to carry a concealed handgun under section 2923.1213 of the Revised Code. The county shall ~~distribute the fees deposited into the fund in accordance with the specifications prescribed by the Ohio peace officer training commission under division (C) of section 109.731 of the Revised Code~~ distribute all fees deposited into the fund except forty dollars of each fee paid by an applicant under division (B) of section 2923.125 of the Revised Code, fifteen dollars of each fee paid under section 2923.1213 of the Revised Code, and thirty-five dollars of each fee paid under division (F) of section 2923.125 of the Revised Code to the attorney general to be used to pay the cost of background checks performed by the bureau of criminal identification and investigation and the federal bureau of investigation and to cover administrative costs associated with issuing the license.

(B) The sheriff, with the approval of the board of county commissioners, may expend any county portion of the fees deposited into the sheriff's concealed handgun license issuance expense fund for any costs incurred by the sheriff in connection with performing any administrative functions related to the issuance of licenses or temporary emergency licenses to carry a concealed handgun under section 2923.125 or 2923.1213 of the Revised Code, including, but not limited to, personnel expenses and the costs of any handgun safety education program that the sheriff chooses to fund.

Sec. 319.24. A county auditor shall use the information received pursuant to section 3705.031 of the Revised Code to assist the auditor in verifying whether real property or a manufactured or mobile home is eligible for a reduction in property taxes under division (A) or (B) of section 323.152 of the Revised Code or section 4503.065 of the Revised Code.

Sec. 319.28. (A) Except as otherwise provided in division (B) of this section, on or before the first Monday of August, annually, the county auditor shall compile and make up a general tax list of real and public utility property in the county, either in tabular form and alphabetical order, or, with the consent of the county treasurer, by listing all parcels in a permanent parcel number sequence to which a separate alphabetical index is keyed, containing the names of the several persons, companies, firms, partnerships, associations, and corporations in whose names real property has been listed in each township, municipal corporation, special district, or separate school district, or part of either in the auditor's county, placing separately, in appropriate columns opposite each name, the description of each tract, lot, or parcel of real estate, the value of each tract, lot, or parcel, the value of the improvements thereon, and of the names of the several public utilities whose property, subject to taxation on the general tax list and duplicate, has been apportioned by the department of taxation to the county, and the amount so apportioned to each township, municipal corporation, special district, or separate school district or part of either in the auditor's county, as shown by the certificates of apportionment of public utility property. If the name of the owner of any tract, lot, or parcel of real estate is unknown to the auditor, "unknown" shall be entered in the column of names opposite said tract, lot, or parcel. Such lists shall be prepared in duplicate. On or before the first Monday of September in each year, the auditor shall correct such lists in accordance with the additions and deductions ordered by the tax commissioner and by the county board of revision, and shall certify and on the first day of October deliver one copy thereof to the county treasurer. The copies prepared by the auditor shall constitute the auditor's general tax list and treasurer's general duplicate of real and public utility property for the current year.

Once a permanent parcel numbering system has been established in any county as provided by the preceding paragraph, such system shall remain in effect until otherwise agreed upon by the county auditor and county treasurer.

(B)(1) A peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, ~~or EMT~~, or investigator of the bureau of criminal identification and investigation may submit a written request by affidavit to the county auditor requesting the county auditor to remove the name of the peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, ~~or EMT~~, or investigator of the bureau of criminal identification and investigation from

any record made available to the general public on the internet or a publicly accessible database and the general tax list of real and public utility property and the general duplicate of real and public utility property and insert the initials of the peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, ~~or~~ EMT, or investigator of the bureau of criminal identification and investigation on any record made available to the general public on the internet or a publicly accessible database and the general tax list of real and public utility property and the general duplicate of real and public utility property as the name of the peace ~~official~~ officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, ~~or~~ EMT, or investigator of the bureau of criminal identification and investigation that appears on the deed.

(2) Upon receiving a written request by affidavit described in division (B)(1) of this section, the county auditor shall act within five business days in accordance with the request to remove the name of the peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, ~~or~~ EMT, or investigator of the bureau of criminal identification and investigation from any record made available to the general public on the internet or a publicly accessible database and the general tax list of real and public utility property and the general duplicate of real and public utility property and insert initials of the peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, ~~or~~ EMT, or investigator of the bureau of criminal identification and investigation on any record made available to the general public on the internet or a publicly accessible database and the general tax list of real and public utility property and the general duplicate of real and public utility property, if practicable. If the removal and insertion is not practicable, the county auditor shall verbally or in writing within five business days after receiving the written request explain to the peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, ~~or~~ EMT, or investigator of the bureau of criminal identification and investigation why the removal and insertion is impracticable.

Sec. 319.301. (A) ~~This~~ The reductions required by division (D) of this section ~~does~~ do not apply to any of the following:

(1) Taxes levied at whatever rate is required to produce a specified amount of tax money, including a tax levied under section 5705.199 or 5705.211 of the Revised Code, or an amount to pay debt charges;

(2) Taxes levied within the one per cent limitation imposed by Section 2 of Article XII, Ohio Constitution;

(3) Taxes provided for by the charter of a municipal corporation.

(B) As used in this section:

(1) "Real property" includes real property owned by a railroad.

(2) "Carryover property" means all real property on the current year's tax list except:

(a) Land and improvements that were not taxed by the district in both the preceding year and the current year;

(b) Land and improvements that were not in the same class in both the preceding year and the current year.

(3) "Effective tax rate" means with respect to each class of property:

(a) The sum of the total taxes that would have been charged and payable for current expenses against real property in that class if each of the district's taxes were reduced for the current year under division (D)(1) of this section without regard to the application of division (E)(3) of this section divided by

(b) The taxable value of all real property in that class.

(4) "Taxes charged and payable" means the taxes charged and payable prior to any reduction required by section 319.302 of the Revised Code.

(C) The tax commissioner shall make the determinations required by this section each year, without regard to whether a taxing district has territory in a county to which section 5715.24 of the Revised Code applies for that year. Separate determinations shall be made for each of the two classes established pursuant to section 5713.041 of the Revised Code.

(D) With respect to each tax authorized to be levied by each taxing district, the tax commissioner, annually, shall do both of the following:

(1) Determine by what percentage, if any, the sums levied by such tax against the carryover property in each class would have to be reduced for the tax to levy the same number of dollars against such property in that class in the current year as were charged against such property by such tax in the preceding year subsequent to the reduction made under this section but before the reduction made under section 319.302 of the Revised Code. In the case of a tax levied for the first time that is not a renewal of an existing tax, the commissioner shall determine by what percentage the sums that would otherwise be levied by such tax against carryover property in each class would have to be reduced to equal the amount that would have been levied if the full rate thereof had been imposed against the total taxable value of such property in the preceding tax year. A tax or portion of a tax that is designated a replacement levy under section 5705.192 of the Revised Code is not a renewal of an existing tax for purposes of this division.

(2) Certify each percentage determined in division (D)(1) of this section, as adjusted under division (E) of this section, and the class of property to which that percentage applies to the auditor of each county in which the district has territory. The auditor, after complying with section 319.30 of the Revised Code, shall reduce the sum to be levied by such tax against each parcel of real property in the district by the percentage so certified for its class. Certification shall be made by the first day of September except in the case of a tax levied for the first time, in which case certification shall be made within fifteen days of the date the county auditor submits the information necessary to make the required determination.

(E)(1) As used in division (E)(2) of this section, "pre-1982 joint vocational taxes" means, with respect to a class of property, the difference between the following amounts:

(a) The taxes charged and payable in tax year 1981 against the property in that class for the current expenses of the joint vocational school district of which the school district is a part after making all reductions under this section;

(b) The following percentage of the taxable value of all real property in that class:

- (i) In 1987, five one-hundredths of one per cent;
- (ii) In 1988, one-tenth of one per cent;
- (iii) In 1989, fifteen one-hundredths of one per cent;
- (iv) In 1990 and each subsequent year, two-tenths of one per cent.

If the amount in division (E)(1)(b) of this section exceeds the amount in division (E)(1)(a) of this section, the pre-1982 joint vocational taxes shall be zero.

As used in divisions (E)(2) and (3) of this section, "taxes charged and payable" has the same meaning as in division (B)(4) of this section and excludes any tax charged and payable in 1985 or thereafter under sections 5705.194 to 5705.197 or section 5705.199 ~~or~~, 5705.213, or 5705.219 of the Revised Code.

(2) If in the case of a school district other than a joint vocational or cooperative education school district any percentage required to be used in division (D)(2) of this section for either class of property could cause the total taxes charged and payable for current expenses to be less than two per cent of the taxable value of all real property in that class that is subject to taxation by the district, the commissioner shall determine what percentages would cause the district's total taxes charged and payable for current expenses against that class, after all reductions that would otherwise be made under this section, to equal, when combined with the pre-1982 joint

vocational taxes against that class, the lesser of the following:

- (a) The sum of the rates at which those taxes are authorized to be levied;
- (b) Two per cent of the taxable value of the property in that class. The auditor shall use such percentages in making the reduction required by this section for that class.

(3)(a) If in the case of a joint vocational school district any percentage required to be used in division (D)(2) of this section for either class of property could cause the total taxes charged and payable for current expenses for that class to be less than the designated amount, the commissioner shall determine what percentages would cause the district's total taxes charged and payable for current expenses for that class, after all reductions that would otherwise be made under this section, to equal the designated amount. The auditor shall use such percentages in making the reductions required by this section for that class.

(b) As used in division (E)(3)(a) of this section, the designated amount shall equal the taxable value of all real property in the class that is subject to taxation by the district times the lesser of the following:

- (i) Two-tenths of one per cent;
- (ii) The district's effective rate plus the following percentage for the year indicated:

WHEN COMPUTING THE TAXES CHARGED FOR	ADD THE FOLLOWING PERCENTAGE:
1987	0.025%
1988	0.05%
1989	0.075%
1990	0.1%
1991	0.125%
1992	0.15%
1993	0.175%
1994 and thereafter	0.2%

(F) No reduction shall be made under this section in the rate at which any tax is levied.

(G) The commissioner may order a county auditor to furnish any information the commissioner needs to make the determinations required under division (D) or (E) of this section, and the auditor shall supply the information in the form and by the date specified in the order. If the auditor fails to comply with an order issued under this division, except for good cause as determined by the commissioner, the commissioner shall withhold from such county or taxing district therein fifty per cent of state revenues to local governments pursuant to section 5747.50 of the Revised Code or shall

direct the department of education to withhold therefrom fifty per cent of state revenues to school districts pursuant to ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code. The commissioner shall withhold the distribution of such revenues until the county auditor has complied with this division, and the department shall withhold the distribution of such revenues until the commissioner has notified the department that the county auditor has complied with this division.

(H) If the commissioner is unable to certify a tax reduction factor for either class of property in a taxing district located in more than one county by the last day of November because information required under division (G) of this section is unavailable, the commissioner may compute and certify an estimated tax reduction factor for that district for that class. The estimated factor shall be based upon an estimate of the unavailable information. Upon receipt of the actual information for a taxing district that received an estimated tax reduction factor, the commissioner shall compute the actual tax reduction factor and use that factor to compute the taxes that should have been charged and payable against each parcel of property for the year for which the estimated reduction factor was used. The amount by which the estimated factor resulted in an overpayment or underpayment in taxes on any parcel shall be added to or subtracted from the amount due on that parcel in the ensuing tax year.

A percentage or a tax reduction factor determined or computed by the commissioner under this section shall be used solely for the purpose of reducing the sums to be levied by the tax to which it applies for the year for which it was determined or computed. It shall not be used in making any tax computations for any ensuing tax year.

(I) In making the determinations under division (D)(1) of this section, the tax commissioner shall take account of changes in the taxable value of carryover property resulting from complaints filed under section 5715.19 of the Revised Code for determinations made for the tax year in which such changes are reported to the commissioner. Such changes shall be reported to the commissioner on the first abstract of real property filed with the commissioner under section 5715.23 of the Revised Code following the date on which the complaint is finally determined by the board of revision or by a court or other authority with jurisdiction on appeal. The tax commissioner shall account for such changes in making the determinations only for the tax year in which the change in valuation is reported. Such a valuation change shall not be used to recompute the percentages determined under division (D)(1) of this section for any prior tax year.

Sec. 319.302. (A)(1) Real property that is not intended primarily for use

in a business activity shall qualify for a partial exemption from real property taxation. For purposes of this partial exemption, "business activity" includes all uses of real property, except farming; leasing property for farming; occupying or holding property improved with single-family, two-family, or three-family dwellings; leasing property improved with single-family, two-family, or three-family dwellings; or holding vacant land that the county auditor determines will be used for farming or to develop single-family, two-family, or three-family dwellings. For purposes of this partial exemption, "farming" does not include land used for the commercial production of timber that is receiving the tax benefit under section 5713.23 or 5713.31 of the Revised Code and all improvements connected with such commercial production of timber.

(2) Each year, the county auditor shall review each parcel of real property to determine whether it qualifies for the partial exemption provided for by this section as of the first day of January of the current tax year.

(B) After complying with section 319.301 of the Revised Code, the county auditor shall reduce the remaining sums to be levied against each parcel of real property that is listed on the general tax list and duplicate of real and public utility property for the current tax year and that qualifies for partial exemption under division (A) of this section, and against each manufactured and mobile home that is taxed pursuant to division (D)(2) of section 4503.06 of the Revised Code and that is on the manufactured home tax list for the current tax year, by ten per cent, to provide a partial exemption for that parcel or home. Except as otherwise provided in sections 323.152, 323.158, 505.06, and 715.263 of the Revised Code, the amount of the taxes remaining after any such reduction shall be the real and public utility property taxes charged and payable on each parcel of real property, including property that does not qualify for partial exemption under division (A) of this section, and the manufactured home tax charged and payable on each manufactured or mobile home, and shall be the amounts certified to the county treasurer for collection. Upon receipt of the real and public utility property tax duplicate, the treasurer shall certify to the tax commissioner the total amount by which the real property taxes were reduced under this section, as shown on the duplicate. Such reduction shall not directly or indirectly affect the determination of the principal amount of notes that may be issued in anticipation of any tax levies or the amount of bonds or notes for any planned improvements. If after application of sections 5705.31 and 5705.32 of the Revised Code and other applicable provisions of law, including divisions (F) and (I) of section 321.24 of the Revised Code, there would be insufficient funds for payment of debt charges on bonds or notes

payable from taxes reduced by this section, the reduction of taxes provided for in this section shall be adjusted to the extent necessary to provide funds from such taxes.

(C) The tax commissioner may adopt rules governing the administration of the partial exemption provided for by this section.

(D) The determination of whether property qualifies for partial exemption under division (A) of this section is solely for the purpose of allowing the partial exemption under division (B) of this section.

Sec. 319.54. (A) On all moneys collected by the county treasurer on any tax duplicate of the county, other than estate tax duplicates, and on all moneys received as advance payments of personal property and classified property taxes, the county auditor, on settlement with the treasurer and tax commissioner, on or before the date prescribed by law for such settlement or any lawful extension of such date, shall be allowed as compensation for the county auditor's services the following percentages:

(1) On the first one hundred thousand dollars, two and one-half per cent;

(2) On the next two million dollars, eight thousand three hundred eighteen ten-thousandths of one per cent;

(3) On the next two million dollars, six thousand six hundred fifty-five ten-thousandths of one per cent;

(4) On all further sums, one thousand six hundred sixty-three ten-thousandths of one per cent.

If any settlement is not made on or before the date prescribed by law for such settlement or any lawful extension of such date, the aggregate compensation allowed to the auditor shall be reduced one per cent for each day such settlement is delayed after the prescribed date. No penalty shall apply if the auditor and treasurer grant all requests for advances up to ninety per cent of the settlement pursuant to section 321.34 of the Revised Code. The compensation allowed in accordance with this section on settlements made before the dates prescribed by law, or the reduced compensation allowed in accordance with this section on settlements made after the date prescribed by law or any lawful extension of such date, shall be apportioned ratably by the auditor and deducted from the shares or portions of the revenue payable to the state as well as to the county, townships, municipal corporations, and school districts.

(B) For the purpose of reimbursing county auditors for the expenses associated with the increased number of applications for reductions in real property taxes under sections 323.152 and 4503.065 of the Revised Code that ~~results~~ result from the amendment of those sections by Am. Sub. H.B. 119 of the 127th general assembly, ~~on the first day of August of each year~~

there shall be paid from the state's general revenue fund to the county treasury, to the credit of the real estate assessment fund created by section 325.31 of the Revised Code, an amount equal to one per cent of the total annual amount of property tax relief reimbursement paid to that county under sections 323.156 and 4503.068 of the Revised Code for the preceding tax year. Payments made under this division shall be made at the same times and in the same manner as payments made under section 323.156 of the Revised Code.

(C) From all moneys collected by the county treasurer on any tax duplicate of the county, other than estate tax duplicates, and on all moneys received as advance payments of personal property and classified property taxes, there shall be paid into the county treasury to the credit of the real estate assessment fund created by section 325.31 of the Revised Code, an amount to be determined by the county auditor, which shall not exceed the percentages prescribed in divisions (C)(1) and (2) of this section.

(1) For payments made after June 30, 2007, and before 2011, the following percentages:

- (a) On the first five hundred thousand dollars, four per cent;
- (b) On the next five million dollars, two per cent;
- (c) On the next five million dollars, one per cent;
- (d) On all further sums not exceeding one hundred fifty million dollars, three-quarters of one per cent;
- (e) On amounts exceeding one hundred fifty million dollars, five hundred eighty-five thousandths of one per cent.

(2) For payments made in or after 2011, the following percentages:

- (a) On the first five hundred thousand dollars, four per cent;
- (b) On the next ten million dollars, two per cent;
- (c) On amounts exceeding ten million five hundred thousand dollars, three-fourths of one per cent.

Such compensation shall be apportioned ratably by the auditor and deducted from the shares or portions of the revenue payable to the state as well as to the county, townships, municipal corporations, and school districts.

(D) Each county auditor shall receive four per cent of the amount of tax collected and paid into the county treasury, on property omitted and placed by the county auditor on the tax duplicate.

(E) On all estate tax moneys collected by the county treasurer, the county auditor, on settlement semiannually with the tax commissioner, shall be allowed, as compensation for the auditor's services under Chapter 5731. of the Revised Code, the following percentages:

- (1) Four per cent on the first one hundred thousand dollars;
- (2) One-half of one per cent on all additional sums.

Such percentages shall be computed upon the amount collected and reported at each semiannual settlement, and shall be for the use of the general fund of the county.

(F) On all cigarette license moneys collected by the county treasurer, the county auditor, on settlement semiannually with the treasurer, shall be allowed as compensation for the auditor's services in the issuing of such licenses one-half of one per cent of such moneys, to be apportioned ratably and deducted from the shares of the revenue payable to the county and subdivisions, for the use of the general fund of the county.

(G) The county auditor shall charge and receive fees as follows:

(1) For deeds of land sold for taxes to be paid by the purchaser, five dollars;

(2) For the transfer or entry of land, lot, or part of lot, or the transfer or entry on or after January 1, 2000, of a used manufactured home or mobile home as defined in section 5739.0210 of the Revised Code, fifty cents for each transfer or entry, to be paid by the person requiring it;

(3) For receiving statements of value and administering section 319.202 of the Revised Code, one dollar, or ten cents for each one hundred dollars or fraction of one hundred dollars, whichever is greater, of the value of the real property transferred or, for sales occurring on or after January 1, 2000, the value of the used manufactured home or used mobile home, as defined in section 5739.0210 of the Revised Code, transferred, except no fee shall be charged when the transfer is made:

(a) To or from the United States, this state, or any instrumentality, agency, or political subdivision of the United States or this state;

(b) Solely in order to provide or release security for a debt or obligation;

(c) To confirm or correct a deed previously executed and recorded or when a current owner on any record made available to the general public on the internet or a publicly accessible database and the general tax list of real and public utility property and the general duplicate of real and public utility property is a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, ~~or EMT~~, or investigator of the bureau of criminal identification and investigation and is changing the current owner name listed on any record made available to the general public on the internet or a publicly accessible database and the general tax list of real and public utility property and the general duplicate of real and public utility property to the initials of the current owner as prescribed in division (B)(1) of section 319.28 of the

Revised Code;

(d) To evidence a gift, in trust or otherwise and whether revocable or irrevocable, between husband and wife, or parent and child or the spouse of either;

(e) On sale for delinquent taxes or assessments;

(f) Pursuant to court order, to the extent that such transfer is not the result of a sale effected or completed pursuant to such order;

(g) Pursuant to a reorganization of corporations or unincorporated associations or pursuant to the dissolution of a corporation, to the extent that the corporation conveys the property to a stockholder as a distribution in kind of the corporation's assets in exchange for the stockholder's shares in the dissolved corporation;

(h) By a subsidiary corporation to its parent corporation for no consideration, nominal consideration, or in sole consideration of the cancellation or surrender of the subsidiary's stock;

(i) By lease, whether or not it extends to mineral or mineral rights, unless the lease is for a term of years renewable forever;

(j) When the value of the real property or the manufactured or mobile home or the value of the interest that is conveyed does not exceed one hundred dollars;

(k) Of an occupied residential property, including a manufactured or mobile home, being transferred to the builder of a new residence or to the dealer of a new manufactured or mobile home when the former residence is traded as part of the consideration for the new residence or new manufactured or mobile home;

(l) To a grantee other than a dealer in real property or in manufactured or mobile homes, solely for the purpose of, and as a step in, the prompt sale of the real property or manufactured or mobile home to others;

(m) To or from a person when no money or other valuable and tangible consideration readily convertible into money is paid or to be paid for the real estate or manufactured or mobile home and the transaction is not a gift;

(n) Pursuant to division (B) of section 317.22 of the Revised Code, or section 2113.61 of the Revised Code, between spouses or to a surviving spouse pursuant to section 5302.17 of the Revised Code as it existed prior to April 4, 1985, between persons pursuant to section 5302.17 or 5302.18 of the Revised Code on or after April 4, 1985, to a person who is a surviving, survivorship tenant pursuant to section 5302.17 of the Revised Code on or after April 4, 1985, or pursuant to section 5309.45 of the Revised Code;

(o) To a trustee acting on behalf of minor children of the deceased;

(p) Of an easement or right-of-way when the value of the interest

conveyed does not exceed one thousand dollars;

(q) Of property sold to a surviving spouse pursuant to section 2106.16 of the Revised Code;

(r) To or from an organization exempt from federal income taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended, provided such transfer is without consideration and is in furtherance of the charitable or public purposes of such organization;

(s) Among the heirs at law or devisees, including a surviving spouse, of a common decedent, when no consideration in money is paid or to be paid for the real property or manufactured or mobile home;

(t) To a trustee of a trust, when the grantor of the trust has reserved an unlimited power to revoke the trust;

(u) To the grantor of a trust by a trustee of the trust, when the transfer is made to the grantor pursuant to the exercise of the grantor's power to revoke the trust or to withdraw trust assets;

(v) To the beneficiaries of a trust if the fee was paid on the transfer from the grantor of the trust to the trustee or if the transfer is made pursuant to trust provisions which became irrevocable at the death of the grantor;

(w) To a corporation for incorporation into a sports facility constructed pursuant to section 307.696 of the Revised Code;

(x) Between persons pursuant to section 5302.18 of the Revised Code;

(y) From a county land reutilization corporation organized under Chapter 1724. of the Revised Code to a third party.

The auditor shall compute and collect the fee. The auditor shall maintain a numbered receipt system, as prescribed by the tax commissioner, and use such receipt system to provide a receipt to each person paying a fee. The auditor shall deposit the receipts of the fees on conveyances in the county treasury daily to the credit of the general fund of the county, except that fees charged and received under division (G)(3) of this section for a transfer of real property to a county land reutilization corporation shall be credited to the county land reutilization corporation fund established under section 321.263 of the Revised Code.

The real property transfer fee provided for in division (G)(3) of this section shall be applicable to any conveyance of real property presented to the auditor on or after January 1, 1968, regardless of its time of execution or delivery.

The transfer fee for a used manufactured home or used mobile home shall be computed by and paid to the county auditor of the county in which the home is located immediately prior to the transfer.

Sec. 321.24. (A) On or before the fifteenth day of February, in each year, the county treasurer shall settle with the county auditor for all taxes and assessments that the treasurer has collected on the general duplicate of real and public utility property at the time of making the settlement.

(B) On or before the thirtieth day of June, in each year, the treasurer shall settle with the auditor for all advance payments of general personal and classified property taxes that the treasurer has received at the time of making the settlement.

(C) On or before the tenth day of August, in each year, the treasurer shall settle with the auditor for all taxes and assessments that the treasurer has collected on the general duplicates of real and public utility property at the time of making such settlement, not included in the preceding February settlement.

(D) On or before the thirty-first day of October, in each year, the treasurer shall settle with the auditor for all taxes that the treasurer has collected on the general personal and classified property duplicates, and for all advance payments of general personal and classified property taxes, not included in the preceding June settlement, that the treasurer has received at the time of making such settlement.

(E) In the event the time for the payment of taxes is extended, pursuant to section 323.17 of the Revised Code, the date on or before which settlement for the taxes so extended must be made, as herein prescribed, shall be deemed to be extended for a like period of time. At each such settlement, the auditor shall allow to the treasurer, on the moneys received or collected and accounted for by the treasurer, the treasurer's fees, at the rate or percentage allowed by law, at a full settlement of the treasurer.

(F) Within thirty days after the day of each settlement of taxes required under divisions (A) and (C) of this section, the treasurer shall certify to the tax commissioner any adjustments that have been made to the amount certified previously pursuant to section 319.302 of the Revised Code and that the settlement has been completed. Upon receipt of such certification, the commissioner shall provide for payment to the county treasurer from the general revenue fund of an amount equal to one-half of the amount certified by the treasurer in the preceding tax year under section 319.302 of the Revised Code, less one-half of the amount computed for all taxing districts in that county for the current fiscal year under section 5703.80 of the Revised Code for crediting to the property tax administration fund. Such payment shall be credited upon receipt to the county's undivided income tax fund, and the county auditor shall transfer to the county general fund from the amount thereof the total amount of all fees and charges which the auditor

and treasurer would have been authorized to receive had such section not been in effect and that amount had been levied and collected as taxes. The county auditor shall distribute the amount remaining among the various taxing districts in the county as if it had been levied, collected, and settled as real property taxes. The amount distributed to each taxing district shall be reduced by the total of the amounts computed for the district under section 5703.80 of the Revised Code, but the reduction shall not exceed the amount that otherwise would be distributed to the taxing district under this division. The tax commissioner shall make available to taxing districts such information as is sufficient for a taxing district to be able to determine the amount of the reduction in its distribution under this section.

(G)(1) Within thirty days after the day of the settlement required in division (D) of this section, the county treasurer shall notify the tax commissioner that the settlement has been completed. Upon receipt of that notification, the commissioner shall provide for payment to the county treasurer from the general revenue fund of an amount equal to the amount certified under former section 319.311 of the Revised Code and paid in the state's fiscal year 2003 multiplied by the percentage specified in division (G)(2) of this section. The payment shall be credited upon receipt to the county's undivided income tax fund, and the county auditor shall distribute the amount thereof among the various taxing districts of the county as if it had been levied, collected, and settled as personal property taxes. The amount received by a taxing district under this division shall be apportioned among its funds in the same proportion as the current year's personal property taxes are apportioned.

(2) Payments required under division (G)(1) of this section shall be made at the following percentages of the amount certified under former section 319.311 of the Revised Code and paid under division (G)(1) of this section in the state's fiscal year 2003:

- (a) In fiscal year 2004, ninety per cent;
- (b) In fiscal year 2005, eighty per cent;
- (c) In fiscal year 2006, sixty-four per cent;
- (d) In fiscal year 2007, forty per cent;
- (e) In fiscal year 2008, thirty-two per cent;
- (f) In fiscal year 2009, sixteen per cent.

After fiscal year 2009, no payments shall be made under division (G)(1) of this section.

(H)(1) On or before the fifteenth day of April each year, the county treasurer shall settle with the county auditor for all manufactured home taxes that the county treasurer has collected on the manufactured home tax

duplicate at the time of making the settlement.

(2) On or before the fifteenth day of September each year, the county treasurer shall settle with the county auditor for all remaining manufactured home taxes that the county treasurer has collected on the manufactured home tax duplicate at the time of making the settlement.

(3) If the time for payment of such taxes is extended under section 4503.06 of the Revised Code, the time for making the settlement as prescribed by divisions (H)(1) and (2) of this section is extended for a like period of time.

(I) ~~Within thirty days after the day of each settlement of taxes required under division (H) of this section~~ On or before the second Monday in September of each year, the county treasurer shall certify to the tax commissioner ~~any adjustments that have been made to the amount certified previously~~ the total amount by which the manufactured home taxes levied in that year were reduced pursuant to section 319.302 of the Revised Code ~~and that the settlement has been completed. Upon~~ Within ninety days after the receipt of such certification, the commissioner shall provide for payment to the county treasurer from the general revenue fund of an amount equal to ~~one-half of the amount certified by the treasurer in the current tax year under section 319.302 of the Revised Code~~. Such payment shall be credited upon receipt to the county's undivided income tax fund, and the county auditor shall transfer to the county general fund from the amount thereof the total amount of all fees and charges that the auditor and treasurer would have been authorized to receive had such section not been in effect and that amount had been levied and collected as manufactured home taxes. The county auditor shall distribute the amount remaining among the various taxing districts in the county as if it had been levied, collected, and settled as manufactured home taxes.

Sec. 321.261. (A) Five per cent of all delinquent real property, personal property, and manufactured and mobile home taxes and assessments collected by the county treasurer shall be deposited in the delinquent tax and assessment collection fund, which shall be created in the county treasury. Except as otherwise provided in division (D) of this section, the moneys in the fund, one-half of which shall be appropriated by the board of county commissioners to the treasurer and one-half of which shall be appropriated to the county prosecuting attorney, shall be used only for the following purposes:

(1) By the county treasurer and the county prosecuting attorney in connection with the collection of delinquent real property, personal property, and manufactured and mobile home taxes and assessments

including proceedings related to foreclosure of the state's lien for such taxes against such property;

(2) With respect to any portion of the amount appropriated to the county treasurer for the benefit of the county land reutilization corporation organized under Chapter 1724. of the Revised Code, whether by transfer to or other application on behalf of, the county land reutilization corporation. Upon the deposit of amounts in the delinquent tax and assessment collection fund of the county, any amounts allocated at the direction of the treasurer to the support of the county land reutilization corporation shall be paid out of such fund to the corporation upon a warrant of the county auditor.

(B) During the period of time that a county land reutilization corporation is functioning as such on behalf of a county, the board of county commissioners, upon the request of the county treasurer, may designate by resolution that an additional amount, not exceeding five per cent of all collections of delinquent real property, personal property, and manufactured and mobile home taxes and assessments, shall be deposited in the delinquent tax and assessment collection fund and be available for appropriation by the board for the use of the corporation. Any such amounts so deposited and appropriated under this division shall be paid out of the delinquent tax and assessment collection fund to the corporation upon a warrant of the county auditor.

(C) Annually by the first day of December, the treasurer and the prosecuting attorney each shall submit a report to the board regarding the use of the moneys appropriated to their respective offices from the delinquent tax and assessment collection fund. Each report shall specify the amount appropriated to the office during the current calendar year, an estimate of the amount so appropriated that will be expended by the end of the year, a summary of how the amount appropriated has been expended in connection with delinquent tax collection activities or land reutilization, and an estimate of the amount that will be credited to the fund during the ensuing calendar year.

The annual report of a county land reutilization corporation required by section 1724.05 of the Revised Code shall include information regarding the amount and use of the moneys that the corporation received from the delinquent tax and assessment collection fund of the county.

~~(C)~~(D)(1) In any county, if the county treasurer or prosecuting attorney determines that the amount appropriated to the office from the county's delinquent tax and assessment collection fund under division (A) of this section exceeds the amount required to be used as prescribed by that division, the county treasurer or prosecuting attorney may expend the excess

to prevent residential mortgage foreclosures in the county and to address problems associated with other foreclosed real property. The amount used for that purpose in any year may not exceed the amount that would cause the fund to have a reserve of less than twenty per cent of the amount expended in the preceding year for the purposes of division (A) of this section. The county treasurer or prosecuting attorney may not expend any money from the fund for the purpose of land reutilization unless the county treasurer or prosecuting attorney obtains the approval of the county investment advisory committee established under section 135.341 of the Revised Code.

Money authorized to be expended under division (D)(1) of this section shall be used to provide financial assistance in the form of loans to borrowers in default on their home mortgages, including for the payment of late fees, to clear arrearage balances, and to augment moneys used in the county's foreclosure prevention program. The money also may be used to assist municipal corporations or townships in the county, upon their application to the county treasurer, prosecuting attorney, or the county department of development, in the nuisance abatement of deteriorated residential buildings in foreclosure, or vacant, abandoned, tax-delinquent, or blighted real property, including paying the costs of boarding up such buildings, lot maintenance, and demolition.

(2) In a county having a population of more than one hundred thousand according to the department of development's 2006 census estimate, if the county treasurer or prosecuting attorney determines that the amount appropriated to the office from the county's delinquent tax and assessment collection fund under division (A) of this section exceeds the amount required to be used as prescribed by that division, the county treasurer or prosecuting attorney may expend the excess to assist townships or municipal corporations located in the county as provided in ~~this~~ division (D)(2) of this section, provided that the combined amount so expended each year in a county shall not exceed three million dollars. Upon application for the funds by a township or municipal corporation, the county treasurer and prosecuting attorney may assist the township or municipal corporation in abating foreclosed residential nuisances, including paying the costs of securing such buildings, lot maintenance, and demolition. At the prosecuting attorney's discretion, the prosecuting attorney also may apply the funds to costs of prosecuting alleged violations of criminal and civil laws governing real estate and related transactions, including fraud and abuse.

Sec. 323.01. Except as otherwise provided, as used in Chapter 323. of the Revised Code:

(A) "Subdivision" means any county, township, school district, or

municipal corporation.

(B) "Municipal corporation" includes charter municipalities.

(C) "Taxes" means the total amount of all charges against an entry appearing on a tax list and the duplicate thereof that was prepared and certified in accordance with section 319.28 of the Revised Code, including taxes levied against real estate; taxes on property whose value is certified pursuant to section 5727.23 of the Revised Code; recoupment charges applied pursuant to section 5713.35 of the Revised Code; all assessments; penalties and interest charged pursuant to section 323.121 of the Revised Code; charges added pursuant to section 319.35 of the Revised Code; and all of such charges which remain unpaid from any previous tax year.

(D) "Current taxes" means all taxes charged against an entry on the general tax list and duplicate of real and public utility property that have not appeared on such list and duplicate for any prior tax year and any penalty thereon charged by division (A) of section 323.121 of the Revised Code. Current taxes, whether or not they have been certified delinquent, become delinquent taxes if they remain unpaid after the last day prescribed for payment of the second installment of current taxes without penalty.

(E) "Delinquent taxes" means:

(1) Any taxes charged against an entry on the general tax list and duplicate of real and public utility property that were charged against an entry on such list and duplicate for a prior tax year and any penalties and interest charged against such taxes.

(2) Any current taxes charged on the general tax list and duplicate of real and public utility property that remain unpaid after the last day prescribed for payment of the second installment of such taxes without penalty, whether or not they have been certified delinquent, and any penalties and interest charged against such taxes.

(F) "Current tax year" means, with respect to particular taxes, the calendar year in which the first installment of taxes is due prior to any extension granted under section 323.17 of the Revised Code.

(G) "Liquidated claim" means:

(1) Any sum of money due and payable, upon a written contractual obligation executed between the subdivision and the taxpayer, but excluding any amount due on general and special assessment bonds and notes;

(2) Any sum of money due and payable, for disability financial assistance ~~or disability medical assistance~~ provided under Chapter 5115. of the Revised Code that is furnished to or in behalf of a subdivision, provided that such claim is recognized by a resolution or ordinance of the legislative body of such subdivision;

(3) Any sum of money advanced and paid to or received and used by a subdivision, pursuant to a resolution or ordinance of such subdivision or its predecessor in interest, and the moral obligation to repay which sum, when in funds, shall be recognized by resolution or ordinance by the subdivision.

Sec. 323.121. (A)(1) Except as otherwise provided in division (A)(2) of this section, if one-half of the current taxes charged against an entry of real estate together with the full amount of any delinquent taxes are not paid on or before the thirty-first day of December in that year or on or before the last day for payment as extended pursuant to section 323.17 of the Revised Code, a penalty of ten per cent shall be charged against the unpaid balance of such half of the current taxes on the duplicate. If the total amount of all the taxes is not paid on or before the twentieth day of June, next thereafter, or on or before the last day for payment as extended pursuant to section 323.17 of the Revised Code, a like penalty shall be charged on the balance of the total amount of such unpaid current taxes.

(2) After a valid delinquent or omitted tax contract that includes unpaid current taxes from a first-half collection period described in section 323.12 of the Revised Code has been entered into under section 323.31 or 5713.20 of the Revised Code, no ten per cent penalty shall be charged against such taxes after the second-half collection period while the delinquent or omitted tax contract remains in effect. On the day a delinquent or omitted tax contract becomes void, the ten per cent penalty shall be charged against such taxes and shall equal the amount of penalty that would have been charged against unpaid current taxes outstanding on the date on which the second-half penalty would have been charged thereon under division (A)(1) of this section if the contract had not been in effect.

(B)(1) On the first day of the month following the last day the second installment of taxes may be paid without penalty, interest shall be charged against and computed on all delinquent taxes other than the current taxes that became delinquent taxes at the close of the last day such second installment could be paid without penalty. The charge shall be for interest that accrued during the period that began on the preceding first day of December and ended on the last day of the month that included the last date such second installment could be paid without penalty. The interest shall be computed at the rate per annum prescribed by section 5703.47 of the Revised Code and shall be entered as a separate item on the tax list and duplicate compiled under section 319.28 or 5721.011 of the Revised Code, whichever list and duplicate are first compiled after the date on which the interest is computed and charged. However, for tracts and lots on the real property tax suspension list under section 319.48 of the Revised Code, the

interest shall not be entered on the tax list and duplicate compiled under section 319.28 of the Revised Code, but shall be entered on the first tax list and duplicate compiled under section 5721.011 of the Revised Code after the date on which the interest is computed and charged.

(2) In a county on behalf of which a county land reutilization corporation has been organized under Chapter 1724. of the Revised Code, ~~on~~ upon the written order of the county treasurer, interest shall be charged against and computed on delinquent taxes as provided in division (B)(2)(a) or (b) of this section, as prescribed in the order:

(a) In the manner provided under divisions (B)(1) and (B)(3) of this section, except that the interest shall be computed at the rate of twelve per cent per annum; or

(b) On the first day of the ~~first~~ month following the month in which interest otherwise would be charged in accordance with division (B)(1) of this section as specified in the order, and each subsequent month, interest shall be charged against and computed on all delinquent taxes remaining delinquent on the last day of the preceding month at a rate of one per cent per month. ~~If~~

The county treasurer shall file a copy of the order directing the rate and manner of charging interest under this division with the county treasurer and the tax commissioner. If interest is charged under division (B)(2) of this section, interest shall not be charged under division (B)(1) or (3) of this section.

(3) On the first day of December, the interest shall be charged against and computed on all delinquent taxes. The charge shall be for interest that accrued during the period that began on the first day of the month following the last date prescribed for the payment of the second installment of taxes in the current year and ended on the immediately preceding last day of November. The interest shall be computed at the rate per annum prescribed by section 5703.47 of the Revised Code and shall be entered as a separate item on the tax list and duplicate compiled under section 319.28 or 5721.011 of the Revised Code, whichever list and duplicate are first compiled after the date on which the interest is computed and charged. However, for tracts and lots on the real property tax suspension list under section 319.48 of the Revised Code, the interest shall not be entered on the tax list and duplicate compiled under section 319.28 of the Revised Code, but shall be entered on the first tax list and duplicate compiled under section 5721.011 of the Revised Code after the date on which the interest is computed and charged.

(4) After a valid delinquent tax contract has been entered into for the payment of any delinquent taxes, no interest shall be charged against such

delinquent taxes while the delinquent tax contract remains in effect in compliance with section 323.31 of the Revised Code. If a valid delinquent tax contract becomes void, interest shall be charged against the delinquent taxes for the periods that interest was not permitted to be charged while the delinquent tax contract was in effect. The interest shall be charged on the day the delinquent tax contract becomes void and shall equal the amount of interest that would have been charged against the unpaid delinquent taxes outstanding on the dates on which interest would have been charged thereon under divisions (B)(1), (2), and (3) of this section had the delinquent tax contract not been in effect.

(C) If the full amount of the taxes due at either of the times prescribed by division (A) of this section is paid within ten days after such time, the county treasurer shall waive the collection of and the county auditor shall remit one-half of the penalty provided for in that division for failure to make that payment by the prescribed time.

(D) The county treasurer shall compile and deliver to the county auditor a list of all tax payments the treasurer has received as provided in division (C) of this section. The list shall include any information required by the auditor for the remission of the penalties waived by the treasurer. The taxes so collected shall be included in the settlement next succeeding the settlement then in process.

Sec. 323.156. ~~(A)~~ Within thirty days after a settlement of taxes under divisions (A); and (C); ~~and (H)~~ of section 321.24 of the Revised Code, the county treasurer shall certify to the tax commissioner one-half of the total amount of taxes on real property that were reduced pursuant to section 323.152 of the Revised Code for the preceding tax year; ~~and one-half of the total amount of taxes on manufactured and mobile homes that were reduced pursuant to division (B) of section 323.152 of the Revised Code for the current tax year.~~ The commissioner, within thirty days of the receipt of such certifications, shall provide for payment to the county treasurer, from the general revenue fund, of the amount certified, which shall be credited upon receipt to the county's undivided income tax fund, and an amount equal to two per cent of the amount by which taxes were reduced, which shall be credited upon receipt to the county general fund as a payment, in addition to the fees and charges authorized by sections 319.54 and 321.26 of the Revised Code, to the county auditor and treasurer for the costs of administering the exemption provided under sections 323.151 to 323.159 of the Revised Code.

(B) On or before the second Monday in September of each year, the county treasurer shall certify to the tax commissioner the total amount by

which the manufactured home taxes levied in that year were reduced pursuant to division (B) of section 323.152 of the Revised Code, as evidenced by the certificates of reduction and the tax duplicate certified to the county treasurer by the county auditor. The commissioner, within ninety days after the receipt of such certifications, shall provide for payment to the county treasurer, from the general revenue fund, of the amount certified, which shall be credited upon receipt to the county's undivided income tax fund, and an amount equal to two per cent of the amount by which taxes were reduced, which shall be credited upon receipt to the county general fund as a payment, in addition to the fees and charges authorized by sections 319.54 and 321.26 of the Revised Code, to the county auditor and treasurer for the costs of administering the exemption provided under sections 323.151 to 323.159 of the Revised Code.

(C) Immediately upon receipt of funds into the county undivided income tax fund under this section, the auditor shall distribute the full amount thereof among the taxing districts in the county as though the total had been paid as taxes by each person for whom taxes were reduced under sections 323.151 to 323.159 of the Revised Code.

Sec. 323.73. (A) Except as provided in division (G) of this section or section 323.78 of the Revised Code, a parcel of abandoned land that is to be disposed of under this section shall be disposed of at a public auction scheduled and conducted as described in this section. At least twenty-one days prior to the date of the public auction, the clerk of court or sheriff of the county shall advertise the public auction in a newspaper of general circulation in the county in which the land is located. The advertisement shall include the date, time, and place of the auction, the permanent parcel number of the land if a permanent parcel number system is in effect in the county as provided in section 319.28 of the Revised Code or, if a permanent parcel number system is not in effect, any other means of identifying the parcel, and a notice stating that the abandoned land is to be sold subject to the terms of sections 323.65 to 323.79 of the Revised Code.

(B) The sheriff of the county or a designee of the sheriff shall conduct the public auction at which the abandoned land will be offered for sale. To qualify as a bidder, a person shall file with the sheriff on a form provided by the sheriff a written acknowledgment that the abandoned land being offered for sale is to be conveyed in fee simple to the successful bidder. At the auction, the sheriff of the county or a designee of the sheriff shall begin the bidding at an amount equal to the total of the impositions against the abandoned land, plus the costs apportioned to the land under section 323.75 of the Revised Code. The abandoned land shall be sold to the highest bidder.

The county sheriff or designee may reject any and all bids not meeting the minimum bid requirements specified in this division.

(C) Except as otherwise permitted under section 323.74 of the Revised Code, the successful bidder at a public auction conducted under this section shall pay the sheriff of the county or a designee of the sheriff a deposit of at least ten per cent of the purchase price in cash, or by bank draft or official bank check, at the time of the public auction, and shall pay the balance of the purchase price within thirty days after the day on which the auction was held. Notwithstanding section 321.261 of the Revised Code, with respect to any proceedings initiated pursuant to sections 323.65 to 323.79 of the Revised Code, from the total proceeds arising from the sale, transfer, or redemption of abandoned land, twenty per cent of such proceeds shall be deposited to the credit of the delinquent tax and assessment collection fund to reimburse the fund for costs paid from the fund for the transfer, redemption, or sale of abandoned land at public auction. Not more than one-half of the twenty per cent may be used by the treasurer for community development, nuisance abatement, foreclosure prevention, demolition, and related services or distributed by the treasurer to a land reutilization corporation. The balance of the proceeds, if any, shall be distributed to the appropriate political subdivisions and other taxing units in proportion to their respective claims for taxes, assessments, interest, and penalties on the land. Upon the sale of foreclosed lands, the clerk of court shall hold any surplus proceeds in excess of the impositions until the clerk receives an order of priority and amount of distribution of the surplus that are adjudicated by a court of competent jurisdiction or receives a certified copy of an agreement between the parties entitled to a share of the surplus providing for the priority and distribution of the surplus. Any party to the action claiming a right to distribution of surplus shall have a separate cause of action in the county or municipal court of the jurisdiction in which the land reposes, provided the board confirms the transfer or regularity of the sale. Any dispute over the distribution of the surplus shall not affect or revive the equity of redemption after the board confirms the transfer or sale.

(D) Upon the sale or transfer of abandoned land pursuant to this section, the owner's fee simple interest in the land shall be conveyed to the purchaser. A conveyance under this division is free and clear of any liens and encumbrances of the parties named in the complaint for foreclosure attaching before the sale or transfer, and free and clear of any liens for taxes, except for federal tax liens and covenants and easements of record attaching before the sale.

(E) The county board of revision shall reject the sale of abandoned land

to any person if it is shown by a preponderance of the evidence that the person is delinquent in the payment of taxes levied by or pursuant to Chapter 307., 322., 324., 5737., 5739., 5741., or 5743. of the Revised Code or any real property taxing provision of the Revised Code. The board also shall reject the sale of abandoned land to any person if it is shown by a preponderance of the evidence that the person is delinquent in the payment of property taxes on any parcel in the county, or to a member of any of the following classes of parties connected to that person:

- (1) A member of that person's immediate family;
- (2) Any other person with a power of attorney appointed by that person;
- (3) A sole proprietorship owned by that person or a member of that person's immediate family;
- (4) A partnership, trust, business trust, corporation, association, or other entity in which that person or a member of that person's immediate family owns or controls directly or indirectly any beneficial or legal interest.

(F) If the purchase of abandoned land sold pursuant to this section or section 323.74 of the Revised Code is for less than the sum of the impositions against the abandoned land and the costs apportioned to the land under division (A) of section 323.75 of the Revised Code, then, upon the sale or transfer, all liens for taxes due at the time the deed of the property is conveyed to the purchaser following the sale or transfer, and liens subordinate to liens for taxes, shall be deemed satisfied and discharged.

(G) If the county board of revision finds that the total of the impositions against the abandoned land are greater than the fair market value of the abandoned land as determined by the auditor's then-current valuation of that land, the board, at any final hearing under section 323.70 of the Revised Code, may order the property foreclosed and, without an appraisal or public auction, order the sheriff to execute a deed to the certificate holder or county land reutilization corporation that filed a complaint under section 323.69 of the Revised Code, or to a community development organization, school district, municipal corporation, county, or township, whichever is applicable, as provided in section 323.74 of the Revised Code, ~~except that no deed shall be transferred to a county land reutilization corporation after two years following the filing of its articles of incorporation by the secretary of state.~~ Upon a transfer under this division, all liens for taxes due at the time the deed of the property is transferred to the certificate holder, community development organization, school district, municipal corporation, county, or township following the conveyance, and liens subordinate to liens for taxes, shall be deemed satisfied and discharged.

Sec. 323.74. (A) If a public auction is held for abandoned land pursuant

to section 323.73 of the Revised Code, but the land is not sold at the public auction, the county board of revision may order the disposition of the abandoned land in accordance with division (B) or (C) of this section.

(B) The abandoned land offered for sale at a public auction as described in section 323.73 of the Revised Code, but not sold at the auction, may be offered for sale in any usual and customary manner by the sheriff as otherwise provided by law. The subsequent public auction may be held in the same manner as the public auction was held under section 323.73 of the Revised Code, but the minimum bid at an auction held under this division shall be the lesser of fifty per cent of fair market value of the abandoned land as currently shown by the county auditor's latest valuation, or the sum of the impositions against the abandoned land plus the costs apportioned to the land under section 323.75 of the Revised Code. Notice of any subsequent sale pursuant to this section may be given in the original notice of sale listing the time, date, and place of the subsequent sale.

(C) Upon certification from the sheriff that abandoned land was offered for sale at a public auction as described in section 323.73 of the Revised Code but was not purchased, a community development organization or any school district, municipal corporation, county, or township in which the land is located may request that title to the land be transferred to the community development organization, school district, municipal corporation, county, or township at the time described in this division. The request shall be delivered to the board of revision at any time from the date the complaint for foreclosure is filed under section 323.69 of the Revised Code, but not later than sixty days after the date on which the land was first offered for sale. ~~A county land reutilization corporation may not submit such a request, and the board of revision shall not accept such a request submitted, after two years following the filing of the corporation's articles of incorporation by the secretary of state.~~ The request shall include a representation that the organization, district, or political subdivision, not later than thirty days after receiving legal title to the abandoned land, will begin basic exterior improvements that will protect the land from further unreasonable deterioration. The improvements shall include, but are not limited to, the removal of trash and refuse from the exterior of the premises and the securing of open, vacant, or vandalized areas on the exterior of the premises. The representation shall be deemed to have been given if the notice is supplied by an electing subdivision as defined in section 5722.01 of the Revised Code.

(D) The county board of revision, upon any adjudication of foreclosure and forfeiture against the abandoned land, may order the sheriff to dispose

of the abandoned land as prescribed in sections 323.65 to 323.79 of the Revised Code, ~~except that no interest in such abandoned lands shall be transferred to a county land reutilization corporation after two years following the filing of its articles of incorporation by the secretary of state.~~ The order by the board shall include instructions to the sheriff to transfer the land to the specified community development organization, school district, municipal corporation, county, or township after payment of the costs of disposing of the abandoned land pursuant to section 323.75 of the Revised Code or, if any negotiated price has been agreed to between the county treasurer and the community development organization, school district, municipal corporation, county, or township, after payment of that negotiated price as certified by the board to the sheriff.

(E) Upon receipt of payment under this section, the sheriff shall convey by sheriff's deed the fee simple interest in, and to, the abandoned land. If the abandoned land is transferred pursuant to division (D) of this section and the county treasurer reasonably determines that the transfer will result in the property being occupied, the county treasurer may waive, but is not required to waive, some or all of the impositions against the abandoned land or costs apportioned to the land under section 323.75 of the Revised Code.

(F) Upon a transfer under this section, all liens for taxes due at the time the deed of the property is conveyed to a purchaser or transferred to a community development organization, school district, municipal corporation, county, or township, and liens subordinate to liens for taxes, shall be deemed satisfied and discharged.

(G) Any parcel that has been advertised and offered for sale pursuant to foreclosure proceedings and has not sold for want of bidders or been otherwise transferred under sections 323.65 to 323.79 of the Revised Code shall be forfeited or otherwise disposed of in the same manner as lands under section 323.25 or 5721.18 or Chapter 5723. of the Revised Code.

Sec. 323.77. (A) As used in this section, "electing subdivision" has the same meaning as in section 5722.01 of the Revised Code.

(B) At any time from the date the complaint for foreclosure is filed under section 323.69 of the Revised Code, but not later than sixty days after the date on which the land was first offered for sale, an electing subdivision or a county land reutilization corporation may give the county treasurer, prosecuting attorney, or board of revision notice in writing that it seeks to acquire any parcel of abandoned land, identified by parcel number, from the abandoned land list. If any such parcel of abandoned land identified under this section is offered for sale pursuant to section 323.73 of the Revised Code, but is not sold for want of a minimum bid, the electing subdivision or

a county land reutilization corporation that identified that parcel of abandoned land shall be deemed to have appeared at the sale and submitted the winning bid at the auction, and the parcel of abandoned land shall be sold to the electing subdivision or corporation for no consideration other than the costs prescribed in section 323.75 of the Revised Code or those costs to which the electing subdivision or corporation and the county treasurer mutually agree. ~~No interest in such abandoned lands shall be transferred to a county land reutilization corporation under this section after two years following the filing of its articles of incorporation by the secretary of state.~~ The conveyance shall be confirmed, and any common law or statutory right of redemption forever terminated, upon the filing with the clerk of court the order of confirmation based on the adjudication of foreclosure by the county board of revision, which the clerk shall enter upon the journal of the court or a separate journal.

If a county land reutilization corporation and an electing subdivision both request to acquire the parcel, the electing subdivision shall have priority to acquire the parcel. Notwithstanding its prior notice to the county treasurer under this section that it seeks to acquire the parcel of abandoned land, if a county land reutilization corporation has also requested to acquire the parcel, the electing subdivision may withdraw the notice before confirmation of the conveyance, in which case the parcel shall be conveyed to the county land reutilization corporation.

Sec. 323.78. Notwithstanding anything in Chapters 323., 5721., and 5723. of the Revised Code, if the county treasurer of a county having a population of more than one million two hundred thousand as of the most recent decennial census, in any petition for foreclosure of abandoned lands, elects to invoke the alternative redemption period, then upon any adjudication of foreclosure by any court or the board of revision in any proceeding under section 323.25, sections 323.65 to 323.79, or section 5721.18 of the Revised Code, the following apply:

(A) Unless otherwise ordered by a motion of the court or board of revision, the petition shall assert, and any notice of final hearing shall include, that upon foreclosure of the parcel, the equity of redemption in any parcel by its owner shall be forever terminated after the expiration of the alternative redemption period, that the parcel thereafter may be sold at sheriff's sale either by itself or together with other parcels as permitted by law; or that the parcel may, by order of the court or board of revision, be transferred directly to a municipal corporation, township, county, school district, or county land reutilization corporation without appraisal and without a sale, free and clear of all impositions and any other liens on the

property, which shall be deemed forever satisfied and discharged.

(B) After the expiration of the alternative redemption period following an adjudication of foreclosure, by order of the court or board of revision, any equity of redemption is forever extinguished, and the parcel may be transferred individually or in lots with other tax-foreclosed properties to a municipal corporation, township, county, school district, or county land reutilization corporation without appraisal and without a sale, upon which all impositions and any other liens subordinate to liens for impositions due at the time the deed to the property is conveyed to a purchaser or transferred to a community development organization, county land reutilization corporation, municipal corporation, county, township, or school district, shall be deemed satisfied and discharged. Other than the order of the court or board of revision so ordering the transfer of the parcel, no further act of confirmation or other order shall be required for such a transfer, or for the extinguishment of any right of redemption. ~~No such parcel shall be transferred to a county land reutilization corporation after two years following the filing of its articles of incorporation by the secretary of state.~~

(C) Upon the expiration of the alternative redemption period in cases to which the alternative redemption period has been ordered, if no community development organization, county land reutilization corporation, municipal corporation, county, township, or school district has requested title to the parcel, the court or board of revision may order the property sold as otherwise provided in Chapters 323. and 5721. of the Revised Code, and, failing any bid at any such sale, the parcel shall be forfeited to the state and otherwise disposed of pursuant to Chapter 5723. of the Revised Code.

Sec. 329.03. (A) As used in this section:

(1) ~~"Applicant", "applicant" or "recipient" means ~~an~~ any of the following:~~

(1) An applicant for or participant in the Ohio works first program established under Chapter 5107. of the Revised Code ~~or an~~;

(2) An applicant for or recipient of disability financial assistance under Chapter 5115. of the Revised Code;

(3) An applicant for or recipient of cash assistance provided under the refugee assistance program established under section 5101.49 of the Revised Code.

~~(2) "Voluntary direct deposit" means a system established pursuant to this section under which cash assistance payments to recipients who agree to direct deposit are made by direct deposit by electronic transfer to an account in a financial institution designated under this section.~~

~~(3) "Mandatory direct deposit" means a system established pursuant to~~

~~this section under which cash assistance payments to all participants in the Ohio works first program or recipients of disability financial assistance, other than those exempt under division (E) of this section, are made by direct deposit by electronic transfer to an account in a financial institution designated under this section.~~

~~(B) A board of county commissioners may by adoption of a resolution require the county department of job and family services to establish a direct deposit system for distributing cash assistance payments under Ohio works first, disability financial assistance, or both, unless the director of job and family services has provided for those payments to be made by electronic benefit transfer pursuant to section 5101.33 of the Revised Code. Voluntary or mandatory direct deposit may be applied to either of the programs. The resolution shall specify for each program for which direct deposit is to be established whether direct deposit is voluntary or mandatory. The board may require the department to change or terminate direct deposit by adopting a resolution to change or terminate it. Within ninety days after adopting a resolution under this division, the board shall certify one copy of the resolution to the director of job and family services and one copy to the office of budget and management. The director of job and family services may adopt rules governing establishment of direct deposit by county departments of job and family services.~~

~~The county department of job and family services shall determine what type of account will be used for direct deposit and negotiate with financial institutions to determine the charges, if any, to be imposed by a financial institution for establishing and maintaining such accounts. Under voluntary direct deposit, the county department of job and family services may pay all charges imposed by a financial institution for establishing and maintaining an account in which direct deposits are made for a recipient. Under mandatory direct deposit, the county department of job and family services shall pay all charges imposed by a financial institution for establishing and maintaining such an account.~~ Each county department of job and family services shall establish a direct deposit system under which cash assistance payments to recipients who agree to direct deposit are made by electronic transfer to an account in a financial institution designated under this section. No financial institution shall impose any charge for such an account that the institution does not impose on its other customers for the same type of account. Direct deposit does not affect the exemption of Ohio works first and disability financial assistance from attachment, garnishment, or other like process afforded by sections 5107.75 and 5115.06 of the Revised Code.

~~(C) The~~ Each county department of job and family services shall, ~~within~~

~~sixty days after a resolution requiring the establishment of direct deposit is adopted, establish procedures governing direct deposit.~~

~~Within one hundred eighty days after the resolution is adopted, the county department shall do all of the following:~~

~~(1) Inform each applicant or recipient that the applicant or recipient must choose whether to receive cash assistance payments under the direct deposit system established under this section or under the electronic benefit transfer system established under section 5101.33 of the Revised Code;~~

~~(2) Inform each applicant and recipient of the conditions under which the applicant or recipient may change the system used to receive the cash assistance payments;~~

~~(3) Inform each applicant or recipient of the procedures governing the direct deposit, including in the case of voluntary direct deposit those that prescribe the conditions under which a recipient may change from one method of payment to another system;~~

~~(2) Obtain~~ (4) If an applicant or recipient chooses to receive cash assistance payments under the direct deposit system, obtain from each the applicant or recipient an authorization form to designate a financial institution equipped for and authorized by law to accept direct deposits by electronic transfer and the account into which the applicant or recipient wishes the payments to be made, or in the case of voluntary direct deposit states the applicant's or recipient's election to receive such payments in the form of a paper warrant;

(5) If an applicant or recipient chooses to receive cash assistance payments under the electronic benefit transfer system established under section 5101.33 of the Revised Code, obtain from the applicant or recipient a signed form to that effect.

The department may require a recipient to complete a new authorization form whenever the department considers it necessary.

A recipient's designation of a financial institution and account shall remain in effect until withdrawn in writing or dishonored by the financial institution, except that no change may be made in the authorization form until the next eligibility redetermination of the recipient unless the county department feels determines that good grounds exist cause exists for an earlier change or the financial institution dishonors the recipient's account.

(D) An applicant or recipient without an account who ~~either agrees or is required~~ completes an authorization form to receive cash assistance payments by direct deposit shall have ten days after receiving the authorization form to designate an account suitable for direct deposit. If within the required time the applicant or recipient does not make the

~~designation or requests that the department make the designation, the department recipient shall designate a financial institution and help the recipient to open an account receive cash assistance payments under the electronic benefit transfer system established under section 5101.33 of the Revised Code.~~

~~(E) At the time of giving an applicant or recipient the authorization form, the county department of job and family services of a county with mandatory direct deposit shall inform each applicant or recipient of the basis for exemption and the right to request exemption from direct deposit.~~

~~Under mandatory direct deposit, an applicant or recipient who wishes to receive payments in the form of a paper warrant shall record on the authorization form a request for exemption under this division and the basis for the exemption.~~

~~The department shall exempt from mandatory direct deposit any recipient who requests exemption and is any of the following:~~

~~(1) Over age sixty five;~~

~~(2) Blind or disabled;~~

~~(3) Likely, in the judgment of the department, to be caused personal hardship by direct deposit.~~

~~A recipient granted an exemption under this division shall receive payments for which the recipient is eligible in the form of paper warrants.~~

~~(F) The county department of job and family services shall bear the full cost of the amount of any replacement warrant issued to a recipient for whom an authorization form as provided in this section has not been obtained within one hundred eighty days after the later of the date the board of county commissioners adopts a resolution requiring payments of financial assistance by direct deposit to accounts of recipients of Ohio works first or disability financial assistance or the date the recipient made application for assistance, and shall not be reimbursed by the state for any part of the cost. Thereafter, the county department of job and family services shall continue to bear the full cost of each replacement warrant issued until the board of county commissioners requires the county department of job and family services to obtain from each such recipient the authorization forms as provided in The director of job and family services may adopt rules governing direct deposit systems established under this section.~~

~~Sec. 329.04. (A) The county department of job and family services shall have, exercise, and perform the following powers and duties:~~

~~(1) Perform any duties assigned by the state department of job and family services regarding the provision of public family services, including the provision of the following services to prevent or reduce economic or~~

personal dependency and to strengthen family life:

(a) Services authorized by a Title IV-A program, as defined in section 5101.80 of the Revised Code;

(b) Social services authorized by Title XX of the "Social Security Act" and provided for by section 5101.46 or 5101.461 of the Revised Code;

(c) If the county department is designated as the child support enforcement agency, services authorized by Title IV-D of the "Social Security Act" and provided for by Chapter 3125. of the Revised Code. The county department may perform the services itself or contract with other government entities, and, pursuant to division (C) of section 2301.35 and section 2301.42 of the Revised Code, private entities, to perform the Title IV-D services.

(d) Duties assigned under section 5111.98 of the Revised Code.

(2) Administer disability financial assistance, as required by the state department of job and family services under section 5115.03 of the Revised Code;

~~(3) Administer disability medical assistance, as required by the state department of job and family services under section 5115.13 of the Revised Code;~~

~~(4)~~ Administer burials insofar as the administration of burials was, prior to September 12, 1947, imposed upon the board of county commissioners and if otherwise required by state law;

~~(5)~~(4) Cooperate with state and federal authorities in any matter relating to family services and to act as the agent of such authorities;

~~(6)~~(5) Submit an annual account of its work and expenses to the board of county commissioners and to the state department of job and family services at the close of each fiscal year;

~~(7)~~(6) Exercise any powers and duties relating to family services duties or workforce development activities imposed upon the county department of job and family services by law, by resolution of the board of county commissioners, or by order of the governor, when authorized by law, to meet emergencies during war or peace;

~~(8)~~(7) Determine the eligibility for medical assistance of recipients of aid under Title XVI of the "Social Security Act";

~~(9)~~(8) If assigned by the state director of job and family services under section 5101.515 or 5101.525 of the Revised Code, determine applicants' eligibility for health assistance under the children's health insurance program part II or part III;

~~(10)~~(9) Enter into a plan of cooperation with the board of county commissioners under section 307.983, consult with the board in the

development of the transportation work plan developed under section 307.985, establish with the board procedures under section 307.986 for providing services to children whose families relocate frequently, and comply with the contracts the board enters into under sections 307.981 and 307.982 of the Revised Code that affect the county department;

~~(1)~~(10) For the purpose of complying with a grant agreement the board of county commissioners enters into under sections 307.98 and 5101.21 of the Revised Code, exercise the powers and perform the duties the grant agreement assigns to the county department;

~~(2)~~(11) If the county department is designated as the workforce development agency, provide the workforce development activities specified in the contract required by section 330.05 of the Revised Code.

(B) The powers and duties of a county department of job and family services are, and shall be exercised and performed, under the control and direction of the board of county commissioners. The board may assign to the county department any power or duty of the board regarding family services duties and workforce development activities. If the new power or duty necessitates the state department of job and family services changing its federal cost allocation plan, the county department may not implement the power or duty unless the United States department of health and human services approves the changes.

Sec. 329.042. ~~The~~ Each county department of job and family services shall certify eligible public assistance and nonpublic assistance households eligible under the "Food Stamp Act of 1964," 78 Stat. 703, 7 U.S.C.A. 2011, as amended, and for the supplemental nutrition assistance program in accordance with federal and state ~~regulations adopted pursuant to such act, law~~ to enable low-income households to participate in the ~~food stamp supplemental nutrition assistance~~ program and thereby to purchase foods having a greater monetary value than is possible under public assistance standard allowances or other low-income budgets.

~~The~~ Each county department of job and family services shall administer the distribution of ~~food stamp supplemental nutrition assistance program~~ benefits under the supervision of the department of job and family services. The benefits shall be distributed by a method approved by the department of job and family services in accordance with the "Food Stamp and Nutrition Act of 1964," 78 Stat. 703, 2008 (7 U.S.C.A. 2011, as amended, et seq.) and regulations issued thereunder.

~~The document referred to as the "authorization to participate card," which shows the face value of the benefits an eligible household is entitled to receive on presentment of the document, shall be issued, immediately~~

~~upon certification, to a household determined under division (C) of section 5101.54 of the Revised Code to be in immediate need of food assistance by being personally handed by a member of the staff of the county department of job and family services to the member of the household in whose name application was made for participation in the program or the authorized representative of such member of the household.~~

Sec. 329.051. The county department of job and family services shall make voter registration applications as prescribed by the secretary of state under section 3503.10 of the Revised Code available to persons who are applying for, receiving assistance from, or participating in any of the following:

(A) The disability financial assistance program established under Chapter 5115. of the Revised Code;

~~(B) The disability medical assistance program established under Chapter 5115. of the Revised Code;~~

~~(C)~~ The medical assistance program established under Chapter 5111. of the Revised Code;

~~(D)~~(C) The Ohio works first program established under Chapter 5107. of the Revised Code;

~~(E)~~(D) The prevention, retention, and contingency program established under Chapter 5108. of the Revised Code.

Sec. 329.06. (A) Except as provided in division (C) of this section and section 6301.08 of the Revised Code, the board of county commissioners shall establish a county family services planning committee. The board shall appoint a member to represent the county department of job and family services; an employee in the classified civil service of the county department of job and family services, if there are any such employees; and a member to represent the public. The board shall appoint other individuals to the committee in such a manner that the committee's membership is broadly representative of the groups of individuals and the public and private entities that have an interest in the family services provided in the county. The board shall make appointments in a manner that reflects the ethnic and racial composition of the county. The following groups and entities may be represented on the committee:

- (1) Consumers of family services;
- (2) The public children services agency;
- (3) The child support enforcement agency;
- (4) The county family and children first council;
- (5) Public and private colleges and universities;
- (6) Public entities that provide family services, including boards of

health, boards of education, the county board of mental retardation and developmental disabilities, and the board of alcohol, drug addiction, and mental health services that serves the county;

(7) Private nonprofit and for-profit entities that provide family services in the county or that advocate for consumers of family services in the county, including entities that provide services to or advocate for victims of domestic violence;

(8) Labor organizations;

(9) Any other group or entity that has an interest in the family services provided in the county, including groups or entities that represent any of the county's business, urban, and rural sectors.

(B) The county family services planning committee shall do all of the following:

(1) Serve as an advisory body to the board of county commissioners with regard to the family services provided in the county, including assistance under Chapters 5107. and 5108. of the Revised Code, publicly funded child care under Chapter 5104. of the Revised Code, and social services provided under section 5101.46 of the Revised Code;

(2) At least once a year, review and analyze the county department of job and family services' implementation of the programs established under Chapters 5107. and 5108. of the Revised Code. In its review, the committee shall use information available to it to examine all of the following:

(a) Return of assistance groups to participation in either program after ceasing to participate;

(b) Teen pregnancy rates among the programs' participants;

(c) The other types of assistance the programs' participants receive, including ~~medical assistance~~ medicaid under Chapter 5111. of the Revised Code, publicly funded child care under Chapter 5104. of the Revised Code, ~~food stamp~~ supplemental nutrition assistance program benefits under section 5101.54 of the Revised Code, and energy assistance under Chapter 5117. of the Revised Code;

(d) Other issues the committee considers appropriate.

The committee shall make recommendations to the board of county commissioners and county department of job and family services regarding the committee's findings.

(3) Conduct public hearings on proposed county profiles for the provision of social services under section 5101.46 of the Revised Code;

(4) At the request of the board, make recommendations and provide assistance regarding the family services provided in the county;

(5) At any other time the committee considers appropriate, consult with

the board and make recommendations regarding the family services provided in the county. The committee's recommendations may address the following:

- (a) Implementation and administration of family service programs;
- (b) Use of federal, state, and local funds available for family service programs;
- (c) Establishment of goals to be achieved by family service programs;
- (d) Evaluation of the outcomes of family service programs;
- (e) Any other matter the board considers relevant to the provision of family services.

(C) If there is a committee in existence in a county on October 1, 1997, that the board of county commissioners determines is capable of fulfilling the responsibilities of a county family services planning committee, the board may designate the committee as the county's family services planning committee and the committee shall serve in that capacity.

Sec. 340.033. (A) The board of alcohol, drug addiction, and mental health services shall serve as the planning agency for alcohol and drug addiction services for the county or counties in its service district. In accordance with procedures and guidelines established by the department of alcohol and drug addiction services, the board shall do all of the following:

- (1) Assess alcohol and drug addiction service needs and evaluate the need for alcohol and drug addiction programs;
- (2) According to the needs determined under division (A)(1) of this section, set priorities and develop plans for the operation of alcohol and drug addiction programs in cooperation with other local and regional planning and funding bodies and with relevant ethnic organizations;
- (3) Submit the plan for alcohol and drug addiction services required by section 3793.05 of the Revised Code to the department and implement the plan as approved by the department;
- (4) Provide to the department information to be included in the information system or systems established by the department under section 3793.04 of the Revised Code;
- (5) Enter into contracts with alcohol and drug addiction programs for the provision of alcohol and drug addiction services;
- (6) Review and evaluate alcohol and drug addiction programs in the district, and conduct program audits;
- (7) Prepare and submit to the department an annual report of the alcohol and drug addiction programs in the district;
- (8) Receive, compile, and transmit to the department applications for funding;

(9) Promote, arrange, and implement working agreements with public and private social agencies and with judicial agencies;

(10) Investigate, or request another agency to investigate, any complaint alleging abuse or neglect of any person receiving services from an alcohol or drug addiction program;

(11) Establish a mechanism for the involvement of persons receiving services in, and obtaining their advice on, matters pertaining to alcohol or drug addiction services;

(12) Recruit and promote local financial support, from private and public sources, for alcohol and drug addiction programs;

(13) Approve fee schedules and related charges, adopt a unit cost schedule, or adopt other methods of payment for services provided by programs under contract pursuant to division (A)(5) of this section, in accordance with guidelines established by the department under section 3793.04 of the Revised Code.

(B) In accordance with rules adopted by the auditor of state pursuant to section 117.20 of the Revised Code, at least annually the board shall audit all alcohol and drug addiction programs provided under contract with the board. The board may contract with private auditors for the performance of these audits. A copy of the fiscal audit report shall be provided to the director of alcohol and drug addiction services, the auditor of state, and the county auditor of each county in the board's district.

(C) In contracting with a program under division (A)(5) of this section, a board shall consider the cost effectiveness of services provided by the program and the program's quality and continuity of care. The board may review cost elements, including salary costs, of the services provided by the program.

A utilization review process shall be established as part of the contract for services. The board may establish this process in any way that it considers to be the most effective and efficient in meeting local needs.

(D) If either the board or a program with which it contracts pursuant to division (A)(5) of this section proposes not to renew the contract or proposes substantial changes in contract terms on renewal of the contract, it shall give the other party to the contract written notice at least one hundred twenty days before the expiration date of the contract. During the first sixty days of this period, both parties shall attempt to resolve any dispute through good faith collaboration and negotiation in order that services to persons in need will be continued. If the dispute is not resolved during this time, either party may notify the department of alcohol and drug addiction services. The department may require both parties to submit the dispute to a mutually

agreed upon third party with the cost to be shared by the board and the program. At least twenty days before the expiration of the contract, unless the board and the program agree to an extension, the third party shall issue to the board, program, and department, its recommendations for resolution of the dispute.

The department shall adopt rules pursuant to Chapter 119. of the Revised Code establishing procedures for this dispute resolution process.

(E) Section 307.86 of the Revised Code does not apply to contracts entered into pursuant to division (A)(5) of this section.

(F)(1) With the prior approval of the department, a board of alcohol, drug addiction, and mental health services may operate an alcohol or drug addiction program as follows if there is no qualified program that is immediately available, willing to provide services, and able to obtain certification under Chapter 3793. of the Revised Code:

(a) In an emergency situation, any board may operate a program in order to provide essential services for the duration of the emergency;

(b) In a service district with a population of at least one hundred thousand but less than five hundred thousand, a board may operate a program for no longer than one year;

(c) In a service district with a population of less than one hundred thousand, a board may operate a program for no longer than one year, except that such a board may operate a program for longer than one year with the prior approval of the department and the prior approval of the board of county commissioners, or of a majority of the boards of county commissioners if the district is a joint-county district.

(2) The department shall not give a board its approval to operate a program under division (F)(1)(c) of this section unless it determines that the board's program will provide greater administrative efficiency and more or better services than would be available if the board contracted with a program for provision of the services.

(3) The department shall not give a board its approval to operate a program previously operated by a public or private entity unless the board has established to the department's satisfaction that the entity cannot effectively operate the program, or that the entity has requested the board to take over operation of the program.

(4) The department shall review and evaluate the operation of each program operated by a board under this division.

(5) Nothing in this division authorizes a board to administer or direct the daily operation of any program other than a program operated by the board under this division, but a program may contract with a board to receive

administrative services or staff direction from the board under the direction of the governing body of the program.

(G) If an investigation conducted pursuant to division (A)(10) of this section substantiates a charge of abuse or neglect, the board shall take whatever action it determines is necessary to correct the situation, including notification of the appropriate authorities. On request, the board shall provide information about such investigations to the department.

(H) When the board sets priorities and develops plans for the operation of alcohol and drug addiction programs under division (A)(2) of this section, the board shall consult with the county commissioners of the counties in the board's service district regarding the services described in section 340.15 of the Revised Code and shall give a priority to those services, except that those services shall not have priority over services provided to pregnant women under programs developed in relation to the mandate established in section 3793.15 of the Revised Code. The plans shall identify funds the board and public children services agencies in the board's service district have available to fund jointly the services described in section 340.15 of the Revised Code.

Sec. 343.01. (A) In order to comply with division (B) of section 3734.52 of the Revised Code, the board of county commissioners of each county shall do one of the following:

(1) Establish, by resolution, and maintain a county solid waste management district under this chapter that consists of all the incorporated and unincorporated territory within the county except as otherwise provided in division (A) of this section;

(2) With the boards of county commissioners of one or more other counties establish, by agreement, and maintain a joint solid waste management district under this chapter that consists of all the incorporated and unincorporated territory within the counties forming the joint district except as otherwise provided in division (A) of this section.

If a municipal corporation is located in more than one solid waste management district, the entire municipal corporation shall be considered to be included in and shall be under the jurisdiction of the district in which a majority of the population of the municipal corporation resides.

A county and joint district established to comply with division (B) of section 3734.52 of the Revised Code shall have a population of not less than one hundred twenty thousand unless, in the instance of a county district, the board of county commissioners has obtained an exemption from that requirement under division (C)(1) or (2) of that section. Each joint district established to comply with an order issued under division (D) of that section

shall have a population of at least one hundred twenty thousand.

(B) The boards of county commissioners of the counties establishing a joint district constitute, collectively, the board of directors of the joint district, except that if a county with a form of legislative authority other than a board of county commissioners participates, it shall be represented on the board of directors by three persons appointed by the legislative authority.

The agreement to establish and maintain a joint district shall be ratified by resolution of the board of county commissioners of each participating county. Upon ratification, the board of directors shall take control of and manage the joint district subject to this chapter, except that, in the case of a joint district formed pursuant to division (C), (D), or (E) of section 343.012 of the Revised Code, the board of directors shall take control of and manage the district when the formation of the district becomes final under the applicable division. A majority of the board of directors constitutes a quorum, and a majority vote is required for the board to act.

A county participating in a joint district may contribute lands or rights or interests therein, money, other personal property or rights or interests therein, or services to the district. The agreement shall specify any contributions of participating counties and the rights of the participating counties in lands or personal property, or rights or interests therein, contributed to or otherwise acquired by the joint district. The agreement may be amended or added to by a majority vote of the board of directors, but no amendment or addition shall divest a participating county of any right or interest in lands or personal property without its consent.

The board of directors may appoint and fix the compensation of employees of, accept gifts, devise, and bequests for, and take other actions necessary to control and manage the joint district. Employees of the district shall be considered county employees for the purposes of Chapter 124. of the Revised Code and other provisions of state law applicable to employees. Instead of or in addition to appointing employees of the district, the board of directors may agree to use employees of one or more of the participating counties in the service of the joint district and to share in their compensation in any manner that may be agreed upon.

The board of directors shall do one of the following:

(1) Designate the county auditor, including any other official acting in a capacity similar to a county auditor under a county charter, of a county participating in the joint district as the fiscal officer of the district, and the county treasurer, or other official acting in a capacity similar to a county treasurer under a county charter, of that county as the treasurer of the district. The designated county officials shall perform any applicable duties

for the district as each typically performs for the county of which ~~he~~ the individual is an official, except as otherwise may be provided in any bylaws or resolutions adopted by the board of directors. The board of directors may pay to that county any amount agreed upon by the board of directors and the board of county commissioners of that county to reimburse that county for the cost properly allocable to the service of its officials as fiscal officer and treasurer of the joint district.

(2) Appoint one individual who is neither a county auditor nor a county treasurer, and who may be an employee of the district, to serve as both the treasurer of the district and its fiscal officer. That individual shall act as custodian of the funds of the board and the district and shall maintain all accounts of the district. Any reference in this chapter or Chapter 3734. of the Revised Code to a county auditor or county treasurer serving as fiscal officer of a district or custodian of any funds of a board or district is deemed to refer to an individual appointed under division (B)(2) of this section.

The fiscal officer of a district shall establish a general fund and any other necessary funds for the district.

(C) A board of county commissioners of a county district or board of directors of a joint district may acquire, by purchase or lease, construct, improve, enlarge, replace, maintain, and operate such solid waste collection systems within their respective districts and such solid waste facilities within or outside their respective districts as are necessary for the protection of the public health. A board of county commissioners may acquire within its county real property or any estate, interest, or right therein, by appropriation or any other method, for use by a county or joint district in connection with such facilities. Appropriation proceedings shall be conducted in accordance with sections 163.01 to 163.22 of the Revised Code.

(D) The sanitary engineer or sanitary engineering department of a county maintaining a district and any sanitary engineer or sanitary engineering department of a county in a joint district, as determined by the board of directors, in addition to other duties assigned to that engineer or department, shall assist the board of county commissioners or directors in the performance of their duties under this chapter and sections 3734.52 to 3734.575 of the Revised Code and shall be charged with any other duties and services in relation thereto that the board prescribes. A board may employ registered professional engineers to assist the sanitary engineer in those duties and also may employ financial advisers and any other professional services it considers necessary to assist it in the construction, financing, and maintenance of solid waste collection or other solid waste

facilities. Such contracts of employment shall not require the certificate provided in section 5705.41 of the Revised Code. Payment for such services may be made from the general fund or any other fund legally available for that use at times that are agreed upon or as determined by the board of county commissioners or directors, and the funds may be reimbursed from the proceeds of bonds or notes issued to pay the cost of any improvement to which the services related.

(E)(1) The prosecuting attorney of the county shall serve as the legal advisor of a county district and shall provide such services to the board of county commissioners of the district as are required or authorized to be provided to other county boards under Chapter 309. of the Revised Code, except that, if the board considers it to be necessary or appropriate, the board, on its own initiative, may employ an attorney or other legal counsel on an annual basis to serve as the legal advisor of the district in place of the prosecuting attorney. When the prosecuting attorney is serving as the district's legal advisor and the board considers it to be necessary or appropriate, the board, on its own initiative, may employ an attorney or other legal counsel to represent or advise the board regarding a particular matter in place of the prosecuting attorney. The employment of an attorney or other legal counsel on an annual basis or in a particular matter is not subject to or governed by sections 305.14 and 309.09 of the Revised Code.

Notwithstanding the employment of an attorney or other legal counsel on an annual basis to serve as the district's legal advisor, the board may require written opinions or instructions from the prosecuting attorney under section 309.09 of the Revised Code in matters connected with its official duties as though the prosecuting attorney were serving as the legal advisor of the district.

(2) The board of directors of a joint district may designate the prosecuting attorney of one of the counties forming the district to serve as the legal advisor of the district. When so designated, the prosecuting attorney shall provide such services to the joint district as are required or authorized to be provided to county boards under Chapter 309. of the Revised Code. The board of directors may pay to that county any amount agreed upon by the board of directors and the board of county commissioners of that county to reimburse that county for the cost properly allocable to the services of its prosecuting attorney as the legal advisor of the joint district. When that prosecuting attorney is so serving and the board considers it to be necessary or appropriate, the board, on its own initiative, may employ an attorney or other legal counsel to represent or advise the board regarding a particular matter in place of the prosecuting attorney.

Instead of designating the prosecuting attorney of one of the counties forming the district to be the legal advisor of the district, the board of directors may employ on an annual basis an attorney or other legal counsel to serve as the district's legal advisor. Notwithstanding the employment of an attorney or other legal counsel as the district's legal advisor, the board of directors may require written opinions or instructions from the prosecuting attorney of any of the counties forming the district in matters connected with the board's official duties, and the prosecuting attorney shall provide the written opinion or instructions as though ~~he~~ the prosecuting attorney had been designated to serve as the district's legal advisor under division (E)(2) of this section.

(F) A board of county commissioners may issue bonds or bond anticipation notes of the county to pay the cost of preparing general and detailed plans and other data required for the construction of solid waste facilities in connection with a county or joint district. A board of directors of a joint solid waste management district may issue bonds or bond anticipation notes of the joint solid waste management district to pay the cost of preparing general and detailed plans and other data required for the construction of solid waste facilities in connection with a joint district. The bonds and notes shall be issued in accordance with Chapter 133. of the Revised Code, except that the maximum maturity of bonds issued for that purpose shall not exceed ten years. Bond anticipation notes may be paid from the proceeds of bonds issued either to pay the cost of the solid waste facilities or to pay the cost of the plans and other data.

(G) To the extent authorized by the solid waste management plan of the district approved under section 3734.521 or 3734.55 of the Revised Code or subsequent amended plans of the district approved under section 3734.521 or 3734.56 of the Revised Code, the board of county commissioners of a county district or board of directors of a joint district may adopt, publish, and enforce rules doing any of the following:

(1) Prohibiting or limiting the receipt of solid wastes generated outside the district or outside a service area prescribed in the solid waste management plan or amended plan, at facilities ~~covered by the plan~~ located within the solid waste management district, consistent with the projections contained in the plan or amended plan under divisions (A)(6) and (7) of section 3734.53 of the Revised Code, ~~except that~~. However, rules adopted by a board under division (G)(1) of this section may be adopted and enforced with respect to solid waste disposal facilities in the solid waste management district that are not owned by a county or the solid waste management district only if the board submits an application to the director

of environmental protection that demonstrates that there is insufficient capacity to dispose of all solid wastes that are generated within the district at the solid waste disposal facilities located within the district and the director approves the application. The demonstration in the application shall be based on projections contained in the plan or amended plan of the district. The director shall establish the form of the application. The approval or disapproval of such an application by the director is an action that is appealable under section 3745.04 of the Revised Code.

In addition, the director of environmental protection may issue an order modifying a rule adopted under division (G)(1) of this section to allow the disposal in the district of solid wastes from another county or joint solid waste management district if all of the following apply:

(a) The district in which the wastes were generated does not have sufficient capacity to dispose of solid wastes generated within it for six months following the date of the director's order;

(b) No new solid waste facilities will begin operation during those six months in the district in which the wastes were generated and, despite good faith efforts to do so, it is impossible to site new solid waste facilities within the district because of its high population density;

(c) The district in which the wastes were generated has made good faith efforts to negotiate with other districts to incorporate its disposal needs within those districts' solid waste management plans, including efforts to develop joint facilities authorized under section 343.02 of the Revised Code, and the efforts have been unsuccessful;

(d) The district in which the wastes were generated has located a facility willing to accept the district's solid wastes for disposal within the receiving district;

(e) The district in which the wastes were generated has demonstrated to the director that the conditions specified in divisions (G)(1)(a) to (d) of this section have been met;

(f) The director finds that the issuance of the order will be consistent with the state solid waste management plan and that receipt of the out-of-district wastes will not limit the capacity of the receiving district to dispose of its in-district wastes to less than eight years.

Any order issued under division (G)(1) of this section shall not become final until thirty days after it has been served by certified mail upon the county or joint solid waste management district that will receive the out-of-district wastes.

(2) Governing the maintenance, protection, and use of solid waste collection or other solid waste facilities located within its district. The rules

adopted under division (G)(2) of this section shall not establish design standards for solid waste facilities and shall be consistent with the solid waste provisions of Chapter 3734. of the Revised Code and the rules adopted under those provisions. The rules adopted under division (G)(2) of this section may prohibit any person, municipal corporation, township, or other political subdivision from constructing, enlarging, or modifying any solid waste facility until general plans and specifications for the proposed improvement have been submitted to and approved by the board of county commissioners or board of directors as complying with the solid waste management plan or amended plan of the district. The construction of such a facility shall be done under the supervision of the county sanitary engineer or, in the case of a joint district, a county sanitary engineer designated by the board of directors, and any person, municipal corporation, township, or other political subdivision proposing or constructing such improvements shall pay to the county or joint district all expenses incurred by the board in connection therewith. The sanitary engineer may enter upon any public or private property for the purpose of making surveys or examinations necessary for designing solid waste facilities or for supervising the construction, enlargement, modification, or operation of any such facilities. No person, municipal corporation, township, or other political subdivision shall forbid or interfere with the sanitary engineer or ~~his~~ the sanitary engineer's authorized assistants entering upon such property for that purpose. If actual damage is done to property by the making of the surveys and examinations, a board shall pay the reasonable value of that damage to the owner of the property damaged, and the cost shall be included in the financing of the improvement for which the surveys and examinations are made.

(3) Governing the development and implementation of a program for the inspection of solid wastes generated outside the boundaries of this state that are disposed of at solid waste facilities included in the district's solid waste management plan or amended plan. A board of county commissioners or board of directors or its authorized representative may enter upon the premises of any solid waste facility included in the district's solid waste management plan or amended plan for the purpose of conducting the inspections required or authorized by the rules adopted under division (G)(3) of this section. No person, municipal corporation, township, or other political subdivision shall forbid or interfere with a board of county commissioners or directors or its authorized representative entering upon the premises of any such solid waste facility for that purpose.

(4) Exempting the owner or operator of any existing or proposed solid

waste facility provided for in the plan or amended plan from compliance with any amendment to a township zoning resolution adopted under section 519.12 of the Revised Code or to a county rural zoning resolution adopted under section 303.12 of the Revised Code that rezoned or redistricted the parcel or parcels upon which the facility is to be constructed or modified and that became effective within two years prior to the filing of an application for a permit required under division (A)(2)(a) of section 3734.05 of the Revised Code to open a new or modify an existing solid waste facility.

(H) A board of county commissioners or board of directors may enter into a contract with any person, municipal corporation, township, or other political subdivision for the operation and maintenance of any solid waste facilities regardless of whether the facilities are owned or leased by the county or joint district or the contractor.

(I)(1) No person, municipal corporation, township, or other political subdivision shall tamper with or damage any solid waste facility constructed under this chapter or any apparatus or accessory connected therewith or pertaining thereto, fail or refuse to comply with the applicable rules adopted by a board of county commissioners or directors under division (G)(1), (2), (3), or (4) of this section, refuse to permit an inspection or examination by a sanitary engineer as authorized under division (G)(2) of this section, or refuse to permit an inspection by a board of county commissioners or directors or its authorized representative as required or authorized by rules adopted under division (G)(3) of this section.

(2) If the board of county commissioners of a county district or board of directors of a joint district has established facility designations under section 343.013, 343.014, or 343.015 of the Revised Code, or the director has established facility designations in the initial or amended plan of the district prepared and ordered to be implemented under section 3734.521, 3734.55, or 3734.56 of the Revised Code, no person, municipal corporation, township, or other political subdivision shall deliver, or cause the delivery of, any solid wastes generated within a county or joint district to any solid waste facility other than the facility designated under section 343.013, 343.014, or 343.015 of the Revised Code, or in the initial or amended plan of the district prepared and ordered to be implemented under section 3734.521, 3734.55, or 3734.56 of the Revised Code, as applicable. Upon the request of a person or the legislative authority of a municipal corporation or township, the board of county commissioners of a county district or board of directors of a joint district may grant a waiver authorizing the delivery of all or any portion of the solid wastes generated in a municipal corporation or township to a solid waste facility other than the facility designated under

section 343.013, 343.014, or 343.015 of the Revised Code, or in the initial or amended plan of the district prepared and ordered to be implemented under section 3734.521, 3734.55, or 3734.56 of the Revised Code, as applicable, regardless of whether the other facility is located within or outside of the district, if the board finds that delivery of those solid wastes to the other facility is not inconsistent with the projections contained in the district's initial or amended plan under divisions (A)(6) and (7) of section 3734.53 of the Revised Code as approved or ordered to be implemented and will not adversely affect the implementation and financing of the district's initial or amended plan pursuant to the implementation schedule contained in it under divisions (A)(12)(a) to (d) of that section. The board shall act on a request for such a waiver within ninety days after receiving the request. Upon granting such a waiver, the board shall send notice of that fact to the director. The notice shall indicate to whom the waiver was granted. Any waiver or authorization granted by a board on or before October 29, 1993, shall continue in force until the board takes action concerning the same entity under this division or until action is taken under division (G) of section 343.014 of the Revised Code.

(J) Divisions (G)(1) to (4) and (I)(2) of this section do not apply to the construction, operation, use, repair, enlargement, or modification of either of the following:

(1) A solid waste facility owned by a generator of solid wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated;

(2) A facility that exclusively disposes of wastes that are generated from the combustion of coal, or from the combustion of primarily coal in combination with scrap tires, that is not combined in any way with garbage at one or more premises owned by the generator.

(K)(1) A member of the board of county commissioners of a county solid waste management district, member of the board of directors of a joint solid waste management district, member of the board of trustees of a regional solid waste management authority managing a county or joint solid waste management district, or officer or employee of any solid waste management district, for the purposes of sections 102.03, 102.04, 2921.41, and 2921.42 of the Revised Code, shall not be considered to be directly or indirectly interested in, or improperly influenced by, any of the following:

(a) A contract entered into under this chapter or section 307.15 or sections 3734.52 to 3734.575 of the Revised Code between the district and any county forming the district, municipal corporation or township located

within the district, or health district having territorial jurisdiction within the district, of which that member, officer, or employee also is an officer or employee, but only to the extent that any interest or influence could arise from ~~his~~ holding public office or employment with the political subdivision or health district;

(b) A contract entered into under this chapter or section 307.15 or sections 3734.52 to 3734.575 of the Revised Code between the district and a county planning commission organized under section 713.22 of the Revised Code, or regional planning commission created under section 713.21 of the Revised Code, having territorial jurisdiction within the district, of which that member also is a member, officer, or employee, but only to the extent that any interest or influence could arise from ~~his~~ holding public office or employment with the commission;

(c) An expenditure of money made by the district for the benefit of any county forming the district, municipal corporation or township located within the district, or health district or county or regional planning commission having territorial jurisdiction within the district, of which that member also is a member, officer, or employee, but only to the extent that any interest or influence could arise from ~~his~~ holding public office or employment with the political subdivision, health district, or commission;

(d) An expenditure of money made for the benefit of the district by any county forming the district, municipal corporation or township located within the district, or health district or county or regional planning commission having territorial jurisdiction within the district, of which that member also is a member, officer, or employee, but only to the extent that any interest or influence could arise from ~~his~~ holding public office or employment with the political subdivision, health district, or commission.

(2) A solid waste management district, county, municipal corporation, township, health district, or planning commission described or referred to in divisions (K)(1)(a) to (d) of this section shall not be construed to be the business associate of a person who is concurrently a member of the board of county commissioners, directors, or trustees, or an officer or employee, of the district and an officer or employee of that municipal corporation, county, township, health district, or planning commission for the purposes of sections 102.03, 2921.42, and 2921.43 of the Revised Code. Any person who is concurrently a member of the board of county commissioners, directors, or trustees, or an officer or employee, of a solid waste management district so described or referred to and an officer or employee of a county, municipal corporation, township, health district, or planning commission so described or referred to may participate fully in deliberations

concerning and vote on or otherwise participate in the approval or disapproval of any contract or expenditure of funds described in those divisions as a member of the board of county commissioners or directors, or an officer or employee, of a county or joint solid waste management district; member of the board of trustees, or an officer or employee, of a regional solid waste management authority managing a county or joint solid waste management district; member of the legislative authority, or an officer or employee, of a county forming the district; member of the legislative authority, or an officer or employee, of a municipal corporation or township located within the district; member of the board of health, or an officer or employee, of a health district having territorial jurisdiction within the district; or member of the planning commission, or an officer or employee of a county or regional planning commission having territorial jurisdiction within the district.

(3) Nothing in division (K)(1) or (2) of this section shall be construed to exempt any member of the board of county commissioners, directors, or trustees, or an officer or employee, of a solid waste management district from a conflict of interest arising because of a personal or private business interest.

(4) A member of the board of county commissioners of a county solid waste management district, board of directors of a joint solid waste management district, or board of trustees of a regional solid waste management authority managing a county or joint solid waste management district, or an officer or employee, of any such solid waste management district, neither shall be disqualified from holding any other public office or position of employment nor be required to forfeit any other public office or position of employment by reason of ~~his~~ serving as a member of the board of county commissioners, directors, or trustees, or as an officer or employee, of the district, notwithstanding any requirement to the contrary under the common law of this state or the Revised Code.

(L) As used in this chapter:

(1) "Board of health," "disposal," "health district," "scrap tires," and "solid waste transfer facility" have the same meanings as in section 3734.01 of the Revised Code.

(2) "Change in district composition" and "change" have the same meaning as in section 3734.521 of the Revised Code.

(3)(a) Except as provided in division (L)(3)(b) or (c), and (d), of this section, "solid wastes" has the same meaning as in section 3734.01 of the Revised Code.

(b) If the solid waste management district is not one that resulted from

proceedings for a change in district composition under sections 343.012 and 3734.521 of the Revised Code, until such time as an amended solid waste management plan is approved under section 3734.56 of the Revised Code, "solid wastes" need not include scrap tires unless the solid waste management policy committee established under section 3734.54 of the Revised Code for the district chooses to include the management of scrap tires in the district's initial solid waste management plan prepared under sections 3734.54 and 3734.55 of the Revised Code.

(c) If the solid waste management district is one resulting from proceedings for a change in district composition under sections 343.012 and 3734.521 of the Revised Code and if the change involves an existing district that is operating under either an initial solid waste management plan approved or prepared and ordered to be implemented under section 3734.55 of the Revised Code or an initial or amended plan approved or prepared and ordered to be implemented under section 3734.521 of the Revised Code that does not provide for the management of scrap tires and scrap tire facilities, until such time as the amended plan of the district resulting from the change is approved under section 3734.56 of the Revised Code, "solid wastes" need not include scrap tires unless the solid waste management policy committee established under division (C) of section 3734.521 of the Revised Code for the district chooses to include the management of scrap tires in the district's initial or amended solid waste management plan prepared under section 3734.521 of the Revised Code in connection with the change proceedings.

(d) If the policy committee chooses to include the management of scrap tires in an initial plan prepared under sections 3734.54 and 3734.55 of the Revised Code or in an initial or amended plan prepared under section 3734.521 of the Revised Code, the board of county commissioners or directors shall execute all of the duties imposed and may exercise any or all of the rights granted under this section for the purpose of managing solid wastes that consist of scrap tires.

(4)(a) Except as provided in division (L)(4)(b) or (c), and (d) of this section, "facility" has the same meaning as in section 3734.01 of the Revised Code and also includes any solid waste transfer, recycling, or resource recovery facility.

(b) If the solid waste management district is not one that resulted from proceedings for a change in district composition under sections 343.012 and 3734.521 of the Revised Code, until such time as an amended solid waste management plan is approved under section 3734.56 of the Revised Code, "facility" need not include any scrap tire collection, storage, monocell, monofill, or recovery facility unless the solid waste management policy

committee established under section 3734.54 of the Revised Code for the district chooses to include the management of scrap tire facilities in the district's initial solid waste management plan prepared under sections 3734.54 and 3734.55 of the Revised Code.

(c) If the solid waste management district is one resulting from proceedings for a change in district composition under sections 343.012 and 3734.521 of the Revised Code and if the change involves an existing district that is operating under either an initial solid waste management plan approved under section 3734.55 of the Revised Code or an initial or amended plan approved or prepared and ordered to be implemented under section 3734.521 of the Revised Code that does not provide for the management of scrap tires and scrap tire facilities, until such time as the amended plan of the district resulting from the change is approved under section 3734.56 of the Revised Code, "facility" need not include scrap tires unless the solid waste management policy committee established under division (C) of section 3734.521 of the Revised Code for the district chooses to include the management of scrap tires in the district's initial or amended solid waste management plan prepared under section 3734.521 of the Revised Code in connection with the change proceedings.

(d) If the policy committee chooses to include the management of scrap tires in an initial plan prepared under sections 3734.54 and 3734.55 of the Revised Code or in an initial or amended plan prepared under section 3734.521 of the Revised Code, the board of county commissioners or directors shall execute all of the duties imposed and may exercise any or all of the rights granted under this section for the purpose of managing solid waste facilities that are scrap tire collection, storage, monocell, monofill, or recovery facilities.

Sec. 351.01. As used in this chapter:

(A) "Convention facilities authority" means a body corporate and politic created pursuant to section 351.02 of the Revised Code.

(B) "Governmental agency" means a department, division, or other unit of the state government or of a municipal corporation, county, township, or other political subdivision of the state; any state university or college, as defined in section 3345.12 of the Revised Code, community college, state community college, university branch, or technical college; any other public corporation or agency having the power to acquire, construct, or operate facilities; the United States or any agency thereof; and any agency, commission, or authority established pursuant to an interstate compact or agreement.

(C) "Person" means any individual, firm, partnership, association, or

corporation, or any combination of them.

(D) "Facility" or "facilities" means any convention, entertainment, or sports facility, or combination of them, located within the territory of the convention facilities authority, together with all hotels, parking facilities, walkways, and other auxiliary facilities, real and personal property, property rights, easements and interests that may be appropriate for, or used in connection with, the operation of the facility.

(E) "Cost" means the cost of acquisition of all land, rights-of-way, property rights, easements, franchise rights, and interests required for such acquisition; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved; the cost of acquiring or constructing and equipping a principal office of the convention facilities authority; the cost of diverting highways, interchange of highways, access roads to private property, including the cost of land or easements for such access roads; the cost of public utility and common carrier relocation or duplication; the cost of all machinery, furnishings, and equipment; financing charges; interest prior to and during construction and for no more than eighteen months after completion of construction; expenses of research and development with respect to facilities; legal expenses; expenses of obtaining plans, specifications, engineering surveys, studies, and estimates of cost and revenues; working capital; expenses necessary or incident to determining the feasibility or practicability of acquiring or constructing such facility; administrative expense; and such other expenses as may be necessary or incident to the acquisition or construction of the facility, the financing of such acquisition or construction, including the amount authorized in the resolution of the convention facilities authority providing for the issuance of convention facilities authority revenue bonds to be paid into any special funds from the proceeds of such bonds, the cost of issuing the bonds, and the financing of the placing of such facility in operation. Any obligation, cost, or expense incurred by any governmental agency or person for surveys, borings, preparation of plans and specifications, and other engineering services, or any other cost described above, in connection with the acquisition or construction of a facility may be regarded as part of the cost of such facility and may be reimbursed out of the proceeds of convention facilities authority revenue bonds as authorized by this chapter.

(F) "Owner" includes a person having any title or interest in any property, rights, easements, or interests authorized to be acquired by Chapter 351. of the Revised Code.

(G) "Revenues" means all rentals and other charges received by the

convention facilities authority for the use or services of any facility, the sale of any merchandise, or the operation of any concessions; any gift or grant received with respect to any facility, any moneys received with respect to the lease, sublease, sale, including installment sale or conditional sale, or other disposition of a facility or part thereof; moneys received in repayment of and for interest on any loans made by the authority to a person or governmental agency, whether from the United States or any department, administration, or agency thereof, or otherwise; proceeds of convention facilities authority revenue bonds to the extent the use thereof for payment of principal or of premium, if any, or interest on the bonds is authorized by the authority; proceeds from any insurance, appropriation, or guaranty pertaining to a facility or property mortgaged to secure bonds or pertaining to the financing of the facility; income and profit from the investment of the proceeds of convention facilities authority revenue bonds or of any revenues; contributions of the proceeds of a tax levied pursuant to division (A)(3) of section 5739.09 of the Revised Code; and moneys transmitted to the authority pursuant to division (B) of section 5739.211 and division (B) of section 5741.031 of the Revised Code.

(H) "Public roads" includes all public highways, roads, and streets in the state, whether maintained by the state, county, city, township, or other political subdivision.

(I) "Construction," unless the context indicates a different meaning or intent, includes, but is not limited to, reconstruction, enlargement, improvement, or providing fixtures, furnishings, and equipment.

(J) "Convention facilities authority revenue bonds" or "revenue bonds," unless the context indicates a different meaning or intent, includes convention facilities authority revenue notes, convention facilities authority revenue renewal notes, and convention facilities authority revenue refunding bonds.

(K) "Convention facilities authority tax anticipation bonds" or "tax anticipation bonds," unless the context indicates a different meaning, includes convention facilities authority tax anticipation bonds, tax anticipation notes, tax anticipation renewal notes, and tax anticipation refunding bonds.

(L) "Bonds and notes" means convention facilities authority revenue bonds and convention facilities authority tax anticipation bonds.

(M) "Territory of the authority" means all of the area of the county creating the convention facilities authority.

(N) "Excise taxes" means any of the taxes levied pursuant to division (B) or (C) of section 351.021 of the Revised Code. "Excise taxes" does not

include taxes levied pursuant to section 4301.424, 5743.026, or 5743.324 of the Revised Code.

(O) "Transaction" means the charge by a hotel for each occupancy by transient guests of a room or suite of rooms used in a hotel as a single unit for any period of twenty-four hours or less.

(P) "Hotel" and "transient guests" have the same meanings as in section 5739.01 of the Revised Code.

(Q) "Sports facility" means a facility intended to house major league professional athletic teams.

(R) "Constructing" or "construction" includes providing fixtures, furnishings, and equipment.

Sec. 351.021. (A) The resolution of the county commissioners creating a convention facilities authority, or any amendment or supplement to that resolution, may authorize the authority to levy one or both of the excise taxes authorized by division (B) of this section to pay the cost of one or more facilities; to pay principal, interest, and premium on convention facilities authority tax anticipation bonds issued to pay those costs; to pay the operating costs of the authority; to pay operating and maintenance costs of those facilities; and to pay the costs of administering the excise tax.

(B) The board of directors of a convention facilities authority that has been authorized pursuant to resolution adopted, amended, or supplemented by the board of county commissioners pursuant to division (A) of this section may levy, by resolution adopted on or before December 31, 1988, either or both of the following:

(1) Within the territory of the authority, an additional excise tax not to exceed four per cent on each transaction. The excise tax authorized by division (B)(1) of this section shall be in addition to any excise tax levied pursuant to section 5739.08 or 5739.09 of the Revised Code, or division (B)(2) of this section.

(2) Within that portion of any municipal corporation that is located within the territory of the authority or within the boundaries of any township that is located within the territory of the authority, which municipal corporation or township is levying any portion of the excise tax authorized by division (A) of section 5739.08 of the Revised Code, and with the approval, by ordinance or resolution, of the legislative authority of that municipal corporation or township, an additional excise tax not to exceed nine-tenths of one per cent on each transaction. The excise tax authorized by division (B)(2) of this section may be levied only if, on the effective date of the levy specified in the resolution making the levy, the amount being levied pursuant to division (A) of section 5739.08 of the Revised Code by each

municipal corporation or township in which the tax authorized by division (B)(2) of this section will be levied, when added to the amount levied under division (B)(2) of this section, does not exceed three per cent on each transaction. The excise tax authorized by division (B)(2) of this section shall be in addition to any excise tax that is levied pursuant to section 5739.08 or 5739.09 of the Revised Code, or division (B)(1) of this section.

(C)(1) The board of directors of a convention facilities authority that is located in an eligible Appalachian county; that has been authorized pursuant to resolution adopted, amended, or supplemented by the board of county commissioners pursuant to division (A) of this section; and that is not levying a tax under division (B)(1) or (2) of this section may levy within the territory of the authority, by resolution adopted on or before December 31, 2005, an additional excise tax not to exceed three per cent on each transaction. The excise tax authorized under division (C)(1) of this section shall be in addition to any excise tax levied pursuant to section 5739.08 or 5739.09 of the Revised Code.

(2) As used in division (C)(1) of this section, "eligible Appalachian county" means a county in this state designated as being in the "Appalachian region" under the "Appalachian Regional Development Act of 1965," 79 Stat. 4, 40 U.S.C. App. 403, and having a population less than eighty thousand according to the most recent federal decennial census.

(2) Division (B)(2) of this section applies only to a convention facilities authority located in a county with a population, according to the 2000 federal decennial census, of at least one hundred thirty-five thousand and not more than one hundred fifty thousand and containing entirely within its boundaries the territory of a municipal corporation with a population according to that census of more than fifty thousand. The board of directors of such a convention facilities authority, by resolution adopted on or before November 1, 2009, may levy within the territory of the authority an excise tax on transactions by which lodging by a hotel is or is to be furnished to transient guests at a rate not to exceed three per cent on such transactions for the same purposes for which a tax may be levied under division (B) of this section. The resolution may be adopted only if the board of county commissioners of the county, by resolution, authorizes the levy of the tax. The resolution of the board of county commissioners is subject to referendum as prescribed by sections 305.31 to 305.41 of the Revised Code. If, pursuant to those procedures, a referendum is to be held, the board's resolution does not take effect until approved by a majority of electors voting on the question. The convention facilities authority may adopt the resolution authorized by division (C)(2) of this section before the election.

but the authority's resolution shall not take effect if the board of commissioners' resolution is not approved at the election. A tax levied under division (C)(2) of this section is in addition to any tax levied under section 5739.09 of the Revised Code.

(D) The authority shall provide for the administration and allocation of an excise tax levied pursuant to division (B) or (C) of this section. All receipts arising from those excise taxes shall be expended for the purposes provided in, and in accordance with this section and section 351.141 of the Revised Code. An excise tax levied under division (B) or (C) of this section shall remain in effect at the rate at which it is levied for at least the duration of the period for which the receipts from the tax have been anticipated and pledged pursuant to section 351.141 of the Revised Code.

(E) Except as provided in division (B)(2) of this section, the levy of an excise tax on each transaction pursuant to sections 5739.08 and 5739.09 of the Revised Code does not prevent a convention facilities authority from levying an excise tax pursuant to division (B) or (C) of this section.

Sec. 504.21. (A) The board of township trustees of a township that has adopted a limited home rule government may, for the unincorporated territory in the township, adopt, amend, and rescind rules establishing technically feasible and economically reasonable standards to achieve a level of management and conservation practices that will abate wind or water erosion of the soil or abate the degradation of the waters of the state by soil sediment in conjunction with land grading, excavating, filling, or other soil disturbing activities on land used or being developed in the township for nonfarm commercial, industrial, residential, or other nonfarm purposes, and establish criteria for determination of the acceptability of those management and conservation practices. The rules shall be designed to implement the applicable areawide waste treatment management plan prepared under section 208 of the "Federal Water Pollution Control Act," 86 Stat. 816 (1972), 33 U.S.C.A. 1228, as amended, and to implement phase II of the storm water program of the national pollutant discharge elimination system established in 40 C.F.R. Part 122. The rules to implement phase II of the storm water program of the national pollutant discharge elimination system shall not be inconsistent with, more stringent than, or broader in scope than the rules or regulations adopted by the environmental protection agency under 40 C.F.R. Part 122. The rules adopted under this section shall not apply inside the limits of municipal corporations, to lands being used in a strip mine operation as defined in section 1513.01 of the Revised Code, or to land being used in a surface mine operation as defined in section 1514.01 of the Revised Code.

The rules adopted under this section may require persons to file plans governing erosion control, sediment control, and water management before clearing, grading, excavating, filling, or otherwise wholly or partially disturbing one or more contiguous acres of land owned by one person or operated as one development unit for the construction of nonfarm buildings, structures, utilities, recreational areas, or other similar nonfarm uses. If the rules require plans to be filed, the rules shall do all of the following:

(1) Designate the board itself, its employees, or another agency or official to review and approve or disapprove the plans;

(2) Establish procedures and criteria for the review and approval or disapproval of the plans;

(3) Require the designated entity to issue a permit to a person for the clearing, grading, excavating, filling, or other project for which plans are approved and to deny a permit to a person whose plans have been disapproved;

(4) Establish procedures for the issuance of the permits;

(5) Establish procedures under which a person may appeal the denial of a permit.

Areas of less than one contiguous acre shall not be exempt from compliance with other provisions of this section or rules adopted under this section. The rules adopted under this section may impose reasonable filing fees for plan review, permit processing, and field inspections.

No permit or plan shall be required for a public highway, transportation, or drainage improvement or maintenance project undertaken by a government agency or political subdivision in accordance with a statement of its standard sediment control policies that is approved by the board or the chief of the division of soil and water ~~conservation~~ resources in the department of natural resources.

(B) Rules or amendments may be adopted under this section only after public hearings at not fewer than two regular sessions of the board of township trustees. The board shall cause to be published, in a newspaper of general circulation in the township, notice of the public hearings, including time, date, and place, once a week for two weeks immediately preceding the hearings. The proposed rules or amendments shall be made available by the board to the public at the board office or other location indicated in the notice. The rules or amendments shall take effect on the thirty-first day following the date of their adoption.

(C) The board of township trustees may employ personnel to assist in the administration of this section and the rules adopted under it. The board also, if the action does not conflict with the rules, may delegate duties to

review sediment control and water management plans to its employees, and may enter into agreements with one or more political subdivisions, other township officials, or other government agencies, in any combination, in order to obtain reviews and comments on plans governing erosion control, sediment control, and water management or to obtain other services for the administration of the rules adopted under this section.

(D) The board of township trustees or any duly authorized representative of the board may, upon identification to the owner or person in charge, enter any land upon obtaining agreement with the owner, tenant, or manager of the land in order to determine whether there is compliance with the rules adopted under this section. If the board or its duly authorized representative is unable to obtain such an agreement, the board or representative may apply for, and a judge of the court of common pleas for the county where the land is located may issue, an appropriate inspection warrant as necessary to achieve the purposes of this section.

(E)(1) If the board of township trustees or its duly authorized representative determines that a violation of the rules adopted under this section exists, the board or representative may issue an immediate stop work order if the violator failed to obtain any federal, state, or local permit necessary for sediment and erosion control, earth movement, clearing, or cut and fill activity. In addition, if the board or representative determines such a rule violation exists, regardless of whether or not the violator has obtained the proper permits, the board or representative may authorize the issuance of a notice of violation. If, after a period of not less than thirty days has elapsed following the issuance of the notice of violation, the violation continues, the board or its duly authorized representative shall issue a second notice of violation. Except as provided in division (E)(3) of this section, if, after a period of not less than fifteen days has elapsed following the issuance of the second notice of violation, the violation continues, the board or its duly authorized representative may issue a stop work order after first obtaining the written approval of the prosecuting attorney of the county in which the township is located if, in the opinion of the prosecuting attorney, the violation is egregious.

Once a stop work order is issued, the board or its duly authorized representative shall request, in writing, the prosecuting attorney to seek an injunction or other appropriate relief in the court of common pleas to abate excessive erosion or sedimentation and secure compliance with the rules adopted under this section. If the prosecuting attorney seeks an injunction or other appropriate relief, then, in granting relief, the court of common pleas may order the construction of sediment control improvements or

implementation of other control measures and may assess a civil fine of not less than one hundred or more than five hundred dollars. Each day of violation of a rule or stop work order issued under this section shall be considered a separate violation subject to a civil fine.

(2) The person to whom a stop work order is issued under this section may appeal the order to the court of common pleas of the county in which it was issued, seeking any equitable or other appropriate relief from that order.

(3) No stop work order shall be issued under this section against any public highway, transportation, or drainage improvement or maintenance project undertaken by a government agency or political subdivision in accordance with a statement of its standard sediment control policies that is approved by the board or the chief of the division of soil and water ~~conservation~~ resources in the department of natural resources.

(F) No person shall violate any rule adopted or order issued under this section. Notwithstanding division (E) of this section, if the board of township trustees determines that a violation of any rule adopted or administrative order issued under this section exists, the board may request, in writing, the prosecuting attorney of the county in which the township is located, to seek an injunction or other appropriate relief in the court of common pleas to abate excessive erosion or sedimentation and secure compliance with the rules or order. In granting relief, the court of common pleas may order the construction of sediment control improvements or implementation of other control measures and may assess a civil fine of not less than one hundred or more than five hundred dollars. Each day of violation of a rule adopted or administrative order issued under this section shall be considered a separate violation subject to a civil fine.

Sec. 505.82. (A) If a board of township trustees by a unanimous vote or, in the event of the unavoidable absence of one trustee, by an affirmative vote of two trustees adopts a resolution declaring that an emergency exists that threatens life or property within the unincorporated territory of the township or that such an emergency is imminent, the board may exercise the powers described in divisions (A)(1) and (2) and (B) of this section during the emergency for a period of time not exceeding six months following the adoption of the resolution. The resolution shall state the specific time period for which the emergency powers are in effect.

(1) If an owner of an undedicated road or stream bank in the unincorporated territory of the township has not provided for the removal of snow, ice, debris, or other obstructions from the road or bank, the board may provide for that removal. Prior to providing for the removal, the board shall give, or make a good faith attempt to give, oral notice to the owner or

owners of the road or bank of the board's intent to clear the road or bank and to impose a service charge for doing so. The board shall establish just and equitable service charges for the removal to be paid, except as provided in division (B) of this section, by the owners of the road or bank.

The board shall keep a record of the costs incurred by the township in removing snow, ice, debris, or other obstructions from the road or bank. The service charges shall be based on these costs and shall be in an amount sufficient to recover these costs. If there is more than one owner of the road or bank, the board, except as provided in division (B) of this section, shall allocate the service charges among the owners on an equitable basis. The board shall notify, in writing, each owner of the road or bank of the amount of the service charges and shall certify the charges to the county auditor. The service charges shall constitute a lien upon the property. The auditor shall place the service charges on a special duplicate to be collected as other taxes and returned to the township general fund.

(2) The board may contract for the immediate acquisition, replacement, or repair of equipment needed for the emergency situation, without following the competitive bidding requirements of section 5549.21 or any other section of the Revised Code.

(B) In lieu of collecting service charges from owners for the removal of snow or ice from an undedicated road by the board of township trustees as provided in division (A)(1) of this section, the board may enter into a contract with a developer whereby the developer agrees to pay the service charges for the snow and ice removal instead of the owners.

(C) The removal of snow, ice, debris, or other obstructions from an undedicated road by a board of township trustees acting pursuant to a resolution adopted under division (A) of this section does not constitute approval or acceptance of the undedicated road.

(D) As used in this section, "undedicated road" means a road that has not been approved and accepted by the board of county commissioners and is not a part of the state, county, or township road systems as provided in section 5535.01 of the Revised Code.

(E) Nothing in this section shall be construed to waive the requirement under section ~~1517.16~~ 1547.82 of the Revised Code that approval of plans be obtained from the director of natural resources or the director's representative prior to modifying or causing the modification of the channel of any watercourse in a wild, scenic, or recreational river area outside the limits of a municipal corporation.

Sec. 711.001. As used in this chapter:

(A) "Plat" means a map of a tract or parcel of land.

(B) "Subdivision" means either of the following:

(1) The division of any parcel of land shown as a unit or as contiguous units on the last preceding general tax list and duplicate of real and public utility property, into two or more parcels, sites, or lots, any one of which is less than five acres for the purpose, whether immediate or future, of transfer of ownership, provided, however, that the following are exempt:

(a) A division or partition of land into parcels of more than five acres not involving any new streets or easements of access;

(b) The sale or exchange of parcels between adjoining lot owners, where that sale or exchange does not create additional building sites;

(c) If the planning authority adopts a rule in accordance with section 711.133 of the Revised Code that exempts from division (B)(1) of this section any parcel of land that is four acres or more, parcels in the size range delineated in that rule.

(2) The improvement of one or more parcels of land for residential, commercial, or industrial structures or groups of structures involving the division or allocation of land for the opening, widening, or extension of any public or private street or streets, except private streets serving industrial structures, or involving the division or allocation of land as open spaces for common use by owners, occupants, or leaseholders or as easements for the extension and maintenance of public or private sewer, water, storm drainage, or other similar facilities.

(C) "Household sewage treatment system" has the same meaning as in section 3709.091 of the Revised Code.

Sec. 711.05. (A) Upon the submission of a plat for approval, in accordance with section 711.041 of the Revised Code, the board of county commissioners shall certify on it the date of the submission. Within five days of submission of the plat, the board shall schedule a meeting to consider the plat and send a written notice by regular mail to the fiscal officer of the board of township trustees of the township in which the plat is located and the board of health of the health district in which the plat is located. The notice shall inform the trustees and the board of health of the submission of the plat and of the date, time, and location of any meeting at which the board of county commissioners will consider or act upon the proposed plat. The meeting shall take place within thirty days of submission of the plat, and no meeting shall be held until at least seven days have passed from the date the notice was sent by the board of county commissioners. The approval of the board required by section 711.041 of the Revised Code or the refusal to approve shall take place within thirty days from the date of submission or such further time as the applying party

may agree to in writing; otherwise, the plat is deemed approved and may be recorded as if bearing such approval.

(B) The board may adopt general rules governing plats and subdivisions of land falling within its jurisdiction, to secure and provide for the coordination of the streets within the subdivision with existing streets and roads or with existing county highways, for the proper amount of open spaces for traffic, circulation, and utilities, and for the avoidance of future congestion of population detrimental to the public health, safety, or welfare, but shall not impose a greater minimum lot area than forty-eight hundred square feet. Before the board may amend or adopt rules, it shall notify all the townships in the county of the proposed amendments or rules by regular mail at least thirty days before the public meeting at which the proposed amendments or rules are to be considered.

The rules may require the board of health to review and comment on a plat before the board of county commissioners acts upon it and may also require proof of compliance with any applicable zoning resolutions, and with rules governing household sewage treatment systems, as a basis for approval of a plat. Where under section 711.101 of the Revised Code the board of county commissioners has set up standards and specifications for the construction of streets, utilities, and other improvements for common use, the general rules may require the submission of appropriate plans and specifications for approval. The board shall not require the person submitting the plat to alter the plat or any part of it as a condition for approval, as long as the plat is in accordance with general rules governing plats and subdivisions of land, adopted by the board as provided in this section, in effect at the time the plat was submitted and the plat is in accordance with any standards and specifications set up under section 711.101 of the Revised Code, in effect at the time the plat was submitted.

(C) The ground of refusal to approve any plat, submitted in accordance with section 711.041 of the Revised Code, shall be stated upon the record of the board, and, within sixty days thereafter, the person submitting any plat that the board refuses to approve may file a petition in the court of common pleas of the county in which the land described in the plat is situated to review the action of the board. A board of township trustees is not entitled to appeal a decision of the board of county commissioners under this section.

Sec. 711.10. (A) Whenever a county planning commission or a regional planning commission adopts a plan for the major streets or highways of the county or region, no plat of a subdivision of land within the county or region, other than land within a municipal corporation or land within three

miles of a city or one and one-half miles of a village as provided in section 711.09 of the Revised Code, shall be recorded until it is approved by the county or regional planning commission under division (C) of this section and the approval is endorsed in writing on the plat.

(B) A county or regional planning commission may require the submission of a preliminary plan for each plat sought to be recorded. If the commission requires this submission, it shall provide for a review process for the preliminary plan. Under this review process, the planning commission shall give its approval, its approval with conditions, or its disapproval of each preliminary plan. The commission's decision shall be in writing, shall be under the signature of the secretary of the commission, and shall be issued within thirty-five business days after the submission of the preliminary plan to the commission. The disapproval of a preliminary plan shall state the reasons for the disapproval. A decision of the commission under this division is preliminary to and separate from the commission's decision to approve, conditionally approve, or refuse to approve a plat under division (C) of this section.

(C) Within five calendar days after the submission of a plat for approval under this division, the county or regional planning commission shall schedule a meeting to consider the plat and send a notice by regular mail or by electronic mail to the fiscal officer of the board of township trustees of the township in which the plat is located and the board of health of the health district in which the plat is located. The notice shall inform the trustees and the board of health of the submission of the plat and of the date, time, and location of any meeting at which the county or regional planning commission will consider or act upon the plat. The meeting shall take place within thirty calendar days after submission of the plat, and no meeting shall be held until at least seven calendar days have passed from the date the planning commission sent the notice.

The approval of the county or regional planning commission, the commission's conditional approval as described in this division, or the refusal of the commission to approve shall be endorsed on the plat within thirty calendar days after the submission of the plat for approval under this division or within such further time as the applying party may agree to in writing; otherwise that plat is deemed approved, and the certificate of the commission as to the date of the submission of the plat for approval under this division and the failure to take action on it within that time shall be sufficient in lieu of the written endorsement or evidence of approval required by this division.

A county or regional planning commission may grant conditional

approval under this division to a plat by requiring a person submitting the plat to alter the plat or any part of it, within a specified period after the end of the thirty calendar days, as a condition for final approval under this division. Once all the conditions have been met within the specified period, the commission shall cause its final approval under this division to be endorsed on the plat. No plat shall be recorded until it is endorsed with the commission's final or unconditional approval under this division.

The ground of refusal of approval of any plat submitted under this division, including citation of or reference to the rule violated by the plat, shall be stated upon the record of the county or regional planning commission. Within sixty calendar days after the refusal under this division, the person submitting any plat that the commission refuses to approve under this division may file a petition in the court of common pleas of the proper county, and the proceedings on the petition shall be governed by section 711.09 of the Revised Code as in the case of the refusal of a planning authority to approve a plat. A board of township trustees is not entitled to appeal a decision of the commission under this division.

A county or regional planning commission shall adopt general rules, of uniform application, governing plats and subdivisions of land falling within its jurisdiction, to secure and provide for the proper arrangement of streets or other highways in relation to existing or planned streets or highways or to the county or regional plan, for adequate and convenient open spaces for traffic, utilities, access of firefighting apparatus, recreation, light, and air, and for the avoidance of congestion of population. The rules may provide for their modification by the commission in specific cases where unusual topographical and other exceptional conditions require the modification. The rules may require the board of health to review and comment on a plat before the commission acts upon it and also may require proof of compliance with any applicable zoning resolutions, and with rules governing household sewage treatment systems, as a basis for approval of a plat. ~~rules adopted under section 3718.02 of the Revised Code~~

Before adoption of its rules or amendment of its rules, the commission shall hold a public hearing on the adoption or amendment. Notice of the public hearing shall be sent to all townships in the county or region by regular mail or electronic mail at least thirty business days before the hearing. No county or regional planning commission shall adopt any rules requiring actual construction of streets or other improvements or facilities or assurance of that construction as a condition precedent to the approval of a plat of a subdivision unless the requirements have first been adopted by the board of county commissioners after a public hearing. A copy of the rules

shall be certified by the planning commission to the county recorders of the appropriate counties.

After a county or regional street or highway plan has been adopted as provided in this section, the approval of plats and subdivisions provided for in this section shall be in lieu of any approvals provided for in other sections of the Revised Code, insofar as the territory within the approving jurisdiction of the county or regional planning commission, as provided in this section, is concerned. Approval of a plat shall not be an acceptance by the public of the dedication of any street, highway, or other way or open space shown upon the plat.

No county or regional planning commission shall require a person submitting a plat to alter the plat or any part of it as long as the plat is in accordance with the general rules governing plats and subdivisions of land, adopted by the commission as provided in this section, in effect at the time the plat is submitted.

A county or regional planning commission and a city or village planning commission, or platting commissioner or legislative authority of a village, with subdivision regulation jurisdiction over unincorporated territory within the county or region may cooperate and agree by written agreement that the approval of a plat by the city or village planning commission, or platting commissioner or legislative authority of a village, as provided in section 711.09 of the Revised Code, shall be conditioned upon receiving advice from or approval by the county or regional planning commission.

(D) As used in this section, "business day" means a day of the week excluding Saturday, Sunday, or a legal holiday as defined in section 1.14 of the Revised Code.

Sec. 711.131. (A) Notwithstanding sections 711.001 to 711.13 of the Revised Code and except as provided in division (C) of this section, unless the rules adopted under section 711.05, 711.09, or 711.10 of the Revised Code are amended pursuant to division (B) of this section, a proposed division of a parcel of land along an existing public street, not involving the opening, widening, or extension of any street or road, and involving no more than five lots after the original tract has been completely subdivided, may be submitted to the planning authority having approving jurisdiction of plats under section 711.05, 711.09, or 711.10 of the Revised Code for approval without plat. If the authority acting through a properly designated representative finds that a proposed division is not contrary to applicable platting, subdividing, zoning, health, sanitary, or access management regulations, regulations adopted under division (B)(3) of section 307.37 of the Revised Code regarding existing surface or subsurface drainage, or rules

~~governing household sewage treatment rules adopted under section 3718.02 of the Revised Code systems,~~ it shall approve the proposed division within seven business days after its submission and, on presentation of a conveyance of the parcel, shall stamp the conveyance "approved by (planning authority); no plat required" and have it signed by its clerk, secretary, or other official as may be designated by it. The planning authority may require the submission of a sketch and other information that is pertinent to its determination under this division.

(B) For a period of up to two years after April 15, 2005, the rules adopted under section 711.05, 711.09, or 711.10 of the Revised Code may be amended within that period to authorize the planning authority involved to approve proposed divisions of parcels of land without plat under this division. If an authority so amends its rules, it may approve no more than five lots without a plat from an original tract as that original tract exists on the effective date of the amendment to the rules. The authority shall make the findings and approve a proposed division in the time and manner specified in division (A) of this section.

(C) This section does not apply to parcels subject to section 711.133 of the Revised Code.

(D) As used in this section, "business day" means a day of the week excluding Saturday, Sunday, or a legal holiday as defined in section 1.14 of the Revised Code.

Sec. 717.25. The legislative authority of a municipal corporation may establish a low-cost solar panel revolving loan program to assist residents of the municipal corporation to install solar panels at their residences. If the legislative authority decides to establish such a program, the legislative authority shall adopt an ordinance that provides for the following:

(A) Creation in the municipal treasury of a residential solar panel revolving loan fund;

(B) A source of money, such as gifts, bond issues, real property assessments, or federal subsidies, to seed the residential solar panel revolving loan fund;

(C) Facilities for making loans from the residential solar panel revolving loan fund, including an explanation of how residents of the municipal corporation may qualify for loans from the fund, a description of the solar panels and related equipment for which a loan can be made from the fund, authorization of a municipal agency to process applications for loans and otherwise to administer the low-cost solar panel revolving loan program, a procedure whereby loans can be applied for, criteria for reviewing and accepting or denying applications for loans, criteria for determining the

appropriate amount of a loan, the interest rate to be charged, the repayment schedule, and other terms and conditions of a loan, and procedures for collecting loans that are not repaid according to the repayment schedule;

(D) A specification that repayments of loans from the residential solar panel revolving loan fund may be made in installments and, at the option of the resident repaying the loan, the installments may be paid and collected as if they were special assessments paid and collected in the manner specified in Chapter 727. of the Revised Code and as specified in the ordinance;

(E) A specification that repayments of loans from the residential solar panel revolving loan fund are to be credited to the fund, that the money in the fund is to be invested pending its being lent out, and that investment earnings on the money in the fund is to be credited to the fund; and

(F) Other matters necessary and proper for efficient operation of the low-cost solar panel revolving loan program as a means of encouraging use of renewable energy.

The interest rate charged on a loan from the residential solar panel revolving loan fund shall be below prevailing market rates. The legislative authority may specify the interest rate in the ordinance or may, after establishing a standard in the ordinance whereby the interest rate can be specified, delegate authority to specify the interest rate to the administrator of loans from the residential solar panel revolving loan fund.

The residential solar panel revolving loan fund shall be seeded with sufficient money to enable loans to be made until the fund accumulates sufficient reserves through investment and repayment of loans for revolving operation.

Sec. 718.04. (A) No municipal corporation other than the ~~city~~ municipal corporation of residence shall levy a tax on the income of any member or employee of the Ohio general assembly including the lieutenant governor which income is received as a result of services rendered as such member or employee and is paid from appropriated funds of this state.

(B) No municipal corporation other than the municipal corporation of residence and the city of Columbus shall levy a tax on the income of the chief justice or a justice of the supreme court received as a result of services rendered as the chief justice or justice. No municipal corporation other than the municipal corporation of residence shall levy a tax on the income of a judge sitting by assignment of the chief justice or on the income of a district court of appeals judge sitting in multiple locations within the district, received as a result of services rendered as a judge.

Sec. 721.15. (A) Personal property not needed for municipal purposes, the estimated value of which is less than one thousand dollars, may be sold

by the board or officer having supervision or management of that property. If the estimated value of that property is one thousand dollars or more, it shall be sold only when authorized by an ordinance of the legislative authority of the municipal corporation and approved by the board, officer, or director having supervision or management of that property. When so authorized, the board, officer, or director shall make a written contract with the highest and best bidder after advertisement for not less than two or more than four consecutive weeks in a newspaper of general circulation within the municipal corporation, or with a board of county commissioners upon such lawful terms as are agreed upon, as provided by division (B)(1) of section 721.27 of the Revised Code.

(B) When the legislative authority finds, by resolution, that the municipal corporation has vehicles, equipment, or machinery which is obsolete, or is not needed or is unfit for public use, that the municipal corporation has need of other vehicles, equipment, or machinery of the same type, and that it will be in the best interest of the municipal corporation that the sale of obsolete, unneeded, or unfit vehicles, equipment, or machinery be made simultaneously with the purchase of the new vehicles, equipment, or machinery of the same type, the legislative authority may offer to sell, or authorize a board, officer, or director of the municipal corporation having supervision or management of the property to offer to sell, those vehicles, equipment, or machinery and to have the selling price credited against the purchase price of other vehicles, equipment, or machinery and to consummate the sale and purchase by a single contract with the lowest and best bidder to be determined by subtracting from the selling price of the vehicles, equipment, or machinery to be purchased by the municipal corporation the purchase price offered for the municipally-owned vehicles, equipment, or machinery. When the legislative authority or the authorized board, officer, or director of a municipal corporation advertises for bids for the sale of new vehicles, equipment, or machinery to the municipal corporation, they may include in the same advertisement a notice of willingness to accept bids for the purchase of municipally-owned vehicles, equipment, or machinery which is obsolete, or is not needed or is unfit for public use, and to have the amount of those bids subtracted from the selling price as a means of determining the lowest and best bidder.

(C) If the legislative authority of the municipal corporation determines that municipal personal property is not needed for public use, or is obsolete or unfit for the use for which it was acquired, and that the property has no value, the legislative authority may discard or salvage that property.

(D) Notwithstanding anything to the contrary in division (A) or (B) of

this section and regardless of the property's value, the legislative authority of a municipal corporation may sell personal property, including motor vehicles acquired for the use of municipal officers and departments, and road machinery, equipment, tools, or supplies, which is not needed for public use, or is obsolete or unfit for the use for which it was acquired, by internet auction. The legislative authority shall adopt, during each calendar year, a resolution expressing its intent to sell that property by internet auction. The resolution shall include a description of how the auctions will be conducted and shall specify the number of days for bidding on the property, which shall be no less than ~~fifteen~~ ten days, including Saturdays, Sundays, and legal holidays. The resolution shall indicate whether the municipal corporation will conduct the auction or the legislative authority will contract with a representative to conduct the auction and shall establish the general terms and conditions of sale. If a representative is known when the resolution is adopted, the resolution shall provide contact information such as the representative's name, address, and telephone number.

After adoption of the resolution, the legislative authority shall publish, in a newspaper of general circulation in the municipal corporation, notice of its intent to sell unneeded, obsolete, or unfit municipal personal property by internet auction. The notice shall include a summary of the information provided in the resolution and shall be published at least twice. The second and any subsequent notice shall be published not less than ten nor more than twenty days after the previous notice. A similar notice also shall be posted continually throughout the calendar year in a conspicuous place in the offices of the village clerk or city auditor, and the legislative authority, and, if the municipal corporation maintains a website on the internet, the notice shall be posted continually throughout the calendar year at that website.

When the property is to be sold by internet auction, the legislative authority or its representative may establish a minimum price that will be accepted for specific items and may establish any other terms and conditions for the particular sale, including requirements for pick-up or delivery, method of payment, and sales tax. This type of information shall be provided on the internet at the time of the auction and may be provided before that time upon request after the terms and conditions have been determined by the legislative authority or its representative.

Sec. 901.041. There is hereby created in the state treasury the sustainable agriculture program fund. The fund shall consist of money credited to it, including, without limitation, federal money. The director of agriculture shall use money in the fund to support programs and activities that advance sustainable agriculture, including administrative costs incurred

by the department of agriculture in administering the programs and activities.

Sec. 901.20. (A) The director of agriculture may do either or both of the following:

(1) Reserve exhibition space for exhibitors to exhibit their goods in trade shows held in this country or in any other country. The director may charge and collect fees from any exhibitor who uses space reserved by the director under division (A)(1) of this section.

(2) Conduct or cause to be conducted seminars or other educational programs for the benefit of farmers and other producers in this state who are interested in exporting their goods overseas. The director may charge and collect fees from any person who attends a seminar or other educational program conducted under division (A)(2) of this section.

(B) There is hereby created in the state treasury the Ohio proud, international, and domestic market development fund. Fees collected under division (A) of this section shall be deposited into the fund. The fund shall be used solely to carry out the purposes of that division.

Sec. 901.32. Funds and the proceeds of the trust assets ~~which that~~ are not authorized to be administered by the secretary of agriculture of the United States under section 901.31 of the Revised Code shall be paid to and received by the director of agriculture, and paid by ~~him~~ the director into the state treasury to the credit of the Ohio farm loan fund, which is hereby created. Money credited to the fund may be expended or obligated by the director for ~~such of the rural rehabilitation purposes permissible under the charter of the now dissolved Ohio rural rehabilitation corporation as are agreed upon by the director and the secretary of agriculture or for the purposes of section 901.31 of the Revised Code~~ benefiting the state.

All moneys received from investment of the fund shall be credited to the fund.

All moneys received by the director resulting from the operation of the fund shall be credited to the fund.

Sec. 901.43. (A) The director of agriculture may authorize any department of agriculture laboratory to perform a laboratory service for any person, organization, political subdivision, state agency, federal agency, or other entity, whether public or private. The director shall adopt and enforce rules to provide for the rendering of a laboratory service.

(B) The director may charge a reasonable fee for the performance of a laboratory service, except when the service is performed on an official sample taken by the director acting pursuant to Title IX, Chapter 3715., or Chapter 3717. of the Revised Code; by a board of health acting as the

licensor of retail food establishments or food service operations under Chapter 3717. of the Revised Code; or by the director of health acting as the licensor of food service operations under Chapter 3717. of the Revised Code. The director of agriculture shall adopt rules specifying what constitutes an official sample.

The director shall publish a list of laboratory services offered, together with the fee for each service.

(C) The director may enter into a contract with any person, organization, political subdivision, state agency, federal agency, or other entity for the provision of a laboratory service.

(D)(1) The director may adopt rules establishing standards for accreditation of laboratories and laboratory services and in doing so may adopt by reference existing or recognized standards or practices.

(2) The director may inspect and accredit laboratories and laboratory services, and may charge a reasonable fee for the inspections and accreditation.

(E)(1) There is hereby created in the state treasury the animal ~~health~~ and ~~food safety~~ consumer analytical laboratory fund. Moneys from the following sources shall be deposited into the state treasury to the credit of the fund: all moneys collected by the director under this section that are from fees generated by a laboratory service performed by the department and related to the diseases of animals, all moneys so collected that are from fees generated for the inspection and accreditation of laboratories and laboratory services related to the diseases of animals, all moneys collected by the director under this section that are from fees generated by a laboratory service performed by the consumer analytical laboratory, ~~and~~ all moneys so collected that are from fees generated for the inspection and accreditation of laboratories and laboratory services not related to weights and measures, and all moneys collected under Chapters 942., 943., and 953. of the Revised Code. The director may use the moneys held in the fund to pay the expenses necessary to operate the animal industry laboratory and the consumer analytical laboratory, including the purchase of supplies and equipment.

(2) All moneys collected by the director under this section that are from fees generated by a laboratory service performed by the weights and measures laboratory, and all moneys so collected that are from fees generated for the inspection and accreditation of laboratories and laboratory services related to weights and measures, shall be deposited in the state treasury to the credit of the weights and measures laboratory fund, which is hereby created in the state treasury. The moneys held in the fund may be used to pay the expenses necessary to operate the division of weights and

measures, including the purchase of supplies and equipment.

Sec. 901.91. The director of agriculture may assess the operating funds of the department of agriculture to pay a share of the department's central support and administrative costs. The assessments shall be based on a plan that the director develops and submits to the director of budget and management not later than the fifteenth day of July of the fiscal year in which the assessments are to be made. If the director of budget and management determines that the assessments proposed in the plan are appropriate, the director shall approve the plan. Assessments shall be paid from the funds designated in the plan and credited by means of intrastate transfer voucher to the department of agriculture central support indirect costs fund, which is hereby created in the state treasury. The fund shall be administered by the director of agriculture and used to pay central support and administrative costs of the department of agriculture.

Sec. 903.082. (A) The director of agriculture may determine that an animal feeding facility that is not a medium concentrated animal feeding operation or small concentrated animal feeding operation as defined in section 903.01 of the Revised Code nevertheless shall be required to be permitted as a medium or small concentrated animal feeding operation when all of the following apply:

(1) The director has received from the chief of the division of soil and water ~~conservation~~ resources in the department of natural resources a copy of an order issued under section 1511.02 of the Revised Code that specifies that the animal feeding facility has caused agricultural pollution by failure to comply with standards established under that section and that the animal feeding facility therefore should be required to be permitted as a medium or small concentrated animal feeding operation.

(2) The director or the director's authorized representative has inspected the animal feeding facility.

(3) The director or the director's authorized representative finds that the facility is not being operated in a manner that protects the waters of the state.

(B) If an animal feeding facility is required to be permitted in accordance with this section, the owner or operator of the facility shall apply to the director for a permit to operate as a concentrated animal feeding operation. In a situation in which best management practices cannot be implemented without modifying the existing animal feeding facility, the owner or operator of the facility also shall apply for a permit to install for the facility.

(C) In the case of an animal feeding facility for which a permit to

operate is required under this section, a permit to operate shall not be required after the end of the five-year term of the permit if the problems that caused the facility to be required to obtain the permit have been corrected to the director's satisfaction.

Sec. 903.11. (A) The director of agriculture may enter into contracts or agreements to carry out the purposes of this chapter with any public or private person, including the Ohio state university extension service, the natural resources conservation service in the United States department of agriculture, the environmental protection agency, the division of soil and water ~~conservation~~ resources in the department of natural resources, and soil and water conservation districts established under Chapter 1515. of the Revised Code. However, the director shall not enter into a contract or agreement with a private person for the review of applications for permits to install, permits to operate, NPDES permits, or review compliance certificates that are issued under this chapter or for the inspection of a facility regulated under this chapter or with any person for the issuance of any of those permits or certificates or for the enforcement of this chapter and rules adopted under it.

(B) The director may administer grants and loans using moneys from the federal government and other sources, public or private, for carrying out any of the director's functions. Nothing in this chapter shall be construed to limit the eligibility of owners or operators of animal feeding facilities or other agricultural enterprises to receive moneys from the water pollution control loan fund established under section 6111.036 of the Revised Code and the nonpoint source pollution management fund established under section 6111.037 of the Revised Code.

The director of agriculture shall provide the director of environmental protection with written recommendations for providing financial assistance from those funds to agricultural enterprises. The director of environmental protection shall consider the recommendations in developing priorities for providing financial assistance from the funds.

Sec. 903.25. An owner or operator of an animal feeding facility who holds a permit to install, a permit to operate, a review compliance certificate, or a NPDES permit or who is operating under an operation and management plan, as defined in section 1511.01 of the Revised Code, approved by the chief of the division of soil and water ~~conservation~~ resources in the department of natural resources under section 1511.02 of the Revised Code or by the supervisors of the appropriate soil and water conservation district under section 1515.08 of the Revised Code shall not be required by any political subdivision of the state or any officer, employee, agency, board,

commission, department, or other instrumentality of a political subdivision to obtain a license, permit, or other approval pertaining to manure, insects or rodents, odor, or siting requirements for installation of an animal feeding facility.

Sec. 905.32. (A) No person shall manufacture or distribute in this state any type of fertilizer until a license to manufacture or distribute has been obtained by the manufacturer or distributor from the department of agriculture upon payment of a five dollar fee:

(1) For each fixed (permanent) location at which fertilizer is manufactured in this state;

(2) For each mobile unit used to manufacture fertilizer in this state;

(3) For each location out of the state from which fertilizer is distributed in this state to nonlicensees.

All licenses shall be valid for one year beginning on the first day of December of a calendar year through the thirtieth day of November of the following calendar year. A renewal application for a license shall be submitted no later than the thirtieth day of November each year. A person who submits a renewal application for a license after the thirtieth day of November shall include with the application a late filing fee of ten dollars.

(B) An application for license shall include:

(1) The name and address of the licensee;

(2) The name and address of each bulk distribution point in the state, not licensed for fertilizer manufacture and distribution.

The name and address shown on the license shall be shown on all labels, pertinent invoices, and bulk storage for fertilizers distributed by the licensee in this state.

(C) The licensee shall inform the director of agriculture in writing of additional distribution points established during the period of the license.

(D) All money collected under this section shall be credited to the pesticide, fertilizer, and lime program fund created in section 921.22 of the Revised Code.

Sec. 905.33. (A) Except as provided in division (C) of this section, no person shall distribute in this state a specialty fertilizer until it is registered by the manufacturer or distributor with the department of agriculture. An application, in duplicate, for each brand and product name of each grade of specialty fertilizer shall be made on a form furnished by the director of agriculture and shall be accompanied with a fee of fifty dollars for each brand and product name of each grade. Labels for each brand and product name of each grade shall accompany the application. Upon the approval of an application by the director, a copy of the registration shall be furnished

the applicant. All registrations shall be valid for one year beginning on the first day of December of a calendar year through the thirtieth day of November of the following calendar year.

(B) An application for registration shall include the following:

(1) Name and address of the manufacturer or distributor;

(2) The brand and product name;

(3) The grade;

(4) The guaranteed analysis;

(5) The package sizes for persons that package fertilizers only in containers of ten pounds or less.

(C)(1) No person who engages in the business of applying custom mixed fertilizer to lawns, golf courses, recreation areas, or other real property that is not used for agricultural production shall be required to register the custom mixed fertilizer as a specialty fertilizer in accordance with division (A) of this section if the fertilizer ingredients of the custom mixed fertilizer are registered as specialty fertilizers and the inspection fee described in division (A) of section 905.36 of the Revised Code is paid.

(2) No person who engages in the business of blending custom mixed fertilizer for use on lawns, golf courses, recreation areas, or other real property that is not used for agricultural production shall be required to register the custom mixed fertilizer as a specialty fertilizer in accordance with division (A) of this section if the facility holds a nonagricultural production custom mixed fertilizer blender license issued under section 905.331 of the Revised Code.

(D) A person who engages in the business of applying or blending custom mixed fertilizer as described in division (C) of this section shall maintain an original or a copy of an invoice or document of sale for all fertilizer the person applies or distributes for one year following the date of the application or distribution, and, upon the director's request, shall furnish the director with the invoice or document of sale for the director's review.

(E) All money collected under this section shall be credited to the pesticide, fertilizer, and lime program fund created in section 921.22 of the Revised Code.

Sec. 905.331. No person who engages in the business of blending a custom mixed fertilizer for use on lawns, golf courses, recreation areas, or other real property that is not used for agricultural production shall fail to register a specialty fertilizer in accordance with division (A) of section 905.33 of the Revised Code unless the person has obtained an annual nonagricultural production custom mixed fertilizer blender license from the director of agriculture.

A license issued under this section shall be valid from the first day of December of a calendar year through the thirtieth day of November of the following calendar year. A renewal application for a nonagricultural production custom mixed fertilizer blender license shall be submitted to the director no later than the thirtieth day of November each year and shall include the name and address of the applicant and of the premises where the blending occurs and a one-hundred-dollar fee. A person who submits a renewal application for a license after the thirtieth day of November shall include with the application a late filing fee of ten dollars. All nonagricultural production custom mixed fertilizer blender licenses expire on the thirtieth day of November each year.

A person holding a nonagricultural production custom mixed fertilizer blender license shall pay the inspection fees described in division (A) of section 905.36 of the Revised Code for each product being blended.

All money collected under this section shall be credited to the pesticide, fertilizer, and lime program fund created in section 921.22 of the Revised Code.

Sec. 905.36. (A) A licensee or registrant, except registrants who package specialty fertilizers only in containers of ten pounds or less, shall pay the director of agriculture for all fertilizers distributed in this state an inspection fee at the rate of twenty-five cents per ton or twenty-eight cents per metric ton. Licensees and registrants shall specify on an invoice whether the per ton inspection fee has been paid or whether payment of the fee is the responsibility of the purchaser of the fertilizer. The payment of this inspection fee by a licensee or registrant shall exempt all other persons from the payment of this fee.

(B) Every licensee or registrant shall file with the director an annual tonnage report that includes the number of net tons or metric tons of fertilizer distributed to nonlicensees or nonregistrants in this state by grade; packaged; bulk, dry or liquid. The report shall be filed on or before the thirtieth day of November of each calendar year and shall include data from the period beginning on the first day of November of the year preceding the year in which the report is due through the thirty-first day of October of the year in which the report is due. The licensee or registrant, except registrants who package specialty fertilizers only in containers of ten pounds or less, shall include with this statement the inspection fee at the rate stated in division (A) of this section. For a tonnage report that is not filed or payment of inspection fees that is not made on or before the thirtieth day of November of the applicable calendar year, a penalty of fifty dollars or ten per cent of the amount due, whichever is greater, shall be assessed against

the licensee or registrant. The amount of fees due, plus penalty, shall constitute a debt and become the basis of a judgment against the licensee or registrant. For tonnage reports found to be incorrect, a penalty of fifteen per cent of the amount due shall be assessed against the licensee or registrant and shall constitute a debt and become the basis of a judgment against the licensee or registrant.

(C) No information furnished under this section shall be disclosed by any employee of the department of agriculture in such a way as to divulge the operation of any person required to make such a report. The filing by a licensee or registrant of a sales volume tonnage statement required by division (B) of this section thereby grants permission to the director to verify the same with the records of the licensee or registrant.

(D) All money collected under this section shall be credited to the pesticide, fertilizer, and lime program fund created in section 921.22 of the Revised Code.

Sec. 905.50. If the director of agriculture has taken an official sample of a fertilizer or mixed fertilizer and determined that it constitutes mislabeled fertilizer pursuant to rules adopted under section 905.40 of the Revised Code, the person who labeled the fertilizer or mixed fertilizer shall pay a penalty to the consumer of the mislabeled fertilizer or, if the consumer cannot be determined with reasonable diligence or is not available, to the director ~~for deposit into~~ to be credited to the commercial feed pesticide, fertilizer, seed, and lime inspection and laboratory program fund created under section ~~905.38~~ 921.22 of the Revised Code. The amount of the penalty shall be calculated in accordance with either division (A) or (B) of this section, whichever method of calculation yields the largest amount.

(A)(1) A penalty required to be paid under this section may be calculated as follows:

(a) Five dollars for each percentage point of total nitrogen or phosphorus in the fertilizer that is below the percentage of nitrogen or phosphorus guaranteed on the label, multiplied by the number of tons of mislabeled fertilizer that have been sold to the consumer;

(b) Three dollars for each percentage point of potash in the fertilizer that is below the percentage of potash guaranteed on the label, multiplied by the number of tons of mislabeled fertilizer that have been sold to the consumer.

(2) In the case of a fertilizer that contains a quantity of nitrogen, phosphorus, or potash that is more than five percentage points below the percentages guaranteed on the label, the penalties calculated under division (A)(1) of this section shall be tripled.

(3) No penalty calculated under division (A) of this section shall be less

than twenty-five dollars.

(B) A penalty required to be paid under this section may be calculated by multiplying the market value of one unit of the mislabeled fertilizer by the number of units of the mislabeled fertilizer that have been sold to the consumer.

(C) Upon making a determination under this section that a person has mislabeled fertilizer or mixed fertilizer, the director shall determine the parties to whom the penalty imposed by this section is required to be paid and, in accordance with division (A) or (B) of this section, as applicable, shall calculate the amount of the penalty required to be paid to each such party. After completing those determinations and calculations, the director shall issue to the person who allegedly mislabeled the fertilizer or mixed fertilizer a notice of violation. The notice shall be accompanied by an order requiring, and specifying the manner of, payment of the penalty imposed by this section to the parties in the amounts set forth in the determinations and calculations required by this division. The order shall be issued in accordance with Chapter 119. of the Revised Code.

No person shall violate a term or condition of an order issued under this division.

Sec. 905.51. As used in sections 905.51 to ~~905.66~~ 905.65 of the Revised Code:

(A) "Liming material" means all materials, the calcium and magnesium content of which is used to neutralize soil acidity, and includes the oxide, hydrate, carbonate, and silicate forms, as defined by rule, or combinations of those forms. "Liming material" includes materials such as the following:

- (1) Limestone;
- (2) Hydrated lime;
- (3) Burnt lime;
- (4) Industrial by-product;
- (5) Marl and shell.

(B) "Bulk" means in a nonpackaged form.

(C) "Label" means any written or printed matter on the package, or tag attached thereto.

(D) "Manufacture" means to process, crush, grind, pelletize, or blend.

(E) "Person" means any partnership, association, firm, or corporation, company, society, individual or combination of individuals, institution, park, or public agency administered by the state or any subdivision of the state.

(F) "Product name" means a coined or specific designation applied to an individual liming material.

(G) "Sale" means an exchange or offer to exchange ownership, or a

transfer or offer to transfer custody.

(H) "Ton" means a net weight of two thousand pounds.

(I) "Metric ton" means a measure of weight equal to one thousand kilograms.

(J) "Pelletized lime" means a finely ground limestone product or manufactured material that is held together in a granulated form by a water soluble binding agent and that is capable of neutralizing soil acidity.

(K) "Water treatment lime sludge" means lime sludge generated during the process of treating water supplies having levels of heavy metals at or below the levels permitted in standards adopted by the director of environmental protection governing the land application of lime sludge so generated.

(L) "Distribute" means to offer for sale, sell, barter, or otherwise supply liming material in this state.

(M) "Official sample" means any sample of liming material taken and designated as "official" by the director of agriculture or the director's designee.

(N) "Effective neutralizing power" means the neutralizing value of liming material based on the total neutralizing power and fineness that is expressed as a dry weight percentage.

(O) "Fineness index" means the percentage by weight of a liming material that will pass designated sieves, calculated to account for particle size distribution by adding the amounts arrived at under divisions (O)(1), (2), and (3) of this section as follows:

(1) Two-tenths multiplied by the percentage of material passing a number eight United States standard sieve minus the percentage of material passing a number twenty United States standard sieve.

(2) Six-tenths multiplied by the percentage of material passing a number twenty United States standard sieve minus the percentage of material passing a number sixty United States standard sieve.

(3) One multiplied by the percentage of material passing a number sixty United States standard sieve.

Sec. 905.52. (A) Except as provided in section 905.53 of the Revised Code, no person shall manufacture, sell, or distribute in this state liming material without a license to do so issued by the department of agriculture.

(B) Each such license expires on the thirty-first day of December of each year and shall be renewed according to the standard renewal procedure of sections 4745.01 to 4745.03 of the Revised Code.

(C) Each application for issuance or renewal of such a license shall:

(1) Include the name and address of the applicant and the name and

address of each bulk distribution point from which the applicant's liming material will be distributed in this state;

(2) Be accompanied by a license fee of fifty dollars:

(a) For each location at which liming material is manufactured in this state;

(b) For each location out of the state from which liming material is distributed or sold in this state to nonlicensees.

(3) Be accompanied by a label for each product name and grade.

(D) The name and address of the applicant shown on the application shall be shown on all labels, pertinent invoices, and bulk storage for liming material distributed or sold by the licensee in this state.

(E) The licensee shall inform the department in writing of additional distribution points established during the period of the license.

(F) All money collected under this section shall be credited to the pesticide, fertilizer, and lime program fund created in section 921.22 of the Revised Code.

Sec. 905.56. (A) Each licensee shall file with the department of agriculture an annual tonnage report that includes the number of net tons of liming material sold or distributed to a non-licensee in this state, by county, by oxide and hydrate forms, and by grade as defined in section 905.54 of the Revised Code, within forty days after the thirty-first day of December of each calendar year. The inspection fee at the rate stated in division (B) of this section shall accompany this report.

(B) Each licensee who sells or distributes more than twenty-five hundred tons of agricultural liming material in this state shall pay to the department an inspection fee. The inspection fee is one fourth of one cent for each ton in excess of twenty-five hundred tons, as reported in the tonnage report required by division (A) of this section. The maximum inspection fee is three hundred dollars.

(C) If a tonnage report is not filed, or if the inspection fee is not paid within ten days after the due date, a penalty of ten per cent of the amount due, with a minimum penalty of ten dollars, shall be assessed against the licensee. The amount of fee due, plus penalty, shall constitute a debt and shall become the basis of a judgment against the licensee. Such remedy is in addition to the remedy provided in section 905.62 of the Revised Code.

(D) The director of agriculture may inspect the inventories, books, and records of any licensee in order to verify a tonnage report. If the director finds that a tonnage report is erroneous, the director may adjust the inspection fee, may assess any balance due against the licensee, and may impose a penalty not to exceed ten per cent of the balance due, or may

refund any overpayment.

(E) All money collected under this section shall be credited to the pesticide, fertilizer, and lime program fund created in section 921.22 of the Revised Code.

Sec. 907.13. No person shall label agricultural, vegetable, or flower seed that is intended for sale in this state unless the person holds a valid seed labeler permit that has been issued by the director of agriculture in accordance with this section.

A person who wishes to obtain a seed labeler permit shall file an application with the director on a form that the director provides and shall submit a permit fee in the amount of ten dollars. Such a person who labels seed under more than one name or at more than one address shall obtain a separate seed labeler permit and pay a separate permit fee for each name and address.

The applicant shall include the applicant's full name and address on the application together with any additional information that the director requires by rules adopted under section 907.10 of the Revised Code. If the applicant's address is not within this state or it does not represent a location in this state where the director can collect samples of the applicant's seed for analysis, then the applicant shall include on the application an address within this state where samples of the applicant's seed may be collected for those purposes or shall agree to provide the director or the director's authorized representative with seeds for sampling upon request.

Upon receipt of a complete application accompanied by the ten-dollar permit fee, the director shall issue a seed labeler's permit to the applicant. All seed labeler permits that are issued under this section shall expire on the thirty-first day of December of each year regardless of the date on which a permit was issued during that year.

Each person who obtains a seed labeler permit shall label the seed that the person intends for sale in this state in accordance with the requirements established in sections 907.01 to 907.17 of the Revised Code. Each person who holds a valid seed labeler permit shall keep the permit posted in a conspicuous place in the principal seed room from which the person sells seed and shall comply with the reporting and fee requirements that are established in section 907.14 of the Revised Code.

All money collected under this section shall be credited to the commercial feed and seed fund created in section 923.46 of the Revised Code.

Sec. 907.14. (A) A person who holds a valid seed labeler permit issued under section 907.13 of the Revised Code shall report to the director of

agriculture concerning the amount of seed that the person sells in this state. The report shall be made semiannually on a form that the director prescribes and provides. One semiannual report shall be filed with the director prior to the first day of February of each year with respect to all sales that the person made during the period from the first day of July to the thirty-first day of December of the preceding year. The second semiannual report shall be filed prior to the first day of August of each year with respect to all sales that the person made during the period from the first day of January to the thirtieth day of June of that year.

(B) A person who holds a valid seed labeler permit shall include with each semiannual report a seed fee based on the amount of the seed that the person sold during that reporting period as follows:

(1) For soybeans and small grains, including barley, oats, rye, wheat, triticale, and spelt, four cents per one hundred pounds;

(2) For corn and grain sorghum, five cents per one hundred pounds;

(3)(a) For any of the following seed sold at wholesale or retail or on consignment or commission, two per cent of the wholesale value of the containers of seed or, if the seed is not sold wholesale, two per cent of the retail value of the containers of seed:

(i) Vegetable and flower seed sold in containers, other than hermetically sealed containers, of eight ounces or less;

(ii) Flower seed sold in hermetically sealed containers that contain fewer than three hundred seeds;

(iii) Vegetable seed sold in hermetically sealed containers that contain fewer than one thousand seeds.

(b) The fees established pursuant to divisions (B)(3)(a)(ii) and (iii) of this section apply to both of the following:

(i) Seed sold in hermetically sealed containers that contain the amount of seeds specified in division (B)(3)(a)(ii) or (iii) of this section, as applicable;

(ii) Seed sold in hermetically sealed containers that do not clearly state the number of seeds that they contain.

(c) Except as otherwise provided in division (B)(3)(b)(ii) of this section, if the weight of seed in a container, or the quantity of seed in a container, exceeds the applicable weight or quantity specified in division (B)(3)(a)(i), (ii), or (iii) of this section, the fee established in division (B)(4) of this section applies.

(4) For alfalfa, clover, grass, native grass, mixtures containing any of these, and all agricultural, vegetable, and flower seeds not specified in divisions (B)(1) to (3) of this section, ten cents per one hundred pounds.

If the total amount of the seed fee that is due is less than five dollars, the person shall pay the minimum seed fee, which is five dollars.

(C) For each failure to report in full the amount of seed sold or to submit the required seed fees in full by the due date, a person who holds a valid seed labeler permit shall pay a penalty of ten per cent of the amount due or fifty dollars, whichever is greater. Failure to pay either the fee or the penalty within thirty days after the due date is cause for suspension or revocation by the director of the seed labeler permit or refusal, without a hearing, to issue a subsequent seed labeler permit for which the person applies.

(D) This section does not apply to governmental entities that donate seed for conservation purposes.

(E) All money collected under this section shall be credited to the commercial feed and seed fund created in section 923.46 of the Revised Code.

Sec. 907.30. (A) No person shall apply legume inoculants to seed for sale in ~~Ohio~~, this state for others or to a customer's order unless ~~he shall have~~ the person has obtained from the director of agriculture a legume inoculator's license for each such place of business where seed is inoculated. Application for such a license shall be made on a form obtainable from the director and shall be accompanied by a fee of five dollars. ~~Said~~ The application shall include the name of the brand, or brands of legume inoculant to be used together with the name of the manufacturer, and the name of the process or technique used to apply the inoculant to the seed. All such licenses shall expire each year on the thirty-first day of January and shall be renewed according to the standard renewal procedure of sections 4745.01 to 4745.03, ~~inclusive~~, of the Revised Code.

(B) The legume inoculator shall keep for a period of eighteen months; records ~~which~~ that shall include complete data concerning the source and lot number of the inoculant material used, the rate and date of application, and the lot identity by owner and lot number, if any, of the seed to which the material was applied.

(C) All money collected under this section shall be credited to the commercial feed and seed fund created in section 923.46 of the Revised Code.

Sec. 907.31. Any person who submits an application for the registration of a brand of legume inoculant shall pay annually, prior to the first day of January, a registration and inspection fee in the amount of fifty dollars per brand.

The registration shall be renewed according to the standard renewal procedure established in Chapter 4745. of the Revised Code.

All money collected under this section shall be credited to the commercial feed and seed fund created in section 923.46 of the Revised Code.

Sec. 915.24. (A) There is hereby created in the state treasury the food safety fund. All of the following moneys shall be credited to the fund:

(1) Bakery registration fees and fines received under sections 911.02 to 911.20 of the Revised Code;

(2) Cannery license fees and renewal fees received under sections 913.01 to 913.05 of the Revised Code;

(3) Moneys received under sections 913.22 to 913.28 of the Revised Code;

(4) License fees, fines, and penalties recovered for the violation of sections 915.01 to 915.12 of the Revised Code;

(5) License fees collected under sections 915.14 to 915.23 of the Revised Code;

(6) License fees, other fees, and fines collected by or for the director of agriculture under Chapter 3717. of the Revised Code;

(7) Fees collected under section 3715.04 of the Revised Code for the issuance of certificates of health and freesale;

(8) Registration fees and other fees collected by the director of agriculture under section 3715.041 of the Revised Code.

(B) The director of agriculture shall use the moneys deposited into the food safety fund to administer and enforce the laws pursuant to which the moneys were collected.

Sec. 918.08. (A) Except as provided in division (F) of this section, no person shall operate an establishment without first licensing the establishment with the department of agriculture. The owner of an establishment desiring a license with the department may make application therefor on forms provided by the department. If after inspection the director of agriculture finds that an establishment is in compliance with this chapter and rules adopted under it, the director shall notify the owner of the establishment and, upon receipt of the required license fee, the establishment shall be permitted to operate. However, if after inspection the director finds that an establishment is not in compliance with this chapter and rules adopted under it, the director shall deny the license application. The applicant may appeal the denial of the license application in accordance with Chapter 119. of the Revised Code. The license shall expire annually on the thirty-first day of March and, if the director finds that the establishment is in compliance with this chapter and rules adopted under it, shall be renewed according to the standard renewal procedure of sections 4745.01 to

4745.03 of the Revised Code.

(B) The annual license fee for each establishment, or a renewal thereof, is ~~fifty~~ one hundred dollars. All fees collected under this section shall be deposited into the poultry and meat products fund created in section 918.15 of the Revised Code.

(C) If after inspection the director determines that an establishment licensed under division (A) of this section is operating in violation of this chapter or the rules adopted thereunder, the director shall notify the licensee in writing of the violation and give the licensee ten days from the date of notice to cease or correct the conditions causing the violation. If the conditions causing the violation continue after the expiration of the ten-day period, the director may do either of the following:

(1) Impose progressive enforcement actions as provided in division (D)(1) of this section in the same manner as inspectors;

(2) Suspend or revoke the establishment's license in accordance with Chapter 119. of the Revised Code.

(D)(1) If an inspector determines that an establishment licensed under division (A) of this section is operating in violation of sections 918.01 to 918.12 of the Revised Code and rules adopted under those sections, the inspector may notify the licensee in writing of the violation. The inspector immediately may impose progressive enforcement actions, including withholding the mark of inspection, suspension of inspection, suspension of inspection held in abeyance, and withdrawal of inspection. The progressive enforcement actions may be taken prior to affording the licensee an opportunity for a hearing. As authorized in division (C) of section 119.06 of the Revised Code, a decision to impose a progressive enforcement action is immediately appealable to a higher authority within the department who is classified by the director as a district supervisor and who is designated by the director to hear the appeal. If the district supervisor affirms the enforcement action of the inspector, the licensee may appeal the enforcement action in accordance with Chapter 119. of the Revised Code.

(2) As used in division (D)(1) of this section, "suspension of inspection held in abeyance" means a period of time during which a suspension of inspection is lifted because an establishment has presented the director with a corrective action plan that, if implemented properly, would bring the establishment into compliance with this chapter and rules adopted under it.

(E) If in the opinion of the director the establishment is being operated under such insanitary conditions as to be a hazard to public health, or if the director determines that an establishment is not in compliance with its hazard analysis critical control point plan as required by rules, the director

may condemn or retain the product on hand and immediately withdraw inspection from the establishment until the insanitary conditions are corrected or until the establishment is in compliance with its hazard analysis critical control point plan, as applicable. The director may take those actions prior to an adjudication hearing as required under section 119.06 of the Revised Code. The director subsequently shall afford a hearing upon the request of the owner or operator of the establishment.

(F) Any person operating an establishment as defined in section 918.01 of the Revised Code who also operates on the same premises an establishment as defined in section 918.21 of the Revised Code shall apply either for licensure under section 918.08 of the Revised Code or for licensure under section 918.28 of the Revised Code, but not for both, as the director shall determine.

(G) If the director determines that the owner or operator of or any person employed by an establishment licensed under division (A) of this section forcibly assaulted, resisted, opposed, impeded, intimidated, or interfered with any person while that person was engaged in, or because of the person's performance of, official duties under sections 918.01 to 918.12 of the Revised Code or the rules adopted under those sections, the director immediately may withdraw inspection from the establishment prior to an adjudication hearing as required under section 119.06 of the Revised Code.

(H) In addition to any remedies provided by law and irrespective of whether or not there exists an adequate remedy at law, the director may apply to the court of common pleas of the county in which a violation of sections 918.01 to 918.12 of the Revised Code or rules adopted under those sections occurs for a temporary or permanent injunction or other appropriate relief concerning the violation.

Sec. 918.28. (A) Except as provided in division (F) of section 918.08 of the Revised Code, application for a license to operate an establishment shall be made to the director of agriculture on forms provided by the department of agriculture. The director shall inspect the establishment and if, upon inspection, the establishment is found to be in compliance with this chapter and rules adopted under it, the director shall so notify the owner of the establishment and, upon receipt of the annual license fee of ~~fifty~~ one hundred dollars, shall issue the owner a license. However, if after inspection the director finds that an establishment is not in compliance with this chapter and rules adopted under it, the director shall deny the license application. The applicant may appeal the denial of the license application in accordance with Chapter 119. of the Revised Code. The license shall expire on the thirty-first day of March of each year and, if the director finds that the

establishment is in compliance with this chapter and rules adopted under it, shall be renewed according to the standard renewal procedures of sections 4745.01 to 4745.03 of the Revised Code.

(B) If after inspection the director determines that an establishment licensed under this section is operating in violation of this chapter or a rule or order adopted or issued under authority thereof, the director shall notify the licensee in writing of the violation, giving the licensee ten days from the date of the notice to correct the conditions causing the violation. If the conditions are not corrected within the ten-day period, the director may do either of the following:

(1) Impose progressive enforcement actions as provided in division (C)(1) of this section in the same manner as inspectors;

(2) Suspend or revoke the license in accordance with Chapter 119. of the Revised Code.

(C)(1) If an inspector determines that an establishment licensed under division (A) of this section is operating in violation of sections 918.21 to 918.31 of the Revised Code and rules adopted under those sections, the inspector may notify the licensee in writing of the violation. The inspector immediately may impose progressive enforcement actions, including withholding the mark of inspection, suspension of inspection, suspension of inspection held in abeyance, and withdrawal of inspection. The progressive enforcement actions may be taken prior to affording the licensee an opportunity for a hearing. As authorized in division (C) of section 119.06 of the Revised Code, a decision to impose a progressive enforcement action is immediately appealable to a higher authority within the department who is classified by the director as a district supervisor and who is designated by the director to hear the appeal. If the district supervisor affirms the enforcement action of the inspector, the licensee may appeal the enforcement action in accordance with Chapter 119. of the Revised Code.

(2) As used in division (C)(1) of this section, "suspension of inspection held in abeyance" means a period of time during which a suspension of inspection is lifted because an establishment has presented the director with a corrective action plan that, if implemented properly, would bring the establishment into compliance with this chapter and rules adopted under it.

(D) If in the opinion of the director the establishment is being operated under such insanitary conditions as to be a hazard to public health, or if the director determines that an establishment is not in compliance with its hazard analysis critical control point plan as required by rules, the director may condemn or retain the product on hand and immediately withdraw inspection from the establishment until such time as the insanitary

conditions are corrected or until the establishment is in compliance with its hazard analysis critical control point plan, as applicable.

(E) If the director determines that the owner or operator of or any person employed by an establishment licensed under division (A) of this section forcibly assaulted, resisted, opposed, impeded, intimidated, or interfered with any person while that person was engaged in, or because of the person's performance of, official duties under sections 918.21 to 918.31 of the Revised Code or the rules adopted under those sections, the director immediately may withdraw inspection from the establishment prior to an adjudication hearing as required under section 119.06 of the Revised Code.

(F) In addition to any remedies provided by law and irrespective of whether or not there exists an adequate remedy at law, the director may apply to the court of common pleas of the county in which a violation of sections 918.21 to 918.31 of the Revised Code or rules adopted under those sections occurs for a temporary or permanent injunction or other appropriate relief concerning the violation.

Sec. 921.02. (A) No person shall distribute a pesticide within this state unless the pesticide is registered with the director of agriculture under this chapter. Registrations shall be issued for a period of time established by rule and shall be renewed in accordance with deadlines established by rule. Registration is not required if a pesticide is shipped from one plant or warehouse to another plant or warehouse operated by the same person and used solely at that plant or warehouse as a constituent part to make a pesticide that is registered under this chapter, or if the pesticide is distributed under the provisions of an experimental use permit issued under section 921.03 of the Revised Code or an experimental use permit issued by the United States environmental protection agency.

(B) The applicant for registration of a pesticide shall file a statement with the director on a form provided by the director, which shall include all of the following:

(1) The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant's name;

(2) The brand and product name of the pesticide;

(3) Any necessary information required for completion of the department of agriculture's application for registration, including the agency registration number;

(4) A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it, including the directions for use and the use classification as provided for in the federal act.

(C) The director, when the director considers it necessary in the administration of this chapter, may require the submission of the complete formula of any pesticide including the active and inert ingredients.

(D) The director may require a full description of the tests made and the results thereof upon which the claims are based for any pesticide. The director shall not consider any data submitted in support of an application, without permission of the applicant, in support of any other application for registration unless the other applicant first has offered to pay reasonable compensation for producing the test data to be relied upon and the data are not protected from disclosure by section 921.04 of the Revised Code. In the case of a renewal of registration, a statement shall be required only with respect to information that is different from that furnished when the pesticide was registered or last registered.

(E) The director may require any other information to be submitted with an application.

Any applicant may designate any portion of the required registration information as a trade secret or confidential business information. Upon receipt of any required registration information designated as a trade secret or confidential business information, the director shall consider the designated information as confidential and shall not reveal or cause to be revealed any such designated information without the consent of the applicants, except to persons directly involved in the registration process described in this section or as required by law.

(F) Beginning January 1, 2007, each applicant shall pay a registration and inspection fee of one hundred fifty dollars for each product name and brand registered for the company whose name appears on the label. If an applicant files for a renewal of registration after the deadline established by rule, the applicant shall pay a penalty fee of seventy-five dollars for each product name and brand registered for the applicant. The penalty fee shall be added to the original fee and paid before the renewal registration is issued. In addition to any other remedy available under this chapter, if a pesticide that is not registered pursuant to this section is distributed within this state, the person required to register the pesticide shall do so and shall pay a penalty fee of seventy-five dollars for each product name and brand registered for the applicant. The penalty fee shall be added to the original fee of one hundred fifty dollars and paid before the registration is issued.

(G) Provided that the state is authorized by the administrator of the United States environmental protection agency to register pesticides to meet special local needs, the director shall require the information set forth under divisions (B), (C), (D), and (E) of this section and shall register any such

pesticide after determining that all of the following conditions are met:

- (1) Its composition is such as to warrant the proposed claims for it.
- (2) Its labeling and other material required to be submitted comply with the requirements of the federal act and of this chapter, and rules adopted thereunder.
- (3) It will perform its intended function without unreasonable adverse effects on the environment.
- (4) When used in accordance with widespread and commonly recognized practice, it will not generally cause unreasonable adverse effects on the environment.
- (5) The classification for general or restricted use is in conformity with the federal act.

The director shall not make any lack of essentiality a criterion for denying the registration of any pesticide. When two pesticides meet the requirements of division (G) of this section, the director shall not register one in preference to the other.

(H)(1) The director may refuse to register a pesticide if the application for registration fails to comply with this section.

(2) The director may suspend or revoke a pesticide registration after a hearing in accordance with Chapter 119. of the Revised Code for a pesticide that fails to meet the claims made for it on its label.

(3) The director may immediately suspend a pesticide registration, prior to a hearing, when the director believes that the pesticide poses an immediate hazard to human or animal health or a hazard to the environment. Not later than fifteen days after suspending the registration, the director shall determine whether the pesticide poses such a hazard. If the director determines that no hazard exists, the director shall lift the suspension of the registration. If the director determines that a hazard exists, the director shall revoke the registration in accordance with Chapter 119. of the Revised Code.

(I) All money collected under this section shall be credited to the pesticide, fertilizer, and lime program fund created in section 921.22 of the Revised Code.

Sec. 921.06. (A)(1) No individual shall do any of the following without having a commercial applicator license issued by the director of agriculture:

- (a) Apply pesticides for a pesticide business without direct supervision;
- (b) Apply pesticides as part of the individual's duties while acting as an employee of the United States government, a state, county, township, or municipal corporation, or a park district, port authority, or sanitary district created under Chapter 1545., 4582., or 6115. of the Revised Code,

respectively;

(c) Apply restricted use pesticides. Division (A)(1)(c) of this section does not apply to a private applicator or an immediate family member or a subordinate employee of a private applicator who is acting under the direct supervision of that private applicator.

(d) If the individual is the owner of a business other than a pesticide business or an employee of such an owner, apply pesticides at any of the following publicly accessible sites that are located on the property:

(i) Food service operations that are licensed under Chapter 3717. of the Revised Code;

(ii) Retail food establishments that are licensed under Chapter 3717. of the Revised Code;

(iii) Golf courses;

(iv) Rental properties of more than four apartment units at one location;

(v) Hospitals or medical facilities as defined in section 3701.01 of the Revised Code;

(vi) Child day-care centers or school child day-care centers as defined in section 5104.01 of the Revised Code;

(vii) Facilities owned or operated by a school district established under Chapter 3311. of the Revised Code, including an education service center, a community school established under Chapter 3314. of the Revised Code, or a chartered or nonchartered nonpublic school that meets minimum standards established by the state board of education;

(viii) Colleges as defined in section 3365.01 of the Revised Code;

(ix) Food processing establishments as defined in section 3715.021 of the Revised Code;

(x) Any other site designated by rule.

(e) Conduct authorized diagnostic inspections.

(2) Divisions (A)(1)(a) to (d) of this section do not apply to an individual who is acting as a trained serviceperson under the direct supervision of a commercial applicator.

(3) Licenses shall be issued for a period of time established by rule and shall be renewed in accordance with deadlines established by rule. The fee for each such license shall be established by rule. If a license is not issued or renewed, the application fee shall be retained by the state as payment for the reasonable expense of processing the application. The director shall by rule classify by pesticide-use category licenses to be issued under this section. A single license may include more than one pesticide-use category. No individual shall be required to pay an additional license fee if the individual is licensed for more than one category.

The fee for each license or renewal does not apply to an applicant who is an employee of the department of agriculture whose job duties require licensure as a commercial applicator as a condition of employment.

(B) Application for a commercial applicator license shall be made on a form prescribed by the director. Each application for a license shall state the pesticide-use category or categories of license for which the applicant is applying and other information that the director determines essential to the administration of this chapter.

(C) If the director finds that the applicant is competent to apply pesticides and conduct diagnostic inspections and that the applicant has passed both the general examination and each applicable pesticide-use category examination as required under division (A) of section 921.12 of the Revised Code, the director shall issue a commercial applicator license limited to the pesticide-use category or categories for which the applicant is found to be competent. If the director rejects an application, the director may explain why the application was rejected, describe the additional requirements necessary for the applicant to obtain a license, and return the application. The applicant may resubmit the application without payment of any additional fee.

(D)(1) A person who is a commercial applicator shall be deemed to hold a private applicator's license for purposes of applying pesticides on agricultural commodities that are produced by the commercial applicator.

(2) A commercial applicator shall apply pesticides only in the pesticide-use category or categories in which the applicator is licensed under this chapter.

(E) All money collected under this section shall be credited to the pesticide, fertilizer, and lime program fund created in section 921.22 of the Revised Code.

Sec. 921.09. (A)(1) No person shall own or operate a pesticide business without obtaining a license from the director of agriculture. Licenses shall be issued for a period of time established by rule and shall be renewed in accordance with deadlines established by rule.

(2) A person applying for a pesticide business license shall register each location that is owned by the person and used for the purpose of engaging in the pesticide business.

(B) Any person who owns or operates a pesticide business outside of this state, but engages in the business of applying pesticides to properties of another for hire in this state, shall obtain a license for the person's principal out-of-state location from the director. In addition, the person shall register each location that is owned by the person in this state and used for the

purpose of engaging in the pesticide business.

(C)(1) The person applying for a pesticide business license shall file a statement with the director, on a form provided by the director, that shall include all of the following:

(a) The address of the principal place of business of the pesticide business;

(b) The address of each location that the person intends to register under division (A)(2) or (B) of this section;

(c) Any other information that the director determines necessary and that the director requires by rule.

(2) Each applicant shall pay a license fee established by rule for the pesticide business plus an additional fee established by rule for each pesticide business registered location specified in the application. The license may be renewed upon payment of a renewal fee established by rule plus an additional fee established by rule for each pesticide business registered location. A copy of the license shall be maintained and conspicuously displayed at each such location.

(3) The issuance of a pesticide business license constitutes registration of any pesticide business location identified in the application under division (C)(1) of this section.

(4) The owner or operator of a pesticide business shall notify the director not later than fifteen days after any change occurs in the information required under division (C)(1)(a) or (b) of this section.

(D) The owner or operator of a pesticide business shall employ at least one commercial applicator for each pesticide business registered location the owner or operator owns or operates.

(E) The owner or operator of a pesticide business is responsible for the acts of each employee in the handling, application, and use of pesticides and in the conducting of diagnostic inspections. The pesticide business license is subject to denial, modification, suspension, or revocation after a hearing for any violation of this chapter or any rule adopted or order issued under it. The director may levy against the owner or operator any civil penalties authorized by division (B) of section 921.16 of the Revised Code for any violation of this chapter or any rule adopted or order issued under it that is committed by the owner or operator or by the owner's or operator's officer, employee, or agent.

(F) The director may modify a license issued under this section by one of the following methods:

(1) Revoking a licensee's authority to operate out of a particular pesticide business registered location listed under division (C)(1)(b) of this

section;

(2) Preventing a licensee from operating within a specific pesticide-use category.

(G) The director may deny a pesticide business license to any person whose pesticide business license has been revoked within the previous thirty-six months.

(H) Each pesticide business registered location that is owned by a pesticide business is subject to inspection by the director.

(I) All money collected under this section shall be credited to the pesticide, fertilizer, and lime program fund created in section 921.22 of the Revised Code.

Sec. 921.11. (A)(1) No individual shall apply restricted use pesticides unless the individual is one of the following:

(a) Licensed under section 921.06 of the Revised Code;

(b) Licensed under division (B) of this section;

(c) A trained serviceperson who is acting under the direct supervision of a commercial applicator;

(d) An immediate family member or a subordinate employee of a private applicator who is acting under the direct supervision of that private applicator.

(2) No individual shall directly supervise the application of a restricted use pesticide unless the individual is one of the following:

(a) Licensed under section 921.06 of the Revised Code;

(b) Licensed under division (B) of this section.

(B) The director of agriculture shall adopt rules to establish standards and procedures for the licensure of private applicators. An individual shall apply for a private applicator license to the director, on forms prescribed by the director. The individual shall include in the application the pesticide-use category or categories of the license for which the individual is applying and any other information that the director determines is essential to the administration of this chapter. The fee for each license shall be established by rule. Licenses shall be issued for a period of time established by rule and shall be renewed in accordance with deadlines established by rule. If a license is not issued or renewed, the state shall retain any fee submitted as payment for reasonable expenses of processing the application.

(C) An individual who is licensed under this section shall use or directly supervise the use of a restricted use pesticide only for the purpose of producing agricultural commodities on property that is owned or rented by the individual or the individual's employer.

(D) All money collected under this section shall be credited to the

pesticide, fertilizer, and lime program fund created in section 921.22 of the Revised Code.

Sec. 921.13. (A) Any person who is acting in the capacity of a pesticide dealer or who advertises or assumes to act as a pesticide dealer at any time shall obtain a pesticide dealer license from the director of agriculture. Licenses shall be issued for a period of time established by rule and shall be renewed in accordance with deadlines established by rule. A license is required for each location or outlet within this state from which the person distributes pesticides.

Any pesticide dealer who has no pesticide dealer outlets in this state and who distributes restricted use pesticides directly into this state shall obtain a pesticide dealer license from the director for the pesticide dealer's principal out-of-state location or outlet and for each sales person operating in the state.

The applicant shall include a license fee established by rule with the application for a license. The application shall be made on a form prescribed by the director.

Each pesticide dealer shall submit records to the director of all of the restricted use pesticides the pesticide dealer has distributed, as specified by the director, and duplicate records shall be retained by the pesticide dealer for a period of time established by rules.

(B) This section does not apply to any federal, state, county, or municipal agency that provides pesticides for its own programs.

(C) Each licensed pesticide dealer is responsible for the acts of each employee in the solicitation and sale of pesticides and all claims and recommendations for use of pesticides. The pesticide dealer's license is subject to denial, suspension, or revocation after a hearing for any violation of this chapter whether committed by the pesticide dealer or by the pesticide dealer's officer, agent, or employee.

(D) All money collected under this section shall be credited to the pesticide, fertilizer, and lime program fund created in section 921.22 of the Revised Code.

Sec. 921.16. (A) The director of agriculture shall adopt rules the director determines necessary for the effective enforcement and administration of this chapter. The rules may relate to, but are not limited to, the time, place, manner, and methods of application, materials, and amounts and concentrations of application of pesticides, may restrict or prohibit the use of pesticides in designated areas during specified periods of time, and shall encompass all reasonable factors that the director determines necessary to minimize or prevent damage to the environment. In addition, the rules shall

establish the deadlines and time periods for registration, registration renewal, late registration renewal, and failure to register under section 921.02 of the Revised Code; the fees for registration, registration renewal, late registration renewal, and failure to register under section 921.02 of the Revised Code that shall apply until the fees that are established under that section take effect on January 1, 2007; and the fees, deadlines, and time periods for licensure and license renewal under sections 921.06, 921.09, 921.11, and 921.13 of the Revised Code.

(B) The director shall adopt rules that establish a schedule of civil penalties for violations of this chapter, or any rule or order adopted or issued under it, provided that the civil penalty for a first violation shall not exceed five thousand dollars and the civil penalty for each subsequent violation shall not exceed ten thousand dollars. In determining the amount of a civil penalty for a violation, the director shall consider factors relevant to the severity of the violation, including past violations and the amount of actual or potential damage to the environment or to human beings. All money collected under this division shall be credited to the pesticide, fertilizer, and lime program fund created in section 921.22 of the Revised Code.

(C) The director shall adopt rules that set forth the conditions under which the director:

(1) Requires that notice or posting be given of a proposed application of a pesticide;

(2) Requires inspection, condemnation, or repair of equipment used to apply a pesticide;

(3) Will suspend, revoke, or refuse to issue any pesticide registration for a violation of this chapter;

(4) Requires safe handling, transportation, storage, display, distribution, and disposal of pesticides and their containers;

(5) Ensures the protection of the health and safety of agricultural workers storing, handling, or applying pesticides, and all residents of agricultural labor camps, as that term is defined in section 3733.41 of the Revised Code, who are living or working in the vicinity of pesticide-treated areas;

(6) Requires a record to be kept of all pesticide applications made by each commercial applicator and by any trained serviceperson acting under the commercial applicator's direct supervision and of all restricted use pesticide applications made by each private applicator and by any immediate family member or subordinate employee of that private applicator who is acting under the private applicator's direct supervision as required under section 921.14 of the Revised Code;

(7) Determines the pesticide-use categories of diagnostic inspections that must be conducted by a commercial applicator;

(8) Requires a record to be kept of all diagnostic inspections conducted by each commercial applicator and by any trained service person.

(D) The director shall prescribe standards for the licensure of applicators of pesticides consistent with those prescribed by the federal act and the regulations adopted under it or prescribe standards that are more restrictive than those prescribed by the federal act and the regulations adopted under it. The standards may relate to the use of a pesticide or to an individual's pesticide-use category.

The director shall take into consideration standards of the United States environmental protection agency.

(E) The director may adopt rules setting forth the conditions under which the director will:

- (1) Collect and examine samples of pesticides or devices;
- (2) Specify classes of devices that shall be subject to this chapter;
- (3) Prescribe other necessary registration information.

(F) The director may adopt rules that do either or both of the following:

(1) Designate, in addition to those restricted uses so classified by the administrator of the United States environmental protection agency, restricted uses of pesticides for the state or for designated areas within the state and, if the director considers it necessary, to further restrict such use;

(2) Define what constitutes "acting under the instructions and control of a commercial applicator" as used in the definition of "direct supervision" in division (Q)(1) of section 921.01 of the Revised Code. In adopting a rule under division (F)(2) of this section, the director shall consider the factors associated with the use of pesticide in the various pesticide-use categories. Based on consideration of the factors, the director may define "acting under the instructions and control of a commercial applicator" to include communications between a commercial applicator and a trained serviceperson that are conducted via landline telephone or a means of wireless communication. Any rules adopted under division (F)(2) of this section shall be drafted in consultation with representatives of the pesticide industry.

(G) Except as provided in division (D) of this section, the director shall not adopt any rule under this chapter that is inconsistent with the requirements of the federal act and regulations adopted thereunder.

(H) The director, after notice and opportunity for hearing, may declare as a pest any form of plant or animal life, other than human beings and other than bacteria, viruses, and other microorganisms on or in living human

beings or other living animals, that is injurious to health or the environment.

(I) The director may make reports to the United States environmental protection agency, in the form and containing the information the agency may require.

(J) The director shall adopt rules for the application, use, storage, and disposal of pesticides if, in the director's judgment, existing programs of the United States environmental protection agency necessitate such rules or pesticide labels do not sufficiently address issues or situations identified by the department of agriculture or interested state agencies.

(K) The director shall adopt rules establishing all of the following:

(1) Standards, requirements, and procedures for the examination and re-examination of commercial applicators and private applicators;

(2) With respect to training programs that the director may require commercial applicators and private applicators to complete:

(a) Standards and requirements that a training program must satisfy in order to be offered by the director or the director's representative or in order to be approved by the director if a third party wishes to offer it;

(b) Eligibility standards and requirements that must be satisfied by third parties who wish to provide the training programs;

(c) Procedures that third parties must follow in order to submit a proposed training program to the director for approval;

(d) Criteria that the director must consider when determining whether to authorize a commercial applicator or private applicator to participate in a training program instead of being required to pass a re-examination.

(3) Training requirements for a trained serviceperson.

(L) The director shall adopt all rules under this chapter in accordance with Chapter 119. of the Revised Code.

Sec. 921.22. The pesticide, fertilizer, and lime program fund is hereby created in the state treasury. ~~The portion of the money in the fund that is collected under this chapter shall be used to carry out the purposes of this chapter. The portion of the money in the fund that is collected under section 927.53 of the Revised Code shall be used to carry out the purposes specified in that section, the portion of the money in the fund that is collected under section 927.69 of the Revised Code shall be used to carry out the purposes specified in that section, and the portion of the money in the fund that is collected under section 927.701 of the Revised Code shall be used to carry out the purposes of that section.~~ The fund shall consist of fees collected under sections 921.01 to 921.15, division (F) of section 927.53, and section 927.69 of the Revised Code, money collected under section 927.701 money credited to it under this chapter and Chapter 905. of the Revised Code; and

rules adopted under them and all fines, penalties, costs, and damages, except court costs, that are collected by either the director of agriculture or the attorney general in consequence of any violation of ~~this chapter~~ those chapters or rules adopted under them. The director shall use money in the fund to administer and enforce those chapters and rules adopted under them.

The director shall keep accurate records of all receipts into and disbursements from the fund and shall prepare, and provide upon request, an annual report classifying the receipts and disbursements that pertain to pesticides, fertilizers, or lime.

Sec. 921.27. (A) If the director of agriculture has reasonable cause to believe that a pesticide or device is being distributed, stored, transported, or used in violation of this chapter or of any rules, it shall be subject to seizure on complaint of the director to a court of competent jurisdiction in the locality in which the pesticide or device is located.

(B) If the article is condemned, it shall, after entry or decree, be disposed of by destruction or sale as the court may direct and the proceeds, if the article is sold, less legal costs, shall be paid to the pesticide, fertilizer, and lime program fund created in section 921.22 of the Revised Code. The article shall not be sold contrary to this section. Upon payment of costs and execution and delivery of a good and sufficient bond conditioned that the article shall not be disposed of unlawfully, the court may direct that the article be delivered to the owner thereof for relabeling or reprocessing.

Sec. 921.29. Fines, penalties, costs, and damages assessed against a person in consequence of violations of this chapter, as provided in this chapter or any other section of the Revised Code, shall be a lien in favor of the state upon the real and personal property of the person, upon the filing of a judgment or an order of the director of agriculture with the county in which the real and personal property is located. The real and personal property of the person shall be liable to execution for the fines, penalties, costs, and damages by the attorney general, who shall deposit any proceeds from an execution upon the property in the pesticide, fertilizer, and lime program fund created in section 921.22 of the Revised Code.

Sec. 923.44. (A)(1) Except as otherwise provided in divisions (A)(2), (3), and (4) of this section, the first distributor of a commercial feed shall pay the director of agriculture a semiannual inspection fee at the rate of twenty-five cents per ton, with a minimum payment of twenty-five dollars, on all commercial feeds distributed by the first distributor in this state.

(2) The semiannual inspection fee required under division (A)(1) of this section shall not be paid by the first distributor of a commercial feed if the distribution is made to an exempt buyer who shall be responsible for the fee.

The director shall establish an exempt list consisting of those buyers who are responsible for the fee.

(3) The semiannual inspection fee shall not be paid on a commercial feed if the fee has been paid by a previous distributor.

(4) The semiannual inspection fee shall not be paid on customer-formula feed if the fee has been paid on the commercial feeds that are used as components in that customer-formula feed.

(B) Each distributor or exempt buyer who is required to pay a fee under division (A)(1) or (2) of this section shall file a semiannual statement with the director that includes the number of net tons of commercial feed distributed by the distributor or exempt buyer in this state, within thirty days after the thirtieth day of June and within thirty days after the thirty-first day of December, respectively, of each calendar year.

The inspection fee at the rate stated in division (A)(1) of this section shall accompany the statement. For a tonnage report that is not filed or payment of inspection fees that is not made within fifteen days after the due date, a penalty of ten per cent of the amount due, with a minimum penalty of fifty dollars shall be assessed against the distributor or exempt buyer. The amount of fees due, plus penalty, shall constitute a debt and become the basis of a judgment against the distributor or exempt buyer.

(C) No information furnished under this section shall be disclosed by an employee of the department of agriculture in such a way as to divulge the operation of any person required to make such a report.

(D) All money collected under this section shall be credited to the commercial feed and seed fund created in section 923.46 of the Revised Code.

~~Sec. 923.46. All moneys collected by the director of agriculture under sections 923.41 to 923.55 of the Revised Code shall be deposited into the state treasury to the credit of the~~ The commercial feed, fertilizer, and seed; and lime inspection and laboratory fund is hereby created in section 905.38 the state treasury. The fund shall consist of money credited to it under this chapter and Chapter 907. of the Revised Code.

~~The director shall prepare and provide a report concerning the fund in accordance with section 905.381 of the Revised Code~~ keep accurate records of all receipts into and disbursements from the fund and shall prepare, and provide upon request, an annual report classifying the receipts and disbursements that pertain to commercial feed or seed.

Sec. 927.51. As used in sections 927.51 to ~~927.74~~ 927.73 of the Revised Code:

(A) "Collected plant" means any plant dug or gathered from any wood

lot, field, forest, or any other location in which such a plant is found growing in its native habitat.

(B) "Collector" means any person who collects, for sale, plants from wood lots, fields, forests, or other native habitat.

(C) "Dealer" means any person other than a nurseryman who offers for sale, sells, or distributes nursery stock, either exclusively or in connection with other merchandise, in or from any nursery, store, sales ground, stand, lot, truck, railway car, or other vehicle. "Dealer" includes any landscaper who sells or offers for sale nursery stock as a part of a grounds improvement project ~~which that~~ may involve the installation of such plants.

(D) "Hardy," when applied to plants and bulbs, whether wild or cultivated, means capable of surviving the normal winter temperatures of this state.

(E) "Host" means any plant or plant product from which any pest derives its food supply, or upon which it depends for its well being or to complete any part of its life cycle.

(F) "Infested" means containing or harboring one or more pests or infected with one or more pests.

(G) "Nursery" means any grounds or premises on or in which nursery stock is propagated or grown for sale.

(H) "Nurseryman" means a person who owns, leases, manages, or is in charge of a nursery.

(I) "Nursery stock" means:

(1) Any hardy tree, shrub, plant, or bulb, whether wild or cultivated, except turfgrass, and any cutting, graft, scion, or bud thereof;

(2) Any nonhardy plant, or plant part, ~~which that~~ is to be offered for sale in any state ~~which that~~ requires inspection and certification of ~~such the~~ plant or plant part as a condition of entrance therein.

(J) "Person" means any corporation, company, society, association, partnership, individual or combination of individuals, institution, park, or any public agency administered by the state or any subdivision of the state.

(K) "Pest" means any insect, mite, nematode, bacteria, fungus, virus, parasitic plant, or any other organism or any stage of any such organism ~~which that~~ causes, or is capable of causing, injury, disease, or damage to any plant, plant part, or plant product.

(L) "Place of business" means each separate location from which nursery stock is sold, offered for sale, or distributed.

(M) "Intensive production area" means a place where nursery stock is propagated or grown using greenhouses, liner beds, lath beds, or containers.

(N) "Nonintensive production area" means any place where nursery

stock is propagated or grown as field stock.

(O) "Forced floral plants" means plants with desirable flower characteristics in which the bloom is artificially induced at an unnatural time of the year.

Sec. 927.52. (A) The director of agriculture shall adopt and enforce any rules that are necessary to carry out sections 927.51 to ~~927.74~~ 927.73 of the Revised Code.

(B) The director may revoke, suspend, or refuse to issue any nursery certificate or dealer's license for any violation of sections 927.51 to 927.71 of the Revised Code, or of any rules adopted under those sections.

(C) The director may publish reports describing nursery inspection and pest control operations authorized by sections 927.51 to 927.71 of the Revised Code.

Sec. 927.53. (A) Each collector or dealer who sells, offers, or exposes for sale, or distributes nursery stock within this state, or ships nursery stock to other states, shall pay an annual license fee of ~~fifty~~ one hundred twenty-five dollars to the director of agriculture for each place of business the collector or dealer operates.

(B)(1) Each dealer shall furnish the director, annually, an affidavit that the dealer will buy and sell only nursery stock which has been inspected and certified by an official state or federal inspector.

(2) Each dealer's license expires on the thirty-first day of December of each year. Each licensed dealer shall apply for renewal of the dealer's license prior to the first day of January of each year and in accordance with the standard renewal procedure of sections 4745.01 to 4745.03 of the Revised Code.

(C) Each licensed nurseryperson shall post conspicuously in the nurseryperson's principal place of business, the certificate which is issued to the nurseryperson in accordance with section 927.61 of the Revised Code.

(D) Each licensed nurseryperson, or dealer, shall post conspicuously in each place of business, each certificate or license which is issued to the nurseryperson or dealer in compliance with this section or section 927.61 of the Revised Code.

(E)(1) Each nurseryperson who produces, sells, offers for sale, or distributes woody nursery stock within the state, or ships woody nursery stock to other states, shall pay to the director an annual inspection fee of ~~fifty~~ one hundred dollars plus ~~four~~ eleven dollars per acre, or fraction thereof, of growing nursery stock in intensive production areas and ~~two~~ seven dollars per acre, or fraction thereof, of growing nursery stock in nonintensive production areas, as applicable.

(2) Each nurseryperson who limits production and sales of nursery stock to brambles, herbaceous, perennial, and other nonwoody plants, shall pay to the director an inspection fee of ~~thirty~~ one hundred dollars, plus ~~four~~ eleven dollars per acre, or fraction thereof, of growing nursery stock in intensive and nonintensive production areas.

~~(F) On and after the effective date of this amendment, the following additional fees shall be assessed:~~

~~(1) Each collector or dealer who pays a fee under division (A) of this section shall pay an additional fee of twenty five dollars.~~

~~(2) Each nurseryperson who pays fees under division (E)(1) of this section shall pay additional fees as follows:~~

~~(a) Fifteen dollars for the inspection fee;~~

~~(b) Fifty cents per acre, or fraction thereof, of growing nursery stock in intensive production areas;~~

~~(c) One dollar and fifty cents per acre, or fraction thereof, of growing nursery stock in nonintensive production areas.~~

~~(3) Each nursery person who pays fees under division (E)(2) of this section shall pay additional fees as follows:~~

~~(a) Thirty five dollars for the inspection fee;~~

~~(b) Fifty cents per acre, or fraction thereof, of growing stock in intensive and nonintensive production areas. The~~

~~The fees collected under division (F) of this section shall be deposited into the state treasury credited to the credit of the pesticide plant pest program fund created in Chapter 921, section 927.54 of the Revised Code. Moneys so credited to the fund shall be used to pay the costs incurred by the department of agriculture in administering this chapter, including employing a minimum of two additional inspectors.~~

~~Sec. 927.54. The plant pest program fund is hereby created in the state treasury. The fund shall consist of money credited to it under this chapter and any rules adopted under it. The director of agriculture shall use money in the fund to administer this chapter.~~

~~The director shall keep accurate records of all receipts into and disbursements from the fund and shall prepare, and provide upon request, an annual report classifying the receipts and disbursements that pertain to plant pests.~~

Sec. 927.56. (A) Each nurseryman, dealer, or collector of nursery stock, who resides in or has his principal place of business in another state and who sends nursery stock into this state without having a bona fide order in advance for all such nursery stock, shall obtain the same license ~~which that~~ is required by section 927.53 of the Revised Code.

(B) The director of agriculture may enter into such reciprocal contracts and agreements as ~~he~~ the director determines proper and expedient, with the proper authorities of other states or of the federal government to regulate the shipment, sale, and distribution of nursery stock in this state by persons residing in or located in another state, in accordance with sections 927.51 to ~~927.74, inclusive,~~ 927.73 of the Revised Code.

Sec. 927.69. To effect the purpose of sections 927.51 to ~~927.74~~ 927.73 of the Revised Code, the director of agriculture or the director's authorized representative may:

(A) Make reasonable inspection of any premises in this state and any property therein or thereon;

(B) Stop and inspect in a reasonable manner, any means of conveyance moving within this state upon probable cause to believe it contains or carries any pest, host, commodity, or other article that is subject to sections 927.51 to 927.72 of the Revised Code;

(C) Conduct inspections of agricultural products that are required by other states, the United States department of agriculture, other federal agencies, or foreign countries to determine whether the products are infested. If, upon making such an inspection, the director or the director's authorized representative determines that an agricultural product is not infested, the director or the director's authorized representative may issue a certificate, as required by other states, the United States department of agriculture, other federal agencies, or foreign countries, indicating that the product is not infested.

If the director charges fees for any of the certificates, agreements, or inspections specified in this section, the fees shall be as follows:

(1) Phyto sanitary certificates, twenty-five dollars for those collectors or dealers that are licensed under section 927.53 of the Revised Code;

(2) Phyto sanitary certificates, one hundred dollars for all others;

(3) Compliance agreements, ~~twenty~~ forty dollars;

~~(3) Solid wood packing certificates, twenty dollars;~~

(4) Agricultural products and their conveyances inspections, an amount equal to the hourly rate of pay in the highest step in the pay range, including fringe benefits, of a plant pest control specialist multiplied by the number of hours worked by such a specialist in conducting an inspection.

The director may adopt rules under section 927.52 of the Revised Code that define the certificates, agreements, and inspections.

The fees shall be ~~deposited into the state treasury~~ credited to the credit of the pesticide plant pest program fund created in Chapter 921, section 927.54 of the Revised Code. ~~Money credited to the fund shall be used to pay~~

~~the costs incurred by the department of agriculture in administering this chapter, including employing a minimum of two additional inspectors.~~

Sec. 927.70. (A) No person shall knowingly permit any plant pest ~~which~~ that has been determined to be destructive or dangerously harmful by the director of agriculture, in compliance with procedures required by division (A) of section 927.52 of the Revised Code, to exist in or on ~~his~~ the person's premises.

(B) Whenever the director or ~~his~~ the director's authorized representative finds any article or commodity to be infested or has reason to believe it to be infested, or finds that a host or pest exists on any premises, or is in transit in this state, ~~he~~ the director may:

(1) Upon giving notice to the owner or ~~his~~ the owner's agent in possession thereof, seize, quarantine, treat, or otherwise dispose of ~~such~~ the pest, host, article, or commodity in such manner as ~~he~~ the director determines necessary to suppress, control, eradicate, or to prevent or retard the spread of a pest;

(2) Order ~~such~~ the owner or agent to so treat or otherwise dispose of the pest, host, article, or commodity.

(C) If the owner or person in charge of ~~such~~ the premises refuses or neglects to carry out the orders of the director within seven days after receiving written notice, the director may treat the premises; treat or destroy the infested plants or plant material; or apply any other preventive or remedial measure ~~which he~~ that the director determines necessary. The expense of any such preventative or remedial measures shall be assessed, collected, and enforced, as taxes are assessed, collected, and enforced, against the premises upon which ~~such~~ the expense was incurred. The amount of ~~such~~ the expense when collected shall be ~~paid to the director and by him deposited with the treasurer of state~~ credited to the plant pest program fund created in section 927.54 of the Revised Code.

Sec. 927.701. (A) As used in this section, "gypsy moth" means the live insect, *Lymantria dispar*, in any stage of development.

(B) The director of agriculture may establish a voluntary gypsy moth suppression program under which a landowner may request that the department of agriculture have the landowner's property aerially sprayed to suppress the presence of gypsy moths in exchange for payment from the landowner of a portion of the cost of the spraying. To determine the ~~amount of payment that is due from a landowner~~ total cost per acre, the department ~~first shall determine the projected cost per acre to the department of gypsy moth suppression activities for the year in which the landowner's request is made. The cost shall be calculated by determining the total expense of aerial~~

~~spraying for gypsy moths to be incurred by the department in that year divided by the total number of acres proposed to be sprayed in that year. With respect to a landowner add the per-acre cost of the product selected by the landowner to suppress gypsy moths and the per-acre cost of applying the product as determined by the director in rules. To determine the aggregate total cost, the department shall multiply the total cost per acre by the number of acres that the landowner requests to be sprayed. The department shall add to that amount any administrative costs that it incurs in billing the landowner and collecting payment. The amount that the landowner shall pay to the department shall not exceed fifty per cent of the resulting amount. The portion of the cost that is assessed to the landowner, if any, shall be determined by the funding that is allocated to the department by the federal and state gypsy moth suppression programs.~~

(C) The director shall adopt rules under Chapter 119. of the Revised Code to establish procedures under which a landowner may make a request under division (B) of this section, to establish the per-acre cost of applying product to suppress gypsy moths, and to establish provisions governing agreements between the department and landowners concerning gypsy moth suppression together with any other provisions that the director considers appropriate to administer this section.

(D) The director shall deposit all money collected under this section ~~into the state treasury~~ to the credit of the pesticide plant pest program fund created in ~~Chapter 921. section 927.54~~ of the Revised Code. Money credited to the fund under this section shall be used for the suppression of gypsy moths in accordance with this section.

Sec. 927.71. (A) The director of agriculture, in accordance with Chapter 119. of the Revised Code, may quarantine:

(1) This state or any portion thereof when ~~he~~ the director determines that such action is necessary to prevent or retard the spread of a pest into, within, or from this state;

(2) Any other state or portion thereof when ~~he~~ the director determines that a pest exists therein and that such action is necessary to prevent or retard its spread into this state.

(B) The director may limit the application of a quarantine to the infested portions of the quarantined area and appropriate environs, to be known as the regulated area, and may, without further hearing, extend the regulated area to include additional portions of the quarantined area either:

(1) Upon publication of a notice to that effect in such newspapers in the quarantined area as ~~he~~ the director may select;

(2) Upon written notice to those concerned.

(C) Following establishment of a quarantine, no person shall move any regulated article described in the quarantine, or move the pest against which the quarantine is established, within, from, into, or through this state contrary to ~~regulations promulgated~~ rules adopted by the director without prior permission or order of the director.

(D) A ~~regulation~~ rule may restrict the movement of a pest and any regulated article from the quarantined or regulated area in this state into or through other parts of this state or other states and from the quarantine or regulated area in other states into or through this state and may impose such inspection, disinfection, certification, permit, or other requirements as the director determines necessary to effectuate the purpose of sections 927.51 to ~~927.74, inclusive,~~ 927.73 of the Revised Code.

Sec. 942.01. As used in sections 942.01 to 942.13 of the Revised Code:

(A) "Conveyance" means a vehicle, trailer, or compartment that is used to transport raw rendering material.

~~(B)~~ "Garbage" means all waste material derived in whole or in part from the meat of any animal, including fish and poultry, or other animal material, and other refuse of any character that has been associated with such waste material resulting from the handling, preparation, cooking, or consumption of food.

~~(B)(C)~~ "Person" means any individual, corporation, partnership, association, society, company, firm, or other legal entity.

~~(C)(D)~~ "Raw rendering material" has the same meaning as in section 953.21 of the Revised Code.

~~(E)~~ "Treated garbage" means any edible garbage for consumption by swine that has been heated at boiling point while being agitated, except in steam cooking equipment, to ensure that the garbage is heated throughout for thirty minutes under the supervision of a person licensed pursuant to section 942.02 of the Revised Code.

Sec. 942.02. (A) No person shall feed on ~~his~~ the person's premises, or permit the feeding of, treated garbage to swine without a license to do so issued by the department of agriculture.

(B) An application for a license to feed treated garbage shall be made in writing on a form prescribed by the director of agriculture.

(C) A license shall be renewed before the thirty-first day of December of each year, and an application for renewal shall be filed before the thirtieth day of November of each year.

(D) The fee for the license shall be ~~fifty~~ one hundred dollars per annum. A late fee of fifty dollars shall be paid for each application that is received after the thirtieth day of November each year.

(E) All money collected under this section shall be credited to the animal and consumer analytical laboratory fund created in section 901.43 of the Revised Code.

Sec. 942.06. (A) Equipment used for handling garbage, except for the containers in which the garbage is treated, and conveyances shall not subsequently be used in the feeding of swine unless first cleaned and disinfected in accordance with directions on the labels of one of the following disinfectants approved by the "Federal Insecticide, Fungicide and Rodenticide Act," 61 Stat. 163 (1947), 7 U.S.C.A. 136, as amended:

- (1) A registered brand of sodium orthophenylphenate;
- (2) A registered cresylic disinfectant, provided that the conditions set forth under 9 C.F.R. 71.10 and 77.11 are met;
- (3) Disinfectants with tuberculocidal claims and labeled as efficacious against any species within the viral genus herpes.

(B) Treated or untreated garbage that is not fed to swine and materials associated with such garbage shall be disposed of in a manner consistent with all applicable federal and state laws and in an area inaccessible to the swine.

(C) All refuse resulting from feeding treated garbage to swine; that is not fed to swine shall be disposed of in a manner so as to prevent the attraction of insects and rodents or the contamination of adjoining property.

(D) The premises, vehicles, and equipment used in the feeding of treated garbage to swine shall be subject to inspection by the department of agriculture during regular business hours. If the director of agriculture or his the director's designee is denied access to any premises as authorized under this division, ~~he~~ the director or the director's designee may apply to any court of competent jurisdiction for a search warrant authorizing access to the requested premises. Upon receipt of an application for a search warrant, the court may issue a search warrant for the purposes requested.

(E)(1) The owner of the premises, vehicles, and equipment used in the feeding of treated garbage to swine and licensed pursuant to section 942.02 of the Revised Code shall be responsible for cleaning and disinfecting them with no expense to the department.

(2) The owner of a conveyance is responsible for cleaning and disinfecting the conveyance with no expense to the department.

Sec. 942.13. This chapter does not apply to ~~any~~ either of the following:

(A) An individual who feeds garbage from ~~his~~ the individual's household to ~~his~~ the individual's own animals or ~~to any~~ an individual who only feeds bakery waste, candy waste, eggs, vegetables, or dairy products to swine;

(B) Rendered products. As used in this division, "rendered product" means raw rendering material that has been ground and heated to a minimum temperature of two hundred thirty degrees Fahrenheit to make products such as animal, poultry, or fish protein, grease, or tallow.

Sec. 943.01. As used in sections 943.01 to 943.18 of the Revised Code:

(A) "Animals" or "livestock" means horses, mules, and other equidae, cattle, sheep, and goats and other bovidae, swine and other suidae, poultry, alpacas, and llamas.

(B) "Dealer" or "broker" means any person found by the department of agriculture buying, receiving, selling, slaughtering, with the exception of those persons designated by division (B)(1) of section 918.10 of the Revised Code, exchanging, negotiating, or soliciting the sale, resale, exchange, or transfer of any animals in an amount of more than two hundred fifty head of cattle, horses, or other equidae or five hundred head of sheep, goats, or other bovidae ~~or~~, swine and other suidae ~~or~~, poultry, alpacas, or llamas during any one year. "Dealer" or "broker" does not mean any of the following:

(1) Any railroad or other carrier transporting animals either interstate or intrastate;

(2) Any person who by dispersal sale is permanently discontinuing the business of farming, dairying, breeding, raising, or feeding animals;

(3) Any person who sells livestock that has been raised from birth on the premises of the person;

(4) Any person who buys or receives animals for grazing or feeding purposes at a premises owned or controlled by the person and sells or disposes of the animals after the minimum grazing or feeding period of thirty days;

(5) Any person who places livestock in facilities other than the person's own pursuant to a written agreement for feeding or finishing, provided that the person retains legal and equitable title to the livestock during the term of the agreement.

The exemptions set forth in divisions (B)(1) to (5) of this section are exclusive of those activities requiring licensure under this chapter, so that a person shall be deemed to be a dealer or broker or subject to divisions (B)(1) to (5) of this section, but shall not be, or be subject to, both. No person who is a licensed dealer or broker and whose license is suspended shall have livestock or animals exempted pursuant to divisions (B)(1) to (5) of this section.

(C) "Employee" means any person employed by a dealer or broker to act in the dealer's or broker's behalf to buy, sell, exchange, negotiate, or solicit sale or resale of animals in the dealer's or broker's name.

(D) "Small dealer" means any person found by the department buying, receiving, selling, slaughtering, with the exception of those persons designated by division (B)(1) of section 918.10 of the Revised Code, exchanging, negotiating, or soliciting the sale, resale, exchange, or transfer of any animals in an amount of two hundred fifty head or less of cattle, horses, or other equidae or five hundred head or less of sheep, goats, or other bovidae, swine or other suidae, poultry, alpacas, or llamas during any one year.

Sec. 943.02. (A) No person shall act as a small dealer, dealer, or broker without first being licensed. No person shall be an employee of more than one small dealer, dealer, or broker. Except as provided in division (B) of this section, no person holding a license as a small dealer, dealer, or broker shall be an employee. No employee shall act for any small dealer, dealer, or broker unless the small dealer, dealer, or broker is licensed, and has designated the employee to act in ~~his~~ the small dealer's, dealer's, or broker's behalf and has notified the department of agriculture in ~~his~~ the application for license or has given official notice in writing of the appointment of the employee. The small dealer, dealer, or broker shall be accountable and responsible for all contracts pertaining to the purchase, exchange, or sale of livestock made by the employee. The small dealer, dealer, or broker who terminates the services of an employee shall notify the department in writing of the employee's termination. No person who is a licensed small dealer, dealer, or broker shall have livestock exempted pursuant to divisions (B)(1) ~~through (5)~~ to (6) of section 943.01 of the Revised Code.

(B) A small dealer, dealer, or broker may be an employee of other small dealers, dealers, or brokers only when ~~he~~ the small dealer, dealer, or broker so employed is a soliciting agent for a video auction.

(C) The director of agriculture shall define by rule "soliciting agent" and "video auction" for the purposes of this section.

Sec. 943.031. (A) Application for a license as a small dealer shall be made in writing to the department of agriculture. The application shall state the nature of the business, the municipal corporation or township, county, and post-office address of the location where the business is to be conducted, the name of any employee who is authorized to act in the small dealer's behalf, and any additional information that the department prescribes.

(B) The applicant shall satisfy the department of the applicant's character and good faith in seeking to engage in the business of a small dealer. The department then shall issue to the applicant a license to conduct the business of a small dealer at the place named in the application.

Licenses, unless revoked, shall expire annually on the thirty-first day of March and shall be renewed according to the standard renewal procedure established in sections 4745.01 to 4745.03 of the Revised Code.

(C) No license shall be issued by the department to a small dealer having weighing facilities until the applicant has filed with the department a copy of a scale test certificate showing the weighing facilities to be in satisfactory condition, a copy of the license of each weigher employed by the applicant, and a certificate of inspection by the department showing livestock market facilities to be in satisfactory sanitary condition.

(D) No licensed small dealer shall employ as an employee a person who, as a small dealer, dealer, or broker, previously defaulted on contracts pertaining to the purchase, exchange, or sale of livestock until the licensee does both of the following:

(1) Appears at a hearing before the director of agriculture or the director's designee conducted in accordance with Chapter 119. of the Revised Code pertaining to that person;

(2) Signs and files with the director an agreement that guarantees, without condition, all contracts pertaining to the purchase, exchange, or sale of livestock made by the person while in the employ of the licensee. The director shall prescribe the form and content of the agreement.

(E) A licensed small dealer is not required to maintain financial responsibility or furnish proof of financial responsibility.

Sec. 943.04. (A) Fees for the initial issuance of any license issued pursuant to sections 943.02 and, 943.03, and 943.031 of the Revised Code, shall be paid to the department of agriculture.

(B) All annual renewal fees for ~~such~~ the licenses shall be paid by the applicant for ~~such~~ the renewal of a license on or before the thirty-first day of March of each year to the treasurer of state. ~~Such~~ Except for license fees for small dealers, the fees shall be based on the number of head of livestock purchased, sold, or exchanged, in this state, whichever is the greatest, during the preceding calendar year. ~~Such~~ Those fees for dealers or brokers shall be as follows:

- Less than 1,000 head ~~\$10.00~~ \$50.00 per annum;
- For 1,001 to 10,000 head ~~\$25.00~~ \$125.00 per annum;
- For more than 10,000 head ~~\$50.00~~ \$250.00 per annum.

In the event a dealer or broker operates more than one place where livestock is purchased, sold, or exchanged, a fee shall be paid for each ~~such~~ place, but only the original purchase, sale, or exchange shall be counted in computing the amount of the fee to be paid for each ~~such~~ place operated by ~~such~~ the dealer or broker. Shipment between yards owned or operated by

~~such~~ the dealer or broker shall be exempt.

A late fee of one hundred dollars shall be paid for each dealer or broker license renewal application that is received after the thirty-first day of March each year.

(C)(1) A fee of twenty-five dollars shall be paid by each small dealer.

If a small dealer operates more than one place where livestock is purchased, sold, or exchanged, a fee shall be paid for each place, but only the original purchase, sale, or exchange shall be counted in computing the amount of fee to be paid for each place operated by the small dealer. Shipment between yards owned or operated by the small dealer shall be exempt.

(2) A late fee of twenty-five dollars shall be paid for each small dealer license renewal application that is received after the thirty-first day of March each year.

(D) A fee of twenty dollars shall be paid by each employee that is appointed by a small dealer, dealer, or broker as provided in section 943.02 of the Revised Code.

(E) A fee of ~~five~~ ten dollars shall be paid by each licensed weigher.

(F) All fees and charges ~~money~~ collected under section 943.03 of the Revised Code; and under this section shall be ~~paid into the state treasury, and shall be~~ credited to the ~~general revenue~~ animal and consumer analytical laboratory fund created in section 901.43 of the Revised Code.

Sec. 943.05. (A) The director of agriculture may refuse to grant or may suspend a small dealer's, dealer's, or broker's license, without prior hearing, ~~when he determines~~ after determining from evidence presented to ~~him~~ the director that there is reasonable cause to believe any of the following situations exist:

(1) Where the applicant or licensee or an employee has violated the laws of the state or official regulations governing the interstate or intrastate movement, shipment, or transportation of animals, or has been convicted of a crime involving moral turpitude or convicted of a felony;

(2) Where there have been false or misleading statements as to the health or physical condition of the animals with regard to official tests or quantity of animals, or the practice of fraud or misrepresentation in connection therewith or in the buying or receiving of animals or receiving, selling, exchanging, soliciting, or negotiating the sale, resale, exchange, weighing, or shipment of animals;

(3) Where the applicant or licensee acts as a small dealer, dealer, or broker for a person attempting to conduct business in violation of section 943.02 of the Revised Code, after the notice of the violation has been given

to the licensee by the department of agriculture;

(4) Where the applicant or licensee or employee fails to practice measures of sanitation, disinfection, and inspection as required by sections 943.01 to 943.18 of the Revised Code, or prescribed by the department, of premises or vehicles used for the yarding, holding, or transporting of animals;

(5) Where there has been a failure to keep records required by the department or where there is a refusal on the part of the applicant or licensee or employee to produce records of transactions in the carrying on of the business for which the license is granted;

(6) Where the applicant or licensee providing weighing facilities used for, in connection with, or incident to the purchase or sale of livestock for the account of the licensee or others, fails to maintain and operate the weighing facilities in accordance with sections 943.08 and 943.10 of the Revised Code;

(7) Where the applicant or licensee in the conduct of the business covered by the license fails to maintain and operate weighing facilities in accordance with sections 943.08 and 943.10 of the Revised Code or fails to cause its livestock to be weighed by licensed weighers as provided in those sections;

(8) ~~Where~~ With regard to a dealer or broker licensee, where the licensee fails to maintain a bond or deposit, or letter of credit, if applicable, or fails to adjust the bond or deposit upon thirty days' notice or refuses or neglects to pay the fees or inspection charges required to be paid;

(9) Where the licensee has been suspended by order of the secretary of agriculture of the United States department of agriculture under provisions of the "Packers and Stockyards Act of 1921," 42 Stat. 159, 7 U.S.C.A. 181, as amended;

(10) ~~Where~~ With regard to a dealer or broker licensee, where the surety company, trustee, or issuer of a letter of credit of the licensee issues a notice of termination of the licensee's bond agreement, deposit agreement, or letter of credit.

(B) When the director refuses to grant or suspends a small dealer's, dealer's, or broker's license, ~~he the director or his the director's~~ designee may hand deliver the order. The licensee to whom a suspension order is issued shall be afforded a hearing in accordance with Chapter 119. of the Revised Code, after which the director shall reinstate, revoke, or suspend for a longer or indefinite period the suspended license.

Sec. 943.06. Every small dealer, dealer, and broker licensed under section 943.03 or 943.031 of the Revised Code, as applicable, and carrying

on or conducting business under ~~such that~~ license, shall post in a conspicuous place in or at the place of business of ~~such the~~ licensee a copy of ~~such the~~ license furnished by the department of agriculture, to be kept so posted and exposed for inspection by any person.

Sec. 943.07. Each small dealer, dealer, or broker leasing, renting, operating, or owning livestock yards, pens, premises, or vehicles in which animals are quartered, fed, held, or transported, shall have a veterinary inspector approved by the department of agriculture, inspect, when directed, all such yards, premises, and vehicles and shall thoroughly and completely disinfect all such yards, pens, premises, and vehicles under the direction of the veterinary inspector and as prescribed by the department. The cost of ~~such the~~ inspection and disinfection shall be borne by ~~such the small dealer~~, dealer, or broker.

The department shall not require such veterinary inspection of yards, pens, premises, or other facilities where veterinary inspection is regularly maintained by the United States department of agriculture, or by the municipal corporation in which the same are located, or where livestock is transported to markets or slaughtering establishments where such inspection is maintained.

The department may adopt ~~and promulgate~~ adequate sanitary requirements covering the construction and maintenance of buildings, pens, and chutes on all premises regularly used for the assembling, receiving, handling, feeding, watering, holding, buying, or selling of livestock, and may prescribe and enforce rules ~~and regulations~~ for the purpose of carrying into effect sections 943.01 to 943.18 of the Revised Code. ~~Such Those~~ sections shall not apply to railroads subject to the "Interstate Commerce Act of 1887," 24 Stat. 379, 49 U.S.C.A. 1.

Sec. 943.13. The department of agriculture shall require inspection, tests, and treatments necessary to prevent the spread of diseases of all animals sold or transferred from pens, yards, premises, or vehicles by ~~brokers or small dealers~~, dealers, or brokers except when such animals are immediately delivered to a slaughtering establishment. ~~Such The~~ inspection, tests, and treatments shall be made by a veterinary inspector approved by the department and shall be made and reported as prescribed by the department. The fees for ~~such that~~ service shall be paid by the ~~broker or small dealer~~, dealer, or broker. This section shall not apply to a person operating a slaughtering establishment at which antemortem veterinary inspection is regularly maintained.

The director of agriculture, without a prior hearing, may revoke the approval of a veterinary inspector. A person to whom an order of revocation

is issued shall be afforded a hearing in accordance with sections 119.01 to 119.13 of the Revised Code.

Animals sold through a livestock auction market shall be accompanied by a release as may be prescribed by the department and issued by the ~~broker or small dealer, dealer, or broker.~~ Such The release shall state the date, number and kind of animals moved, point of origin, and buyer.

Animals sold for slaughter may be identified by an ear tag, a livestock paint brand, or other prescribed identification, whenever the department finds such identification necessary.

Operators of livestock auction markets shall furnish and maintain cattle chutes suitable for restraining animals for careful inspection and shall provide suitable laboratory space for the veterinary inspector. All swine pens shall be paved and maintained so that they can be cleaned and disinfected. All diseased animals shall be segregated by species and held in designated pens constructed to facilitate cleaning and disinfecting.

Sec. 943.14. (A) The department of agriculture or any of its authorized agents may inspect the records of any licensee or employee at any time to determine the origin and destination of any livestock handled by the licensee and to determine if sections 943.01 to 943.18 of the Revised Code, or the rules ~~promulgated~~ adopted thereunder, have been violated.

(B) A small dealer, dealer, or broker, employee, or person described in division (B)(4) of section 943.01 of the Revised Code, who acquires or disposes of an animal by any means, shall make a record of the name and address of the person from whom the animal was acquired and to whom disposed. The record also shall show the individual identification of each animal at the time of acquisition or disposal. These records shall be maintained for a period of ~~twenty-four~~ sixty months or longer from the date of acquisition or disposal.

(C) The individual identification in division (B) of this section shall be in a manner or form approved by the department.

(D) A person who is a soliciting agent for a video auction pursuant to division (B) of section 943.02 of the Revised Code shall maintain records in a manner or form approved by the department.

Sec. 943.16. All fines imposed and collected under section 943.99 of the Revised Code; shall be ~~paid to the department of agriculture and by it paid into the state treasury~~ credited to the animal and consumer analytical laboratory fund created in section 901.43 of the Revised Code.

Sec. 953.21. As used in this chapter:

(A) "Animal" means any animal, other than ~~man~~ a human being, and includes domestic fowl, wild birds, fish, and reptiles, living or dead.

(B) "Licensee" means any person who is licensed in accordance with this chapter.

(C) "Loading platform" means any place operated by a licensee for loading dead animals, or parts thereof, onto trucks to take them to a rendering plant or composting facility.

(D) "Person" means any natural person, partnership, association, or corporation.

(E) "Raw rendering material" means any body, part of a body, or product of a body of any dead animal that is unwholesome, condemned, inedible, or otherwise unfit for human consumption.

(F) "Rendering plant" means any premises where raw rendering materials are converted into fats, oils, feeds, fertilizer, and other products.

(G) "Composting facility" means any premises, including ~~structure~~ structures and equipment, operating in accordance with rules adopted under section 3734.02 of the Revised Code and used for the controlled decomposition of organic solid material, including dead animals, that stabilizes the organic fraction of the material.

(H) "Conveyance" means a vehicle, trailer, or compartment.

Sec. 953.22. (A) No person shall engage in the business of disposing of, picking up, rendering, or collecting raw rendering material or transporting the material to a composting facility without a license to do so from the department of agriculture.

(B) This chapter does not apply to any of the following:

~~(1) Operations on any premises that are licensed in compliance with Chapter 918. of the Revised Code or are subject to federal meat inspection and render only raw rendering material that is produced on the premises;~~

~~(2)~~ (2) A farmer who slaughters ~~his~~ the farmer's own animals, raised by ~~him~~ the farmer on ~~his~~ the farmer's own farm, processes ~~his~~ the farmer's own meat therefrom, and disposes of ~~his~~ the farmer's raw rendering material only by delivery to a person licensed under section 953.23 of the Revised Code;

~~(3)~~ (2) A person whose only connection with raw rendering material is curing hides and skins;

~~(4)~~ (3) A person whose only connection with raw rendering material is operating a pet cemetery;

~~(5)~~ (4) A person who is conducting composting, as defined in section 1511.01 of the Revised Code, in accordance with section 1511.022 of the Revised Code;

(5) A person whose only connection with raw rendering material is trapping wild animals in accordance with a nuisance wild animal permit issued by the chief of the division of wildlife in the department of natural

resources under rules adopted pursuant to section 1531.08 of the Revised Code:

(6) A county dog warden or animal control officer who transports raw rendering material only for disposal purposes.

Sec. 953.23. (A) Application for a license shall be made to the department of agriculture on a form prescribed by the department.

(B) Each application shall include all of the following:

(1) The name and address of the applicant;

(2) The applicant's proposed place of business;

(3) A detailed statement of the method that the applicant intends to use to dispose of, pick up, render, or collect raw rendering material or to transport it to a composting facility;

(4) Such other relevant information as the department may require.

(C) Each applicant shall submit the annual license fee with ~~his~~ the application.

(1) The license fee for a person applying for an annual license to pick up or collect raw rendering material and dispose of the material to a licensee or in accordance with divisions (B) and (C) of section 953.26 of the Revised Code, or to transport raw rendering material to a composting facility, is twenty-five dollars per conveyance that is used to pick up or collect and dispose of or to transport raw rendering material. A late fee of ten dollars per conveyance shall be charged for each application that is received after the thirtieth day of November each year.

(2) The license fee for a person applying for an annual license to pick up or collect raw rendering material and to operate one or more rendering plants is ~~one~~ three hundred dollars for each such plant. A late fee of one hundred dollars shall be charged for each application that is received after the thirtieth day of November each year.

(D) On receipt of an application and fee, under this section, the department shall inspect the means of conveyance and premises that the applicant proposes to use to dispose of, collect, pick up, or render raw rendering material or to transport it to a composting facility for profit.

(E) If the department finds that the applicant's means of conveyance, premises, and operation meet the requirements of this chapter and rules adopted thereunder, the department shall issue a license to the applicant to dispose of, pick up, render, or collect for profit raw rendering material or to transport it to a composting facility for profit.

(F) Each license issued under this section shall expire on the thirty-first day of December of each year. Each person licensed under this section shall make application for renewal of ~~his~~ the person's license no later than the

thirtieth day of November of each year.

(G) Application for renewal shall be in accordance with the requirements of this section for initial application for a license and the standard renewal procedure of sections 4745.01 to 4745.03 of the Revised Code.

(H) All money collected under this section shall be credited to the animal and consumer analytical laboratory fund created in section 901.43 of the Revised Code.

Sec. 955.201. (A) As used in this section and in section 955.202 of the Revised Code, "Ohio pet fund" means a nonprofit corporation organized by that name under Chapter 1702. of the Revised Code that consists of humane societies, veterinarians, animal shelters, companion animal breeders, dog wardens, ~~and~~ or similar individuals and entities.

(B) The Ohio pet fund shall do all of the following:

(1) Establish eligibility criteria for organizations that may receive financial assistance from the pets program funding board created in section 955.202 of the Revised Code. Those organizations may include any of the following:

(a) An animal shelter as defined in section 4729.01 of the Revised Code;

(b) A local nonprofit veterinary association that operates a program for the sterilization of dogs and cats;

(c) A charitable organization that is exempt from federal income taxation under subsection 501(c)(3) of the Internal Revenue Code and ~~the primary~~ a purpose of which is to support programs for the sterilization of dogs and cats and educational programs concerning the proper veterinary care of those animals.

(2) Establish procedures for applying for financial assistance from the pets program funding board. Application procedures shall require eligible organizations to submit detailed proposals that outline the intended uses of the moneys sought.

(3) Establish eligibility criteria for sterilization and educational programs for which moneys from the pets program funding board may be used and, consistent with division (C) of this section, establish eligibility criteria for individuals who seek sterilization for their dogs and cats from eligible organizations;

(4) Establish procedures for the disbursement of moneys the pets program funding board receives from license plate contributions pursuant to division (C) of section 4503.551 of the Revised Code;

(5) Advertise or otherwise provide notification of the availability of financial assistance from the pets program funding board for eligible

organizations;

(6) Design markings to be inscribed on "pets" license plates under section 4503.551 of the Revised Code.

(C)(1) The owner of a dog or cat is eligible for dog or cat sterilization services from an eligible organization when those services are subsidized in whole or in part by money from the pets program funding board if any of the following applies:

(a) The income of the owner's family does not exceed one hundred fifty per cent of the federal poverty guideline.

(b) The owner, or any member of the owner's family who resides with the owner, is a recipient or beneficiary of one of the following government assistance programs:

(i) Low-income housing assistance under the "United States Housing Act of 1937," 42 U.S.C.A. 1437f, as amended, known as the federal section 8 housing program;

(ii) The Ohio works first program established by Chapter 5107. of the Revised Code;

(iii) Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, known as the medical assistance program or medicaid, provided by the department of job and family services under Chapter 5111. of the Revised Code;

(iv) A program or law administered by the United States department of veterans' affairs or veterans' administration for any service-connected disability;

(v) The ~~food stamp~~ supplemental nutrition assistance program established under the ~~"Food Stamp and Nutrition Act of 1977," 91 Stat. 958, 2008 (7 U.S.C.A. 2011, as amended, et seq.)~~ administered by the department of job and family services under section 5101.54 of the Revised Code;

(vi) The "special supplemental nutrition program for women, infants, and children" established under the "Child Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C. 1786, as amended, administered by the department of health under section 3701.132 of the Revised Code;

(vii) Supplemental security income under Title XVI of the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C.A. 1383, as amended;

(viii) Social security disability insurance benefits provided under Title II of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 401, as amended.

(c) The owner of the dog or cat submits to the eligible organization operating the sterilization program either of the following:

(i) A certificate of adoption showing that the dog or cat was adopted from a licensed animal shelter, a municipal, county, or regional pound, or a holding and impoundment facility that contracts with a municipal corporation;

(ii) A certificate of adoption showing that the dog or cat was adopted through a nonprofit corporation operating an animal adoption referral service whose holding facility, if any, is licensed in accordance with state law or a municipal ordinance.

(2) The Ohio pet fund shall determine the type of documentary evidence that must be presented by the owner of a dog or cat to show that the income of the owner's family does not exceed one hundred fifty per cent of the federal poverty guideline or that the owner is eligible under division (C)(1)(b) of this section.

(D) As used in division (C) of this section, "federal poverty guideline" means the official poverty guideline as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

Sec. 1321.20. (A) Every person licensed or registered under this chapter shall pay to the superintendent of financial institutions, prior to the last day of June, an annual license or certificate of registration fee. On or about the fifteenth day of April of each year, the superintendent shall determine the license or certificate fees to be charged, pursuant to sections 1321.03, 1321.05, ~~4321.53~~, and 1321.73 of the Revised Code. Such determination shall be made by dividing the appropriation for the consumer finance section of the division of financial institutions for the current fiscal year by the number of licenses and certificates issued as of the date of the computation. In no event shall the amount of the fee exceed three hundred dollars, except that the maximum fee which may be charged insurance premium finance companies licensed under section 1321.73 of the Revised Code shall not exceed three hundred seventy-five dollars. Prior to the first day of June of each year, the superintendent shall inform each person licensed or registered under this chapter of the amount of the license or certificate fee for the succeeding fiscal year as determined by this section.

(B)(1) Each person licensed under Chapter 4727. of the Revised Code who is subject to annual license renewal under division (E)(1) of section 4727.03 of the Revised Code shall, prior to the last day of June, pay to the superintendent a fee equal to twice the amount of the fee determined by the superintendent pursuant to division (A) of this section. However, in no event

shall the amount of the fee exceed three hundred dollars.

(2) Each person licensed under Chapter 4727. of the Revised Code who is subject to biennial license renewal under division (E)(2) of section 4727.03 of the Revised Code shall, prior to the date the license expires, pay to the superintendent a fee equal to four times the amount of the fee determined by the superintendent pursuant to division (A) of this section. However, in no event shall the amount of the fee exceed six hundred dollars.

(C) The fee for a license or certificate issued pursuant to Chapter ~~1321.~~, 4727.; or 4728. of the Revised Code after the first day of January of the year the license or certificate expires shall be equal to one-half the amount determined according to divisions (A) and (B) of this section or in accordance with section 4728.03 of the Revised Code.

(D) If the renewal fees billed by the superintendent pursuant to divisions (A) and (B) of this section are less than the estimated expenditures of the consumer finance section of the division of financial institutions, as determined by the superintendent, for the following fiscal year, the superintendent may assess each person licensed pursuant to section 1321.04 ~~or registered pursuant to section 1321.53~~ of the Revised Code at a rate sufficient to equal in the aggregate the difference between the renewal fees billed and the estimated expenditures. Each person shall pay the assessed amount to the superintendent prior to the last day of June. In no case shall the assessment exceed ten cents per each one hundred dollars of interest (excluding charge-off recoveries), points, loan origination charges, and credit line charges collected by that person during the previous calendar year. If an assessment is imposed under this division, it shall not be less than two hundred fifty dollars per licensee or registrant and shall not exceed thirty thousand dollars less the total renewal fees paid pursuant to division (A) of this section by each licensee or registrant.

Sec. 1321.51. As used in sections 1321.51 to 1321.60 of the Revised Code:

(A) "Person" means an individual, partnership, association, trust, corporation, or any other legal entity.

(B) "Certificate" means a certificate of registration issued under sections 1321.51 to 1321.60 of the Revised Code.

(C) "Registrant" means a person to whom one or more certificates of registration have been issued under sections 1321.51 to 1321.60 of the Revised Code.

(D) "Principal amount" means the amount of cash paid to, or paid or payable for the account of, the borrower, and includes any charge, fee, or expense that is financed by the borrower at origination of the loan or during

the term of the loan.

(E) "Interest" means all charges payable directly or indirectly by a borrower to a registrant as a condition to a loan or an application for a loan, however denominated, but does not include default charges, deferment charges, insurance charges or premiums, court costs, loan origination charges, check collection charges, credit line charges, points, prepayment penalties, or other fees and charges specifically authorized by law.

(F) "Interest-bearing loan" means a loan in which the debt is expressed as the principal amount and interest is computed, charged, and collected on unpaid principal balances outstanding from time to time.

(G) "Precomputed loan" means a loan in which the debt is a sum comprising the principal amount and the amount of interest computed in advance on the assumption that all scheduled payments will be made when due.

(H) "Actuarial method" means the method of allocating payments made on a loan between the principal amount and interest whereby a payment is applied first to the accumulated interest and the remainder to the unpaid principal amount.

(I) "Applicable charge" means the amount of interest attributable to each monthly installment period of the loan contract. The applicable charge is computed as if each installment period were one month and any charge for extending the first installment period beyond one month is ignored. In the case of loans originally scheduled to be repaid in sixty-one months or less, the applicable charge for any installment period is that proportion of the total interest contracted for, as the balance scheduled to be outstanding during that period bears to the sum of all of the periodic balances, all determined according to the payment schedule originally contracted for. In all other cases, the applicable charge for any installment period is that which would have been made for such period had the loan been made on an interest-bearing basis, based upon the assumption that all payments were made according to schedule.

(J) "Broker" means a person who acts as an intermediary or agent in finding, arranging, or negotiating loans, other than residential mortgage loans, and charges or receives a fee for these services.

(K) "Annual percentage rate" means the ratio of the interest on a loan to the unpaid principal balances on the loan for any period of time, expressed on an annual basis.

(L) "Point" means a charge equal to one per cent of either of the following:

- (1) The principal amount of a precomputed loan or interest-bearing

loan;

(2) The original credit line of an open-end loan.

(M) "Prepayment penalty" means a charge for prepayment of a loan at any time prior to five years from the date the loan contract is executed.

(N) "Refinancing" means a loan the proceeds of which are used in whole or in part to pay the unpaid balance of a prior loan made by the same registrant to the same borrower under sections 1321.51 to 1321.60 of the Revised Code.

(O) "Superintendent of financial institutions" includes the deputy superintendent for consumer finance as provided in section 1181.21 of the Revised Code.

(P)(1) "Mortgage loan originator" means an individual who for compensation or gain, or in anticipation of compensation or gain, does any of the following:

(a) Takes or offers to take a residential mortgage loan application;

(b) Assists or offers to assist a borrower in obtaining or applying to obtain a residential mortgage loan by, among other things, advising on loan terms, including rates, fees, and other costs;

(c) Offers or negotiates terms of a residential mortgage loan;

(d) Issues or offers to issue a commitment for a residential mortgage loan to a borrower.

(2) "Mortgage loan originator" does not include any of the following:

(a) An individual who performs purely administrative or clerical tasks on behalf of a mortgage loan originator;

(b) A person licensed pursuant to Chapter 4735. of the Revised Code, or under the similar law of another state, who performs only real estate brokerage activities permitted by that license, provided the person is not compensated by a mortgage lender, mortgage broker, mortgage loan originator, or by any agent thereof;

(c) A person solely involved in extensions of credit relating to timeshare plans, as that term is defined in 11 U.S.C. 101, in effect on January 1, 2009;

(d) A person acting solely as a loan processor or underwriter, who does not represent to the public, through advertising or other means of communicating, including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that the person can or will perform any of the activities of a mortgage loan originator;

(e) A loan originator licensed under sections 1322.01 to 1322.12 of the Revised Code, when acting solely under that authority;

(f) A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's

representation of the client, unless the attorney is compensated by a lender, a mortgage broker, or another mortgage loan originator, or by any agent thereof;

(g) Any person engaged in the retail sale of manufactured homes, mobile homes, or industrialized units if, in connection with financing those retail sales, the person only assists the borrower by providing or transmitting the loan application and does not do any of the following:

(i) Offer or negotiate the residential mortgage loan rates or terms;

(ii) Provide any counseling with borrowers about residential mortgage loan rates or terms;

(iii) Receive any payment or fee from any company or individual for assisting the borrower obtain or apply for financing to purchase the manufactured home, mobile home, or industrialized unit;

(iv) Assist the borrower in completing the residential mortgage loan application.

(3) An individual acting exclusively as a servicer engaging in loss mitigation efforts with respect to existing mortgage transactions shall not be considered a mortgage loan originator for purposes of sections 1321.51 to 1321.60 of the Revised Code until July 1, 2011, unless such delay is denied by the United States department of housing and urban development.

(Q) "Residential mortgage loan" means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential real estate upon which is constructed or intended to be constructed a dwelling. For purposes of this division, "dwelling" has the same meaning as in the "Truth in Lending Act," 82 Stat. 146, 15 U.S.C. 1602.

(R) "Nationwide mortgage licensing system and registry" means a mortgage licensing system developed and maintained by the conference of state bank supervisors and the American association of residential mortgage regulators, or their successor entities, for the licensing and registration of mortgage loan originators, or any system established by the secretary of housing and urban development pursuant to the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101.

(S) "Registered mortgage loan originator" means an individual to whom both of the following apply:

(1) The individual is a mortgage loan originator and an employee of a depository institution, a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency, or an institution regulated by the farm credit administration.

(2) The individual is registered with, and maintains a unique identifier through, the nationwide mortgage licensing system and registry.

(T) "Administrative or clerical tasks" means the receipt, collection, and distribution of information common for the processing or underwriting of a loan in the mortgage industry, and communication with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan.

(U) "Federal banking agency" means the board of governors of the federal reserve system, the comptroller of the currency, the director of the office of thrift supervision, the national credit union administration, and the federal deposit insurance corporation.

(V) "Loan processor or underwriter" means an individual who performs clerical or support duties at the direction of and subject to the supervision and instruction of a licensed mortgage loan originator or registered mortgage loan originator. For purposes of this division, "clerical or support duties" includes the following activities:

(1) The receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan;

(2) Communicating with a borrower to obtain the information necessary for the processing or underwriting of a loan, to the extent the communication does not include offering or negotiating loan rates or terms or counseling borrowers about residential mortgage loan rates or terms.

(W) "Real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including all of the following:

(1) Acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property;

(2) Bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;

(3) Negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property, other than in connection with providing financing for any such transaction;

(4) Engaging in any activity for which a person engaged in that activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law;

(5) Offering to engage in any activity, or to act in any capacity, described in division (W) of this section.

(X) "Licensee" means any person that has been issued a mortgage loan originator license under sections 1321.51 to 1321.60 of the Revised Code.

(Y) "Unique identifier" means a number or other identifier that

permanently identifies a mortgage loan originator and is assigned by protocols established by the nationwide mortgage licensing system and registry or federal banking agencies to facilitate electronic tracking of mortgage loan originators and uniform identification of, and public access to, the employment history of and the publicly adjudicated disciplinary and enforcement actions against mortgage loan originators.

(Z) "State" in the context of referring to states in addition to Ohio means any state of the United States, the district of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the trust territory of the Pacific islands, the virgin islands, and the northern Mariana islands.

(AA) "Depository institution" has the same meaning as in section 3 of the "Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C. 1813, and includes any credit union.

(BB) "Bona fide third party" means a person that is not an employee of, related to, or affiliated with, the registrant, and that is not used for the purpose of circumvention or evasion of sections 1321.51 to 1321.60 of the Revised Code.

(CC) "Nontraditional mortgage product" means any mortgage product other than a thirty-year fixed rate mortgage.

(DD) "Employee" means an individual for whom a registrant or applicant, in addition to providing a wage or salary, pays social security and unemployment taxes, provides workers' compensation coverage, and withholds local, state, and federal income taxes. "Employee" also includes any individual who acts as a mortgage loan originator or operations manager of the registrant, but for whom the registrant is prevented by law from making income tax withholdings.

(EE) "Primary point of contact" means the employee or owner designated by the registrant or applicant to be the individual who the division of financial institutions can contact regarding compliance or licensing matters relating to the registrant's or applicant's business or lending activities secured by an interest in real estate.

(FF) "Consumer reporting agency" has the same meaning as in the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C. 1681a, as amended.

(GG) "Mortgage broker" has the same meaning as in section 1322.01 of the Revised Code.

Sec. 1321.52. (A)(1) No person, on that person's own behalf or on behalf of any other person, shall do ~~either~~ any of the following without having first obtained a certificate of registration from the division of financial institutions:

(a) Advertise, solicit, or hold out that the person is engaged in the

business of making residential mortgage loans secured by a mortgage on a borrower's real estate which is other than a first lien on the real estate;

(b) Engage in the business of lending or collecting the person's own or another person's money, credit, or choses in action for ~~such~~ non-first lien residential mortgage loans;

(c) Employ or compensate mortgage loan originators licensed or who should be licensed under sections 1321.51 to 1321.60 of the Revised Code to conduct the business of making residential mortgage loans;

(d) Make loans in this state of the type set forth in division (C) of this section that are unsecured or are secured by other than real property, which loans are for more than five thousand dollars at a rate of interest greater than permitted by section 1343.01 or other specific provisions of the Revised Code.

(2) Each person issued a certificate of registration or license is subject to all the rules prescribed under sections 1321.51 to 1321.60 of the Revised Code.

(B)(1) All loans made to persons who at the time are residents of this state are considered as made within this state and subject to the laws of this state, regardless of any statement in the contract or note to the contrary, except as follows:

(a) If the loan is primarily secured by a lien on real property in another state and is arranged by a mortgage loan originator licensed by that state, the borrower may by choice of law designate that the transaction be governed by the law where the real property is located if the other state has consumer protection laws covering the borrower that are applicable to the transaction.

(b) If the loan is for the purpose of purchasing goods acquired by the borrower when the borrower is outside of this state, the loan may be governed by the laws of the other state.

(2) Nothing in division (B)(1) of this section prevents a choice of law or requires registration or licensure of persons outside of this state in a transaction involving the solicitation of residents of this state to obtain non-real estate secured loans that require the borrowers to physically visit a lender's out-of-state office to apply for and obtain the disbursement of loan funds.

(C) A registrant may make unsecured loans, loans secured by a mortgage on a borrower's real estate which is a first lien or other than a first lien on the real estate, loans secured by other than real estate, and loans secured by any combination of mortgages and security interests, on terms and conditions provided by sections 1321.51 to 1321.60 of the Revised Code.

(D)(1) If a lender that is subject to sections 1321.51 to 1321.60 of the Revised Code makes a loan in violation of division (A)(1) of this section, the lender has no right to collect, receive, or retain any interest or charges on that loan.

(2) If a registrant applies to the division for a renewal of the registrant's certificate after the date required by division ~~(A)(4)~~(A)(7) of section 1321.53 of the Revised Code, but prior to the first day of ~~August~~ February of that year, and the division approves the application, division (D)(1) of this section does not apply with respect to any loan made by the registrant while the registrant's certificate was expired.

(3) If a person's registration under sections 1321.51 to 1321.60 of the Revised Code terminates due to nonrenewal or otherwise but the person continues to engage in the business of collecting or servicing non-first lien residential mortgage loans in violation of division (A)(1) of this section, the superintendent of financial institutions may take administrative action, including action on any subsequent application for a certificate of registration. In addition, no late fee, bad check charge except as incurred, charge related to default or cost to realize on its security interest, or prepayment penalty on non-first lien residential mortgage loans shall be collected or retained by a person who is in violation of division (A)(1)(b) of this section for the period of time in which the person was in violation. Nothing in division (D)(3) of this section prevents or otherwise precludes any other actions or penalties provided by law or modifies a defense of holder in due course that a subsequent purchaser servicing the residential mortgage loan may raise.

(E)(1) No individual shall engage in the business of a mortgage loan originator without first obtaining and maintaining annually a license pursuant to section 1321.532 of the Revised Code from the division of financial institutions. A mortgage loan originator shall be employed or associated with a registrant or entity exempt from registration under sections 1321.51 to 1321.60 of the Revised Code, but shall not be employed by or associated with more than one registrant or exempt entity at any one time.

(2) An individual acting under the individual's authority as a registered mortgage loan originator shall not be required to be licensed under division (E)(1) of this section.

(F)(1) Each licensee shall register with, and maintain a valid unique identifier issued by, the nationwide mortgage licensing system and registry.

(2) No person shall use a licensee's unique identifier for any purpose other than as set forth in the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101.

(G)(1) If a person that is subject to sections 1321.51 to 1321.60 of the Revised Code makes a loan in violation of division (A)(1)(d) of this section and subsequently sells or assigns that loan, the person is liable to the borrower for any interest paid on that loan to the holder or assignee in excess of the rate that would be applicable in the absence of sections 1321.51 to 1321.60 of the Revised Code, in addition to any interest or charges paid on that loan to the unauthorized lender as provided by division (D)(1) of this section.

(2) If a person that is subject to sections 1321.51 to 1321.60 of the Revised Code makes a residential mortgage loan in violation of division (A)(1)(b) or (c) of this section and subsequently sells or assigns that loan, the lender is liable to the borrower for any interest paid on that loan to the holder or assignee in excess of the rate set forth in division (B)(4) of section 1343.01 of the Revised Code, in addition to any interest or charges paid on that loan to the unauthorized lender as provided by division (D)(1) of this section.

Sec. 1321.521. The superintendent of financial institutions may, by rule, expand the definition of mortgage loan originator in section 1321.51 of the Revised Code by adding individuals or may exempt additional individuals or persons from that definition, if the superintendent finds that the addition or exemption is consistent with the purposes fairly intended by the policy and provisions of sections 1321.51 to 1321.60 of the Revised Code and the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101.

Rules authorized by this section shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 1321.522. (A) A credit union service organization seeking exemption from registration pursuant to division (D)(6) of section 1321.53 of the Revised Code shall submit an application to the superintendent of financial institutions along with a nonrefundable fee of three hundred fifty dollars for each location of an office to be maintained by the organization. The application shall be in a form prescribed by the superintendent and shall include all of the following:

(1) The organization's business name and state of incorporation;

(2) The names of the owners, officers, or partners having control of the organization;

(3) An attestation to all of the following:

(a) That the organization and its owners, officers, or partners identified in division (A)(2) of this section have not had a mortgage lender certificate of registration or mortgage loan originator license, or any comparable

authority, revoked in any governmental jurisdiction:

(b) That the organization and its owners, officers, or partners identified in division (A)(2) of this section have not been convicted of, or pleaded guilty to, any of the following in a domestic, foreign, or military court:

(i) During the seven-year period immediately preceding the date of application for exemption, any felony or a misdemeanor involving theft:

(ii) At any time prior to the date of application for exemption, a felony involving an act of fraud, dishonesty, a breach of trust, theft, or money laundering.

(c) That, with respect to financing residential mortgage loans, the organization conducts business with residents of this state or secures its loans with property located in this state.

(4) The names of all mortgage loan originators or licensees under the organization's control and direction;

(5) An acknowledgment of understanding that the organization is subject to the regulatory authority of the division of financial institutions;

(6) Any further information that the superintendent may require.

(B)(1) If the superintendent determines that the credit union service organization honestly made the attestation required under division (A)(3) of this section and otherwise qualifies for exemption, the superintendent shall issue a letter of exemption. Additional certified copies of a letter of exemption shall be provided upon request and the payment of seventy-five dollars per copy.

(2) If the superintendent determines that the organization does not qualify for exemption, the superintendent shall issue a notice of denial, and the organization may request a hearing in accordance with Chapter 119. of the Revised Code.

(C) All of the following conditions apply to any credit union service organization holding a valid letter of exemption:

(1) The organization shall be subject to examination in the same manner as a registrant with respect to the conduct of the organization's mortgage loan originators. In conducting any out-of-state examination, the organization shall be responsible for paying the costs of the division in the same manner as a registrant.

(2) The organization shall have an affirmative duty to supervise the conduct of its mortgage loan originators, and to cooperate with investigations by the division with respect to that conduct, in the same manner as is required of registrants.

(3) The organization shall keep and maintain records of all transactions relating to the conduct of its mortgage loan originators in the same manner

as is required of registrants.

(4) The organization may provide the surety bond for its mortgage loan originators in the same manner as is permitted for registrants.

(D) A letter of exemption expires annually on the thirty-first day of December and may be renewed on or before that date by submitting an application that meets the requirements of division (A) of this section and a nonrefundable renewal fee of three hundred fifty dollars for each location of an office to be maintained by the credit union service organization.

(E) The superintendent may issue a notice to revoke or suspend a letter of exemption if the superintendent finds that the letter was obtained through a false or fraudulent representation of a material fact, or the omission of a material fact, required by law, or that a condition for exemption is no longer being met. Prior to issuing an order of revocation or suspension, the credit union service organization shall be given an opportunity for a hearing in accordance with Chapter 119. of the Revised Code.

(F) All information obtained by the division pursuant to an examination or investigation under this section shall be subject to the confidentiality requirements set forth in section 1321.55 of the Revised Code.

(G) All money collected under this section shall be deposited into the state treasury to the credit of the consumer finance fund created in section 1321.21 of the Revised Code.

Sec. 1321.53. (A)(1) An application for a certificate of registration under sections 1321.51 to 1321.60 of the Revised Code shall contain an undertaking by the applicant to abide by those sections. The application shall be in writing, under oath, and in the form prescribed by the division of financial institutions, ~~shall give the location where the business is to be conducted and the names and addresses of the partners, officers, or trustees of the applicant,~~ and shall contain any ~~further relevant~~ information that the division may require. Applicants that are foreign corporations shall obtain and maintain a license pursuant to Chapter 1703. of the Revised Code before a certificate is issued or renewed.

(2) Upon the filing of the application and the payment by the applicant of a ~~nonrefundable two hundred dollars as an~~ dollar investigation fee ~~and an,~~ a nonrefundable three hundred dollar annual registration fee ~~as determined by the superintendent of financial institutions pursuant to section 1321.20 of the Revised Code, and any additional fee required by the nationwide mortgage licensing system and registry,~~ the division shall investigate the relevant facts. If the application involves investigation outside this state, the applicant may be required by the division to advance sufficient funds to pay any of the actual expenses of such investigation, when it appears that these

expenses will exceed two hundred dollars. An itemized statement of any of these expenses which the applicant is required to pay shall be furnished to the applicant by the division. No certificate shall be issued unless all the required fees have been submitted to the division, ~~and no registration fee or investigation fee will be returned after a certificate has been issued.~~

(3) All applicants making loans secured by an interest in real estate shall designate an employee or owner of the applicant as the applicant's primary point of contact. While acting as the primary point of contact, the employee or owner shall not be employed by any other registrant or mortgage broker.

(4) The investigation undertaken upon application shall include both a civil and criminal records check of the applicant including any individual whose identity is required to be disclosed in the application. Where the applicant is a business entity the superintendent shall have the authority to require a civil and criminal background check of those persons that in the determination of the superintendent have the authority to direct and control the operations of the applicant.

(5)(a) Notwithstanding division (K) of section 121.08 of the Revised Code, the superintendent of financial institutions shall obtain a criminal history records check and, as part of that records check, request that criminal record information from the federal bureau of investigation be obtained. To fulfill this requirement, the superintendent shall do either of the following:

(i) Request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the applicant's fingerprints or, if the fingerprints are unreadable, based on the applicant's social security number, in accordance with division (A)(12) of section 109.572 of the Revised Code;

(ii) Authorize the nationwide mortgage licensing system and registry to request a criminal history background check as set forth in division (C) of section 1321.531 of the Revised Code.

(b) Any fee required under division (C)(3) of section 109.572 of the Revised Code or by the nationwide mortgage licensing system and registry shall be paid by the applicant.

(6) If an application for a certificate of registration does not contain all of the information required under division (A)(1) of this section, and if such information is not submitted to the division within ninety days after the application is filed superintendent requests the information in writing, the superintendent may consider the application withdrawn and may retain the investigation fee.

(4)(7) If the division finds that the financial responsibility, experience, character, and general fitness of the applicant are such as to command the

confidence of the public and to warrant the belief that the business will be operated honestly and fairly in compliance with ~~and within~~ the purposes of sections 1321.51 to 1321.60 of the Revised Code and the rules adopted thereunder, and that the applicant has the requisite bond or applicable net worth and assets required by division (B) of this section, the division shall thereupon issue a certificate of registration to the applicant. The certificate superintendent shall not use a credit score as the sole basis for a registration denial.

(a)(i) Certificates of registration issued on or after July 1, 2010, shall annually expire on the first thirty-first day of July next after its issue, and on the first day of July in each succeeding year December, unless renewed by the filing of a renewal application and payment of a three hundred dollar nonrefundable annual registration fee, and any assessment, as determined by the superintendent pursuant to division (A)(7)(a)(ii) of this section 1321.20 of the Revised Code, and any additional fee required by the nationwide mortgage licensing system and registry, on or before the last day of June December of each year. No other fee or assessment shall be required of a registrant by the state or any political subdivision of the this state.

(ii) If the renewal fees billed by the superintendent pursuant to division (A)(7)(a)(i) of this section are less than the estimated expenditures of the consumer finance section of the division of financial institutions, as determined by the superintendent, for the following fiscal year, the superintendent may assess each registrant at a rate sufficient to equal in the aggregate the difference between the renewal fees billed and the estimated expenditures. Each registrant shall pay the assessed amount to the superintendent prior to the last day of June. In no case shall the assessment exceed ten cents per each one hundred dollars of interest (excluding charge-off recoveries), points, loan origination charges, and credit line charges collected by that registrant during the previous calendar year. If such an assessment is imposed, it shall not be less than two hundred fifty dollars per registrant and shall not exceed thirty thousand dollars less the total renewal fees paid pursuant to division (A)(7)(a)(i) of this section by each registrant.

(b) Registrants shall timely file renewal applications on forms prescribed by the division and provide any further information that the division may require. If a renewal application does not contain all of the information required under this section, and if that information is not submitted to the division within ninety days after the superintendent requests the information in writing, the superintendent may consider the application withdrawn.

(c) Renewal shall not be granted if the applicant's certificate of registration is subject to an order of suspension, revocation, or an unpaid and past due fine imposed by the superintendent.

(d) If the division ~~does not so find~~ finds the applicant does not meet the conditions set forth in this section, it shall ~~enter an order denying~~ issue a notice of intent to deny the application, and forthwith notify the applicant of the denial, the grounds for the denial, and the applicant's reasonable opportunity to be heard on the action in accordance with Chapter 119. of the Revised Code. ~~In the event of denial, the division shall return the registration fee but retain the investigation fee.~~

~~(5)~~(8) If there is a change of ~~ten~~ five per cent or more in the ownership of a registrant, the division may make any investigation necessary to determine whether any fact or condition exists that, if it had existed at the time of the original application for a certificate of registration, the fact or condition would have warranted the division to deny the application under division (A)~~(4)~~(7) of this section. If such a fact or condition is found, the division may, in accordance with Chapter 119. of the Revised Code, revoke the registrant's certificate.

(B) Each registrant that engages in lending under sections 1321.51 to 1321.60 of the Revised Code shall, if not bonded pursuant to section 1321.533 of the Revised Code, maintain both of the following:

- (1) A net worth of at least fifty thousand dollars;
- (2) For each certificate of registration, assets of at least fifty thousand dollars either in use or readily available for use in the conduct of the business.

(C) Not more than one place of business shall be maintained under the same certificate, but the division may issue additional certificates to the same registrant upon compliance with sections 1321.51 to 1321.60 of the Revised Code, governing the issuance of a single certificate. No change in the place of business of a registrant to a location outside the original municipal corporation shall be permitted under the same certificate without the approval of a new application, the payment of the registration fee ~~as determined by the superintendent pursuant to section 1321.20 of the Revised Code~~ and, if required by the superintendent, the payment of an investigation fee of two hundred dollars. When a registrant wishes to change its place of business within the same municipal corporation, it shall give written notice of the change in advance to the division, which shall provide a certificate for the new address without cost. If a registrant changes its name, prior to making loans under the new name it shall give written notice of the change to the division, which shall provide a certificate in the new name without

cost. Sections 1321.51 to 1321.60 of the Revised Code do not limit the loans of any registrant to residents of the community in which the registrant's place of business is situated. Each certificate shall be kept conspicuously posted in the place of business of the registrant and is not transferable or assignable.

(D) Sections 1321.51 to 1321.60 of the Revised Code do not apply to any of the following:

(1) ~~Persons~~ Entities chartered and lawfully doing business under the authority of any law of this state, another state, or the United States ~~relating to banks as a bank, savings banks bank, trust companies company, savings and loan associations association, or credit unions union, or a subsidiary of any such entity, which subsidiary is regulated by a federal banking agency and is owned and controlled by such a depository institution;~~

(2) Life, property, or casualty insurance companies licensed to do business in this state;

(3) Any person that is a lender making a loan pursuant to sections 1321.01 to 1321.19 of the Revised Code or a business loan as described in division (B)(6) of section 1343.01 of the Revised Code;

(4) Any political subdivision, or any governmental agency or other public entity, corporation, instrumentality, or any entity included under division (B)(3) of section 1343.01 of the Revised Code ~~agency, in or of the United States or any state of the United States, or any entity described in division (B)(3) of section 1343.01 of the Revised Code;~~

(5) A college or university, or controlled entity of a college or university, as those terms are defined in section 1713.05 of the Revised Code;

(6) A credit union service organization, provided the organization utilizes services provided by registered mortgage loan originators or the organization complies with section 1321.522 of the Revised Code and holds a valid letter of exemption issued by the superintendent.

(E) No person engaged in the business of selling tangible goods or services related to tangible goods may receive or retain a certificate under sections 1321.51 to 1321.60 of the Revised Code for such place of business.

Sec. 1321.531. (A) An application for a mortgage loan originator license shall be in writing, under oath, and in the form prescribed by the superintendent of financial institutions. The application shall be accompanied by a nonrefundable application fee of one hundred fifty dollars and all other required fees, including any fees required by the nationwide mortgage licensing system and registry.

(B) The superintendent may establish relationships or enter into

contracts with the nationwide mortgage licensing system and registry, or any entities designated by it, to collect and maintain records and process transaction fees or other fees related to mortgage loan originator licensees or other persons subject to or involved in their licensure.

(C) In connection with applying for a mortgage loan originator license, the applicant shall furnish to the nationwide mortgage licensing system and registry the following information concerning the applicant's identity:

(1) The applicant's fingerprints for submission to the federal bureau of investigation, and any other governmental agency or entity authorized to receive such information, for purposes of a state, national, and international criminal history background check;

(2) Personal history and experience in a form prescribed by the nationwide mortgage licensing system and registry, along with authorization for the superintendent and the nationwide mortgage licensing system and registry to obtain the following:

(a) An independent credit report from a consumer reporting agency;

(b) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

(D) In order to effectuate the purposes of divisions (C)(1) and (C)(2)(b) of this section, the superintendent may use the conference of state bank supervisors, or a wholly owned subsidiary, as a channeling agent for requesting information from and distributing information to the United States department of justice or any other governmental agency. The superintendent may also use the nationwide mortgage licensing system and registry as a channeling agent for requesting information from and distributing information to any source related to matters subject to divisions (C)(2)(a) and (b) of this section.

(E) Upon the filing of the application, payment of the application fee, and payment of any additional fee, including any fee required by the nationwide mortgage licensing system and registry, the superintendent shall investigate the applicant as set forth in division (E) of this section.

(1)(a) Notwithstanding division (K) of section 121.08 of the Revised Code, the superintendent shall obtain a criminal history records check and, as part of that records check, request that criminal record information from the federal bureau of investigation be obtained. To fulfill this requirement, the superintendent shall do either of the following:

(i) Request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the applicant's fingerprints or, if the fingerprints are unreadable, based on the applicant's social security number in accordance

with division (A)(12) of section 109.572 of the Revised Code:

(ii) Authorize the nationwide mortgage licensing system and registry to request a criminal history background check as set forth in division (C) of this section.

(b) Any fee required under division (C)(3) of section 109.572 of the Revised Code or by the nationwide mortgage licensing system and registry shall be paid by the applicant.

(2) The superintendent of financial institutions shall conduct a civil records check.

(3) If, in order to issue a license to an applicant, additional investigation by the superintendent outside this state is necessary, the superintendent may require the applicant to advance sufficient funds to pay the actual expenses of the investigation, if it appears that these expenses will exceed one hundred dollars. The superintendent shall provide the applicant with an itemized statement of the actual expenses that the applicant is required to pay.

(F) If an application for a mortgage loan originator license does not contain all of the information required under this section, and if that information is not submitted to the superintendent within ninety days after the superintendent requests the information in writing, the superintendent may consider the application withdrawn.

Sec. 1321.532. (A) Upon the conclusion of the investigation required under division (E) of section 1321.531 of the Revised Code, the superintendent of financial institutions shall issue a mortgage loan originator license to the applicant if the superintendent finds that all of the following conditions are met:

(1) The application is accompanied by the application fee and any additional fee required by the nationwide mortgage licensing system and registry.

If a check or other draft instrument is returned to the superintendent for insufficient funds, the superintendent shall notify the licensee by certified mail, return receipt requested, that the license issued in reliance on the check or other draft instrument will be canceled unless the licensee, within thirty days after receipt of the notice, submits the application fee and a one-hundred-dollar penalty to the superintendent. If the licensee does not submit the application fee and penalty within that time period, or if any check or other draft instrument used to pay the fee or penalty is returned to the superintendent for insufficient funds, the license shall be canceled immediately without a hearing, and the licensee shall cease activity as a mortgage loan originator.

(2) The applicant complies with sections 1321.51 to 1321.60 of the Revised Code.

(3) The applicant has not had a mortgage loan originator license, or comparable authority, revoked in any governmental jurisdiction.

(4) The applicant has not been convicted of, or pleaded guilty to, any of the following in a domestic, foreign, or military court:

(a) During the seven-year period immediately preceding the date of application for licensure, any felony or a misdemeanor involving theft;

(b) At any time prior to the date of application for licensure, a felony involving an act of fraud, dishonesty, a breach of trust, theft, or money laundering.

(5) Based on the totality of the circumstances and information submitted in the application, the applicant has proven to the division of financial institutions, by a preponderance of the evidence, that the applicant is of good business repute, appears qualified to act as a mortgage loan originator, and has fully complied with sections 1321.51 to 1321.60 of the Revised Code and rules adopted thereunder, and that the applicant meets all of the conditions for issuing a mortgage loan originator license.

(6) The applicant successfully completed the written test required under section 1321.535 of the Revised Code and the education requirements set forth in section 1321.534 of the Revised Code.

(7) The applicant is covered under a valid bond in compliance with section 1321.533 of the Revised Code.

(8) The applicant's financial responsibility, character, and general fitness command the confidence of the public and warrant the belief that the mortgage loan originator will operate honestly and fairly in compliance with the purposes of sections 1321.51 to 1321.60 of the Revised Code. The superintendent shall not use a credit score as the sole basis for a license denial.

(B) The license issued under division (A) of this section may be renewed annually on or before the thirty-first day of December if the superintendent finds that all of the following conditions are met:

(1) The renewal application is accompanied by a nonrefundable renewal fee of one hundred fifty dollars, and any additional fee required by the nationwide mortgage licensing system and registry. If a check or other draft instrument is returned to the superintendent for insufficient funds, the superintendent shall notify the licensee by certified mail, return receipt requested, that the license renewed in reliance on the check or other draft instrument will be canceled unless the licensee, within thirty days after receipt of the notice, submits the renewal fee and a one-hundred-dollar

penalty to the superintendent. If the licensee does not submit the renewal fee and penalty within that time period, or if any check or other draft instrument used to pay the fee or penalty is returned to the superintendent for insufficient funds, the license shall be canceled immediately without a hearing, and the licensee shall cease activity as a mortgage loan originator.

(2) The applicant has completed at least eight hours of continuing education as required under section 1321.536 of the Revised Code.

(3) The applicant meets the conditions set forth in divisions (A)(2) to (8) of this section.

(4) The applicant's license is not subject to an order of suspension or an unpaid and past due fine imposed by the superintendent.

(C)(1) Subject to division (C)(2) of this section, if a license renewal application or fee, including any additional fee required by nationwide mortgage licensing system and registry, is received by the superintendent after the thirty-first day of December, the license shall not be considered renewed, and the applicant shall cease activity as a mortgage loan originator.

(2) Division (C)(1) of this section shall not apply if the applicant, no later than the thirty-first day of January, submits the renewal application and fee, including any additional fee required by nationwide mortgage licensing system and registry, and a one-hundred-dollar penalty to the superintendent.

(D) Mortgage loan originator licenses issued on or after July 1, 2010, shall annually expire on the thirty-first day of December.

(E) If a renewal application does not contain all of the information required under this section, and if that information is not submitted to the superintendent within ninety days after the superintendent requests the information in writing, the superintendent may consider the application withdrawn.

Sec. 1321.533. (A)(1) A registrant engaged in residential mortgage loan activity shall not conduct business in this state, unless the registrant maintains the net worth and assets required under division (B) of section 1321.53 of the Revised Code or has obtained and maintains in effect at all times a corporate surety bond issued by a bonding company or insurance company authorized to do business in this state.

(a) The bond shall be in favor of the superintendent of financial institutions.

(b) The bond shall be in the penal sum of one-half per cent of the aggregate loan amount of residential mortgage loans originated in the immediately preceding calendar year, but not exceeding one hundred fifty thousand dollars. Under no circumstances, however, shall the bond be less than fifty thousand dollars and an additional penal sum of ten thousand

dollars for each location, in excess of one, at which the registrant conducts business.

(c) The term of the bond shall coincide with the term of registration.

(d) A copy of the bond shall be filed with the superintendent.

(e) The bond shall be for the exclusive benefit of any borrower injured by a violation by an employee, licensee, or registrant of any provision of sections 1321.51 to 1321.60 of the Revised Code or the rules adopted thereunder.

(f) The aggregate liability of the corporate surety for any and all breaches of the conditions of the bond shall not exceed the penal sum of the bond.

(2) An individual licensed as a mortgage loan originator and employed or associated with an exempt entity as set forth in division (D) of section 1321.53 of the Revised Code shall not conduct business in this state, unless either the licensee or the exempt entity on the licensee's behalf has obtained and maintains in effect at all times a corporate surety bond issued by a bonding company or insurance company authorized to do business in this state.

(a) The bond shall be in favor of the superintendent.

(b) The bond shall be in the penal sum of one-half per cent of the aggregate loan amount of residential mortgage loans originated in the immediately preceding calendar year, but not exceeding one hundred thousand dollars. Under no circumstances, however, shall the bond be less than fifty thousand dollars.

(c) The term of the bond shall coincide with the term of licensure.

(d) A copy of the bond shall be filed with the superintendent.

(e) The bond shall be for the exclusive benefit of any borrower injured by a violation by the licensee of any provision of sections 1321.51 to 1321.60 of the Revised Code or the rules adopted thereunder.

(f) The aggregate liability of the corporate surety for any and all breaches of the conditions of the bond shall not exceed the penal sum of the bond.

(g) Licensees covered by a corporate surety bond obtained by a registrant or exempt entity they are employed by or associated with shall not be required to obtain an individual bond.

(B)(1) The registrant or licensee shall give notice to the superintendent by certified mail of any action that is brought by a borrower against the licensee, registrant, or any mortgage loan originator of the registrant alleging injury by a violation of any provision of sections 1321.51 to 1321.60 of the Revised Code, and of any judgment that is entered against

the licensee, registrant, or mortgage loan originator of the registrant by a borrower injured by a violation of any provision of sections 1321.51 to 1321.60 of the Revised Code. The notice shall provide details sufficient to identify the action or judgment, and shall be filed with the superintendent within ten days after the commencement of the action or notice to the registrant or licensee of entry of a judgment. An exempt entity securing bonding for the licensees in their employ shall report those actions by a borrower in the same manner as is required of registrants.

(2) A corporate surety, within ten days after it pays any claim or judgment, shall give notice to the superintendent by certified mail of the payment, with details sufficient to identify the person and the claim or judgment paid.

(C) Whenever the penal sum of the corporate surety bond is reduced by one or more recoveries or payments, the registrant or separately bonded licensee shall furnish a new or additional bond under this section, so that the total or aggregate penal sum of the bond or bonds equals the sum required by this section, or shall furnish an endorsement executed by the corporate surety reinstating the bond to the required penal sum of it.

(D) The liability of the corporate surety on the bond to the superintendent and to any borrower injured by a violation of any provision of sections 1321.51 to 1321.60 of the Revised Code shall not be affected in any way by any misrepresentation, breach of warranty, or failure to pay the premium, by any act or omission upon the part of the registrant or licensee, by the insolvency or bankruptcy of the registrant or licensee, or by the insolvency of the registrant's or licensee's estate. The liability for any act or omission that occurs during the term of the corporate surety bond shall be maintained and in effect for at least two years after the date on which the corporate surety bond is terminated or canceled.

(E) The corporate surety bond shall not be canceled by the registrant, the licensee, or the corporate surety except upon notice to the superintendent by certified mail, return receipt requested. The cancellation shall not be effective prior to thirty days after the superintendent receives the notice.

(F) No registrant or licensee shall fail to comply with this section. Any registrant or licensee that fails to comply with this section shall cease all mortgage lender or mortgage loan originator activity in this state until the registrant or licensee has complied with this section.

Sec. 1321.534. (A) Mortgage loan originator applicants shall submit evidence acceptable to the superintendent of financial institutions that, except as set forth in division (D) of this section, the applicant has successfully completed at least twenty hours of pre-licensing instruction in a

course or program of study reviewed and approved by the nationwide mortgage licensing system and registry.

(B) A person having successfully completed the pre-licensing education requirements reviewed and approved by the nationwide mortgage licensing system and registry for any state within the previous five years shall be granted credit toward completion of the pre-licensing education requirements of this state.

(C) Review and approval of a pre-licensing education course shall include review and approval of the course provider.

(D) Notwithstanding division (A) of this section, if the nationwide mortgage licensing system and registry fails to have in place an approval program to ensure that all pre-licensing education courses meet the criteria set forth in division (A) of this section, the superintendent shall require, until that program is in place, evidence that the applicant has successfully completed twenty hours of instruction in a course or program of study approved by the superintendent that consists of at least all of the following:

(1) Four hours of instruction concerning state and federal mortgage lending laws, which shall include no less than two hours on this chapter;

(2) Four hours of instruction concerning the Ohio consumer sales practices act, Chapter 1345. of the Revised Code, as it applies to registrants and licensees;

(3) Four hours of instruction concerning the loan application and closing process;

(4) Two hours of instruction concerning the underwriting process;

(5) Two hours of instruction concerning the secondary market for mortgage loans;

(6) Two hours of instruction covering basic mortgage financing concepts and terms;

(7) Two hours of instruction concerning the ethical responsibilities of a licensee, including with respect to confidentiality, consumer counseling, and the duties and standards of care created in section 1321.593 of the Revised Code.

Sec. 1321.535. (A) Each applicant for a mortgage loan originator license shall submit to a written test that is developed and approved by the nationwide mortgage licensing system and registry and administered by a test provider approved by the nationwide mortgage licensing system and registry based upon reasonable standards.

(1) The test shall adequately measure the applicant's knowledge and comprehension in appropriate subject matters, including ethics and federal and state law related to mortgage origination, fraud, consumer protection,

the nontraditional mortgage marketplace, and fair lending issues.

(2) An individual shall not be considered to have passed the test unless the individual achieves a test score of at least seventy-five per cent correct answers on all questions.

(3) An individual may retake the test three consecutive times provided the period between taking the tests is at least thirty days.

(4) After failing three consecutive tests, an individual shall be required to wait at least six months before taking the test again.

(5) If a mortgage loan originator fails to maintain a valid license for a period of five years or longer, the individual shall be required to retake the test. For this purpose, any time during which the individual is a registered mortgage loan originator shall not be taken into account.

(B) Notwithstanding division (A) of this section, if the nationwide mortgage licensing system and registry fails to have in place a testing process that meets the criteria set forth in that division, the superintendent shall require, until that process is in place, evidence that the mortgage loan originator applicant passed a written test acceptable to the superintendent.

Sec. 1321.536. (A) Each mortgage loan originator licensee shall complete at least eight hours of continuing education every calendar year. To fulfill this requirement, the eight hours of continuing education must be offered in a course or program of study that includes all of the following:

(1) Three hours of applicable federal law and regulations;

(2) Two hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues;

(3) Two hours of training related to lending standards for the nontraditional mortgage product marketplace.

(B) Continuing education courses shall be reviewed and approved by the nationwide mortgage licensing system and registry based upon reasonable standards.

(C) The following conditions shall apply to the continuing education required by this section:

(1) An individual cannot take the same approved course in the same or successive years to meet the annual requirement for continuing education.

(2) An individual can only receive credit for a continuing education course in the year in which the course is taken, unless the individual is making up a deficiency in continuing education as permitted by rule or order of the superintendent of financial institutions.

(3) An individual who subsequently becomes unlicensed must complete the continuing education requirement for the last year in which the license was held prior to the issuance of a new or renewed license.

(4) A licensee who is approved as an instructor of an approved continuing education course may receive credit for the licensee's own annual continuing education requirement at the rate of two credit hours for every one hour taught.

(5) A person having successfully completed a continuing education course approved by the nationwide mortgage licensing system and registry for any state shall receive credit toward completion of the continuing education requirement of this state.

(D) Notwithstanding division (B) of this section, until the nationwide mortgage licensing system and registry implements a review and approval process, the superintendent shall require evidence that the licensee has successfully completed at least eight hours of continuing education in a course or program of study approved by the superintendent.

Sec. 1321.54. (A) The division of financial institutions may adopt, in accordance with Chapter 119. of the Revised Code, rules that are necessary for the enforcement or administration of sections 1321.51 to 1321.60 of the Revised Code and that are consistent with those sections. ~~Each rule shall contain a reference to the section, division, or paragraph of the Revised Code to which it applies. The division shall send by regular mail to each registrant a copy of each rule that is adopted pursuant to this section and rules to carry out the purposes of those sections.~~

(B)(1) The division shall may, upon written notice to the registrant or licensee stating the contemplated action, the grounds for the action, and the registrant's or licensee's reasonable opportunity to be heard on the action in accordance with Chapter 119. of the Revised Code, revoke, suspend, or refuse to renew any certificate or license issued under sections 1321.51 to 1321.60 of the Revised Code, or impose a monetary fine, if it finds that the registrant has continued to violate those sections, after receiving notice of the violation or violations from the division, or is in default in the payment of the annual assessment or certificate of registration fee prescribed in section 1321.20 of the Revised Code. The any of the following:

(a) A violation of or failure to comply with any provision of sections 1321.51 to 1321.60 of the Revised Code or the rules adopted thereunder, any federal lending law, or any other law applicable to the business conducted under a certificate of registration or license;

(b) The person has been convicted of or pleaded guilty to any criminal felony offense in a domestic, foreign, or military court;

(c) The person has been convicted of or pleaded guilty to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, breach of trust, dishonesty, or

drug trafficking, or any criminal offense involving money or securities, in a domestic, foreign, or military court:

(d) The person's mortgage lender certificate of registration or mortgage loan originator license, or comparable authority, has been revoked in any governmental jurisdiction.

(2) In addition to, or in lieu of, any revocation, suspension, or denial, the division may impose a monetary fine after administrative hearing or in settlement of matters subject to claims under division (B)(1)(a) of this section.

(3) Subject to division (D)(3) of section 1321.52 of the Revised Code, the revocation, suspension, or refusal to renew shall not impair the obligation of any pre-existing lawful contract made under sections 1321.51 to 1321.60 of the Revised Code; provided, however, that a prior registrant shall make good faith efforts to promptly transfer the registrant's collection rights to another registrant or person exempt from registration, or be subject to additional monetary fines and legal or administrative action by the division. Nothing in division (B)(3) of this section shall limit a court's ability to impose a cease and desist order preventing any further business or servicing activity.

(C)(1) The superintendent of financial institutions may impose a fine for a violation of sections 1321.51 to 1321.60 of the Revised Code or any rule adopted thereunder. All fines collected pursuant to this section shall be paid to the treasurer of state to the credit of the consumer finance fund created in section 1321.21 of the Revised Code. In determining the amount of a fine to be imposed pursuant to this section, the superintendent may consider all of the following to the extent it is known to the division of financial institutions:

(a) The seriousness of the violation;

(b) The registrant's or licensee's good faith efforts to prevent the violation;

(c) The registrant's or licensee's history regarding violations and compliance with division orders;

(d) The registrant's or licensee's financial resources;

(e) Any other matters the superintendent considers appropriate in enforcing sections 1321.51 to 1321.60 of the Revised Code.

(2) Monetary fines imposed under this division shall not exceed twenty-five thousand dollars and do not preclude any criminal fine imposed pursuant to section 1321.99 of the Revised Code.

~~(C)~~(D) The superintendent of financial institutions may investigate alleged violations of sections 1321.51 to 1321.60 of the Revised Code, or

the rules adopted thereunder, or complaints concerning any such violation. The superintendent may make application to the court of common pleas for an order enjoining any ~~such~~ violation and, upon a showing by the superintendent that a person has committed, or is about to commit, ~~such~~ a violation, the court shall grant an injunction, restraining order, or other appropriate relief. The superintendent, in making application to the court of common pleas for an order enjoining a person from acting as a registrant or mortgage loan originator in violation of division (A) or (E) of section 1321.52 of the Revised Code, may also seek and obtain civil penalties for that unregistered or unlicensed conduct in an amount not to exceed five thousand dollars per violation.

~~(D)~~(E) In conducting an investigation pursuant to this section, the superintendent may compel, by subpoena, witnesses to testify in relation to any matter over which the superintendent has jurisdiction, and may require the production or photocopying of any book, record, or other document pertaining to such matter. If a person fails to file any statement or report, obey any subpoena, give testimony, produce any book, record, or other document as required by such a subpoena, or permit photocopying of any book, record, or other document subpoenaed, the court of common pleas of any county in this state, upon application made to it by the superintendent, shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from the court, or a refusal to testify therein.

~~(E)~~(F) If the superintendent determines that a person is engaged in, or is believed to be engaged in, activities that may constitute a violation of sections 1321.51 to 1321.60 of the Revised Code or the rules adopted thereunder, the superintendent may, after notice and a hearing conducted in accordance with Chapter 119. of the Revised Code, issue a cease and desist order. The superintendent, in taking administrative action to enjoin a person from acting as a registrant or mortgage loan originator in violation of division (A) or (E) of section 1321.52 of the Revised Code, may also seek and impose fines for those violations in an amount not to exceed five thousand dollars per violation. Such an order shall be enforceable in the court of common pleas.

(G) The superintendent shall regularly report violations of sections 1321.51 to 1321.60 of the Revised Code, as well as enforcement actions and other relevant information, to the nationwide mortgage licensing system and registry pursuant to division (E) of section 1321.55 of the Revised Code.

(H)(1) To protect the public interest, the superintendent may, without a prior hearing, do any of the following:

(a) Suspend the certificate of registration or license of a person who is convicted of or pleads guilty to a criminal violation of sections 1321.51 to 1321.60 of the Revised Code or any criminal offense described in division (B)(1)(b) or (c) of this section:

(b) Suspend the certificate of registration or license of a person who violates division (F) of section 1321.533 of the Revised Code:

(c) Suspend the certificate of registration or license of a person who fails to comply with a request made by the superintendent under this section or section 1321.55 of the Revised Code to inspect qualifying education transcripts located at the registrant's or licensee's place of business.

(2) The superintendent may, in accordance with Chapter 119. of the Revised Code, subsequently revoke any registration or license suspended under division (H)(1) of this section.

(3) The superintendent shall, in accordance with Chapter 119. of the Revised Code, adopt rules establishing the maximum amount of time a suspension under division (H)(1) of this section may continue before a hearing is conducted.

Sec. 1321.55. (A) Every registrant shall keep records pertaining to loans made under sections 1321.51 to 1321.60 of the Revised Code. Such records shall be segregated from records pertaining to transactions that are not subject to these sections of the Revised Code. Every registrant shall preserve records pertaining to loans made under sections 1321.51 to 1321.60 of the Revised Code for at least two years after making the final entry on such records. Accounting systems maintained in whole or in part by mechanical or electronic data processing methods that provide information equivalent to that otherwise required are acceptable for this purpose. At least once each eighteen-month cycle, the division of financial institutions shall make or cause to be made an examination of records pertaining to loans made under sections 1321.51 to 1321.60 of the Revised Code, for the purpose of determining whether the registrant is complying with these sections and of verifying the registrant's annual report.

(B)(1) As required by the superintendent of financial institutions, each registrant shall file with the division each year a report under oath or affirmation, on forms supplied by the division, concerning the business and operations for the preceding calendar year. Whenever a registrant operates two or more registered offices or whenever two or more affiliated registrants operate registered offices, then a composite report of the group of registered offices may be filed in lieu of individual reports.

(2) The division shall publish annually an analysis of the information required under division (B)(1) of this section, but the individual reports shall

not be public records and shall not be open to public inspection.

(3) Each licensee shall submit to the nationwide mortgage licensing system and registry call reports or other reports of condition, which shall be in such form and shall contain such information as the nationwide mortgage licensing system and registry may require.

~~(C) All information obtained by the superintendent or the superintendent's deputies, examiners, assistants, agents, or clerks by reason of their official position, including information obtained by such persons from the annual report of a registrant or in the course of examining a registrant or investigating an applicant for a certificate, is privileged and confidential. All such information shall remain privileged and confidential for all purposes except when it is necessary for the superintendent and the superintendent's deputies, examiners, assistants, agents, or clerks to take official action regarding the affairs of the registrant or in connection with criminal proceedings. Such information may also be introduced into evidence or disclosed when and in the manner authorized in section 1181.25 of the Revised Code.~~

~~(D) No person is in violation of sections 1321.51 to 1321.60 of the Revised Code for any act taken or omission made in reliance on a written notice, interpretation, or examination report from the superintendent.~~

~~(E) This section does not prevent the division from releasing to or exchanging with other financial institution regulatory authorities information relating to registrants.~~

~~(F) For purposes of this section, "financial institution regulatory authority" includes a regulator of a business activity in which a registrant is engaged, or has applied to engage in, to the extent that the regulator has jurisdiction over a registrant engaged in that business activity. A registrant is engaged in a business activity, and a regulator of that business activity has jurisdiction over the registrant, whether the registrant conducts the activity directly or a subsidiary or affiliate of the registrant conducts the activity (1) The following information is confidential:~~

~~(a) Examination information, and any information leading to or arising from an examination;~~

~~(b) Investigation information, and any information arising from or leading to an investigation.~~

~~(2) The information described in division (C)(1) of this section shall remain confidential for all purposes except when it is necessary for the superintendent to take official action regarding the affairs of a registrant or licensee, or in connection with criminal or civil proceedings to be initiated by a prosecuting attorney or the attorney general. This information may also~~

be introduced into evidence or disclosed when and in the manner authorized by section 1181.25 of the Revised Code.

(D) All application information, except social security numbers, employer identification numbers, financial account numbers, the identity of the institution where financial accounts are maintained, personal financial information, fingerprint cards and the information contained on such cards, and criminal background information, is a public record as defined in section 149.43 of the Revised Code.

(E) This section does not prevent the division of financial institutions from releasing to or exchanging with other financial institution regulatory authorities information relating to registrants and licensees. For this purpose, a "financial institution regulatory authority" includes a regulator of a business activity in which a registrant or licensee is engaged, or has applied to engage in, to the extent that the regulator has jurisdiction over a registrant or licensee engaged in that business activity. A registrant or licensee is engaged in a business activity, and a regulator of that business activity has jurisdiction over the registrant or licensee, whether the registrant or licensee conducts the activity directly or a subsidiary or affiliate of the registrant or licensee conducts the activity.

(1) Any confidentiality or privilege arising under federal or state law with respect to any information or material provided to the nationwide mortgage licensing system and registry shall continue to apply to the information or material after the information or material has been provided to the nationwide mortgage licensing system and registry. The information and material so provided may be shared with all state and federal regulatory officials with mortgage industry oversight authority without the loss of confidentiality or privilege protections provided by federal law or the law of any state. Information or material described in division (E)(1) of this section to which confidentiality or privilege applies shall not be subject to any of the following:

(a) Disclosure under any federal or state law governing disclosure to the public of information held by an officer or an agency of the federal government or of the respective state;

(b) Subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless the person to whom such information or material pertains waives, in whole or in part and at the discretion of the person, any privilege held by the nationwide mortgage licensing system and registry with respect to that information or material.

(2) The superintendent, in order to promote more effective regulation and reduce regulatory burden through supervisory information sharing, may

enter into sharing arrangements with other governmental agencies, the conference of state bank supervisors, and the American association of residential mortgage regulators.

(3) Any state law, including section 149.43 of the Revised Code, relating to the disclosure of confidential supervisory information or any information or material described in division (C)(1) or (E)(1) of this section that is inconsistent with this section shall be superseded by the requirements of this section.

(F) This section shall not apply with respect to information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators that is included in the nationwide mortgage licensing system and registry for access by the public.

(G) This section does not prevent the division from releasing information relating to registrants and licensees to the attorney general, to the superintendent of real estate and professional licensing for purposes relating to the administration of Chapters 4735. and 4763. of the Revised Code, to the superintendent of insurance for purposes relating to the administration of Chapter 3953. of the Revised Code, to the commissioner of securities for purposes relating to the administration of Chapter 1707. of the Revised Code, or to local law enforcement agencies and local prosecutors. Information the division releases pursuant to this section remains confidential.

(H) The superintendent of financial institutions shall, by rule adopted in accordance with Chapter 119. of the Revised Code, establish a process by which mortgage loan originators may challenge information provided to the nationwide mortgage licensing system and registry by the superintendent.

(I) No person, in connection with any examination or investigation conducted by the superintendent under sections 1321.51 to 1321.60 of the Revised Code, shall knowingly do any of the following:

(1) Circumvent, interfere with, obstruct, or fail to cooperate, including making a false or misleading statement, failing to produce records, or intimidating or suborning any witness;

(2) Withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information;

(3) Tamper with, alter, or manufacture any evidence.

Sec. 1321.551. (A) No registrant shall conduct the business of making loans under sections 1321.51 to 1321.60 of the Revised Code in any office, room, or place of business in which any other business is solicited or engaged in, or in association or conjunction with any other such business, if

the superintendent of financial institutions finds, pursuant to a hearing conducted in accordance with Chapter 119. of the Revised Code, that the other business is of such a nature that the conduct tends to conceal evasion of sections 1321.51 to 1321.60 of the Revised Code or of the rules adopted under those sections, and orders the registrant in writing to desist from the conduct.

(B) The business of a mortgage loan originator shall principally be transacted at an office of the registrant with whom the licensee is employed or associated, which office is registered, if applicable, in accordance with division (A)(1) of section 1321.52 of the Revised Code. Each original mortgage loan originator license shall be deposited with and maintained at the registrant's main office. A copy of the mortgage loan originator license shall be maintained and displayed at the office where the mortgage loan originator principally transacts business.

(C) If a mortgage loan originator's employment or association is terminated for any reason, the registrant shall return the original mortgage loan originator license to the superintendent within five business days after the termination. The licensee may request the transfer of the license to another registrant by submitting a transfer application, along with a fifteen dollar fee and any fee required by the national mortgage licensing system and registry, to the superintendent, or may request in writing that the superintendent hold the license in escrow. A licensee whose license is held in escrow shall cease activity as a mortgage loan originator. A licensee whose license is held in escrow shall be required to apply for renewal annually and to comply with the annual continuing education requirement.

(D) A registrant may employ or be associated with a mortgage loan originator on a temporary basis pending the transfer of the mortgage loan originator's license to the registrant, if the registrant receives written confirmation from the superintendent that the mortgage loan originator is licensed under sections 1321.51 to 1321.60 of the Revised Code.

(E) Notwithstanding divisions (B), (C), and (D) of this section, if a mortgage loan originator is employed by or associated with a person claiming an exemption under division (D) of section 1321.53 of the Revised Code, the mortgage loan originator shall maintain and display the original mortgage loan originator license at the office where the mortgage loan originator principally transacts business.

If the mortgage loan originator's employment or association is terminated for any reason, the licensee shall return the original mortgage loan originator license to the superintendent within five business days after the termination. The licensee may request the transfer of the license to a

mortgage broker or other person claiming an exemption under division (D) of section 1321.53 of the Revised Code by submitting a transfer application, along with a fifteen dollar fee and any fee required by the national mortgage licensing system and registry, to the superintendent, or may request the superintendent in writing to hold the license in escrow. A licensee whose license is held in escrow shall cease activity as a mortgage loan originator. A licensee whose license is held in escrow shall be required to apply for renewal annually and to comply with the annual continuing education requirement.

The licensee may seek to be employed or associated with a mortgage broker or other person claiming an exemption under division (D) of section 1321.53 of the Revised Code if the mortgage broker or person receives written confirmation from the superintendent that the mortgage loan originator is licensed under sections 1321.51 to 1321.60 of the Revised Code.

(F) No registrant, through its managers or otherwise, shall fail to do either of the following:

(1) Reasonably supervise mortgage loan originators or other persons employed by or associated with the registrant;

(2) Establish reasonable procedures designed to avoid violations of sections 1321.51 to 1321.60 of the Revised Code or rules adopted thereunder, or violations of applicable state and federal consumer and lending laws or rules, by mortgage loan originators or other persons employed by or associated with the registrant.

(G) A license, or the authority granted under that license, is not assignable and cannot be franchised by contract or any other means.

Sec. 1321.552. (A) Notwithstanding any provision of sections 1321.51 to 1321.60 of the Revised Code, or any rule adopted thereunder, if the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101, as amended, is modified after the effective date of this section, or any regulation, statement, or position is adopted under that act, and the item modified or adopted affects any matter within the scope of sections 1321.51 to 1321.60 of the Revised Code, the superintendent of financial institutions may by rule adopt a similar provision.

(B) The superintendent shall adopt the rules authorized by this section in accordance with section 111.15 of the Revised Code. Chapter 119. of the Revised Code does not apply to rules adopted under the authority of this section.

(C) A rule adopted by the superintendent under the authority of this section is effective on the later of the following dates:

(1) The date the superintendent issues the rule;

(2) The date the regulation, rule, interpretation, procedure, or guideline the superintendent's rule is based on becomes effective.

(D) The superintendent may, upon thirty days' written notice, revoke any rule adopted under the authority of this section. A rule adopted under the authority of this section, and not revoked by the superintendent, lapses and has no further force and effect eighteen months after the rule's effective date.

Sec. 1321.57. (A) Notwithstanding any other provisions of the Revised Code, a registrant may contract for and receive interest, calculated according to the actuarial method, at a rate or rates not exceeding twenty-one per cent per year on the unpaid principal balances of the loan. Loans may be interest-bearing or precomputed.

(B) For purposes of computation of time on interest-bearing and precomputed loans, including, but not limited to, the calculation of interest, a month is considered one-twelfth of a year, and a day is considered one three hundred sixty-fifth of a year when calculation is made for a fraction of a month. A year is as defined in section 1.44 of the Revised Code. A month is that period described in section 1.45 of the Revised Code. Alternatively, a registrant may consider a day as one three hundred sixtieth of a year and each month as having thirty days.

(C) With respect to interest-bearing loans:

(1)(a) Interest shall be computed on unpaid principal balances outstanding from time to time, for the time outstanding.

(b) As an alternative to the method of computing interest set forth in division (C)(1)(a) of this section, a registrant may charge and collect interest for the first installment period based on elapsed time from the date of the loan to the first scheduled payment due date, and for each succeeding installment period from the scheduled payment due date to the next scheduled payment due date, regardless of the date or dates the payments are actually made.

(c) Whether a registrant computes interest pursuant to division (C)(1)(a) or (b) of this section, each payment shall be applied first to unpaid charges, then to interest, and the remainder to the unpaid principal balance. However, if the amount of the payment is insufficient to pay the accumulated interest, the unpaid interest continues to accumulate to be paid from the proceeds of subsequent payments and is not added to the principal balance.

(2) Interest shall not be compounded, collected, or paid in advance. However, both of the following apply:

(a) Interest may be charged to extend the first monthly installment

period by not more than fifteen days, and the interest charged for the extension may be added to the principal amount of the loan.

(b) If part or all of the consideration for a new loan contract is the unpaid principal balance of a prior loan, the principal amount payable under the new loan contract may include any unpaid interest that has accrued. The resulting loan contract shall be deemed a new and separate loan transaction for purposes of this section. The unpaid principal balance of a precomputed loan is the balance due after refund or credit of unearned interest as provided in division (D)(3) of this section.

(D) With respect to precomputed loans:

(1) Loans shall be repayable in monthly installments of principal and interest combined, except that the first installment period may exceed one month by not more than fifteen days, and the first installment payment amount may be larger than the remaining payments by the amount of interest charged for the extra days; and provided further that monthly installment payment dates may be omitted to accommodate borrowers with seasonal income.

(2) Payments may be applied to the combined total of principal and precomputed interest until maturity of the loan. A registrant may charge interest after the original or deferred maturity of a precomputed loan at the rate specified in division (A) of this section on all unpaid principal balances for the time outstanding.

(3) When any loan contract is paid in full by cash, renewal, refinancing, or a new loan, one month or more before the final installment due date, the registrant shall refund, or credit the borrower with, the total of the applicable charges for all fully unexpired installment periods, as originally scheduled or as deferred, that follow the day of prepayment. If the prepayment is made other than on a scheduled installment due date, the nearest scheduled installment due date shall be used in such computation. If the prepayment occurs prior to the first installment due date, the registrant may retain one-thirtieth of the applicable charge for a first installment period of one month for each day from date of loan to date of prepayment, and shall refund, or credit the borrower with, the balance of the total interest contracted for. If the maturity of the loan is accelerated for any reason and judgment is entered, the registrant shall credit the borrower with the same refund as if prepayment in full had been made on the date the judgment is entered.

(4) If the parties agree in writing, either in the loan contract or in a subsequent agreement, to a deferment of wholly unpaid installments, a registrant may grant a deferment and may collect a deferment charge as

provided in this section. A deferment postpones the scheduled due date of the earliest unpaid installment and all subsequent installments as originally scheduled, or as previously deferred, for a period equal to the deferment period. The deferment period is that period during which no installment is scheduled to be paid by reason of the deferment. The deferment charge for a one-month period may not exceed the applicable charge for the installment period immediately following the due date of the last undeferred installment. A proportionate charge may be made for deferment for periods of more or less than one month. A deferment charge is earned pro rata during the deferment period and is fully earned on the last day of the deferment period. If a loan is prepaid in full during a deferment period, the registrant shall make, or credit to the borrower, a refund of the unearned deferment charge in addition to any other refund or credit made for prepayment of the loan in full.

(E) A registrant, at the request of the borrower, may obtain, on one or more borrowers, credit life insurance, credit accident and health insurance, and unemployment insurance. The premium or identifiable charge for the insurance may be included in the principal amount of the loan and may not exceed the premium rate filed by the insurer with the superintendent of insurance and not disapproved by the superintendent. If a registrant obtains the insurance at the request of the borrower, the borrower shall have the right to cancel the insurance for a period of twenty-five days after the loan is made. If the borrower chooses to cancel the insurance, the borrower shall give the registrant written notice of this choice and shall return all of the policies or certificates of insurance or notices of proposed insurance to the registrant during such period, and the full premium or identifiable charge for the insurance shall be refunded to the borrower by the registrant. If the borrower requests, in the notice to cancel the insurance, that this refund be applied to reduce the balance of a precomputed loan, the registrant shall credit the amount of the refund plus the amount of interest applicable to the refund to the loan balance.

If the registrant obtains the insurance at the request of the borrower, the registrant shall not charge or collect interest on any insured amount that remains unpaid after the insured borrower's date of death.

(F) A registrant may require the borrower to provide insurance or a loss payable endorsement covering reasonable risks of loss, damage, and destruction of property used as security for the loan and with the consent of the borrower such insurance may cover property other than that which is security for the loan. The amount and term of required property insurance shall be reasonable in relation to the amount and term of the loan contract

and the type and value of the security, and the insurance shall be procured in accordance with the insurance laws of this state. The purchase of this insurance through the registrant or an agent or broker designated by the registrant shall not be a condition precedent to the granting of the loan. If the borrower purchases the insurance from or through the registrant or from another source, the premium may be included in the principal amount of the loan.

(G) On loans secured by an interest in real estate, all of the following apply:

(1) A registrant, if not prohibited by section 1343.011 of the Revised Code, may charge and receive up to two points, and a prepayment penalty not in excess of one per cent of the original principal amount of the loan. Points may be paid by the borrower at the time of the loan or may be included in the principal amount of the loan. On a refinancing, a registrant may not charge under division (G)(1) of this section either of the following:

(a) Points on the portion of the principal amount that is applied to the unpaid principal amount of the refinanced loan, if the refinancing occurs within one year after the date of the refinanced loan on which points were charged;

(b) A prepayment penalty.

(2) As an alternative to the prepayment penalty described in division (G)(1) of this section, a registrant may contract for, charge, and receive the prepayment penalty described in division (G)(2) of this section for the prepayment of a loan prior to two years after the date the loan contract is executed. This prepayment penalty shall not exceed two per cent of the original principal amount of the loan if the loan is paid in full prior to one year after the date the loan contract is executed. The penalty shall not exceed one per cent of the original principal amount of the loan if the loan is paid in full at any time from one year, but prior to two years, after the date the loan contract is executed. A registrant shall not charge or receive a prepayment penalty under division (G)(2) of this section if any of the following applies:

(a) The loan is a refinancing by the same registrant or a registrant to whom the loan has been assigned;

(b) The loan is paid in full as a result of the sale of the real estate that secures the loan;

(c) The loan is paid in full with the proceeds of an insurance claim against an insurance policy that insures the life of the borrower or an insurance policy that covers loss, damage, or destruction of the real estate that secures the loan.

(3) Division (G) of this section is not a limitation on discount points or other charges for purposes of section 501(b)(4) of the "Depository Institutions Deregulation and Monetary Control Act of 1980," 94 Stat. 161, 12 U.S.C.A. 1735f-7 note.

(H)(1) In addition to the interest and charges provided for by this section, no further or other amount, whether in the form of broker fees, placement fees, or any other fees whatsoever, shall be charged or received by the registrant, except costs and disbursements in connection with any suit to collect a loan or any lawful activity to realize on a security interest or mortgage after default, including reasonable attorney fees incurred by the registrant as a result of the suit or activity and to which the registrant becomes entitled by law, and except the following additional charges which may be included in the principal amount of the loan or collected at any time after the loan is made:

(a) The amounts of fees authorized by law to record, file, or release security interests and mortgages on a loan;

(b) With respect to a loan secured by an interest in real estate, the following closing costs, if they are bona fide, reasonable in amount, paid to third parties, and not for the purpose of circumvention or evasion of this section:

(i) Fees or premiums for title examination, abstract of title, title insurance, surveys, title endorsements, title binders, title commitments, home inspections, or pest inspections; settlement or closing costs paid to unaffiliated third parties; courier fees; and any federally mandated flood plain certification fee;

(ii) If not paid to the registrant, an employee of the registrant, or a person ~~related to~~ affiliated with the registrant, fees for preparation of a mortgage, settlement statement, or other documents, fees for notarizing mortgages and other documents, appraisal fees, and fees for any federally mandated inspection of home improvement work financed by a second mortgage loan;

(c) Fees for credit investigations not exceeding ten dollars.

(2) Division (H)(1) of this section does not limit the rights of registrants to engage in other transactions with borrowers, provided the transactions are not a condition of the loan.

(I) If the loan contract or security instrument contains covenants by the borrower to perform certain duties pertaining to insuring or preserving security and the registrant pursuant to the loan contract or security instrument pays for performance of the duties on behalf of the borrower, the registrant may add the amounts paid to the unpaid principal balance of the

loan or collect them separately. A charge for interest may be made for sums advanced not exceeding the rate of interest permitted by division (A) of this section. Within a reasonable time after advancing a sum, the registrant shall notify the borrower in writing of the amount advanced, any interest charged with respect to the amount advanced, any revised payment schedule, and shall include a brief description of the reason for the advance.

(J)(1) In addition to points authorized under division (G) of this section, a registrant may charge and receive the following:

(a) With respect to ~~secured~~ loans secured by goods or real estate: if the principal amount of the loan is ~~less than~~ five hundred dollars or less, loan origination charges not exceeding fifteen dollars; if the principal amount of the loan is ~~at least~~ more than five hundred dollars but less than one thousand dollars, loan origination charges not exceeding thirty dollars; if the principal amount of the loan is at least one thousand dollars but less than two thousand dollars, loan origination charges not exceeding one hundred dollars; if the principal amount of the loan is at least two thousand dollars but less than five thousand dollars, loan origination charges not exceeding two hundred dollars; and if the principal amount of the loan is at least five thousand dollars, loan origination charges not exceeding the greater of two hundred fifty dollars or one per cent of the principal amount of the loan.

(b) With respect to ~~unsecured~~ loans that are not secured by goods or real estate: if the principal amount of the loan is ~~less than~~ five hundred dollars or less, loan origination charges not exceeding fifteen dollars; if the principal amount of the loan is ~~at least~~ more than five hundred dollars but less than one thousand dollars, loan origination charges not exceeding thirty dollars; if the principal amount of the loan is at least one thousand dollars but less than five thousand dollars, loan origination charges not exceeding one hundred dollars; and if the principal amount of the loan is at least five thousand dollars, loan origination charges not exceeding the greater of two hundred fifty dollars or one per cent of the principal amount of the loan.

(2) If a refinancing occurs within ninety days after the date of the refinanced loan, a registrant may not impose loan origination charges on the portion of the principal amount that is applied to the unpaid principal amount of the refinanced loan.

(3) Loan origination charges may be paid by the borrower at the time of the loan or may be included in the principal amount of the loan.

(K) A registrant may charge and receive check collection charges not greater than twenty dollars plus any amount passed on from other ~~financial~~ depository institutions for each check, negotiable order of withdrawal, share draft, or other negotiable instrument returned or dishonored for any reason.

(L) If the loan contract so provides, a registrant may collect a default charge on any installment not paid in full within ten days after its due date. For this purpose, all installments are considered paid in the order in which they become due. Any amounts applied to an outstanding loan balance as a result of voluntary release of a security interest, sale of security on the loan, or cancellation of insurance shall be considered payments on the loan, unless the parties otherwise agree in writing at the time the amounts are applied. The amount of the default charge shall not exceed the greater of five per cent of the scheduled installment or fifteen dollars.

Sec. 1321.59. (A) No registrant under sections 1321.51 to 1321.60 of the Revised Code shall permit any borrower to be indebted for a loan made under sections 1321.51 to 1321.60 of the Revised Code at any time while the borrower is also indebted to an affiliate or agent of the registrant for a loan made under sections 1321.01 to 1321.19 of the Revised Code for the purpose or with the result of obtaining greater charges than otherwise would be permitted by sections 1321.51 to 1321.60 of the Revised Code.

(B) No registrant shall induce or permit any person to become obligated to the registrant under sections 1321.51 to 1321.60 of the Revised Code, directly or contingently, or both, under more than one contract of loan at the same time for the purpose or with the result of obtaining greater charges than would otherwise be permitted by sections 1321.51 to 1321.60 of the Revised Code.

(C) No registrant shall refuse to provide information regarding the amount required to pay in full a loan under sections 1321.51 to 1321.60 of the Revised Code when requested by the borrower or by another person designated in writing by the borrower.

(D) On any loan or application for a loan under sections 1321.51 to 1321.60 of the Revised Code secured by a mortgage on a borrower's real estate which is other than a first lien on the real estate, no person shall pay or receive, directly or indirectly, fees or any other type of compensation for services of a mortgage broker that, in the aggregate, exceed the lesser of one thousand dollars or one per cent of the principal amount of the loan.

(E) No registrant or licensee shall obtain a certificate of registration or license through any false or fraudulent representation of a material fact or any omission of a material fact required by state or federal law, or make any substantial misrepresentation in the registration or license application, to engage in lending secured by real estate.

(F) No registrant or licensee, in connection with the business of making or offering to make residential mortgage loans, shall knowingly make false or misleading statements of a material fact, omissions of statements required

by state or federal law, or false promises regarding a material fact, through advertising or other means, or engage in a continued course of misrepresentations.

(G) No registrant, licensee, or person making loans without a certificate of registration in violation of division (A) of section 1321.52 of the Revised Code, shall knowingly engage in conduct, in connection with the business of making or offering to make residential mortgage loans, that constitutes improper, fraudulent, or dishonest dealings.

(H) No registrant, licensee, or applicant involved in the business of making or offering to make residential mortgage loans shall fail to notify the division of financial institutions within thirty days after knowing any of the following:

(1) That the registrant, licensee, or applicant has been convicted of or pleaded guilty to a felony offense in a domestic, foreign, or military court;

(2) That the registrant, licensee, or applicant has been convicted of or pleaded guilty to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, breach of trust, dishonesty, or drug trafficking, or any criminal offense involving money or securities, in a domestic, foreign, or military court;

(3) That the registrant, licensee, or applicant has had a mortgage lender registration or mortgage loan originator license, or comparable authority, revoked in any governmental jurisdiction.

(I) No registrant or licensee shall knowingly make, propose, or solicit fraudulent, false, or misleading statements on any mortgage document or on any document related to a mortgage loan, including a mortgage application, real estate appraisal, or real estate settlement or closing document. For purposes of this division, "fraudulent, false, or misleading statements" does not include mathematical errors, inadvertent transposition of numbers, typographical errors, or any other bona fide error.

(J) No registrant or licensee shall knowingly instruct, solicit, propose, or otherwise cause a borrower to sign in blank a loan related document in connection with a residential mortgage loan.

(K) No registrant or licensee shall knowingly compensate, instruct, induce, coerce, or intimidate, or attempt to compensate, instruct, induce, coerce, or intimidate, a person licensed or certified as an appraiser under Chapter 4763. of the Revised Code for the purpose of corrupting or improperly influencing the independent judgment of the person with respect to the value of the dwelling offered as security for repayment of a mortgage loan.

(L) No registrant or licensee shall willfully retain original documents provided to the registrant or licensee by the borrower in connection with the residential mortgage loan application, including income tax returns, account statements, or other financial related documents.

(M) No registrant or licensee shall, in connection with making residential mortgage loans, receive, directly or indirectly, a premium on the fees charged for services performed by a bona fide third party.

(N) No registrant or licensee shall, in connection with making residential mortgage loans, pay or receive, directly or indirectly, a referral fee or kickback of any kind to or from a bona fide third party or other party with a related interest in the transaction, including a home improvement builder, real estate developer, or real estate broker or agent, for the referral of business. Nothing in this division shall prevent remuneration to a registrant or licensee for the licensed sale of any insurance product that is permitted under section 1321.57 of the Revised Code, provided there is no additional fee or premium added to the cost for the insurance and paid directly or indirectly by the borrower.

(O) No registrant, licensee, or person making loans without a certificate of registration in violation of division (A) of section 1321.52 of the Revised Code shall, in connection with making or offering to make residential mortgage loans, engage in any unfair, deceptive, or unconscionable act or practice prohibited under sections 1345.01 to 1345.13 of the Revised Code.

Sec. 1321.591. No registrant or licensee shall fail to follow the practices set forth in the federal "Fair Debt Collection Practices Act," 91 Stat. 874, 15 U.S.C. 1692, as amended, notwithstanding the fact that the registrant or licensee is seeking to collect upon the registrant's own debt.

Sec. 1321.592. (A) In connection with providing a non-brokered loan secured by a lien on real property, a registrant or licensee shall, not earlier than three business days nor later than twenty-four hours before the loan is closed, deliver to the borrower a written disclosure that includes the following:

(1) A statement indicating whether property taxes or any insurance will be escrowed;

(2) A description of what is covered by the regular monthly payment, including principal, interest, taxes, and insurance, as applicable.

(B) If a residential mortgage loan applied for will exceed ninety per cent of the value of the real property, the registrant shall provide a statement to the borrower within three business days after taking the loan application, printed in boldface type of the minimum size of sixteen points, as follows: "You are applying for a loan that is more than 90% of your home's value. It

will be hard for you to refinance this loan. If you sell your home, you might owe more money on the loan than you get from the sale."

(C) No registrant or licensee shall fail to comply with this section.

Sec. 1321.593. (A) A registrant, licensee, and any person required to be registered or licensed under sections 1321.51 to 1321.60 of the Revised Code shall, in connection with the business of making or offering to make residential mortgage loans, do all of the following:

(1) Safeguard and account for any money handled for the borrower;

(2) Follow reasonable and lawful instructions from the borrower;

(3) Act with reasonable skill, care, and diligence;

(4) Act in good faith and with fair dealing in any transaction, practice, or course of business in connection with making or originating any residential mortgage loan under sections 1321.51 to 1321.60 of the Revised Code.

(B) Division (A) of this section shall not apply to wholesale lenders. However, wholesale lender registrants are subject to all other requirements applicable to registrants. For purposes of this division, "wholesale lender" means a company that has been issued a certificate of registration and that enters into transactions with borrowers exclusively through unaffiliated third-party mortgage brokers or lenders.

(C) The duties and standards of care created in this section cannot be waived or modified.

Sec. 1321.594. (A) In connection with making a non-brokered residential mortgage, no registrant or licensee shall fail to do either of the following:

(1) Timely inform the borrower of any material change in the terms of the residential mortgage loan. For purposes of division (A) (1) of this section, "material change" means the following:

(a) A change in the type of residential mortgage loan being offered, such as a fixed or variable rate loan or a loan with a balloon payment;

(b) A change in the term of the loan, as reflected in the number of monthly payments due before a final payment is scheduled to be made;

(c) A change in the interest rate of more than 0.15%;

(d) A change in the regular total monthly payment, including principal, interest, any required mortgage insurance, and any escrowed taxes or property insurance, of more than five per cent;

(e) A change regarding whether the escrow of taxes or insurance will be required;

(f) A change regarding whether private mortgage insurance will be required.

(2) Timely inform the borrower if any fees payable by the borrower to the licensee, registrant, or lender increase by more than ten per cent or one hundred dollars, whichever is greater.

(B) The disclosures required by this section shall be deemed timely if the registrant or licensee provides the borrower with the revised information not later than the time requirement imposed by 12 C.F.R. 226.19(a)(2) and (3), as those provisions of federal law exist on July 31, 2009.

(C) If an increase in the total amount of the fee to be paid by the borrower to the registrant or licensee is not disclosed in accordance with division (A)(2) of this section, the registrant or licensee shall refund to the borrower the amount by which the fee was increased. If the fee is financed into the loan, the registrant or licensee shall also refund to the borrower the interest that would accrue over the term of the loan on that excess amount.

Sec. 1321.60. (A)(1) Advertising for loans subject to sections 1321.51 to 1321.60 of the Revised Code shall not be false, misleading, or deceptive.

(2) False, misleading, or deceptive advertising includes, but is not limited to, the following:

(a) Placing, or causing to be placed, any advertisement indicating that special terms, reduced rates, guaranteed rates, particular rates, or any other special feature of mortgage loans is available unless the advertisement clearly states any limitations that apply:

(b) Placing, or causing to be placed, any advertisement containing a rate or special fee offer that is not a bona fide available rate or fee.

(B) In making any advertisement, a registrant shall comply with 12 C.F.R. 226.16, as amended.

Sec. 1321.99. (A) Whoever violates section 1321.02 of the Revised Code is guilty of a felony of the fifth degree.

(B) Whoever violates section 1321.13 of the Revised Code shall be fined not less than one hundred nor more than five hundred dollars or imprisoned not more than six months, or both.

(C) Whoever violates section 1321.14 of the Revised Code shall be fined not less than fifty nor more than two hundred dollars for a first offense; for a second offense such person shall be fined not less than two hundred nor more than five hundred dollars and imprisoned for not more than six months.

(D) Whoever willfully violates section 1321.57, 1321.58, division (A), (B), (C), or (D) of section 1321.59, 1321.591, or 1321.60 of the Revised Code is guilty of a minor misdemeanor and shall be fined not less than one nor more than five hundred dollars.

(E) Whoever violates section 1321.52 or division (I), (J), (K), (L), or

(M) of section 1321.59 of the Revised Code is guilty of a felony of the fifth degree.

(F) Whoever violates division (A) of section 1321.73 of the Revised Code shall be fined not more than five hundred dollars or imprisoned not more than six months, or both.

(G) Whoever violates section 1321.41 of the Revised Code is guilty of a misdemeanor of the first degree.

(H) Whoever violates division (N) of section 1321.59 of the Revised Code is guilty of a felony of the fourth degree.

(I) The imposition of fines pursuant to this section does not preclude the imposition of any administrative fines or civil penalties authorized under section 1321.54 or any other section of the Revised Code.

Sec. 1322.01. As used in sections 1322.01 to 1322.12 of the Revised Code:

(A) "Buyer" means an individual who is solicited to purchase or who purchases the services of a mortgage broker for purposes ~~other than~~ of obtaining a business residential mortgage loan as described in division (B)(6) of section 1343.01 of the Revised Code.

(B) "Consumer reporting agency" has the same meaning as in the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 1681a, as amended.

(C) "Employee" means an individual for whom a mortgage broker, in addition to providing a wage or salary, pays social security and unemployment taxes, provides workers' compensation coverage, and withholds local, state, and federal income taxes. "Employee" also includes any ~~shareholder, member, or partner of a registrant~~ individual who acts as a loan ~~officer~~ originator or operations manager of ~~the~~ a registrant, but for whom the registrant is prevented by law from making income tax withholdings.

(D) "Licensee" means any ~~person that~~ individual who has been issued a loan ~~officer~~ originator license under sections 1322.01 to 1322.12 of the Revised Code.

(E)(1) "~~Loan officer~~ originator" means an ~~employee~~ individual who ~~originates mortgage loans in consideration of direct for compensation or indirect gain, profit, fees, or charges.~~ "Loan officer" also includes an ~~employee who solicits financial and mortgage information from the public for sale to another mortgage broker or in anticipation of compensation or gain, does any of the following:~~

(a) Takes or offers to take a residential mortgage loan application;

(b) Assists or offers to assist a buyer in obtaining or applying to obtain a residential mortgage loan by, among other things, advising on loan terms,

including rates, fees, and other costs:

(c) Offers or negotiates terms of a residential mortgage loan;

(d) Issues or offers to issue a commitment for a residential mortgage loan to a buyer.

(2) "Loan originator" does not include any of the following:

(a) An individual who performs purely administrative or clerical tasks on behalf of a loan originator;

(b) A person licensed under Chapter 4735. of the Revised Code, or under the similar law of another state, who performs only real estate brokerage activities permitted by that license, provided the person is not compensated by a mortgage lender, mortgage broker, loan originator, or by any agent thereof;

(c) A person solely involved in extensions of credit relating to timeshare plans, as that term is defined in 11 U.S.C. 101 in effect on January 1, 2009;

(d) An employee of a registrant who acts solely as a loan processor or underwriter and who does not represent to the public, through advertising or other means of communicating, including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that the employee can or will perform any of the activities of a loan originator;

(e) A mortgage loan originator licensed under sections 1321.51 to 1321.60 of the Revised Code, when acting solely under that authority;

(f) A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a lender, a mortgage broker, or another loan originator, or by any agent thereof;

(g) Any person engaged in the retail sale of manufactured homes, mobile homes, or industrialized units if, in connection with financing those retail sales, the person only assists the borrower by providing or transmitting the loan application and does not do any of the following:

(i) Offer or negotiate the residential mortgage loan rates or terms;

(ii) Provide any counseling with borrowers about residential mortgage loan rates or terms;

(iii) Receive any payment or fee from any company or individual for assisting the borrower obtain or apply for financing to purchase the manufactured home, mobile home, or industrialized unit;

(iv) Assist the borrower in completing a residential mortgage loan application.

(h) An individual employed by a nonprofit organization that is recognized as tax exempt under 26 U.S.C. 501(c)(3) and whose primary activity is the construction, remodeling, or rehabilitation of homes for use by

low income families, provided that the nonprofit organization makes no-profit mortgage loans or mortgage loans at zero per cent interest to low income families and no fees accrue directly to the nonprofit organization or individual employed by the nonprofit organization from those mortgage loans and that the United States department of housing and urban development does not deny this exemption.

(F) "Mortgage" means any indebtedness secured by a deed of trust, security deed, or other lien on real property.

(G)(1) "Mortgage broker" means any of the following:

~~(1)(a)~~ (a) A person that holds that person out as being able to assist a buyer in obtaining a mortgage and charges or receives from either the buyer or lender money or other valuable consideration readily convertible into money for providing this assistance;

~~(2)(b)~~ (b) A person that solicits financial and mortgage information from the public, provides that information to a mortgage broker or a person that makes residential mortgage loans, and charges or receives from ~~the mortgage broker~~ either of them money or other valuable consideration readily convertible into money for providing the information;

~~(3)(c)~~ (c) A person engaged in table-funding or warehouse-lending mortgage loans that are first lien residential mortgage loans.

(2) "Mortgage broker" does not include any of the following:

(a) A person that makes residential mortgage loans and receives a scheduled payment on each of those mortgage loans;

(b) Any entity chartered and lawfully doing business under the authority of any law of this state, another state, or the United States as a bank, savings bank, trust company, savings and loan association, or credit union, or a subsidiary of any such entity, which subsidiary is regulated by a federal banking agency and is owned and controlled by a depository institution;

(c) A consumer reporting agency that is in substantial compliance with the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 1681a, as amended;

(d) Any political subdivision, or any governmental or other public entity, corporation, instrumentality, or agency, in or of the United States or any state;

(e) A college or university, or controlled entity of a college or university, as those terms are defined in section 1713.05 of the Revised Code;

(f) Any entity created solely for the purpose of securitizing loans secured by an interest in real estate, provided the entity does not service the loans. For purposes of division (G)(2)(f) of this section "securitizing" means

the packaging and sale of mortgage loans as a unit for sale as investment securities, but only to the extent of those activities.

(g) Any person engaged in the retail sale of manufactured homes, mobile homes, or industrialized units if, in connection with obtaining financing by others for those retail sales, the person only assists the borrower by providing or transmitting the loan application and does not do any of the following:

(i) Offer or negotiate the residential mortgage loan rates or terms;

(ii) Provide any counseling with borrowers about residential mortgage loan rates or terms;

(iii) Receive any payment or fee from any company or individual for assisting the borrower obtain or apply for financing to purchase the manufactured home, mobile home, or industrialized unit;

(iv) Assist the borrower in completing the residential mortgage loan application.

(h) A mortgage banker, provided it complies with section 1322.022 of the Revised Code and holds a valid letter of exemption issued by the superintendent. For purposes of this section, "mortgage banker" means any person that makes, services, buys, or sells residential mortgage loans secured by a first lien, that underwrites the loans, and that meets at least one of the following criteria:

(i) The person has been directly approved by the United States department of housing and urban development as a nonsupervised mortgagee with participation in the direct endorsement program. Division (G)(2)(h)(i) of this section includes a person that has been directly approved by the United States department of housing and urban development as a nonsupervised mortgagee with participation in the direct endorsement program and that makes loans in excess of the applicable loan limit set by the federal national mortgage association, provided that the loans in all respects, except loan amounts, comply with the underwriting and documentation requirements of the United States department of housing and urban development. Division (G)(2)(h)(i) of this section does not include a mortgagee approved as a loan correspondent.

(ii) The person has been directly approved by the federal national mortgage association as a seller/servicer. Division (G)(2)(h)(ii) of this section includes a person that has been directly approved by the federal national mortgage association as a seller/servicer and that makes loans in excess of the applicable loan limit set by the federal national mortgage association, provided that the loans in all respects, except loan amounts, comply with the underwriting and documentation requirements of the

federal national mortgage association.

(iii) The person has been directly approved by the federal home loan mortgage corporation as a seller/servicer. Division (G)(2)(h)(iii) of this section includes a person that has been directly approved by the federal home loan mortgage corporation as a seller/servicer and that makes loans in excess of the applicable loan limit set by the federal home loan mortgage corporation, provided that the loans in all respects, except loan amounts, comply with the underwriting and documentation requirements of the federal home loan mortgage corporation.

(iv) The person has been directly approved by the United States department of veterans affairs as a nonsupervised automatic lender. Division (G)(2)(h)(iv) of this section does not include a person directly approved by the United States department of veterans affairs as a nonsupervised lender, an agent of a nonsupervised automatic lender, or an agent of a nonsupervised lender.

(i) A nonprofit organization that is recognized as tax exempt under 26 U.S.C. 501(c)(3) and whose primary activity is the construction, remodeling, or rehabilitation of homes for use by low income families, provided that the nonprofit organization makes no-profit mortgage loans or mortgage loans at zero per cent interest to low income families and no fees accrue directly to the nonprofit organization from those mortgage loans and that the United States department of housing and urban development does not deny this exemption.

(j) A credit union service organization, provided that the organization utilizes services provided by registered loan originators or that it holds a valid letter of exemption issued by the superintendent under section 1322.023 of the Revised Code and complies with that section.

(H) "Operations manager" means the individual employee or owner responsible for the everyday operations, compliance requirements, and management of a mortgage broker business.

(I) "Originate Registered loan originator" means to do any an individual to whom both of the following apply:

(1) Negotiate or arrange, or offer to negotiate or arrange, a mortgage loan between a person that makes or funds mortgage loans and a buyer; The individual is a loan originator and an employee of a depository institution, a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency, or an institution regulated by the farm credit administration.

(2) Issue a commitment for a mortgage loan to a buyer;

(3) Place, assist in placement, or find a mortgage loan for a buyer The

individual is registered with, and maintains a unique identifier through, the nationwide mortgage licensing system and registry.

(J) "Registrant" means any person that has been issued a mortgage broker certificate of registration under sections 1322.01 to 1322.12 of the Revised Code.

(K) "Superintendent of financial institutions" includes the deputy superintendent for consumer finance as provided in section 1181.21 of the Revised Code.

(L) "Table-funding mortgage loan" means a residential mortgage loan transaction in which the residential mortgage loan is initially payable to the mortgage broker, the mortgage broker does not use the mortgage broker's own funds to fund the transaction, and, by the terms of the mortgage or other agreement, the mortgage is simultaneously assigned to another person.

(M) "Warehouse-lending mortgage loan" means a residential mortgage loan transaction in which the residential mortgage loan is initially payable to the mortgage broker, the mortgage broker uses the mortgage broker's own funds to fund the transaction, and the mortgage is sold or assigned before the mortgage broker receives a scheduled payment on the residential mortgage loan.

(N) "Administrative or clerical tasks" means the receipt, collection, and distribution of information common for the processing or underwriting of a loan in the mortgage industry, and communication with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan.

(O) "Appraisal company" means a sole proprietorship, partnership, corporation, limited liability company, or any other business entity or association, that employs or retains the services of a person licensed or certified under Chapter 4763. of the Revised Code for purposes of performing residential real estate appraisals for mortgage loans.

(P) "Depository institution" has the same meaning as in section 3 of the "Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C. 1813, and includes any credit union.

(Q) "Federal banking agency" means the board of governors of the federal reserve system, the comptroller of the currency, the director of the office of thrift supervision, the national credit union administration, and the federal deposit insurance corporation.

(R) "Immediate family" means an individual's spouse, child, stepchild, parent, stepparent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, or sister-in-law.

(S) "Individual" means a natural person.

(T) "Loan processor or underwriter" means an individual who performs clerical or support duties at the direction of and subject to the supervision and instruction of a licensed loan originator or registered loan originator. For purposes of this division, "clerical or support duties" includes the following activities:

(1) The receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan;

(2) Communicating with a buyer to obtain the information necessary for the processing or underwriting of a loan, to the extent the communication does not include offering or negotiating loan rates or terms or counseling buyers about residential mortgage loan rates or terms.

(U) "Nationwide mortgage licensing system and registry" means a mortgage licensing system developed and maintained by the conference of state bank supervisors and the American association of residential mortgage regulators, or their successor entities, for the licensing and registration of loan originators, or any system established by the secretary of housing and urban development pursuant to the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101.

(V) "Nontraditional mortgage product" means any mortgage product other than a thirty-year fixed rate mortgage.

(W) "Real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including all of the following:

(1) Acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property;

(2) Bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property, other than in connection with providing financing for any such transaction;

(3) Negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property, other than in connection with providing financing for any such transaction;

(4) Engaging in any activity for which a person engaged in that activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law;

(5) Offering to engage in any activity, or to act in any capacity, described in division (W) of this section.

(X) "Residential mortgage loan" means any loan primarily for personal, family, or household use that is secured by a mortgage on a dwelling or on residential real estate upon which is constructed or intended to be constructed a dwelling. For purposes of this division, "dwelling" has the

same meaning as in section 103 of the "Truth in Lending Act," 82 Stat. 146, 15 U.S.C 1602.

(Y) "State," in the context of referring to states in addition to Ohio, means any state of the United States, the district of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the trust territory of the Pacific islands, the virgin islands, and the northern Mariana islands;

(Z) "Unique identifier" means a number or other identifier that permanently identifies a loan originator and is assigned by protocols established by the nationwide mortgage licensing system and registry or federal banking agencies to facilitate electronic tracking of loan originators and uniform identification of, and public access to, the employment history of and the publicly adjudicated disciplinary and enforcement actions against loan originators.

Sec. 1322.02. (A)(1) No person, on the person's own behalf or on behalf of any other person, shall act as a mortgage broker without first having obtained a certificate of registration from the superintendent of financial institutions for every office to be maintained by the person for the transaction of business as a mortgage broker in this state. A registrant shall maintain an office location in this state for the transaction of business as a mortgage broker in this state.

(2) No person shall act or hold that person's self out as a mortgage broker under the authority or name of a registrant or person exempt from sections 1322.01 to 1322.12 of the Revised Code without first having obtained a certificate of registration from the superintendent for every office to be maintained by the person for the transaction of business as a mortgage broker in this state.

~~(B)(1) No person, on the person's own behalf or on behalf of any other person, individual~~ shall act as a loan ~~officer~~ originator without first having obtained a license from the superintendent. A loan ~~officer~~ originator shall be employed by or associated with a mortgage broker or any person or entity listed in division (G)(2) of section 1322.01 of the Revised Code, but shall not be employed by or associated with more than one mortgage broker or person or entity at any one time.

(2) An individual acting under the individual's authority as a registered loan originator shall not be required to be licensed under division (B)(1) of this section.

~~(C)(1) The following persons are exempt from sections 1322.01 to 1322.12 of the Revised Code only with respect to business engaged in or authorized by their charter, license, authority, approval, or certificate, or as~~

~~otherwise authorized by division (C)(1)(g) of this section:~~

~~(a) A bank, savings bank, savings and loan association, credit union, or credit union service organization organized under the laws of this state, another state, or the United States, or a subsidiary or affiliate of a bank, savings bank, savings and loan association, credit union, or credit union service organization. As used in this division, "affiliate" means an entity that controls, is controlled by, or is under common control with, a bank, savings bank, savings and loan association, credit union, or credit union service organization and that the board of governors of the federal reserve system, the comptroller of the currency, the office of thrift supervision, the federal deposit insurance corporation, or the national credit union administration has the authority to examine, supervise, and regulate including with respect to the affiliate's compliance with applicable consumer protection requirements.~~

~~(b) A budget and debt counseling service, as defined in division (D) of section 2716.03 of the Revised Code, provided that the service is a nonprofit organization exempt from taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501, as amended, and that the service is in compliance with Chapter 4710. of the Revised Code;~~

~~(c) A consumer reporting agency that is in substantial compliance with the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 1681a, as amended;~~

~~(d) Any political subdivision, or any governmental or other public entity, corporation, or agency, in or of the United States or any state of the United States;~~

~~(e) A college or university, or controlled entity of a college or university, as defined in section 1713.05 of the Revised Code;~~

~~(f) A person registered under sections 1321.51 to 1321.60 of the Revised Code, provided that not more than five per cent of the person's mortgage loans constitute table funding mortgage loans or warehouse lending mortgage loans. Division (C)(1)(f) of this section does not include any person that is also registered or licensed under sections 1322.01 to 1322.12 of the Revised Code.~~

~~(g) A mortgage banker. For purposes of division (C)(1)(g) of this section, "mortgage banker" means any person that makes, services, buys, or sells mortgage loans, that underwrites the loans, and that meets at least one of the following criteria:~~

~~(i) The person has been directly approved by the United States department of housing and urban development as a nonsupervised mortgagee with participation in the direct endorsement program. Division~~

~~(C) (1) (g) (i) of this section includes a person that has been directly approved by the United States department of housing and urban development as a nonsupervised mortgagee with participation in the direct endorsement program and that makes loans in excess of the applicable loan limit set by the federal national mortgage association, provided that the loans in all respects, except loan amounts, comply with the underwriting and documentation requirements of the United States department of housing and urban development. Division (C)(1)(g)(i) of this section does not include a mortgagee approved as a loan correspondent.~~

~~(ii) The person has been directly approved by the federal national mortgage association as a seller/servicer. Division (C) (1) (g) (ii) of this section includes a person that has been directly approved by the federal national mortgage association as a seller/servicer and that makes loans in excess of the applicable loan limit set by the federal national mortgage association, provided that the loans in all respects, except loan amounts, comply with the underwriting and documentation requirements of the federal national mortgage association.~~

~~(iii) The person has been directly approved by the federal home loan mortgage corporation as a seller/servicer. Division (C) (1) (g) (iii) of this section includes a person that has been directly approved by the federal home loan mortgage corporation as a seller/servicer and that makes loans in excess of the applicable loan limit set by the federal home loan mortgage corporation, provided that the loans in all respects, except loan amounts, comply with the underwriting and documentation requirements of the federal home loan mortgage corporation.~~

~~(iv) The person has been directly approved by the United States department of veterans affairs as a nonsupervised automatic lender. Division (C)(1)(g)(iv) of this section does not include a person directly approved by the United States department of veterans affairs as a nonsupervised lender, an agent of a nonsupervised automatic lender, or an agent of a nonsupervised lender.~~

~~(h) A person created solely for the purpose of securitizing loans secured by an interest in real estate, provided the person does not service the loans. For purposes of division (C)(1)(h) of this section, "securitizing" means the packaging and sale of mortgage loans as a unit for sale as investment securities, but only to the extent of those activities Each licensee shall register with, and maintain a valid unique identifier issued by, the nationwide mortgage licensing system and registry.~~

~~(2) Any individual who is employed by a person exempt from sections 1322.01 to 1322.12 of the Revised Code is also exempt from those sections~~

~~to the extent the individual is acting within the scope of the individual's employment and within the scope of the exempt person's charter, license, authority, approval, or certificate~~ No person shall use a licensee's unique identifier for any purpose other than as set forth in the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101.

Sec. 1322.022. (A) A mortgage banker seeking exemption from registration pursuant to division (G)(2)(h) of section 1322.01 of the Revised Code shall submit an application to the superintendent of financial institutions along with a nonrefundable fee of three hundred fifty dollars for each location of an office to be maintained by the mortgage banker. The application shall be in a form prescribed by the superintendent and shall include all of the following:

(1) The mortgage banker's business name and state of incorporation or business registration;

(2) The names of the owners, officers, or partners having control of the business;

(3) An attestation to all of the following:

(a) That the mortgage banker and its owners, officers, or partners identified in division (A)(2) of this section have not had a mortgage banker license, mortgage broker certificate of registration, or loan originator license, or any comparable authority, revoked in any governmental jurisdiction;

(b) That the mortgage banker and its owners, officers, or partners identified in division (A)(2) of this section have not been convicted of, or pleaded guilty to, any of the following in a domestic, foreign, or military court:

(i) During the seven-year period immediately preceding the date of application for exemption, any felony or a misdemeanor involving theft;

(ii) At any time prior to the date the application for exemption is approved, a felony involving an act of fraud, dishonesty, a breach of trust, theft, or money laundering.

(c) That, with respect to financing residential mortgage loans, the mortgage banker conducts business with residents of this state, or secures its loans with property located in this state, under authority of an approval described in division (G)(2)(h) of section 1322.01 of the Revised Code.

(4) The names of all loan originators or licensees under the mortgage banker's control and direction;

(5) An acknowledgment of understanding that the mortgage banker is subject to the regulatory authority of the division of financial institutions as

provided in this section:

(6) Any further reasonable information that the superintendent may require.

(B)(1) If the superintendent determines that the mortgage banker honestly made the attestation required under division (A)(3) of this section and otherwise qualifies for exemption, the superintendent shall issue a letter of exemption. Additional certified copies of a letter of exemption shall be provided upon request and the payment of seventy-five dollars per copy.

(2) If the superintendent determines that the mortgage banker does not qualify for exemption, the superintendent shall issue a notice of denial, and the mortgage banker may request a hearing in accordance with Chapter 119. of the Revised Code.

(C) All of the following conditions apply to any mortgage banker holding a valid letter of exemption:

(1) The mortgage banker shall be subject to examination in the same manner as a registrant with respect to the conduct of the mortgage banker's loan originators. In conducting any out-of-state examination, a mortgage banker shall be responsible for paying the costs of the division in the same manner as a registrant.

(2) The mortgage banker shall have an affirmative duty to supervise the conduct of its loan originators, and to cooperate with investigations by the division with respect to that conduct, in the same manner as is required of registrants.

(3) The mortgage banker shall keep and maintain records of all transactions relating to the conduct of its loan originators in the same manner as is required of registrants.

(4) The mortgage banker may provide the surety bond for its licensees in the same manner as is permitted for registrants.

(D) A letter of exemption expires annually on the thirty-first day of December and may be renewed on or before that date by submitting an application that meets the requirements of division (A) of this section and a nonrefundable renewal fee of three hundred fifty dollars for each location of an office to be maintained by the mortgage banker.

(E) The superintendent may issue a notice to revoke or suspend a letter of exemption if the superintendent finds that the letter was obtained through a false or fraudulent representation of a material fact, or the omission of a material fact, required by law, or that a condition for exemption is no longer being met. Prior to issuing an order of revocation or suspension, the mortgage banker shall be given an opportunity for a hearing in accordance with Chapter 119. of the Revised Code.

(F) All information obtained by the division pursuant to an examination or investigation under this section shall be subject to the confidentiality requirements set forth in section 1322.061 of the Revised Code.

(G) All money collected under this section shall be deposited into the state treasury to the credit of the consumer finance fund created in section 1321.21 of the Revised Code.

(H) A mortgage banker that holds a valid letter of exemption, and any licensee employed by the mortgage banker, shall not be required to comply with section 1322.062 of the Revised Code with respect to any transaction covered under the authority of an approval described in division (G)(2)(h) of section 1322.01 of the Revised Code. Compliance shall be required, however, with respect to transactions not covered under the authority of an approval described in that division.

Sec. 1322.023. (A) A credit union service organization seeking exemption from registration pursuant to division (G)(2)(j) of section 1322.01 of the Revised Code shall submit an application to the superintendent of financial institutions along with a nonrefundable fee of three hundred fifty dollars for each location of an office to be maintained by the organization. The application shall be in a form prescribed by the superintendent and shall include all of the following:

(1) The organization's business name and state of incorporation;

(2) The names of the owners, officers, or partners having control of the organization;

(3) An attestation to all of the following:

(a) That the organization and its owners, officers, or partners identified in division (A)(2) of this section have not had a mortgage broker certificate of registration or loan originator license, or any comparable authority, revoked in any governmental jurisdiction;

(b) That the organization and its owners, officers, or partners identified in division (A)(2) of this section have not been convicted of, or pleaded guilty to, any of the following in a domestic, foreign, or military court:

(i) During the seven-year period immediately preceding the date of application for exemption, any felony or a misdemeanor involving theft;

(ii) At any time prior to the date the application for exemption is approved, a felony involving an act of fraud, dishonesty, a breach of trust, theft, or money laundering.

(c) That, with respect to financing residential mortgage loans, the organization conducts business with residents of this state or secures its loans with property located in this state.

(4) The names of all loan originators or licensees under the

organization's control and direction:

(5) An acknowledgment of understanding that the organization is subject to the regulatory authority of the division of financial institutions;

(6) Any further information that the superintendent may require.

(B)(1) If the superintendent determines that the credit union service organization honestly made the attestation required under division (A)(3) of this section and otherwise qualifies for exemption, the superintendent shall issue a letter of exemption. Additional certified copies of a letter of exemption shall be provided upon request and the payment of seventy-five dollars per copy.

(2) If the superintendent determines that the organization does not qualify for exemption, the superintendent shall issue a notice of denial, and the organization may request a hearing in accordance with Chapter 119. of the Revised Code.

(C) All of the following conditions apply to any credit union service organization holding a valid letter of exemption:

(1) The organization shall be subject to examination in the same manner as a registrant with respect to the conduct of the organization's loan originators. In conducting any out-of-state examination, the organization shall be responsible for paying the costs of the division in the same manner as a registrant.

(2) The organization shall have an affirmative duty to supervise the conduct of its loan originators, and to cooperate with investigations by the division with respect to that conduct, in the same manner as is required of registrants.

(3) The organization shall keep and maintain records of all transactions relating to the conduct of its loan originators in the same manner as is required of registrants.

(4) The organization may provide the surety bond for its licensees in the same manner as is permitted for registrants.

(D) A letter of exemption expires annually on the thirty-first day of December and may be renewed on or before that date by submitting an application that meets the requirements of division (A) of this section and a nonrefundable renewal fee of three hundred fifty dollars for each location of an office to be maintained by the credit union service organization.

(E) The superintendent may issue a notice to revoke or suspend a letter of exemption if the superintendent finds that the letter was obtained through a false or fraudulent representation of a material fact, or the omission of a material fact, required by law, or that a condition for exemption is no longer being met. Prior to issuing an order of revocation or suspension, the credit

union service organization shall be given an opportunity for a hearing in accordance with Chapter 119. of the Revised Code.

(F) All information obtained by the division pursuant to an examination or investigation under this section shall be subject to the confidentiality requirements set forth in section 1322.061 of the Revised Code.

(G) All money collected under this section shall be deposited into the state treasury to the credit of the consumer finance fund created in section 1321.21 of the Revised Code.

Sec. 1322.024. The superintendent of financial institutions may, by rule, expand the definition of loan originator or mortgage broker in section 1322.01 of the Revised Code by adding individuals, persons, or entities, or may exempt additional individuals, persons, or entities from those definitions, if the superintendent finds that the addition or exemption is consistent with the purposes fairly intended by the policy and provisions of sections 1322.01 to 1322.12 of the Revised Code and the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101.

Rules authorized by this section shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 1322.025. (A) Notwithstanding any provision of sections 1322.01 to 1322.12 of the Revised Code, or any rule adopted thereunder, if the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101, as amended, is modified after the effective date of this section, or any regulation, statement, or position is adopted under that act, and the item modified or adopted affects any matter within the scope of sections 1322.01 to 1322.12 of the Revised Code, the superintendent of financial institutions may by rule adopt a similar provision.

(B) The superintendent shall adopt the rules authorized by this section in accordance with section 111.15 of the Revised Code. Chapter 119. of the Revised Code does not apply to rules adopted under the authority of this section.

(C) A rule adopted by the superintendent under the authority of this section is effective on the later of the following dates:

(1) The date the superintendent issues the rule;

(2) The date the regulation, rule, interpretation, procedure, or guideline the superintendent's rule is based on becomes effective.

(D) The superintendent may, upon thirty days' written notice, revoke any rule adopted under the authority of this section. A rule adopted under the authority of this section, and not revoked by the superintendent, lapses and has no further force and effect eighteen months after the rule's effective

date.

Sec. 1322.03. (A) An application for a certificate of registration as a mortgage broker shall be in writing, under oath, and in the form prescribed by the superintendent of financial institutions. The application shall be accompanied by a nonrefundable application fee of ~~three~~ five hundred ~~fifty~~ dollars for each location of an office to be maintained by the applicant in accordance with division (A) of section 1322.02 of the Revised Code; ~~however, an applicant that is registered under sections 1321.51 to 1321.60 of the Revised Code shall not be required to pay an application fee and any additional fee required by the nationwide mortgage licensing system and registry.~~ The application shall provide all of the following:

(1) The location or locations where the business is to be transacted and whether any location is a residence. If any location where the business is to be transacted is a residence, the superintendent may require that the application shall be accompanied by a certified copy of a zoning permit authorizing the use of the residence for commercial purposes, or shall be accompanied by a written opinion or other document issued by the county or political subdivision where the residence is located certifying that the use of the residence to transact business as a mortgage broker is not prohibited by the county or political subdivision. The application also shall be accompanied by a photograph of each location at which the business will be transacted.

(2)(a) In the case of a sole proprietor, the name and address of the sole proprietor;

(b) In the case of a partnership, the name and address of each partner;

(c) In the case of a corporation, the name and address of each shareholder owning five per cent or more of the corporation;

(d) In the case of any other entity, the name and address of any person that owns five per cent or more of the entity that will transact business as a mortgage broker.

(3) ~~If the applicant is a partnership, corporation, limited liability company, or any other business entity or association, the~~ Each applicant shall designate an employee or owner of the applicant as the applicant's operations manager. While acting as the operations manager, the employee or owner shall be licensed as a loan originator under sections 1322.01 to 1322.12 of the Revised Code and shall not be employed by any other mortgage broker.

(4) Evidence that the ~~sole proprietor or the person designated on the application pursuant to division (A)(3) of this section, as applicable,~~ possesses at least three years of experience in the residential mortgage and

lending field, which experience may include employment with or as a mortgage broker or with a financial depository institution, mortgage lending institution, or other lending institution, or possesses at least three years of other experience related specifically to the business of residential mortgage loans that the superintendent determines meets the requirements of division (A)(4) of this section;

~~(5) On or after January 1, 2007, evidence~~ Evidence that the ~~sole proprietor or the~~ person designated on the application pursuant to division (A)(3) of this section has successfully completed ~~either of the following:~~

~~(a) At least twenty four hours of live classroom pre-licensing instruction in a course or program of study approved by the superintendent that consists of at least all of the following:~~

~~(i) Four hours of instruction concerning state and federal mortgage lending laws, which shall include no less than two hours on this chapter;~~

~~(ii) Four hours of instruction concerning the Ohio consumer sales practices act, Chapter 1345. of the Revised Code, as it applies to registrants and licensees;~~

~~(iii) Four hours of instruction concerning the loan application process;~~

~~(iv) Two hours of instruction concerning the underwriting process;~~

~~(v) Two hours of instruction concerning the secondary market for mortgage loans;~~

~~(vi) Four hours of instruction concerning the loan closing process;~~

~~(vii) Two hours of instruction covering basic mortgage financing concepts and terms;~~

~~(viii) Two hours of instruction concerning the ethical responsibilities of a registrant, including with respect to confidentiality, consumer counseling, and the duties and standards of care created in section 1322.081 of the Revised Code.~~

~~(b) Other post-secondary education related specifically to the business of mortgage loans that the superintendent determines meets the requirements of division (A)(5)(a) of this section.~~

~~Division (A)(5) of this section does not apply to any applicant who has an application on file with the division of financial institutions prior to January 1, 2007.~~

~~The evidence submitted by the applicant pursuant to division (A)(5) of this section may be in the form of transcripts or a statement indicating that the applicant has, and will maintain, transcripts at the applicant's place of business for a period of five years for inspection by the superintendent at the superintendent's request requirements set forth in section 1322.031 of the Revised Code.~~

(6) Evidence of compliance with the surety bond requirements of section 1322.05 of the Revised Code and with sections 1322.01 to 1322.12 of the Revised Code;

(7) In the case of a foreign business entity, evidence that it maintains a license or registration pursuant to Chapter 1703., 1705., 1775., 1776., 1777., 1782., or 1783. of the Revised Code to transact business in this state;

~~(8) A statement as to whether the applicant or, to the best of the applicant's knowledge, any shareholder, member, partner, operations manager, or employee of the applicant has been convicted of or pleaded guilty to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities;~~

~~(9) A statement as to whether the applicant or, to the best of the applicant's knowledge, any shareholder, member, partner, operations manager, or employee of the applicant has been subject to any adverse judgment for conversion, embezzlement, misappropriation of funds, fraud, misfeasance or malfeasance, or breach of fiduciary duty;~~

(10) Evidence that the applicant's operations manager has successfully completed the examination written test required under division (A) of section 1322.051 of the Revised Code;

~~(11)~~(9) Any further information that the superintendent requires.

(B) Upon the filing of the application and payment of the nonrefundable application fee and any fee required by the nationwide mortgage licensing system and registry, the superintendent of financial institutions shall investigate the applicant, and any individual whose identity is required to be disclosed in the application, as set forth in division (B) of this section.

(1) ~~The (a) Notwithstanding division (K) of section 121.08 of the Revised Code, the superintendent shall obtain a criminal history records check and, as part of that records check, request that criminal record information from the federal bureau of investigation be obtained. To fulfill this requirement, the superintendent shall request~~ do either of the following:

(i) Request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the applicant's fingerprints or, if the fingerprints are unreadable, based on the applicant's social security number, in accordance with division (A)~~(11)~~(12) of section 109.572 of the Revised Code. ~~Notwithstanding division (K) of section 121.08 of the Revised Code, the superintendent of financial institutions shall;~~

(ii) Authorize the nationwide mortgage licensing system and registry to request that criminal record information from the federal bureau of

~~investigation be obtained as part of the a criminal records history background check. Any~~

(b) Any fee required under division (C)(3) of section 109.572 of the Revised Code or by the nationwide mortgage licensing system and registry shall be paid by the applicant.

(2) The superintendent shall conduct a civil records check.

(3) If, in order to issue a certificate of registration to an applicant, additional investigation by the superintendent outside this state is necessary, the superintendent may require the applicant to advance sufficient funds to pay the actual expenses of the investigation, if it appears that these expenses will exceed ~~three~~ five hundred ~~fifty~~ dollars. The superintendent shall provide the applicant with an itemized statement of the actual expenses that the applicant is required to pay.

(C) The superintendent shall pay all funds advanced and application and renewal fees and penalties the superintendent receives pursuant to this section and section 1322.04 of the Revised Code to the treasurer of state to the credit of the consumer finance fund created in section 1321.21 of the Revised Code.

(D) If an application for a mortgage broker certificate of registration does not contain all of the information required under division (A) of this section, and if that information is not submitted to the superintendent within ninety days after the superintendent requests the information in writing, the superintendent may consider the application withdrawn.

(E) A mortgage broker certificate of registration and the authority granted under that certificate is not transferable or assignable and cannot be franchised by contract or any other means.

(F) The registration requirements of this chapter apply to any person acting as a mortgage broker, and no person is exempt from the requirements of this chapter on the basis of prior work or employment as a mortgage broker.

(G) The superintendent may establish relationships or enter into contracts with the nationwide mortgage licensing system and registry, or any entities designated by it, to collect and maintain records and process transaction fees or other fees related to mortgage broker certificates of registration or the persons associated with a mortgage broker.

Sec. 1322.031. (A) An application for a license as a loan ~~officer~~ originator shall be in writing, under oath, and in the form prescribed by the superintendent of financial institutions. The application shall be accompanied by a nonrefundable application fee of one hundred fifty dollars and ~~shall provide all of the following:~~

~~(1) The name and address of the applicant;~~

~~(2) A statement as to whether the applicant has been convicted of or pleaded guilty to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities;~~

~~(3) A statement as to whether the applicant has been subject to an adverse judgment for conversion, embezzlement, misappropriation of funds, fraud, misfeasance or malfeasance, or breach of fiduciary duty;~~

~~(4) For loan officer applications submitted on or after January 1, 2007, proof any additional fee required by the nationwide mortgage licensing system and registry.~~

(B)(1) The application shall provide evidence, acceptable to the superintendent, that the applicant has successfully completed at least twenty-four hours of pre-licensing instruction consisting of all of the following:

(a) Twenty hours of instruction in a course or program of study reviewed and approved by the nationwide mortgage licensing system and registry;

(b) Four hours of instruction in a course or program of study reviewed and approved by the superintendent concerning state lending laws and the Ohio consumer sales practices act, Chapter 1345. of the Revised Code, as it applies to registrants and licensees.

(2) Notwithstanding division (B)(1) of this section, until the nationwide mortgage licensing system and registry implements a review and approval program, the application shall provide evidence, as determined by the superintendent, that the applicant has successfully completed at least twenty-four hours of ~~live classroom~~ instruction in a course or program of study approved by the superintendent that consists of at least all of the following:

(a) Four hours of instruction concerning state and federal mortgage lending laws, which shall include no less than two hours on this chapter;

(b) Four hours of instruction concerning the Ohio consumer sales practices act, Chapter 1345. of the Revised Code, as it applies to registrants and licensees;

(c) Four hours of instruction concerning the loan application process;

(d) Two hours of instruction concerning the underwriting process;

(e) Two hours of instruction concerning the secondary market for mortgage loans;

(f) Four hours of instruction concerning the loan closing process;

(g) Two hours of instruction covering basic mortgage financing concepts and terms;

(h) Two hours of instruction concerning the ethical responsibilities of a registrant and a licensee, including with respect to confidentiality, consumer counseling, and the duties and standards of care created in section 1322.081 of the Revised Code.

~~Division (A)(4) of this section does not apply to any applicant who has an application on file with the division of financial institutions prior to January 1, 2007.~~

~~The proof submitted by the applicant pursuant to division (A)(4) of this section may be in the form of transcripts or a statement indicating that the applicant has, and will maintain, transcripts at the applicant's place of business for a period of five years for inspection by the superintendent at the superintendent's request.~~

~~(3) For purposes of division (B)(1)(a) of this section, the review and approval of a course or program of study includes the review and approval of the provider of the course or program of study.~~

~~(4) If an applicant held a valid loan originator license issued by this state at any time during the immediately preceding five-year period, the applicant shall not be required to complete any additional pre-licensing instruction. For this purpose, any time during which the individual is a registered loan originator shall not be taken into account.~~

~~(5) A person having successfully completed the pre-licensing education requirement reviewed and approved by the nationwide mortgage licensing system and registry for any state within the previous five years shall be granted credit toward completion of the pre-licensing education requirement of this state.~~

~~(C) In addition to the information required under division (B) of this section, the application shall provide both of the following:~~

~~(1) Evidence that the applicant passed a written test that meets the requirements described in division (B) of section 1322.051 of the Revised Code;~~

~~(2) Any further information that the superintendent requires.~~

~~(D) Upon the filing of the application and payment of the application fee and any fee required by the nationwide mortgage licensing system and registry, the superintendent of financial institutions shall investigate the applicant as set forth in division (B)(D) of this section.~~

~~(1) The (a) Notwithstanding division (K) of section 121.08 of the Revised Code, the superintendent shall obtain a criminal history records check and, as part of the records check, request that criminal record~~

information from the federal bureau of investigation be obtained. To fulfill this requirement, the superintendent shall request do either of the following:

(i) Request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the applicant's fingerprints or, if the fingerprints are unreadable, based on the applicant's social security number, in accordance with division (A)(11)(12) of section 109.572 of the Revised Code. Notwithstanding division (K) of section 121.08 of the Revised Code, the superintendent of financial institutions shall:

(ii) Authorize the nationwide mortgage licensing system and registry to request that criminal record information from the federal bureau of investigation be obtained as part of the a criminal records history background check. Any

(b) Any fee required under division (C)(3) of section 109.572 of the Revised Code or by the nationwide mortgage licensing system and registry shall be paid by the applicant.

(2) The superintendent shall conduct a civil records check.

(3) If, in order to issue a license to an applicant, additional investigation by the superintendent outside this state is necessary, the superintendent may require the applicant to advance sufficient funds to pay the actual expenses of the investigation, if it appears that these expenses will exceed one hundred fifty dollars. The superintendent shall provide the applicant with an itemized statement of the actual expenses that the applicant is required to pay.

~~(C)~~(E)(1) In connection with applying for a loan originator license, the applicant shall furnish to the nationwide mortgage licensing system and registry the following information concerning the applicant's identity:

(a) The applicant's fingerprints for submission to the federal bureau of investigation, and any other governmental agency or entity authorized to receive such information, for purposes of a state, national, and international criminal history background check;

(b) Personal history and experience in a form prescribed by the nationwide mortgage licensing system and registry, along with authorization for the superintendent and the nationwide mortgage licensing system and registry to obtain the following:

(i) An independent credit report from a consumer reporting agency;

(ii) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

(2) In order to effectuate the purposes of divisions (E)(1)(a) and (E)(1)(b)(ii) of this section, the superintendent may use the conference of

state bank supervisors, or a wholly owned subsidiary, as a channeling agent for requesting information from and distributing information to the United States department of justice or any other governmental agency. The superintendent may also use the nationwide mortgage licensing system and registry as a channeling agent for requesting information from and distributing information to any source related to matters subject to those divisions of this section.

(F) The superintendent shall pay all funds advanced and application and renewal fees and penalties the superintendent receives pursuant to this section and section 1322.041 of the Revised Code to the treasurer of state to the credit of the consumer finance fund created in section 1321.21 of the Revised Code.

~~(D)~~(G) If an application for a loan originator license does not contain all of the information required under ~~division (A)~~ of this section, and if that information is not submitted to the superintendent within ninety days after the superintendent requests the information in writing, the superintendent may consider the application withdrawn.

~~(E)~~(H)(1) The business of a loan officer originator shall principally be transacted at an office of the employing mortgage broker with whom the licensee is employed or associated, which office is registered in accordance with division (A) of section 1322.02 of the Revised Code. Each original loan originator license shall be deposited with and maintained by the employing mortgage broker at the mortgage broker's main office. A copy of the license shall be maintained and displayed at the office where the loan officer originator principally transacts business.

(2) If a loan officer's originator's employment or association is terminated for any reason, the mortgage broker shall return the original loan originator license to the superintendent within five business days after the termination. The licensee may request the transfer of the license to another mortgage broker by submitting a relocation transfer application, along with a fifteen dollar fee and any fee required by the national mortgage licensing system and registry, to the superintendent or may request the superintendent in writing to hold the license in escrow for a period not to exceed one year. Any licensee whose license is held in escrow shall cease activity as a loan officer originator. A licensee whose license is held in escrow shall be required to apply for renewal annually and to comply with the annual continuing education requirement.

(3) A mortgage broker may employ or be associated with a loan officer originator on a temporary basis pending the transfer of the loan officer's originator's license to the mortgage broker, if the mortgage broker receives

written confirmation from the superintendent that the loan ~~officer~~ originator is licensed under sections 1322.01 to 1322.12 of the Revised Code.

~~(F)~~(4) Notwithstanding divisions (H)(1) to (3) of this section, if a licensee is employed by or associated with a person or entity listed in division (G)(2) of section 1322.01 of the Revised Code, all of the following apply:

(a) The licensee shall maintain and display the original loan originator license at the office where the licensee principally transacts business;

(b) If the loan originator's employment or association is terminated, the loan originator shall return the original loan originator license to the superintendent within five business days after termination. The licensee may request the transfer of the license to a mortgage broker or another person or entity listed in division (G)(2) of section 1322.01 of the Revised Code by submitting a transfer application, along with a fifteen dollar fee and any fee required by the national mortgage licensing system and registry, to the superintendent or may request the superintendent in writing to hold the license in escrow. A licensee whose license is held in escrow shall cease activity as a loan originator. A licensee whose license is held in escrow shall be required to apply for renewal annually and to comply with the annual continuing education requirement.

(c) The licensee may seek to be employed or associated with a mortgage broker or person or entity listed in division (G)(2) of section 1322.01 of the Revised Code if the mortgage broker or person or entity receives written confirmation from the superintendent that the loan originator is licensed under sections 1322.01 to 1322.12 of the Revised Code.

(I) The superintendent may establish relationships or enter into contracts with the nationwide mortgage licensing system and registry, or any entities designated by it, to collect and maintain records and process transaction fees or other fees related to loan originator licenses or the persons associated with a licensee.

(J) A loan originator license, or the authority granted under that license, is not assignable and cannot be franchised by contract or any other means.

Sec. 1322.04. (A) Upon the conclusion of the investigation required under division (B) of section 1322.03 of the Revised Code, the superintendent of financial institutions shall issue a certificate of registration to the applicant if the superintendent finds that the following conditions are met:

(1) ~~Except as otherwise provided in division (A) of section 1322.03 of the Revised Code, the~~ The application is accompanied by the application fee and any fee required by the nationwide mortgage licensing system and

registry. If

(a) If a check or other draft instrument is returned to the superintendent for insufficient funds, the superintendent shall notify the applicant by certified mail, return receipt requested, that the application will be withdrawn unless the applicant, within thirty days after receipt of the notice, submits the application fee and a one-hundred-dollar penalty to the superintendent. If the applicant does not submit the application fee and penalty within that time period, or if any check or other draft instrument used to pay the fee or penalty is returned to the superintendent for insufficient funds, the application shall be withdrawn.

(b) If a check or other draft instrument is returned to the superintendent for insufficient funds after the certificate of registration has been issued, the superintendent shall notify the registrant by certified mail, return receipt requested, that the certificate of registration issued in reliance on the check or other draft instrument will be canceled unless the registrant, within thirty days after receipt of the notice, submits the application fee and a one-hundred-dollar penalty to the superintendent. If the registrant does not submit the application fee and penalty within that time period, or if any check or other draft instrument used to pay the fee or penalty is returned to the superintendent for insufficient funds, the certificate of registration shall be canceled immediately without a hearing, and the registrant shall cease activity as a mortgage broker.

~~(2) If the application is for a location that is a residence, that the applicant has obtained a valid zoning permit authorizing the use of the residence for commercial purposes, or has obtained a valid written opinion or other document issued by the county or political subdivision where the residence is located certifying evidence that the use of the residence to transact business as a mortgage broker is not prohibited by the county or political subdivision. The application also is accompanied by a photograph of each location at which the mortgage broker's business will be transacted.~~

~~(3) The sole proprietor or the person designated on the application pursuant to division (A)(3) of section 1322.03 of the Revised Code, as applicable, meets the experience requirements provided in division (A)(4) of section 1322.03 of the Revised Code and the education requirements set forth in division (A)(5) of section 1322.03 of the Revised Code.~~

~~(4) The applicant maintains all licenses necessary filings and registrations approvals required by the secretary of state.~~

~~(5) The applicant complies with the surety bond requirements of section 1322.05 of the Revised Code.~~

~~(6) The applicant complies with sections 1322.01 to 1322.12 of the~~

Revised Code ~~and the rules adopted thereunder.~~

~~(7) Neither the applicant nor any shareholder, member, partner, operations manager, or employee of the applicant person whose identity is required to be disclosed on an application for a mortgage broker certificate of registration has had a mortgage broker certificate of registration or loan originator license, or any comparable authority, revoked in any governmental jurisdiction or has pleaded guilty to or been convicted of any criminal offense described in division (A)(8) of section 1322.03 of the Revised Code or any violation of an existing or former law of this state, any other state, or the United States that substantially is equivalent to a criminal offense described in that division. However, if the applicant or any of those other persons has pleaded guilty to or been convicted of any such offense other than theft, the superintendent shall not consider the offense if the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's or other person's activities and employment record since the conviction show that the applicant or other person is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant or other person will commit such an offense again of the following in a domestic, foreign, or military court:~~

~~(a) During the seven-year period immediately preceding the date of application for the certificate of registration, any felony or a misdemeanor involving theft;~~

~~(b) At any time prior to the date the application for the certificate of registration is approved, a felony involving an act of fraud, dishonesty, a breach of trust, theft, or money laundering.~~

~~(8) Neither the applicant nor any shareholder, member, partner, operations manager, or employee of the applicant has been subject to any adverse judgment for conversion, embezzlement, misappropriation of funds, fraud, misfeasance or malfeasance, or breach of fiduciary duty, or, if the applicant or any of those other persons has been subject to such a judgment Based on the totality of the circumstances and information submitted in the application, the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's or other person's activities and employment record since the judgment show that the applicant or other person is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant or other person will be subject to such a judgment again business repute, appears qualified to act as a mortgage broker, has fully complied with sections 1322.01 to 1322.12 of the Revised Code and the rules adopted thereunder, and meets all of the conditions for issuing a mortgage broker certificate of registration.~~

(9) The applicant's operations manager successfully completed the examination required under division (A) of section 1322.051 of the Revised Code.

(10) The applicant's financial responsibility, experience, character, and general fitness command the confidence of the public and warrant the belief that the business will be operated honestly and fairly in compliance with the purposes of sections 1322.01 to 1322.12 of the Revised Code and the rules adopted thereunder. The superintendent shall not use a credit score as the sole basis for registration denial.

(B) For purposes of determining whether an applicant that is a partnership, corporation, or other business entity or association has met the conditions set forth in divisions (A)(7), (A)(8), and (A)(10) of this section, the superintendent shall determine which partners, shareholders, or persons named in the application pursuant to division (A)(2) of section 1322.03 of the Revised Code must meet the conditions set forth in divisions (A)(7), (A)(8), and (A)(10) of this section. This determination shall be based on the extent and nature of the partner's, shareholder's, or person's ownership interest in the partnership, corporation, or other business entity or association that is the applicant and on whether the person is in a position to direct, control, or adversely influence the operations of the applicant.

~~(B)~~(C) The certificate of registration issued pursuant to division (A) of this section may be renewed annually on or before the ~~thirtieth~~ thirty-first day of ~~April~~ December if the superintendent finds that all of the following conditions are met:

(1) The renewal application is accompanied by a nonrefundable renewal fee of ~~three~~ five hundred ~~fifty~~ dollars for each location of an office to be maintained by the applicant in accordance with division (A) of section 1322.02 of the Revised Code; ~~however, an applicant that is registered under sections 1321.51 to 1321.60 of the Revised Code shall not be required to pay a renewal fee and any fee required by the nationwide mortgage licensing system and registry.~~ If a check or other draft instrument is returned to the superintendent for insufficient funds, the superintendent shall notify the registrant by certified mail, return receipt requested, that the certificate of registration renewed in reliance on the check or other draft instrument will be canceled unless the registrant, within thirty days after receipt of the notice, submits the renewal fee and a one-hundred-dollar penalty to the superintendent. If the registrant does not submit the renewal fee and penalty within that time period, or if any check or other draft instrument used to pay the fee or penalty is returned to the superintendent for insufficient funds, the certificate of registration shall be canceled immediately without a hearing

and the registrant shall cease activity as a mortgage broker.

(2) ~~On and after January 1, 2003, the~~ The operations manager designated under division (A)(3) of section 1322.03 of the Revised Code has completed, ~~during the immediately preceding calendar year,~~ at least ~~six~~ eight hours of continuing education as required under section 1322.052 of the Revised Code.

(3) The applicant meets the conditions set forth in divisions (A)(2) to (10) of this section.

(4) The applicant's mortgage broker certificate of registration is not subject to an order of suspension or ~~revocation~~ an unpaid and past due fine imposed by the superintendent.

~~(C)(D)~~(1) Subject to division ~~(C)(D)~~(2) of this section, if a renewal fee or additional fee required by the nationwide mortgage licensing system and registry is received by the superintendent after the ~~thirtieth~~ thirty-first day of ~~April~~ December, the mortgage broker certificate of registration shall not be considered renewed, and the applicant shall cease activity as a mortgage broker ~~and apply for a certificate of registration as a mortgage broker.~~

(2) Division ~~(C)(D)~~(1) of this section shall not apply if the applicant, no later than the thirty-first day of ~~May~~ January, submits the renewal fee or additional fee and a one-hundred-dollar penalty to the superintendent.

~~(D)(E)~~ If the person designated as the operations manager pursuant to division (A)(3) of section 1322.03 of the Revised Code is no longer the operations manager, the registrant shall do all of the following:

(1) ~~Designate~~ Within ninety days after the departure of the designated operations manager, designate another person as the operations manager;

(2) Within ten days after the designation described in division ~~(D)(E)~~(1) of this section, notify the superintendent in writing of the designation;

(3) Submit any additional information that the superintendent requires to establish that the newly designated operations manager complies with the ~~experience~~ requirements set forth in ~~division (A)(4)~~ of section 1322.03 of the Revised Code.

(F) The registrant shall cease operations if it is without an operations manager approved by the superintendent for more than one hundred eighty days unless otherwise authorized in writing by the superintendent due to exigent circumstances.

(G) Mortgage broker certificates of registration issued on or after May 1, 2010, annually expire on the thirty-first day of December.

Sec. 1322.041. (A) Upon the conclusion of the investigation required under division ~~(B)(D)~~ of section 1322.031 of the Revised Code, the superintendent of financial institutions shall issue a loan ~~officer~~ originator

license to the applicant if the superintendent finds that the following conditions are met:

(1) The application is accompanied by the application fee and any fee required by the nationwide mortgage licensing system and registry. ~~If~~

(a) If a check or other draft instrument is returned to the superintendent for insufficient funds, the superintendent shall notify the applicant by certified mail, return receipt requested, that the application will be withdrawn unless the applicant, within thirty days after receipt of the notice, submits the application fee and a one-hundred-dollar penalty to the superintendent. If the applicant does not submit the application fee and penalty within that time period, or if any check or other draft instrument used to pay the fee or penalty is returned to the superintendent for insufficient funds, the application shall be withdrawn.

(b) If a check or other draft instrument is returned to the superintendent for insufficient funds after the license has been issued, the superintendent shall notify the licensee by certified mail, return receipt requested, that the license issued in reliance on the check or other draft instrument will be canceled unless the licensee, within thirty days after receipt of the notice, submits the application fee and a one-hundred-dollar penalty to the superintendent. If the licensee does not submit the application fee and penalty within that time period, or if any check or other draft instrument used to pay the fee or penalty is returned to the superintendent for insufficient funds, the license shall be canceled immediately without a hearing, and the licensee shall cease activity as a loan ~~officer~~ originator.

(2) The applicant complies with sections 1322.01 to 1322.12 of the Revised Code and the rules adopted thereunder.

~~(3) The~~ (a) During the seven-year period immediately preceding the date of application for the license, the applicant has not been convicted of or pleaded guilty to any criminal offense described in division (A)(2) of section 1322.031 of the Revised Code and the applicant has not pleaded guilty to or been convicted of a violation of an existing or former law of this state, any other state, or the United States that substantially is equivalent to a criminal offense described in that division. However, if felony or a misdemeanor involving theft in a domestic, foreign, or military court.

(b) At any time prior to the date the application for the license is approved, the applicant has not been convicted of or pleaded guilty to any such offense other than theft, the superintendent shall not consider the offense if the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's activities and employment record since the conviction show that the applicant is honest,

~~truthful, and of good reputation, and there is no basis in fact for believing that the applicant will commit such an offense again~~ a felony involving an act of fraud, dishonesty, a breach of trust, theft, or money laundering in a domestic, foreign, or military court.

~~(4) The applicant has not been subject to an adverse judgment for conversion, embezzlement, misappropriation of funds, fraud, misfeasance or malfeasance, or breach of fiduciary duty, or, if the applicant has been subject to such a judgment~~ Based on the totality of the circumstances and information submitted in the application, the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's activities and employment record since the judgment show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant will be subject to such a judgment again business repute, appears qualified to act as a loan originator, has fully complied with sections 1322.01 to 1322.12 of the Revised Code and the rules adopted thereunder, and meets all of the conditions for issuing a loan originator license.

~~(5) The applicant successfully completed the examination~~ written test required under division (B) of section 1322.051 of the Revised Code and completed the education requirements prelicensing instruction set forth in division (A)(4)(B) of section 1322.031 of the Revised Code.

~~(6) The applicant's~~ financial responsibility, character, and general fitness command the confidence of the public and warrant the belief that the business will be operated honestly and fairly in compliance with the purposes of sections 1322.01 to 1322.12 of the Revised Code. The superintendent shall not use a credit score as the sole basis for a license denial.

~~(7) The applicant is in compliance with the surety bond requirements of section 1322.05 of the Revised Code.~~

~~(8) The applicant has not had a loan originator license, or comparable authority, revoked in any governmental jurisdiction.~~

~~(B) The license issued under division (A) of this section may be renewed annually on or before the thirtieth~~ thirty-first day of April December if the superintendent finds that all of the following conditions are met:

~~(1) The renewal application is accompanied by a nonrefundable renewal fee of one hundred~~ fifty dollars and any fee required by the nationwide mortgage licensing system and registry. If a check or other draft instrument is returned to the superintendent for insufficient funds, the superintendent shall notify the licensee by certified mail, return receipt requested, that the

license renewed in reliance on the check or other draft instrument will be canceled unless the licensee, within thirty days after receipt of the notice, submits the renewal fee and a one-hundred-dollar penalty to the superintendent. If the licensee does not submit the renewal fee and penalty within that time period, or if any check or other draft instrument used to pay the fee or penalty is returned to the superintendent for insufficient funds, the license shall be canceled immediately without a hearing, and the licensee shall cease activity as a loan ~~officer~~ originator.

(2) ~~On and after January 1, 2003, the loan officer~~ The applicant has completed, ~~during the immediately preceding calendar year,~~ at least ~~six~~ eight hours of continuing education as required under section 1322.052 of the Revised Code.

(3) The applicant meets the conditions set forth in divisions (A)(2) to ~~(6)(8)~~ of this section.

(4) The applicant's license is not subject to an order of suspension or ~~revocation~~ an unpaid and past due fine imposed by the superintendent.

(C)(1) Subject to division (C)(2) of this section, if a license renewal application or renewal fee, including any fee required by the nationwide mortgage licensing system and registry, is received by the superintendent after the ~~thirtieth~~ thirty-first day of ~~April~~ December, the license shall not be considered renewed, and the applicant shall cease activity as a loan ~~officer~~ originator.

(2) Division (C)(1) of this section shall not apply if the applicant, no later than the thirty-first day of ~~May~~ January, submits the renewal application and fee ~~fees~~ and a one-hundred-dollar penalty to the superintendent.

(D) Loan originator licenses issued on or after May 1, 2010, annually expire on the thirty-first day of December.

Sec. 1322.05. (A)(1) No registrant shall conduct business in this state, unless the registrant has obtained and maintains in effect at all times a corporate surety bond issued by a bonding company or insurance company authorized to do business in this state. The bond shall be in favor of the superintendent of financial institutions and in the penal sum of ~~at least~~ one-half per cent of the aggregate loan amount of residential mortgage loans originated in the immediately preceding calendar year, but not exceeding one hundred fifty thousand dollars. Under no circumstances, however, shall the bond be less than fifty thousand dollars and an additional penal sum of ten thousand dollars for each location, in excess of one, at which the registrant conducts business. The term of the bond shall coincide with the term of registration. A copy of the bond shall be filed with the

superintendent. The bond shall be for the exclusive benefit of any buyer injured by a violation by an employee of the registrant, licensee loan originator employed by or associated with the registrant, or registrant of any provision of sections 1322.01 to 1322.12 of the Revised Code or any rule adopted thereunder. The aggregate liability of the corporate surety for any and all breaches of the conditions of the bond shall not exceed the penal sum of the bond.

(2)(a) No licensee who is employed by or associated with a person or entity listed in division (G)(2) of section 1322.01 of the Revised Code shall conduct business in this state, unless either the licensee or the person or entity on the licensee's behalf has obtained and maintains in effect at all times a corporate surety bond issued by a bonding company or insurance company authorized to do business in this state. The bond shall be in favor of the superintendent of financial institutions and in the penal sum of one-half per cent of the aggregate loan amount of residential mortgage loans originated in the immediately preceding calendar year, but not exceeding one hundred thousand dollars. Under no circumstances, however, shall the bond be less than fifty thousand dollars. The term of the bond shall coincide with the term of licensure. A copy of the bond shall be filed with the superintendent. The bond shall be for the exclusive benefit of any buyer injured by a violation by the licensee of any provision of sections 1322.01 to 1322.12 of the Revised Code or any rule adopted thereunder. The aggregate liability of the corporate surety for any and all breaches of the conditions of the bond shall not exceed the penal sum of the bond.

(b) Licensees covered by a corporate surety bond obtained by a registrant, or by a person or entity listed in division (G)(2) of section 1322.01 of the Revised Code, they are employed by or associated with shall not be required to obtain an individual bond.

(B)(1)(a) The registrant shall give notice to the superintendent by certified mail of any action that is brought by a buyer against the registrant or, ~~loan officer of the registrant~~ originator, or employee alleging injury by a violation of any provision of sections 1322.01 to 1322.12 of the Revised Code or any rule adopted thereunder, and of any judgment that is entered against the registrant or, ~~loan officer of the registrant~~ originator, or employee by a buyer injured by a violation of any provision of sections 1322.01 to 1322.12 of the Revised Code or any rule adopted thereunder. The notice shall provide details sufficient to identify the action or judgment, and shall be filed with the superintendent within ten days after the commencement of the action or notice to the registrant of entry of a judgment.

(b) The licensee shall give notice to the superintendent by certified mail of any action that is brought by a buyer against the licensee alleging injury by a violation of any provision of sections 1322.01 to 1322.12 of the Revised Code or any rule adopted thereunder, and of any judgment that is entered against the licensee by a buyer injured by a violation of any provision of sections 1322.01 to 1322.12 of the Revised Code or any rule adopted thereunder. The notice shall provide details sufficient to identify the action or judgment, and shall be filed with the superintendent within ten days after the commencement of the action or notice to the licensee of entry of a judgment. A person or entity listed in division (G)(2) of section 1322.01 of the Revised Code that secures bonding for the licensees employed by or associated with the person or entity shall report such actions or judgments in the same manner as is required of registrants.

(2) A corporate surety, within ten days after it pays any claim or judgment, shall give notice to the superintendent by certified mail of the payment, with details sufficient to identify the person and the claim or judgment paid.

(C) Whenever the penal sum of the corporate surety bond is reduced by one or more recoveries or payments, the registrant or licensee shall furnish a new or additional bond under this section, so that the total or aggregate penal sum of the bond or bonds equals the sum required by this section, or shall furnish an endorsement executed by the corporate surety reinstating the bond to the required penal sum of it.

(D) The liability of the corporate surety on the bond to the superintendent and to any buyer injured by a violation of any provision of sections 1322.01 to 1322.12 of the Revised Code or any rule adopted thereunder shall not be affected in any way by any misrepresentation, breach of warranty, or failure to pay the premium, by any act or omission upon the part of the registrant or licensee, by the insolvency or bankruptcy of the registrant or licensee, or by the insolvency of the registrant's or licensee's estate. The liability for any act or omission that occurs during the term of the corporate surety bond shall be maintained and in effect for at least two years after the date on which the corporate surety bond is terminated or canceled.

(E) The corporate surety bond shall not be canceled by the registrant, the licensee, or the corporate surety except upon notice to the superintendent by certified mail, return receipt requested. The cancellation shall not be effective prior to thirty days after the superintendent receives the notice.

(F) No registrant or licensee employed by or associated with a person or entity listed in division (G)(2) of section 1322.01 of the Revised Code shall fail to comply with this section. Any registrant or licensee that fails to

comply with this section shall cease all mortgage broker or loan originator activity in this state until the registrant or licensee complies with this section.

Sec. 1322.051. (A) Each person designated under division (A)(3) of section 1322.03 of the Revised Code to act as operations manager for a mortgage broker business shall submit to ~~an examination~~ a written test approved by the superintendent of financial institutions. An individual shall not be considered to have passed the written test unless the individual achieves a test score of at least seventy-five per cent correct answers to all questions.

(B) Each applicant for a loan ~~officer~~ originator license shall submit to ~~an examination approved by the superintendent~~ a written test that is developed and approved by the nationwide mortgage licensing system and registry and administered by a test provider approved by the nationwide mortgage licensing system and registry based on reasonable standards.

(1) The test shall adequately measure the applicant's knowledge and comprehension in appropriate subject areas, including ethics, federal and state law related to mortgage origination, fraud, consumer protection, and the nontraditional mortgage marketplace, and fair lending issues.

(2) An individual shall not be considered to have passed the written test unless the individual achieves a test score of at least seventy-five per cent correct answers on all questions and at least seventy-five per cent correct answers on all questions relating to state mortgage lending laws and the Ohio consumer sales practices act, Chapter 1345. of the Revised Code, as it applies to registrants and licensees.

(3) An individual may retake the test three consecutive times provided the period between taking the tests is at least thirty days. If an individual fails three consecutive tests, the individual shall be required to wait at least six months before taking the test again.

(4) If a loan originator fails to maintain a valid loan originator license for a period of five years or longer, the individual shall be required to retake the test.

For this purpose, any time during which the individual is a registered loan originator shall not be taken into account.

(C) Notwithstanding division (B) of this section, until the nationwide mortgage licensing system and registry implements a testing process that meets the criteria set forth in that division, the superintendent shall require each applicant to pass a written test acceptable to the superintendent.

Sec. 1322.052. ~~On and after January 1, 2002, each~~ (A) Each licensee and each person designated under division (A)(3) of section 1322.03 of the

Revised Code to act as operations manager for a mortgage broker business shall complete at least ~~six~~ eight hours of continuing education every calendar year. To fulfill this requirement, the ~~six~~ eight hours of continuing education must be offered in a course or program of study reviewed and approved by the superintendent of financial institutions nationwide mortgage licensing system and registry. The course or program of study shall include all of the following:

(1) Three hours of applicable federal law and regulations;

(2) Two hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues;

(3) Two hours of training related to lending standards for the nontraditional mortgage product marketplace.

(B) Continuing education courses shall be reviewed and approved by the nationwide mortgage licensing system and registry based upon reasonable standards.

(C) The following conditions shall apply to the continuing education required by this section:

(1) An individual cannot take the same approved course in the same or successive years to meet the annual requirement for continuing education.

(2) An individual can only receive credit for a continuing education course in the year in which the course is taken, unless the individual is making up a deficiency in continuing education as permitted by rule or order of the superintendent of financial institutions.

(3) A licensee who subsequently becomes unlicensed must complete the continuing education requirement for the last year in which the license was held prior to the issuance of a new or renewed license.

(4) A licensee who is approved as an instructor of a continuing education course receives credit for the licensee's own annual continuing education requirement at the rate of two credit hours for every one hour taught.

(5) If an individual successfully completed a continuing education course reviewed and approved by the nationwide mortgage licensing system and registry as required by another state, the individual can receive credit toward completion of the continuing education requirement of this state.

(D) Notwithstanding division (A) of this section, until the nationwide mortgage licensing system and registry implements a review and approval process, each licensee or person designated under division (A)(3) of section 1322.03 of the Revised Code shall provide evidence that the licensee or person has successfully completed at least eight hours of continuing education in a course or program of study approved by the superintendent of

financial institutions.

Sec. 1322.06. (A) As often as the superintendent of financial institutions considers it necessary, the superintendent may examine the registrant's or licensee's records, including all records created or processed by a licensee, pertaining to business transacted pursuant to sections 1322.01 to 1322.12 of the Revised Code.

(B) A registrant or licensee shall maintain records pertaining to business transacted pursuant to sections 1322.01 to 1322.12 of the Revised Code, including copies of all mortgage loan origination disclosure statements prepared in accordance with section 1322.062 of the Revised Code, for four years. ~~No~~ For purposes of this division, "registrant or licensee" includes any person whose certificate of registration or license is cancelled, surrendered, or revoked or who otherwise ceases to engage in business as a mortgage broker or loan originator.

No registrant or licensee shall fail to comply with this division.

(C) Each registrant and licensee shall submit to the nationwide mortgage licensing system and registry call reports or other reports of condition, which reports shall be in such form and shall contain such information as the nationwide mortgage licensing system and registry may require.

(D)(1) As required by the superintendent, each registrant shall file with the division of financial institutions an annual report under oath or affirmation, on forms supplied by the division, concerning the business and operations of the registrant for the preceding calendar year. If a registrant operates two or more registered offices, or two or more affiliated registrants operate registered offices, a composite report of the group of registered offices may be filed in lieu of individual reports.

(2) The division shall publish annually an analysis of the information required under division (D)(1) of this section, but the individual reports shall not be public records and shall not be open to public inspection or otherwise be subject to section 149.43 of the Revised Code.

Sec. 1322.061. (A)(1) The following information is confidential:

(a) Examination information, and any information leading to or arising from an examination;

(b) Investigation information, and any information arising from or leading to an investigation.

(2) The information described in division (A)(1) of this section shall remain confidential for all purposes except when it is necessary for the superintendent of financial institutions to take official action regarding the affairs of a registrant or licensee, or in connection with criminal or civil

proceedings to be initiated by a prosecuting attorney or the attorney general. This information may also be introduced into evidence or disclosed when and in the manner authorized by section 1181.25 of the Revised Code.

(B) All application information, except social security numbers, employer identification numbers, financial account numbers, the identity of the institution where financial accounts are maintained, personal financial information, fingerprint cards and the information contained on such cards, and criminal background information, is a public record as defined in section 149.43 of the Revised Code.

(C) This section does not prevent the division of financial institutions from releasing to or exchanging with other financial institution regulatory authorities information relating to registrants and licensees. For this purpose, a "financial institution regulatory authority" includes a regulator of a business activity in which a registrant or licensee is engaged, or has applied to engage in, to the extent that the regulator has jurisdiction over a registrant or licensee engaged in that business activity. A registrant or licensee is engaged in a business activity, and a regulator of that business activity has jurisdiction over the registrant or licensee, whether the registrant or licensee conducts the activity directly or a subsidiary or affiliate of the registrant or licensee conducts the activity.

(D) The superintendent shall, on a regular basis, report violations of sections 1322.01 to 1322.12 of the Revised Code, as well as enforcement actions and other relevant information, to the nationwide mortgage licensing system and registry.

(E)(1) Any confidentiality or privilege arising under federal or state law with respect to any information or material provided to the nationwide mortgage licensing system and registry shall continue to apply to the information or material after the information or material is provided to the nationwide mortgage licensing system and registry. The information and material so provided may be released to any state or federal regulatory official with mortgage industry oversight authority without the loss of confidentiality or privilege protections provided by federal law or the law of any state. Information or material described in division (E)(1) of this section to which confidentiality or privilege applies shall not be subject to any of the following:

(a) Disclosure under any federal or state law governing disclosure to the public of information held by an officer or an agency of the federal government or of the respective state;

(b) Subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless the person to whom such

information or material pertains waives, in whole or in part and at the discretion of the person, any privilege held by the nationwide mortgage licensing system and registry with respect to that information or material.

(2) The superintendent, in order to promote more effective regulation and reduce regulatory burden through supervisory information sharing, may enter into sharing arrangements with other governmental agencies, the conference of state bank supervisors, and the American association of residential mortgage regulators.

(3) Any state law, including section 149.43 of the Revised Code, relating to the disclosure of confidential supervisory information or any information or material described in division (A)(1) or (E)(1) of this section that is inconsistent with this section shall be superseded by the requirements of this section.

(F) This section shall not apply with respect to information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, loan originators that is included in the nationwide mortgage licensing system and registry for access by the public.

(G) This section does not prevent the division from releasing information relating to registrants and licensees to the attorney general, to the superintendent of real estate and professional licensing for purposes relating to the administration of Chapters 4735. and 4763. of the Revised Code, to the superintendent of insurance for purposes relating to the administration of Chapter 3953. of the Revised Code, to the commissioner of securities for purposes relating to the administration of Chapter 1707. of the Revised Code, or to local law enforcement agencies and local prosecutors. Information the division releases pursuant to this section remains confidential.

(H) The superintendent of financial institutions shall, by rule adopted in accordance with Chapter 119. of the Revised Code, establish a process by which loan originators may challenge any information provided to the nationwide mortgage licensing system and registry by the superintendent.

Sec. 1322.062. (A)(1) Within three business days after taking an application for a residential mortgage loan from a buyer, a registrant or licensee shall deliver to the buyer a residential mortgage loan origination disclosure statement that contains all of the following:

- (a) The name, address, and telephone number of the buyer;
- (b) The typewritten name of the loan ~~officer~~ originator and the number designated on the loan ~~officer's~~ originator's license;
- (c) The street address, telephone number, and facsimile number of the registrant and the number designated on the registrant's certificate of

registration;

(d) The signature of the loan ~~officer~~ originator or registrant;

(e) A statement indicating whether the buyer is to pay for the services of a bona fide third party if the registrant is unable to assist the buyer in obtaining a mortgage;

(f) A statement that describes the method by which the fee to be paid by the buyer to the registrant will be calculated and a good faith estimate of the total amount of that fee;

(g) A statement that the lender may pay compensation to the registrant;

(h) A description of all the services the registrant has agreed to perform for the buyer;

(i) A statement that the buyer has not entered into an exclusive agreement for brokerage services;

(j) If the residential mortgage loan applied for will exceed ninety per cent of the value of the real property, a statement, printed in boldface type of the minimum size of sixteen points, as follows: "You are applying for a loan that is more than 90% of your home's value. It will be hard for you to refinance this loan. If you sell your home, you might owe more money on the loan than you get from the sale."

(k) To acknowledge receipt, the signature of the buyer.

(2) If the loan is a covered loan as defined in section 1349.25 of the Revised Code, the registrant shall also deliver a copy of the residential mortgage loan origination disclosure statement to the lender.

(B) If there is any change in the information provided under division (A)(1) of this section, the registrant or licensee shall provide the buyer with the revised residential mortgage loan origination disclosure statement and a written explanation of why the change occurred no later than twenty-four hours after the change occurs, or twenty-four hours before the loan is closed, whichever is earlier.

(C) A registrant or licensee shall deliver to the buyer, immediately upon receipt, a copy of any nonproprietary or publicly available credit score and report obtained regarding the buyer by the registrant or licensee for the purpose of the residential mortgage loan application;

If the loan ~~officer~~ originator or registrant uses an automated valuation model to determine an appraisal report, the registrant or licensee also shall include a copy of the automated valuation model report.

(D) A registrant or licensee shall deliver to the buyer, at the same time that the registrant or licensee delivers the residential mortgage loan origination disclosure statement pursuant to division (A) of this section, a good faith estimate statement that discloses the amount of or range of

charges for the specific settlement services the buyer is likely to incur in connection with the residential mortgage loan. The good faith estimate statement shall meet the requirements of the "Real Estate Settlement Procedures Act," 88 Stat. 1724 (1974), 12 U.S.C.A. 2601 et seq., and shall include the following underlined notice in at least ten-point type, new roman style:

"Nature of Relationship: In connection with this residential mortgage loan, you, the borrower(s), has/have requested assistance from (company name) in arranging credit. We do not distribute all products in the marketplace and cannot guarantee the lowest rate.

Termination: This agreement will continue until one of the following events occur:

1. The loan closes.
2. The request is denied.
3. The borrower withdraws the request.
4. The borrower decides to use another source for origination.
5. The borrower is provided a revised good faith estimate statement.

Notice to borrower(s): Signing this document does not obligate you to obtain a residential mortgage loan through this mortgage originator nor is this a loan commitment or an approval; nor is your interest rate locked at this time unless otherwise disclosed on a separate Rate Lock Disclosure Form. Do not sign this document until you have read and understood the information in it. You will receive a ~~re-disclosure~~ rediscovery of any increase in interest rate or if the total sum of disclosed settlement/closing costs increases by 10% or more of the original estimate. Should any such increase occur, mandatory ~~re-disclosure~~ rediscovery must occur prior to the settlement or close of escrow."

(E) No registrant or licensee shall fail to comply with this section.

Sec. 1322.063. (A) In addition to the disclosures required under section 1322.062 of the Revised Code, a registrant or licensee shall, not earlier than three business days nor later than twenty-four hours before a loan is closed, deliver to the buyer a written disclosure that includes the following:

- (1) A statement indicating whether property taxes will be escrowed;
- (2) A description of what is covered by the regular monthly payment, including principal, interest, taxes, and insurance, as applicable.

(B) No registrant or licensee shall fail to comply with this section.

Sec. 1322.064. (A) No registrant or licensee shall fail to do either of the following:

- (1) Timely inform the buyer of any material change in the terms of the residential mortgage loan. For purposes of division (A)(1) of this section,

"material change" means the following:

(a) A change in the type of residential mortgage loan being offered, such as a fixed or variable rate loan or a loan with a balloon payment;

(b) A change in the term of the residential mortgage loan, as reflected in the number of monthly payments due before a final payment is scheduled to be made;

(c) A change in the interest rate of more than 0.15%;

(d) A change in the regular total monthly payment ~~of, including principal and, interest, any required mortgage insurance, and any escrowed taxes or property insurance,~~ of more than five per cent;

(e) A change regarding whether the escrow of taxes or insurance is required;

(f) A change regarding ~~the payment of~~ whether private mortgage insurance is required.

(2) Timely inform the buyer if any fees payable by the buyer to the licensee, registrant, or lender increase by more than ten per cent or one hundred dollars, whichever is greater.

(B) The disclosures required by this section shall be deemed timely if the registrant or licensee provides the buyer with the revised information not later than twenty-four hours after the change occurs, or twenty-four hours before the loan is closed, whichever is earlier.

(C) If an increase in the total amount of the fee to be paid by the buyer to the registrant or licensee is not disclosed in accordance with division (A)(2) of this section, the registrant or licensee shall refund to the buyer the amount by which the fee was increased. If the fee is financed into the loan, the registrant or licensee shall also refund to the buyer the interest that would accrue over the term of the loan on that excess amount.

Sec. 1322.065. A person registered as a mortgage broker solely to sell leads of potential buyers to residential mortgage lenders or mortgage brokers, or solely to match buyers with residential mortgage lenders or mortgage brokers through a computerized loan origination system recognized by the United States department of housing and urban development, shall be required to make only those disclosures under sections 1322.01 to 1322.12 of the Revised Code that apply to the portion of the transaction during which they have direct buyer contact, and shall be subject to all fair conduct and prohibition requirements in their dealing with buyers.

Sec. 1322.07. No ~~mortgage broker~~, registrant, licensee, or applicant for a certificate of registration person required to be registered or license licensed under sections 1322.01 to 1322.12 of the Revised Code, or

individual disclosed in an application as required by division (A)(2) of section 1322.03 of the Revised Code shall do any of the following:

(A) Obtain a mortgage broker certificate of registration or loan originator license through any false or fraudulent representation of a material fact or any omission of a material fact required by state law, or make any substantial misrepresentation in any registration or license application;

(B) Make false or misleading statements of a material fact, omissions of statements required by state or federal law, or false promises regarding a material fact, through advertising or other means, or engage in a continued course of misrepresentations;

(C) Engage in conduct that constitutes improper, fraudulent, or dishonest dealings;

(D) Fail to notify the division of financial institutions within thirty days after ~~the registrant, licensee, or applicant, in a court of competent jurisdiction of this state or any other state, is~~ any of the following:

(1) Being convicted of or pleading guilty to a felony in a domestic, foreign, or military court;

(2) Being convicted of or ~~pleads~~ pleading guilty to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, ~~breach of trust, dishonesty,~~ or drug trafficking, or any criminal offense involving money or securities;

(3) Having a mortgage broker certificate of registration or loan originator license, or any comparable authority, revoked in any governmental jurisdiction.

(E) Knowingly make, propose, or solicit fraudulent, false, or misleading statements on any mortgage loan document or on any document related to a mortgage loan, including a mortgage application, real estate appraisal, or real estate settlement or closing document. For purposes of this division, "fraudulent, false, or misleading statements" does not include mathematical errors, inadvertent transposition of numbers, typographical errors, or any other bona fide error.

(F) Knowingly instruct, solicit, propose, or otherwise cause a buyer to sign in blank a mortgage related document;

(G) Knowingly compensate, instruct, induce, coerce, or intimidate, or attempt to compensate, instruct, induce, coerce, or intimidate, a person licensed or certified under Chapter 4763. of the Revised Code for the purpose of corrupting or improperly influencing the independent judgment of the person with respect to the value of the dwelling offered as security for repayment of a mortgage loan;

(H) Promise to refinance a loan in the future at a lower interest rate or with more favorable terms, unless the promise is set forth in writing and is initialed by the buyer;

(I) Engage in any unfair, deceptive, or unconscionable act or practice prohibited under sections 1345.01 to 1345.13 of the Revised Code.

Sec. 1322.071. (A) As used in this section, "bona fide third party" has the same meaning as in section 1322.08 of the Revised Code.

(B) No mortgage broker, registrant, loan originator, or licensee shall do any of the following:

(1) Retain original documents provided to the mortgage broker, registrant, loan originator, or licensee by the buyer in connection with the residential mortgage loan application, including income tax returns, account statements, or other financial related documents;

(2) Receive, directly or indirectly, a premium on the fees charged for services performed by a bona fide third party;

(3) Pay or receive, directly or indirectly, a referral fee or kickback of any kind to or from a bona fide third party or other party with a related interest in the transaction, ~~such as~~ including a home improvement builder, real estate developer, or real estate broker or agent, for the referral of business.

(C) No registrant, through its operations manager or otherwise, shall fail to do either of the following:

(1) Reasonably supervise a loan originator or other persons associated with the registrant;

(2) Establish reasonable procedures designed to avoid violations of sections 1322.01 to 1322.12 of the Revised Code or rules adopted thereunder, or violations of applicable state and federal consumer and lending laws or rules, by loan originators or other persons associated with the registrant.

Sec. 1322.072. No person, in connection with any examination or investigation conducted by the superintendent of financial institutions under sections 1322.01 to 1322.12 of the Revised Code, shall knowingly do ~~either~~ any of the following:

(A) Circumvent, interfere with, obstruct, or fail to cooperate, including making a false or misleading statement, failing to produce records, or intimidating or suborning any witness;

(B) Tamper with, alter, or manufacture any evidence;

(C) Withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information.

Sec. 1322.074. (A) ~~As used in this section and section 1322.075 of the~~

Revised Code:

(1) "~~Appraisal company~~" means a sole proprietorship, partnership, corporation, limited liability company, or any other business entity or association, that employs or retains the services of a person licensed or certified under Chapter 4763. of the Revised Code for purposes of performing residential real estate appraisals for mortgage loans.

(2) "~~Immediate family~~" means a spouse residing in the person's household and any dependent child.

(~~B~~) Except as otherwise provided in division (~~C~~)(B) of this section, no registrant, or any member of the ~~registrant's~~ immediate family of an owner of a registrant, shall own or control a majority interest in an appraisal company.

(~~C~~)(B) Division (~~B~~)(A) of this section shall not apply to any registrant, or any member of the ~~registrant's~~ immediate family of an owner of a registrant, who, on the effective date of this ~~section~~ amendment, directly or indirectly owns or controls a majority interest in an appraisal company. However, such ownership or control is subject to the following conditions:

(1) The registrant and members of the ~~registrant's~~ immediate family of an owner of a registrant shall not increase their interest in the company.

(2) The interest is not transferable to a member of the ~~registrant's~~ immediate family of an owner of a registrant.

(3) If the registrant is convicted of or pleads guilty to a criminal violation of sections 1322.01 to 1322.12 of the Revised Code or any criminal offense described in division (A)(1)(b) of section 1322.10 of the Revised Code, the superintendent of financial institutions may, ~~as an alternative~~ in addition to any of the actions authorized under section 1322.10 of the Revised Code, order the registrant or members of the ~~registrant's~~ immediate family of an owner of a registrant to divest their interest in the company.

Sec. 1322.075. (A) No registrant or licensee or person required to be registered or licensed under ~~this chapter~~ sections 1322.01 to 1322.12 of the Revised Code shall refer a buyer to any settlement service provider, including any title insurance company, without providing the buyer with written notice disclosing all of the following:

(1) Any business relationship that exists between the registrant, licensee, or person required to be registered or licensed under ~~this chapter~~ sections 1322.01 to 1322.12 of the Revised Code, and the provider to which the buyer is being referred, and any financial benefit that the registrant, licensee, or person may be provided because of the relationship;

(2) The percentage of ownership interest the registrant, licensee, or

person required to be registered or licensed under ~~this chapter~~ sections 1322.01 to 1322.12 of the Revised Code has in the provider to which the buyer is being referred;

(3) The estimated charge or range of charges for the settlement service listed;

(4) The following statement, printed in boldface type of the minimum size of sixteen points: "There are frequently other settlement service providers available with similar services. You are free to shop around to determine that you are receiving the best services and the best rate for these services."

(B) No registrant or licensee shall refer a buyer to an appraisal company, if the registrant or licensee, a member of the immediate family of an owner of the registrant, or a member of the ~~registrant's or~~ licensee's immediate family, has either of the following financial relationships with the appraisal company:

(1) An ownership or investment interest in the company, whether through debt, equity, or other means;

(2) Any compensation arrangement involving any remuneration, directly or indirectly, overtly or covertly, in cash or in kind.

(C) No registrant or licensee shall knowingly enter into an arrangement or scheme, including a cross-referral arrangement, that has a principal purpose of assuring referrals by a registrant or licensee to a particular appraisal company that would violate division (B) of this section.

(D) The registrant, licensee, or person required to be registered or licensed under ~~this chapter~~ sections 1322.01 to 1322.12 of the Revised Code shall retain proof that the buyer received the written disclosures required by division (A) of this section for four years.

Sec. 1322.08. (A) No registrant shall fail to do any of the following:

(1) Maintain a special account;

(2) Deposit into the registrant's special account any bona fide third-party fee the registrant receives;

(3) Pay bona fide third-party fees to a bona fide third party from the registrant's special account.

(B) Except as otherwise provided in ~~this division~~ sections 1322.01 to 1322.12 of the Revised Code, no registrant shall charge or receive, directly or indirectly, fees for assisting a buyer in obtaining a residential mortgage loan, until all of the services that the registrant has agreed to perform for the buyer are completed, and the proceeds of the residential mortgage loan have been disbursed to or on behalf of the buyer. However, prior to completion of such services the following fees may be paid for services performed by a

bona fide third party in assisting the buyer to obtain a residential mortgage loan if the fees are either paid directly by the buyer to the bona fide third party or, except as provided in division (B)(5) of this section, the fees are deposited by the registrant into the registrant's special account for services performed by the bona fide third party:

- (1) Fees to obtain a report from a credit reporting agency;
- (2) Fees for notary services;
- (3) Fees for the performance of a title search, appraisal of the real estate, or survey of the real estate;
- (4) Fees charged by a lender for locking in an interest rate in connection with obtaining or refinancing a residential mortgage loan, provided that the fees do not exceed an amount equal to one and one-half per cent of the mortgage loan amount;
- (5) Fees not exceeding five hundred dollars paid directly by the buyer to a state or federal government agency or instrumentality for purposes of processing a mortgage application relating to a government sponsored or guaranteed mortgage program.

(C) If fees are paid by a buyer for the performance of any of the services described in division (B)(3) of this section and the registrant is unable to assist in obtaining a mortgage for the buyer, the registrant shall return to the buyer the original documents prepared by the bona fide third party at the time that the request for the mortgage is refused or denied. With respect to any appraisal, however, the registrant may return either the original or a copy. No registrant shall fail to comply with this division.

(D) For purposes of this section:

(1) "Bona fide third party" means a person that is not an employee of, related to, or affiliated with, the registrant, and that is not used for the purpose of circumvention or evasion of this section.

(2) "Special account" means a an insured depository account with a financial depository institution, ~~the deposits of which are insured by the federal deposit insurance corporation,~~ that is separate and distinct from any personal or other account of the registrant, and that is maintained solely for the holding and payment of fees described in this section for services performed by bona fide third parties and received by the registrant from buyers that the registrant assists in obtaining mortgages.

Sec. 1322.081. (A) A registrant, licensee, and any person required to be registered or licensed under ~~this chapter~~ sections 1322.01 to 1322.12 of the Revised Code, in addition to duties imposed by other statutes or common law, shall do all of the following:

- (1) Safeguard and account for any money handled for the ~~borrower~~

buyer;

(2) Follow reasonable and lawful instructions from the ~~borrower~~ buyer;

(3) Act with reasonable skill, care, and diligence;

(4) Act in good faith and with fair dealing in any transaction, practice, or course of business in connection with the brokering or originating of any residential mortgage loan;

(5) Make reasonable efforts to secure a residential mortgage loan, from lenders with whom the registrant, licensee, or person regularly does business, with rates, charges, and repayment terms that are advantageous to the ~~borrower~~ buyer.

(B) Division (A) of this section shall not apply to wholesale lenders. However, wholesale lenders are subject to all other requirements applicable to mortgage brokers and nonbank mortgage lenders. For purposes of this division, "wholesale lender" means a company that has been issued a mortgage broker certificate of registration and that enters into transactions with buyers exclusively through unaffiliated third-party mortgage brokers.

(C) The duties and standards of care created in this section cannot be waived or modified.

(D)(1) A buyer injured by a violation of this section may bring an action for recovery of damages.

(2) Damages awarded under division (D)(1) of this section shall not be less than all compensation paid directly or indirectly to a mortgage broker from any source, plus reasonable attorney's fees and court costs.

(3) The buyer may be awarded punitive damages.

(E) A buyer injured by a violation of this section is precluded from recovering any damages, plus reasonable attorney's fees and costs, if the buyer has also recovered any damages in a cause of action initiated under section 1322.11 of the Revised Code and the recovery of damages for a violation of this section is based on the same acts or circumstances as the basis for recovery of damages in section 1322.11 of the Revised Code.

Sec. 1322.09. (A) A mortgage broker or loan originator shall disclose in any printed, televised, broadcast, electronically transmitted, or published advertisement relating to the mortgage broker's or loan originator's services, including on any electronic site accessible through the internet, the name and street address of the mortgage broker or loan originator and the number designated on the certificate of registration or license that is issued to the mortgage broker or loan originator by the superintendent of financial institutions under sections 1322.01 to 1322.12 of the Revised Code.

(B) In making any advertisement, a mortgage broker shall comply with 12 C.F.R. 226.16, as amended.

(C) No mortgage broker or loan originator shall fail to comply with this section.

Sec. 1322.10. (A) After notice and opportunity for a hearing conducted in accordance with Chapter 119. of the Revised Code, the superintendent of financial institutions may do the following:

(1) Suspend, revoke, or refuse to issue or renew a certificate of registration or license if the superintendent finds ~~either~~ any of the following:

(a) A violation of or failure to comply with any provision of sections 1322.01 to 1322.12 of the Revised Code or the rules adopted under those sections, federal lending law, or any other law applicable to the business conducted under a certificate of registration or license;

(b) A conviction of or guilty plea to a felony in a domestic, foreign, or military court;

(c) A conviction of or guilty plea to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, breach of trust, dishonesty, or drug trafficking, or any criminal offense involving money or securities, in a domestic, foreign, or military court;

(d) The revocation of a mortgage broker certificate of registration or loan originator license, or any comparable authority, in any governmental jurisdiction.

(2) Impose a fine of not more than one thousand dollars, for each day a violation of a law or rule is committed, repeated, or continued. If the registrant or licensee engages in a pattern of repeated violations of a law or rule, the superintendent may impose a fine of not more than two thousand dollars for each day the violation is committed, repeated, or continued. All fines collected pursuant to this division shall be paid to the treasurer of state to the credit of the consumer finance fund created in section 1321.21 of the Revised Code. In determining the amount of a fine to be imposed pursuant to this division, the superintendent ~~shall~~ may consider all of the following, to the extent known by the division of financial institutions:

(a) The seriousness of the violation;

(b) The registrant's or licensee's good faith efforts to prevent the violation;

(c) The registrant's or licensee's history regarding violations and compliance with division orders;

(d) The registrant's or licensee's financial resources;

(e) Any other matters the superintendent considers appropriate in enforcing sections 1322.01 to 1322.12 of the Revised Code.

(B) The superintendent may investigate alleged violations of sections

1322.01 to 1322.12 of the Revised Code or the rules adopted under those sections or complaints concerning any ~~such~~ violation. ~~The~~

(1) The superintendent may make application to the court of common pleas for an order enjoining any ~~such~~ violation; and, upon a showing by the superintendent that a person has committed or is about to commit ~~such a~~ that violation, the court shall grant an injunction, restraining order, or other appropriate relief.

(2) The superintendent may make application to the court of common pleas for an order enjoining any person from acting as a mortgage broker, registrant, loan originator, or licensee in violation of division (A) or (B) of section 1322.02 of the Revised Code, and may seek and obtain civil penalties for unregistered or unlicensed conduct of not more than five thousand dollars per violation.

(C) In conducting any investigation pursuant to this section, the superintendent may compel, by subpoena, witnesses to testify in relation to any matter over which the superintendent has jurisdiction and may require the production of any book, record, or other document pertaining to that matter. If a person fails to file any statement or report, obey any subpoena, give testimony, produce any book, record, or other document as required by a subpoena, or permit photocopying of any book, record, or other document subpoenaed, the court of common pleas of any county in this state, upon application made to it by the superintendent, shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify therein.

(D) If the superintendent determines that a person is engaged in or is believed to be engaged in activities that may constitute a violation of sections 1322.01 to 1322.12 of the Revised Code or any rule adopted thereunder, the superintendent, after notice and a hearing conducted in accordance with Chapter 119. of the Revised Code, may issue a cease and desist order. If the administrative action is to enjoin a person from acting as a mortgage broker or loan originator in violation of division (A) or (B) of section 1322.02 of the Revised Code, the superintendent may seek and impose fines for that conduct in an amount not to exceed five thousand dollars per violation. Such an order shall be enforceable in the court of common pleas.

(E) If the superintendent revokes ~~the~~ a mortgage broker certificate of registration or loan originator license ~~of a registrant or licensee who is convicted of or pleads guilty to a criminal violation of any provision of sections 1322.01 to 1322.12 of the Revised Code or any criminal offense~~

~~described in division (A)(1)(b) of this section~~, the revocation shall be permanent and with prejudice.

(F)(1) To protect the public interest, the superintendent may, without a prior hearing, do any of the following:

(a) Suspend the mortgage broker certificate of registration or loan originator license of a registrant or licensee who is convicted of or pleads guilty to a criminal violation of any provision of sections 1322.01 to 1322.12 of the Revised Code or any criminal offense described in division (A)(1)(b) or (c) of this section;

(b) Suspend the mortgage broker certificate of registration of a registrant who violates division (F) of section 1322.05 of the Revised Code;

(c) Suspend the mortgage broker certificate of registration or loan originator license of a registrant or licensee who fails to comply with a request made by the superintendent under section 1322.03 or 1322.031 of the Revised Code to inspect qualifying education transcripts located at the registrant's or licensee's place of business.

~~(2) The superintendent shall, without a prior hearing, suspend the certificate of registration of a registrant whose operations manager has failed to fulfill the continuing education requirements of section 1322.052 of the Revised Code and suspend the license of a licensee who has failed to fulfill those continuing education requirements. The suspension shall continue until such time as the required continuing education is completed and a fine of five hundred dollars is paid to the treasurer of state to the credit of the consumer finance fund.~~

~~(3) The superintendent may, in accordance with Chapter 119. of the Revised Code, subsequently revoke any registration or license suspended under division (F)(1) of this section.~~

~~(4)(3) The superintendent shall, in accordance with Chapter 119. of the Revised Code, adopt rules establishing the maximum amount of time a suspension under division (F)(1) of this section may continue before a hearing is conducted.~~

(G) The imposition of fines under this section does not preclude any penalty imposed under section 1322.99 of the Revised Code.

Sec. 1322.11. (A)(1) A buyer injured by a violation of section 1322.02, 1322.062, 1322.063, 1322.064, 1322.07, 1322.071, 1322.08, or 1322.09 of the Revised Code may bring an action for recovery of damages.

(2) Damages awarded under division (A)(1) of this section shall not be less than all compensation paid directly and indirectly to a mortgage broker or loan originator from any source, plus reasonable attorney's fees and court costs.

(3) The buyer may be awarded punitive damages.

(B)(1) The superintendent of financial institutions or a buyer may directly bring an action to enjoin a violation of sections 1322.01 to 1322.12 of the Revised Code. The attorney general may directly bring an action to enjoin a violation of sections 1322.01 to 1322.12 of the Revised Code with the same rights, privileges, and powers as those described in section 1345.06 of the Revised Code. The prosecuting attorney of the county in which the action may be brought may bring an action to enjoin a violation of sections 1322.01 to 1322.12 of the Revised Code only if the prosecuting attorney first presents any evidence of the violation to the attorney general and, within a reasonable period of time, the attorney general has not agreed to bring the action.

(2) The superintendent may initiate criminal proceedings under sections 1322.01 to 1322.12 of the Revised Code by presenting any evidence of criminal violation to the prosecuting attorney of the county in which the offense may be prosecuted. If the prosecuting attorney does not prosecute the violations, or at the request of the prosecuting attorney, the superintendent shall present any evidence of criminal violations to the attorney general, who may proceed in the prosecution with all the rights, privileges, and powers conferred by law on prosecuting attorneys, including the power to appear before grand juries and to interrogate witnesses before such grand juries. These powers of the attorney general shall be in addition to any other applicable powers of the attorney general.

(3) The prosecuting attorney of the county in which an alleged offense may be prosecuted may initiate criminal proceedings under sections 1322.01 to 1322.12 of the Revised Code.

(4) In order to initiate criminal proceedings under sections 1322.01 to 1322.12 of the Revised Code, the attorney general shall first present any evidence of criminal violations to the prosecuting attorney of the county in which the alleged offense may be prosecuted. If, within a reasonable period of time, the prosecuting attorney has not agreed to prosecute the violations, the attorney general may proceed in the prosecution with all the rights, privileges, and powers described in division (B)(2) of this section.

(5) When a judgment under this section becomes final, the clerk of court shall mail a copy of the judgment, including supporting opinions, to the superintendent.

(C) The remedies provided by this section are in addition to any other remedy provided by law.

(D) In any proceeding or action brought under sections 1322.01 to 1322.12 of the Revised Code, the burden of proving an exemption under

those sections is on the person claiming the benefit of the exemption.

(E) No person shall be deemed to violate sections 1322.01 to 1322.12 of the Revised Code with respect to any act taken or omission made in reliance on a written notice, written interpretation, or written report from the superintendent, unless there is a subsequent amendment to those sections, or rules promulgated thereunder, that affects the superintendent's notice, interpretation, or report.

(F) Upon disbursement of mortgage loan proceeds to or on behalf of the buyer, the registrant that assisted the buyer to obtain the mortgage loan is deemed to have completed the performance of the registrant's services for the buyer and owes no additional duties or obligations to the buyer with respect to the mortgage loan. However, nothing in this division shall be construed to limit or preclude the civil or criminal liability of a registrant for failing to comply with sections 1322.01 to 1322.12 of the Revised Code or any rule adopted under those sections, for failing to comply with any provision of or duty arising under an agreement with a buyer or lender under sections 1322.01 to 1322.12 of the Revised Code, or for violating any other provision of state or federal law.

(G) A buyer injured by a violation of any of the sections specified in division (A)(1) of this section is precluded from recovering any damages, plus reasonable attorney's fees and costs, if the buyer has also recovered any damages in a cause of action initiated under section 1322.081 of the Revised Code and the recovery of damages for a violation of any of the sections specified in division (A)(1) of this section is based on the same acts or circumstances as the basis for recovery of damages in section 1322.081 of the Revised Code.

Sec. 1322.99. (A) Whoever violates division (A)(1) or (2) of section 1322.02, division (E), (F), or (G) of section 1322.07, division (B)(1) or (2) of section 1322.071, or section 1322.08 of the Revised Code is guilty of a felony of the fifth degree.

(B) Whoever violates division (B)(3) of section 1322.071 of the Revised Code is guilty of a felony of the fourth degree.

(C) Whoever violates division (B) or (C)(2) of section 1322.02 of the Revised Code is guilty of a misdemeanor of the first degree.

Sec. 1332.24. (A)(1) In accordance with section 1332.25 of the Revised Code, the director of commerce may issue to any person, or renew, a video service authorization, which authorization confers on the person the authority, subject to sections 1332.21 to 1332.34 of the Revised Code, to provide video service in its video service area; construct and operate a video service network in, along, across, or on public rights-of-way for the

provision of video service; and, when necessary to provide that service, exercise the power of a telegraph company under section 4931.04 of the Revised Code. The term of a video service authorization or authorization renewal shall be ten years.

(2) For the purposes of the "Cable Communications Policy Act of 1984," Pub. L. No. 98-549, 98 Stat. 2779, 47 U.S.C. 521 et seq., a video service authorization shall constitute a franchise under that law, and the director shall be the sole franchising authority under that law for video service authorizations in this state.

(3) The director may impose upon and collect an annual assessment on video service providers. All money collected under division (A)(3) of this section shall be deposited to the credit of the division of administration fund created under section 121.08 of the Revised Code. The total amount assessed in a fiscal year shall not exceed the lesser of four hundred fifty thousand dollars or, as shall be determined annually by the director, the department's actual, current fiscal year administrative costs in carrying out its duties under sections 1332.21 to 1332.34 of the Revised Code. The director shall allocate that total amount proportionately among the video service providers to be assessed, using a formula based on subscriber counts as of the thirty-first day of December of the preceding calendar year, which counts shall be submitted to the director not later than the thirty-first day of January of each year, via a notarized statement signed by an authorized officer. Any information submitted by a video service provider to the director for the purpose of determining subscriber counts shall be considered trade secret information, shall not be disclosed except by court order, and shall not constitute a public record under section 149.43 of the Revised Code. On or about the first day of June of each year, the director shall send to each video service provider to be assessed written notice of its proportional amount of the total assessment. The provider shall pay that amount on a quarterly basis not later than forty-five days after the end of each calendar quarter. After the initial assessment, the director annually shall reconcile the amount collected with the total, current amount assessed pursuant to this section, and either shall charge each assessed video service provider its respective proportion of any insufficiency or proportionately credit the provider's next assessment for any excess collected.

(B)(1) The director may investigate alleged violations of or failures to comply with division (A) of section 1332.23, division (A) of this section, division (C) of section 1332.25, division (C) or (D) of section 1332.26, division (A), (B), or (C) of section 1332.27, division (A) of section 1332.28, division (A) or (B) of section 1332.29, or section 1332.30 or 1332.31 of the

Revised Code, or complaints concerning any such violation or failure. Except as provided in this section, the director has no authority to regulate video service in this state, including, but not limited to, the rates, terms, or conditions of that service.

(2) In conducting an investigation under division (B)(1) of this section, the director, by subpoena, may compel witnesses to testify in relation to any matter over which the director has jurisdiction and may require the production of any book, record, or other document pertaining to that matter. If a person fails to file any statement or report, obey any subpoena, give testimony, produce any book, record, or other document as required by a subpoena, or permit photocopying of any book, record, or other document subpoenaed, the court of common pleas of any county in this state, upon application made to it by the director, shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify.

(C)(1) If the director finds that a person has violated or failed to comply with division (A) of section 1332.23, division (A) of this section, division (C) of section 1332.25, division (C) or (D) of section 1332.26, division (A), (B), or (C) of section 1332.27, division (A) of section 1332.28, division (A) or (B) of section 1332.29, or section 1332.30 or 1332.31 of the Revised Code, and the person has failed to cure the violation or failure after reasonable, written notice and reasonable time to cure, the director may do any of the following:

(a) Apply to the court of common pleas of any county in this state for an order enjoining the activity or requiring compliance. Such an action shall be commenced not later than three years after the date the alleged violation or failure occurred or was reasonably discovered. Upon a showing by the director that the person has engaged in a violation or failure to comply, the court shall grant an injunction, restraining order, or other appropriate relief.

(b) Enter into a written assurance of voluntary compliance with the person;

(c) Pursuant to an adjudication under Chapter 119. of the Revised Code, assess a civil penalty in an amount determined by the director, including for any failure to comply with an assurance of voluntary compliance under division (C)(1)(b) of this section. The amount shall be not more than one thousand dollars for each day of violation or noncompliance, not to exceed a total of ten thousand dollars, counting all subscriber impacts as a single violation or act of noncompliance. In determining whether a civil penalty is appropriate under division (C)(1)(c) of this section, the director shall consider all of the following factors:

- (i) The seriousness of the noncompliance;
- (ii) The good faith efforts of the person to comply;
- (iii) The person's history of noncompliance;
- (iv) The financial resources of the person;
- (v) Any other matter that justice requires.

Civil penalties collected pursuant to division (C)(1)(c) of this section shall be deposited to the credit of the video service enforcement fund in the state treasury, which is hereby created, to be used by the department of commerce in carrying out its duties under this section.

(2) Pursuant to an adjudication under Chapter 119. of the Revised Code, the director may revoke, in whole or in part, the video service authorization of any person that has repeatedly and knowingly violated or failed to comply with division (A) of section 1332.23, division (A) of this section, division (C) of section 1332.25, division (C) or (D) of section 1332.26, division (A), (B), or (C) of section 1332.27, division (A) of section 1332.28, division (A) or (B) of section 1332.29, or section 1332.30 or 1332.31 of the Revised Code and that has failed to cure the violations or noncompliances after reasonable written notice and reasonable time to cure. Such person acts knowingly, regardless of the person's purpose, when the person is aware that the person's conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when the person is aware that such circumstances probably exist.

(3) The court shall conduct a de novo review in any appeal from an adjudication under division (C)(1)(c) or (C)(2) of this section.

(D) The public utilities commission has no authority over a video service provider in its offering of video service or a cable operator in its offering of cable or video service, or over any person in its offering of video service pursuant to a competitive video service agreement.

Sec. 1332.25. (A) An application made to the director of commerce for a video service authorization under section 1332.24 of the Revised Code shall require and contain only the following:

(1) Specification of the location of the applicant's principal place of business and the names of the applicant's principal executive officers;

(2) Specification of the geographic and political boundaries of the applicant's proposed video service area;

(3) A general description of the type or types of technologies the applicant will use to deliver the video programming, which may include wireline, wireless, or any other alternative technology, subject, as applicable, to section 1332.29 of the Revised Code;

(4) An attestation that the applicant has filed or will timely file with the

federal communications commission all forms required by that agency in advance of offering video service in this state;

(5) An attestation that the applicant will comply with applicable federal, state, and local laws;

(6) An attestation that the applicant is legally, financially, and technically qualified to provide video service;

(7) A description of the applicant's customer complaint handling process, including policies on addressing customer service issues, billing adjustments, and communication with government officials regarding customer complaints, and a local or toll-free telephone number at which a customer may contact the applicant.

(B) For the purpose of division (A)(2) of this section:

(1) The video service areas of video service providers may overlap.

(2) A specified video service area shall be coextensive with municipal, township unincorporated area, or county boundaries, except as authorized under division (B)(3) or (4) of this section, but nothing in sections 1332.21 to 1332.34 of the Revised Code shall require a video service provider to provide access to video service within the entire video service area.

(3) The specified video service area of a person using telecommunications facilities to provide video service on ~~the effective date of this section~~ September 24, 2007, or of any other person later so using telecommunications facilities shall be the geographic area in which the person offers basic local exchange service.

(4) Subject to division (C)(2) of section 1332.27 of the Revised Code, the specified video service area of an applicant cable operator that offers service under a franchise in effect on ~~the effective date of this section~~ September 24, 2007, initially shall be, at minimum, the franchise area established under that franchise.

(C) A video service provider shall immediately file an application to amend its video service authorization with the director to reflect any change in the information required under division (A)(1), (2), or (3) of this section. An amendment pursuant to division (A)(2) of this section shall include any new delivery technology information required by division (A)(3) of this section.

(D) Within thirty days after its filing or within thirty days after the filing of supplemental information necessary to make it complete, the director shall determine the completeness of an application filed under division (A) or (C) of this section relative to the respective requirements of divisions (A), (B), and (C) of this section and, as applicable, shall notify the applicant of an incompleteness determination, state the bases for that determination, and

inform the applicant that it may resubmit a corrected application. The director shall issue a video service authorization, authorization renewal, or amended authorization within fifteen days after the director's determination that the filed application is complete.

If the director does not notify the applicant regarding the completeness of the application within the time period specified in this division or does not issue the authorization requested by a completed application within the applicable time period, the application shall be deemed complete, and the authorization or amended authorization deemed issued on the forty-fifth day after the application's filing date.

(E) An applicant shall pay a two thousand dollar nonrefundable fee for each application filed under division (A) of this section and a one hundred dollar nonrefundable fee for each application to amend filed under division (C) of this section. Fees collected under this division shall be deposited to the credit of the video service authorization fund in the state treasury, which is hereby created, to be used by the department of commerce in carrying out its duties under ~~this section~~ sections 1332.21 to 1332.34 of the Revised Code.

(F)(1) No video service provider shall identify or make reference to an application fee under division (E) of this section on any subscriber bill or in conjunction with charging any fee to the subscriber.

(2) A video service provider may identify or make reference on a subscriber bill to an assessment under section 1332.24 of the Revised Code only if the provider opts to pass the cost of the assessment onto subscribers.

(G) An applicant may identify any information in its application as trade secret information, and if, upon its written request to the director, the director reasonably affirms all or part of that information as trade secret information, the information so affirmed does not constitute a public record for the purpose of section 149.43 of the Revised Code.

Sec. 1343.011. (A) As used in this section:

(1) "Discount points" means any charges, whether or not actually denominated as "discount points," that are paid by the seller or the buyer of residential real property to a residential mortgage lender or that are deducted and retained by a residential mortgage lender from the proceeds of the residential mortgage. "Discount points" does not include the costs associated with settlement services as defined in the "Real Estate Settlement Procedures Act of 1974," 88 Stat. 1724, 12 U.S.C. 2601, amendments thereto, reenactments thereof, enactments parallel thereto, or in substitution therefor, or regulations issued thereunder.

(2) "Residential mortgage" means an obligation to pay a sum of money

evidenced by a note and secured by a lien upon real property located within this state containing two or fewer residential units or on which two or fewer residential units are to be constructed and includes such an obligation on a residential condominium or cooperative unit.

(3) "Residential mortgage lender" means any person, bank, or savings and loan association that lends money or extends or grants credit and obtains a residential mortgage to assure payment of the debt. The term also includes the holder at any time of a residential mortgage obligation.

(B) Except residential mortgage loans described in division (B)(3) of section 1343.01 of the Revised Code, no residential mortgage lender shall receive either directly or indirectly from a seller or buyer of real estate any discount points in excess of two per cent of the original principal amount of the residential mortgage. This division is not a limitation on discount points or other charges for purposes of section 501(b)(4) of the "Depository Institutions Deregulation and Monetary Control Act of 1980," 94 Stat. 161, 12 U.S.C.A. 1735f-7a.

(C)(1) Except as provided in division (C)(2) of this section, residential mortgage obligations may be prepaid or refinanced without penalty at any time after five years from the execution date of the mortgage. Prior to such time a prepayment or refinancing penalty may be provided not in excess of one per cent of the original principal amount of the residential mortgage.

(2)(a) No penalty may be charged for the prepayment or refinancing of a residential mortgage obligation of less than seventy-five thousand dollars that is made or arranged by a mortgage broker, loan ~~office~~ originator, or nonbank mortgage lender, as those terms are defined in section 1345.01 of the Revised Code, and that is secured by a mortgage on a borrower's real estate that is a first lien on the real estate.

(b) The amount specified in division (C)(2)(a) of this section shall be adjusted annually on the first day of January by the annual percentage change in the consumer price index for all urban consumers, midwest region, all items, as determined by the bureau of labor statistics of the United States department of labor or, if that index is no longer published, a generally available comparable index, as reported on the first day of June of the year preceding the adjustment. The department of commerce shall publish the adjusted amounts on its official web site.

Sec. 1345.01. As used in sections 1345.01 to 1345.13 of the Revised Code:

(A) "Consumer transaction" means a sale, lease, assignment, award by chance, or other transfer of an item of goods, a service, a franchise, or an intangible, to an individual for purposes that are primarily personal, family,

or household, or solicitation to supply any of these things. "Consumer transaction" does not include transactions between persons, defined in sections 4905.03 and 5725.01 of the Revised Code, and their customers, except for transactions involving a loan made pursuant to sections 1321.35 to 1321.48 of the Revised Code and transactions in connection with residential mortgages between loan ~~officers~~ originators, mortgage brokers, or nonbank mortgage lenders and their customers; transactions between certified public accountants or public accountants and their clients; transactions between attorneys, physicians, or dentists and their clients or patients; and transactions between veterinarians and their patients that pertain to medical treatment but not ancillary services.

(B) "Person" includes an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, association, cooperative, or other legal entity.

(C) "Supplier" means a seller, lessor, assignor, franchisor, or other person engaged in the business of effecting or soliciting consumer transactions, whether or not the person deals directly with the consumer. If the consumer transaction is in connection with a residential mortgage, "supplier" does not include an assignee or purchaser of the loan for value, except as otherwise provided in section 1345.091 of the Revised Code. For purposes of this division, in a consumer transaction in connection with a residential mortgage, "seller" means a loan ~~officer~~ originator, mortgage broker, or nonbank mortgage lender.

(D) "Consumer" means a person who engages in a consumer transaction with a supplier.

(E) "Knowledge" means actual awareness, but such actual awareness may be inferred where objective manifestations indicate that the individual involved acted with such awareness.

(F) "Natural gas service" means the sale of natural gas, exclusive of any distribution or ancillary service.

(G) "Public telecommunications service" means the transmission by electromagnetic or other means, other than by a telephone company as defined in section 4927.01 of the Revised Code, of signs, signals, writings, images, sounds, messages, or data originating in this state regardless of actual call routing. "Public telecommunications service" excludes a system, including its construction, maintenance, or operation, for the provision of telecommunications service, or any portion of such service, by any entity for the sole and exclusive use of that entity, its parent, a subsidiary, or an affiliated entity, and not for resale, directly or indirectly; the provision of terminal equipment used to originate telecommunications service; broadcast

transmission by radio, television, or satellite broadcast stations regulated by the federal government; or cable television service.

(H) "Loan ~~officer~~ originator" has the same meaning as in section 1322.01 of the Revised Code, and includes a "mortgage loan originator" as defined in section 1321.51 of the Revised Code, except that it does not include an employee of a bank, savings bank, savings and loan association, credit union, or credit union service organization organized under the laws of this state, another state, or the United States; an employee of a subsidiary of such a bank, savings bank, savings and loan association, or credit union; or an employee of an affiliate that (1) controls, is controlled by, or is under common control with, such a bank, savings bank, savings and loan association, or credit union and (2) is subject to examination, supervision, and regulation, including with respect to the affiliate's compliance with applicable consumer protection requirements, by the board of governors of the federal reserve system, the comptroller of the currency, the office of thrift supervision, the federal deposit insurance corporation, or the national credit union administration.

(I) "Residential mortgage" or "mortgage" means an obligation to pay a sum of money evidenced by a note and secured by a lien upon real property located within this state containing two or fewer residential units or on which two or fewer residential units are to be constructed and includes such an obligation on a residential condominium or cooperative unit.

(J) "Mortgage broker" has the same meaning as in section 1322.01 of the Revised Code, except that it does not include a bank, savings bank, savings and loan association, credit union, or credit union service organization organized under the laws of this state, another state, or the United States; a subsidiary of such a bank, savings bank, savings and loan association, or credit union; an affiliate that (1) controls, is controlled by, or is under common control with, such a bank, savings bank, savings and loan association, or credit union and (2) is subject to examination, supervision, and regulation, including with respect to the affiliate's compliance with applicable consumer protection requirements, by the board of governors of the federal reserve system, the comptroller of the currency, the office of thrift supervision, the federal deposit insurance corporation, or the national credit union administration; or an employee of any such entity.

(K) "Nonbank mortgage lender" means any person that engages in a consumer transaction in connection with a residential mortgage, except for a bank, savings bank, savings and loan association, credit union, or credit union service organization organized under the laws of this state, another state, or the United States; a subsidiary of such a bank, savings bank,

savings and loan association, or credit union; or an affiliate that (1) controls, is controlled by, or is under common control with, such a bank, savings bank, savings and loan association, or credit union and (2) is subject to examination, supervision, and regulation, including with respect to the affiliate's compliance with applicable consumer protection requirements, by the board of governors of the federal reserve system, the comptroller of the currency, the office of thrift supervision, the federal deposit insurance corporation, or the national credit union administration.

(L) For purposes of divisions (H), (J), and (K) of this section:

(1) "Control" of another entity means ownership, control, or power to vote twenty-five per cent or more of the outstanding shares of any class of voting securities of the other entity, directly or indirectly or acting through one or more other persons.

(2) "Credit union service organization" means a CUSO as defined in 12 C.F.R. 702.2.

Sec. 1345.05. (A) The attorney general shall:

(1) Adopt, amend, and repeal procedural rules;

(2) Adopt as a rule a description of the organization of the attorney general's office, stating the general courses and methods of operation of the section of the office of the attorney general, which is to administer Chapter 1345. of the Revised Code and methods whereby the public may obtain information or make submissions or requests, including a description of all forms and instructions used by that office;

(3) Make available for public inspection all rules and all other written statements of policy or interpretations adopted or used by the attorney general in the discharge of the attorney general's functions, together with all judgments, including supporting opinions, by courts of this state that determine the rights of the parties and concerning which appellate remedies have been exhausted, or lost by the expiration of the time for appeal, determining that specific acts or practices violate section 1345.02, 1345.03, or 1345.031 of the Revised Code;

(4) Inform consumers and suppliers on a continuing basis of acts or practices that violate Chapter 1345. of the Revised Code by, among other things, publishing an informational document describing acts and practices in connection with residential mortgages that are unfair, deceptive, or unconscionable, and by making that information available on the attorney general's official web site;

(5) Cooperate with state and local officials, officials of other states, and officials of the federal government in the administration of comparable statutes;

(6) Report annually on or before the first day of January to the governor and the general assembly on the operations of the attorney general in respect to Chapter 1345. of the Revised Code, and on the acts or practices occurring in this state that violate such chapter. The report shall include a statement of investigatory and enforcement procedures and policies, of the number of investigations and enforcement proceedings instituted and of their disposition, and of other activities of the state and of other persons to promote the purposes of Chapter 1345. of the Revised Code.

(7) In carrying out official duties, the attorney general shall not disclose publicly the identity of suppliers investigated or the facts developed in investigations unless these matters have become a matter of public record in enforcement proceedings, in public hearings conducted pursuant to division (B)(1) of this section, or the suppliers investigated have consented in writing to public disclosure.

(B) The attorney general may:

(1) Conduct research, make inquiries, hold public hearings, and publish studies relating to consumer transactions;

(2) Adopt, amend, and repeal substantive rules defining with reasonable specificity acts or practices that violate sections 1345.02, 1345.03, and 1345.031 of the Revised Code. In adopting, amending, or repealing substantive rules defining acts or practices that violate section 1345.02 of the Revised Code, due consideration and great weight shall be given to federal trade commission orders, trade regulation rules and guides, and the federal courts' interpretations of subsection 45 (a)(1) of the "Federal Trade Commission Act," 38 Stat. 717 (1914), 15 U.S.C.A. 41, as amended.

In adopting, amending, or repealing such rules concerning a consumer transaction in connection with a residential mortgage, the attorney general shall consult with the superintendent of financial institutions and shall give due consideration to state and federal statutes, regulations, administrative agency interpretations, and case law.

(C) In the conduct of public hearings authorized by this section, the attorney general may administer oaths, subpoena witnesses, adduce evidence, and require the production of relevant material. Upon failure of a person without lawful excuse to obey a subpoena or to produce relevant matter, the attorney general may apply to a court of common pleas for an order compelling compliance.

(D) The attorney general may request that an individual who refuses to testify or to produce relevant material on the ground that the testimony or matter may incriminate the individual be ordered by the court to provide the testimony or matter. With the exception of a prosecution for perjury and an

action for damages under section 1345.07 or 1345.09 of the Revised Code, an individual who complies with a court order to provide testimony or matter, after asserting a privilege against self incrimination to which the individual is entitled by law, shall not be subjected to a criminal proceeding on the basis of the testimony or matter discovered through that testimony or matter.

(E) Any person may petition the attorney general requesting the adoption, amendment, or repeal of a rule. The attorney general shall prescribe by rule the form for such petitions and the procedure for their submission, consideration, and disposition. Within sixty days of submission of a petition, the attorney general shall either deny the petition in writing, stating the reasons for the denial, or initiate rule-making proceedings. There is no right to appeal from such denial of a petition.

(F) All rules shall be adopted subject to Chapter 119. of the Revised Code.

(G) The informational document published in accordance with division (A)(4) of this section shall be made available for distribution to consumers who are applying for a mortgage loan. An acknowledgement of receipt shall be retained by the lender, mortgage broker, and loan ~~officer~~ originator, as applicable, subject to review by the attorney general and the department of commerce.

Sec. 1345.09. For a violation of Chapter 1345. of the Revised Code, a consumer has a cause of action and is entitled to relief as follows:

(A) Where the violation was an act prohibited by section 1345.02, 1345.03, or 1345.031 of the Revised Code, the consumer may, in an individual action, rescind the transaction or recover the consumer's actual economic damages plus an amount not exceeding five thousand dollars in noneconomic damages.

(B) Where the violation was an act or practice declared to be deceptive or unconscionable by rule adopted under division (B)(2) of section 1345.05 of the Revised Code before the consumer transaction on which the action is based, or an act or practice determined by a court of this state to violate section 1345.02, 1345.03, or 1345.031 of the Revised Code and committed after the decision containing the determination has been made available for public inspection under division (A)(3) of section 1345.05 of the Revised Code, the consumer may rescind the transaction or recover, but not in a class action, three times the amount of the consumer's actual economic damages or two hundred dollars, whichever is greater, plus an amount not exceeding five thousand dollars in noneconomic damages or recover damages or other appropriate relief in a class action under Civil Rule 23, as amended.

(C)(1) Except as otherwise provided in division (C)(2) of this section, in any action for rescission, revocation of the consumer transaction must occur within a reasonable time after the consumer discovers or should have discovered the ground for it and before any substantial change in condition of the subject of the consumer transaction.

(2) If a consumer transaction between a loan ~~officer~~ originator, mortgage broker, or nonbank mortgage lender and a customer is in connection with a residential mortgage, revocation of the consumer transaction in an action for rescission is only available to a consumer in an individual action, and shall occur for no reason other than one or more of the reasons set forth in the "Truth in Lending Act," 82 Stat. 146 (1968), 15 U.S.C. 1635, not later than the time limit within which the right of rescission under section 125(f) of the "Truth in Lending Act" expires.

(D) Any consumer may seek a declaratory judgment, an injunction, or other appropriate relief against an act or practice that violates this chapter.

(E) When a consumer commences an individual action for a declaratory judgment or an injunction or a class action under this section, the clerk of court shall immediately mail a copy of the complaint to the attorney general. Upon timely application, the attorney general may be permitted to intervene in any private action or appeal pending under this section. When a judgment under this section becomes final, the clerk of court shall mail a copy of the judgment including supporting opinions to the attorney general for inclusion in the public file maintained under division (A)(3) of section 1345.05 of the Revised Code.

(F) The court may award to the prevailing party a reasonable attorney's fee limited to the work reasonably performed, if either of the following apply:

(1) The consumer complaining of the act or practice that violated this chapter has brought or maintained an action that is groundless, and the consumer filed or maintained the action in bad faith;

(2) The supplier has knowingly committed an act or practice that violates this chapter.

(G) As used in this section, "actual economic damages" means damages for direct, incidental, or consequential pecuniary losses resulting from a violation of Chapter 1345. of the Revised Code and does not include damages for noneconomic loss as defined in section 2315.18 of the Revised Code.

(H) Nothing in this section shall preclude a consumer from also proceeding with a cause of action under any other theory of law.

Sec. 1347.08. (A) Every state or local agency that maintains a personal

information system, upon the request and the proper identification of any person who is the subject of personal information in the system, shall:

(1) Inform the person of the existence of any personal information in the system of which the person is the subject;

(2) Except as provided in divisions (C) and (E)(2) of this section, permit the person, the person's legal guardian, or an attorney who presents a signed written authorization made by the person, to inspect all personal information in the system of which the person is the subject;

(3) Inform the person about the types of uses made of the personal information, including the identity of any users usually granted access to the system.

(B) Any person who wishes to exercise a right provided by this section may be accompanied by another individual of the person's choice.

(C)(1) A state or local agency, upon request, shall disclose medical, psychiatric, or psychological information to a person who is the subject of the information or to the person's legal guardian, unless a physician, psychiatrist, or psychologist determines for the agency that the disclosure of the information is likely to have an adverse effect on the person, in which case the information shall be released to a physician, psychiatrist, or psychologist who is designated by the person or by the person's legal guardian.

(2) Upon the signed written request of either a licensed attorney at law or a licensed physician designated by the inmate, together with the signed written request of an inmate of a correctional institution under the administration of the department of rehabilitation and correction, the department shall disclose medical information to the designated attorney or physician as provided in division (C) of section 5120.21 of the Revised Code.

(D) If an individual who is authorized to inspect personal information that is maintained in a personal information system requests the state or local agency that maintains the system to provide a copy of any personal information that the individual is authorized to inspect, the agency shall provide a copy of the personal information to the individual. Each state and local agency may establish reasonable fees for the service of copying, upon request, personal information that is maintained by the agency.

(E)(1) This section regulates access to personal information that is maintained in a personal information system by persons who are the subject of the information, but does not limit the authority of any person, including a person who is the subject of personal information maintained in a personal information system, to inspect or have copied, pursuant to section 149.43 of

the Revised Code, a public record as defined in that section.

(2) This section does not provide a person who is the subject of personal information maintained in a personal information system, the person's legal guardian, or an attorney authorized by the person, with a right to inspect or have copied, or require an agency that maintains a personal information system to permit the inspection of or to copy, a confidential law enforcement investigatory record or trial preparation record, as defined in divisions (A)(2) and (4) of section 149.43 of the Revised Code.

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

(1) The contents of an adoption file maintained by the department of health under section 3705.12 of the Revised Code;

(2) Information contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;

(3) Papers, records, and books that pertain to an adoption and that are subject to inspection in accordance with section 3107.17 of the Revised Code;

(4) Records listed in division (A) of section 3107.42 of the Revised Code or specified in division (A) of section 3107.52 of the Revised Code;

(5) Records that identify an individual described in division (A)(1) of section 3721.031 of the Revised Code, or that would tend to identify such an individual;

(6) Files and records that have been expunged under division (D)(1) or (2) of section 3721.23 of the Revised Code;

(7) Records that identify an individual described in division (A)(1) of section 3721.25 of the Revised Code, or that would tend to identify such an individual;

(8) Records that identify an individual described in division (A)(1) of section 5111.61 of the Revised Code, or that would tend to identify such an individual;

(9) Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that the board of examiners of nursing home administrators administers under section 4751.04 of the Revised Code or contracts under that section with a private or government entity to administer;

(10) Information contained in a database established and maintained pursuant to section 5101.13 of the Revised Code.

Sec. 1349.31. (A)(1) No creditor shall willfully and knowingly fail to

comply with section 1349.26 or 1349.27 of the Revised Code. For purposes of division (A)(1) of this section, "willfully and knowingly" has the same meaning as in section 112 of the "Truth in Lending Act," 82 Stat. 146 (1968), 15 U.S.C.A. 1611, as amended.

(2) Whoever violates division (A)(1) of this section is guilty of a felony of the fifth degree.

(B) The superintendent of financial institutions may directly bring an action to enjoin a violation of this section. The attorney general may directly bring an action against a mortgage broker, loan ~~officer~~ originator, or nonbank mortgage lender to enjoin a violation of this section with the same rights, privileges, and powers as those described in section 1345.06 of the Revised Code. The prosecuting attorney of the county in which the action may be brought may bring an action against a mortgage broker, loan ~~officer~~ originator, or nonbank mortgage lender to enjoin a violation of this section only if the prosecuting attorney first presents any evidence of the violation to the attorney general and, within a reasonable period of time, the attorney general has not agreed to bring the action.

For purposes of this division, "loan ~~officer~~ originator," "mortgage broker," and "nonbank mortgage lender" have the same meanings as in section 1345.01 of the Revised Code.

(C)(1) The superintendent of financial institutions may initiate criminal proceedings under this section by presenting any evidence of criminal violations to the prosecuting attorney of the county in which the offense may be prosecuted. If the prosecuting attorney does not prosecute the violations, or at the request of the prosecuting attorney, the superintendent shall present any evidence of criminal violations to the attorney general, who may proceed in the prosecution with all the rights, privileges, and powers conferred by law on prosecuting attorneys, including the power to appear before grand juries and to interrogate witnesses before such grand juries. These powers of the attorney general shall be in addition to any other applicable powers of the attorney general.

(2) The prosecuting attorney of the county in which an alleged offense may be prosecuted may initiate criminal proceedings under this section.

(3) In order to initiate criminal proceedings under this section, the attorney general shall first present any evidence of criminal violations to the prosecuting attorney of the county in which the alleged offense may be prosecuted. If, within a reasonable period of time, the prosecuting attorney has not agreed to prosecute the violations, the attorney general may proceed in the prosecution with all the rights, privileges, and powers described in division (C)(1) of this section.

Sec. 1349.43. (A) As used in this section, "~~loan officer~~ originator," "mortgage broker," and "nonbank mortgage lender" have the same meanings as in section 1345.01 of the Revised Code.

(B) The department of commerce shall establish and maintain an electronic database accessible through the internet that contains information on all of the following:

(1) The enforcement actions taken by the superintendent of financial institutions for each violation of or failure to comply with any provision of sections 1322.01 to 1322.12 of the Revised Code, upon final disposition of the action;

(2) The enforcement actions taken by the attorney general under Chapter 1345. of the Revised Code against ~~loan officers~~ originators, mortgage brokers, and nonbank mortgage lenders, upon final disposition of each action;

(3) All judgments by courts of this state, concerning which appellate remedies have been exhausted or lost by the expiration of the time for appeal, finding either of the following:

(a) A violation of any provision of sections 1322.01 to 1322.12 of the Revised Code;

(b) That specific acts or practices by a ~~loan officer~~ originator, mortgage broker, or nonbank mortgage lender violate section 1345.02, 1345.03, or 1345.031 of the Revised Code.

(C) The attorney general shall submit to the department, on the first day of each January, April, July, and October, a list of all enforcement actions and judgments described in divisions (B)(2) and (3)(b) of this section.

(D) The department may adopt rules in accordance with Chapter 119. of the Revised Code that are necessary to implement this section.

(E) The electronic database maintained by the department in accordance with this section shall not include information that, pursuant to section 1322.061 of the Revised Code, is confidential.

Sec. 1501.01. (A) Except where otherwise expressly provided, the director of natural resources shall formulate and institute all the policies and programs of the department of natural resources. The chief of any division of the department shall not enter into any contract, agreement, or understanding unless it is approved by the director. No appointee or employee of the director, other than the assistant director, may bind the director in a contract except when given general or special authority to do so by the director.

(B) The director shall correlate and coordinate the work and activities of the divisions in the department to eliminate unnecessary duplications of

effort and overlapping of functions. The chiefs of the various divisions of the department shall meet with the director at least once each month at a time and place designated by the director.

The director may create advisory boards to any of those divisions in conformity with section 121.13 of the Revised Code.

(C) The director may accept and expend gifts, devises, and bequests of money, lands, and other properties on behalf of the department or any division thereof under the terms set forth in section 9.20 of the Revised Code. Any political subdivision of this state may make contributions to the department for the use of the department or any division therein according to the terms of the contribution.

(D) The director may publish and sell or otherwise distribute data, reports, and information.

(E) The director may identify and develop the geographic information system needs for the department, which may include, but not be limited to, all of the following:

(1) Assisting in the training and education of department resource managers, administrators, and other staff in the application and use of geographic information system technology;

(2) Providing technical support to the department in the design, preparation of data, and use of appropriate geographic information system applications in order to help solve resource related problems and to improve the effectiveness and efficiency of department delivered services;

(3) Creating, maintaining, and documenting spatial digital data bases;

(4) Providing information to and otherwise assisting government officials, planners, and resource managers in understanding land use planning and resource management;

(5) Providing continuing assistance to local government officials and others in natural resource digital data base development and in applying and utilizing the geographic information system for land use planning, current agricultural use value assessment, development reviews, coastal management, and other resource management activities;

(6) Coordinating and administering the remote sensing needs of the department, including the collection and analysis of aerial photography, satellite data, and other data pertaining to land, water, and other resources of the state;

(7) Preparing and publishing maps and digital data relating to the state's land use and land cover over time on a local, regional, and statewide basis;

(8) Locating and distributing hard copy maps, digital data, aerial photography, and other resource data and information to government

agencies and the public:

(9) Preparing special studies and executing any other related duties, functions, and responsibilities identified by the director;

(10) Entering into contracts or agreements with any agency of the United States government, any other public agency, or any private agency or organization for the performance of the duties specified in division (E) of this section or for accomplishing cooperative projects within those duties;

(11) Entering into agreements with local government agencies for the purposes of land use inventories, Ohio capability analysis data layers, and other duties related to resource management.

(F) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to permit the department to accept by means of a credit card the payment of fees, charges, and rentals at those facilities described in section 1501.07 of the Revised Code that are operated by the department, for any data, reports, or information sold by the department, and for any other goods or services provided by the department.

(G) Whenever authorized by the governor to do so, the director may appropriate property for the uses and purposes authorized to be performed by the department and on behalf of any division within the department. This authority shall be exercised in the manner provided in sections 163.01 to 163.22 of the Revised Code for the appropriation of property by the director of administrative services. This authority to appropriate property is in addition to the authority provided by law for the appropriation of property by divisions of the department. The director of natural resources also may acquire by purchase, lease, or otherwise such real and personal property rights or privileges in the name of the state as are necessary for the purposes of the department or any division therein. The director, with the approval of the governor and the attorney general, may sell, lease, or exchange portions of lands or property, real or personal, of any division of the department or grant easements or licenses for the use thereof, or enter into agreements for the sale of water from lands and waters under the administration or care of the department or any of its divisions, when the sale, lease, exchange, easement, agreement, or license for use is advantageous to the state, provided that such approval is not required for leases and contracts made under section 1501.07, 1501.09, or 1520.03 or Chapter 1523. of the Revised Code. Water may be sold from a reservoir only to the extent that the reservoir was designed to yield a supply of water for a purpose other than recreation or wildlife, and the water sold is in excess of that needed to maintain the reservoir for purposes of recreation or wildlife.

Money received from such sales, leases, easements, exchanges,

agreements, or licenses for use, except revenues required to be set aside or paid into depositories or trust funds for the payment of bonds issued under sections 1501.12 to 1501.15 of the Revised Code, and to maintain the required reserves therefor as provided in the orders authorizing the issuance of such bonds or the trust agreements securing such bonds, revenues required to be paid and credited pursuant to the bond proceeding applicable to obligations issued pursuant to section 154.22, and revenues generated under section 1520.05 of the Revised Code, shall be deposited in the state treasury to the credit of the fund of the division of the department having prior jurisdiction over the lands or property. If no such fund exists, the money shall be credited to the general revenue fund. All such money received from lands or properties administered by the division of wildlife shall be credited to the wildlife fund.

(H) The director shall provide for the custody, safekeeping, and deposit of all moneys, checks, and drafts received by the department or its employees prior to paying them to the treasurer of state under section 113.08 of the Revised Code.

(I) The director shall cooperate with the nature conservancy, other nonprofit organizations, and the United States fish and wildlife service in order to secure protection of islands in the Ohio river and the wildlife and wildlife habitat of those islands.

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

Sec. 1501.05. All chiefs of divisions in the department of natural resources shall be appointed by the director of natural resources. The chiefs of those divisions may be removed by the director.

The chief engineer of the department of natural resources shall be a ~~registered~~ professional engineer registered under Chapter 4733. of the Revised Code or a professional architect certified and registered under Chapter 4703. of the Revised Code.

The chief of each division and the chief engineer, with the advice and consent of the director, may employ such number of technical and administrative assistants as are necessary.

All employees of the department, unless specifically exempted by law, shall be employed subject to the classified civil service laws in force at the time of their employment.

Sec. 1501.07. The department of natural resources through the division of parks and recreation may plan, supervise, acquire, construct, enlarge, improve, erect, equip, and furnish public service facilities such as inns,

lodges, hotels, cottages, camping sites, scenic trails, picnic sites, restaurants, commissaries, golf courses, boating and bathing facilities, and other similar facilities in state parks reasonably necessary and useful in promoting the public use of state parks under its control and may purchase lands or interests in lands in the name of the state necessary for those purposes.

The chief of the division of parks and recreation shall administer state parks, establish rules, fix fees and charges for admission to parks and for the use of public service facilities therein, establish rentals for the lease of lands or interests therein within a state park the chief is authorized by law to lease, and exercise all powers of the chief, in conformity with all covenants of the director of natural resources in or with respect to state park revenue bonds and trust agreements securing such bonds and all terms, provisions, and conditions of such bonds and trust agreements. In the administration of state parks with respect to which state park revenue bonds are issued and outstanding, or any part of the moneys received from fees and charges for admission to or the use of facilities, from rentals for the lease of lands or interests or facilities therein, or for the lease of public service facilities are pledged for any such bonds, the chief shall exercise the powers and perform the duties of the chief subject to the control and approval of the director. The acquisition of such lands or interests therein and facilities shall be planned with regard to the needs of the people of the state and with regard to the purposes and uses of such state parks and, except for facilities constructed in consideration of a lease under section 1501.012 of the Revised Code, shall be paid for from the state park fund created in section 1541.22 of the Revised Code or from the proceeds of the sale of bonds issued under sections 1501.12 to 1501.15 of the Revised Code. Sections 125.81 and 153.04 of the Revised Code, insofar as they require a certification by the chief of the division of capital planning and improvement, do not apply to the acquisition of lands or interests therein and public service facilities to be paid for from the proceeds of bonds issued under sections 1501.12 to 1501.15 of the Revised Code.

As used in sections 1501.07 to 1501.14 of the Revised Code, state parks are all of the following:

(A) State reservoirs described and identified in section 1541.06 of the Revised Code;

(B) All lands or interests therein that are denominated as state parks in section 1541.083 of the Revised Code;

(C) All lands or interests therein of the state identified as administered by the division of parks and recreation in the "inventory of state owned lands administered by department of natural resources as of June 1, 1963,"

as recorded in the journal of the director, which inventory was prepared by the real estate section of the department and is supported by maps on file ~~in~~ with the division of real estate and land management;

(D) All lands or interests in lands of the state hereafter designated as state parks in the journal of the director with the approval of the recreation and resources council.

All such state parks shall be exclusively under the control and administration of the division of parks and recreation. With the approval of the council, the director by order may remove from the classification as state parks any of the lands or interests therein so classified by divisions (C) and (D) of this section, subject to the limitations, provisions, and conditions in any order authorizing state park revenue bonds or in any trust agreement securing such bonds. Lands or interests therein so removed shall be transferred to other divisions of the department for administration or may be sold as provided by law. Proceeds of any sale shall be used or transferred as provided in the order authorizing state park revenue bonds or in the trust agreement and, if no such provision is made, shall be transferred to the state park fund. State parks do not include any lands or interest in lands of the state administered jointly by two or more divisions of the department. The designation of lands as state parks under divisions (A) to (D) of this section shall be conclusive, and those lands shall be under the control of and administered by the division of parks and recreation. No order or proceeding designating lands as state parks or park purchase areas shall be subject to any appeal or review by any officer, board, commission, or court.

Sec. 1501.30. (A) As used in sections 1501.30 to 1501.35 of the Revised Code:

(1) "Consumptive use" means a use of water resources, other than a diversion, that results in a loss of that water to the basin from which it is withdrawn and includes, but is not limited to, evaporation, evapotranspiration, and incorporation of water into a product or agricultural crop.

(2) "Diversion" means a withdrawal of water resources from either the Lake Erie or Ohio river drainage basin and transfer to another basin without return. "Diversion" does not include evaporative loss within the basin of withdrawal.

(3) "Other great lakes states and provinces" means states other than this state that are parties to the great lakes basin compact under Chapter 6161. of the Revised Code and the Canadian provinces of Ontario and Quebec.

(4) "Person" has the same meaning as in section 1.59 of the Revised Code and also includes any state, any political subdivision of a state, and

any department, division, board, commission, agency, or instrumentality of a state or political subdivision of a state.

(5) "Water resources" means any waters of the state that are available or may be made available to agricultural, industrial, commercial, and domestic users.

(6) "Waters of the state" includes all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and other bodies or accumulations of water, surface and underground, natural or artificial, regardless of the depth of the strata in which underground water is located, that are situated wholly or partly within or border upon this state or are within its jurisdiction.

(B) The chief of the division of soil and water resources of the department of natural resources shall define "Lake Erie drainage basin" and "Ohio river drainage basin" for the purposes of sections 1501.30 to 1501.35 of the Revised Code.

Sec. 1502.12. (A) There is hereby created in the state treasury the scrap tire grant fund, consisting of moneys transferred to the fund under section 3734.82 of the Revised Code. The chief of the division of recycling and litter prevention, with the approval of the director of natural resources, may make grants from the fund for the ~~purpose of supporting~~ following purposes:

(1) Supporting market development activities for scrap tires and synthetic rubber from tire manufacturing processes and tire recycling processes;

(2) Supporting scrap tire amnesty and cleanup events sponsored by solid waste management districts. The grants

Grants awarded under division (A)(1) of this section may be awarded to individuals, businesses, and entities certified under division (A) of section 1502.04 of the Revised Code.

(B) Projects and activities that are eligible for grants under division (A)(1) of this section shall be evaluated for funding using, at a minimum, the following criteria:

(1) The degree to which a proposed project contributes to the increased use of scrap tires generated in this state;

(2) The degree of local financial support for a proposed project;

(3) The technical merit and quality of a proposed project.

Sec. 1506.01. As used in this chapter:

(A) "Coastal area" means the waters of Lake Erie, the islands in the lake, and the lands under and adjacent to the lake, including transitional areas, wetlands, and beaches. The coastal area extends in Lake Erie to the international boundary line between the United States and Canada and

landward only to the extent necessary to include shorelands, the uses of which have a direct and significant impact on coastal waters as determined by the director of natural resources.

(B) "Coastal management program" means the comprehensive action of the state and its political subdivisions cooperatively to preserve, protect, develop, restore, or enhance the resources of the coastal area and to ensure wise use of the land and water resources of the coastal area, giving attention to natural, cultural, historic, and aesthetic values; agricultural, recreational, energy, and economic needs; and the national interest. "Coastal management program" includes the establishment of objectives, policies, standards, and criteria concerning, without limitation, protection of air, water, wildlife, rare and endangered species, wetlands and natural areas, and other natural resources in the coastal area; management of coastal development and redevelopment; preservation and restoration of historic, cultural, and aesthetic coastal features; and public access to the coastal area for recreation purposes.

(C) "Coastal management program document" means a comprehensive statement consisting of, without limitation, text, maps, and illustrations that is adopted by the director in accordance with this chapter, describes the objectives, policies, standards, and criteria of the coastal management program for guiding public and private uses of lands and waters in the coastal area, lists the governmental agencies, including, without limitation, state agencies, involved in implementing the coastal management program, describes their applicable policies and programs, and cites the statutes and rules under which they may adopt and implement those policies and programs.

(D) "Person" means any agency of this state, any political subdivision of this state or of the United States, and any legal entity defined as a person under section 1.59 of the Revised Code.

(E) "Director" means the director of natural resources or the director's designee.

(F) "Permanent structure" means any residential, commercial, industrial, institutional, or agricultural building, any mobile home as defined in division (O) of section 4501.01 of the Revised Code, any manufactured home as defined in division (C)(4) of section 3781.06 of the Revised Code, and any septic system that receives sewage from a single-family, two-family, or three-family dwelling, but does not include any recreational vehicle as defined in section 4501.01 of the Revised Code.

(G) "State agency" or "agency of the state" has the same meaning as "agency" as defined in section 111.15 of the Revised Code.

(H) "Coastal flood hazard area" means any territory within the coastal area that has been identified as a flood hazard area under the "Flood Disaster Protection Act of 1973," 87 Stat. 975, 42 U.S.C.A. 4002, as amended.

(I) "Coastal erosion area" means any territory included in Lake Erie coastal erosion areas identified by the director under section 1506.06 of the Revised Code.

(J) "Conservancy district" means a conservancy district that is established under Chapter 6101. of the Revised Code.

(K) "Park board" means the board of park commissioners of a park district that is created under Chapter 1545. of the Revised Code.

(L) "Erosion control structure" means a structure that is designed solely and specifically to reduce or control erosion of the shore along or near Lake Erie, including, without limitation, revetments, seawalls, bulkheads, certain breakwaters, and similar structures.

(M) "Shore structure" includes, but is not limited to, beaches; groins; revetments; bulkheads; seawalls; breakwaters; certain dikes designated by the chief of the division of soil and water resources; piers; docks; jetties; wharves; marinas; boat ramps; any associated fill or debris used as part of the construction of shore structures that may affect shore erosion, wave action, or inundation; and fill or debris that is placed along or near the shore, including bluffs, banks, or beach ridges, for the purpose of stabilizing slopes.

Sec. 1507.01. There is hereby created in the department of natural resources the division of engineering to be administered by the chief engineer of the department, who shall be a professional engineer registered under Chapter 4733. of the Revised Code or a professional architect certified and registered under Chapter 4703. of the Revised Code. ~~The~~ With the approval of the director of natural resources, the chief engineer shall do all of the following:

(A) Administer this chapter;

(B) Provide engineering, architectural, land surveying, and related administrative and maintenance support services to the other divisions in the department;

(C) ~~Upon request of the director of natural resources, implement~~ Implement the department's capital improvement program and facility maintenance projects, including all associated ~~engineering, architectural, planning,~~ design, contracting, surveying, inspection, and management responsibilities and requirements;

(D) ~~With the approval of the director, act~~ Act as contracting officer in departmental engineering, architectural, surveying, and construction matters

regarding capital improvements except for those matters otherwise specifically provided for in law;

~~(E) Provide engineering support for the coastal management program established under Chapter 1506. of the Revised Code;~~

~~(F)~~ Coordinate the department's roadway maintenance program with the department of transportation pursuant to section 5511.05 of the Revised Code and maintain the roadway inventory of the department of natural resources;

~~(G)~~~~(F)~~ Coordinate the department's projects, programs, policies, procedures, and activities with the United States army corps of engineers;

~~(H) Subject to the approval of the director, employ~~ (G) Employ professional and technical assistants and such other employees as are necessary for the performance of the activities required or authorized under this chapter, other work of the division, and any other work agreed to under working agreements or contractual arrangements; prescribe their duties; and fix their compensation in accordance with such schedules as are provided by law for the compensation of state employees.;

(H) Except as otherwise provided in the Revised Code, coordinate and conduct all real estate functions for the department of natural resources, including at least acquisitions by purchase, lease, gift, devise, bequest, appropriation, or otherwise; grants through sales, leases, exchanges, easements, and licenses; inventories of land; and other related general management duties;

(I) Coordinate such environmental matters concerning the department and the state as are necessary to comply with the "National Environmental Policy Act of 1969," 83 Stat. 852, 42 U.S.C. 4321, as amended, the "Intergovernmental Cooperation Act of 1968," 82 Stat. 1098, 31 U.S.C. 6506, and the "Federal Water Pollution Control Act," 91 Stat. 1566 (1977), 33 U.S.C. 1251, as amended, and regulations adopted under those acts;

(J) Coordinate and administer compensatory mitigation grant programs and other programs for streams and wetlands as approved in accordance with certifications and permits issued under sections 401 and 404 of the "Federal Water Pollution Control Act," 91 Stat. 1566 (1977), 33 U.S.C. 1251, as amended, by the environmental protection agency and the United States army corps of engineers;

(K) Coordinate all department activities associated with the completion of drainage ditch improvements in accordance with Chapters 6131. and 6133. of the Revised Code;

(L) Assist the department and its divisions by providing department-wide planning, including at least master planning,

comprehensive planning, capital improvements planning, and special purpose planning.

Sec. 1511.01. For the purposes of this chapter:

(A) "Conservation" means the wise use and management of natural resources.

(B) "Critical natural resource area" means an area identified by the director of natural resources in which occurs a natural resource that requires special management because of its importance to the well-being of the surrounding communities, the region, or the state.

(C) "Pollution abatement practice" means any erosion control or animal waste pollution abatement facility, structure, or procedure and the operation and management associated with it as contained in operation and management plans developed or approved by the chief of the division of soil and water ~~conservation~~ resources or by soil and water conservation districts established under Chapter 1515. of the Revised Code.

(D) "Agricultural pollution" means failure to use management or conservation practices in farming or silvicultural operations to abate wind or water erosion of the soil or to abate the degradation of the waters of the state by animal waste or soil sediment, including substances attached thereto.

(E) "Waters of the state" means all streams, lakes, ponds, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, regardless of the depth of the strata in which underground water is located, that are situated wholly or partly within, or border upon, this state or are within its jurisdiction, except those private waters that do not combine or effect a junction with natural surface or underground waters.

(F) "Operation and management plan" means a written record, developed or approved by the district board of supervisors or the chief, for the owner or operator of agricultural land or a concentrated animal feeding operations operation that contains implementation schedules and operational procedures for a level of management and pollution abatement practices that will abate the degradation of the waters of the state by animal waste and by soil sediment including attached pollutants.

(G) "Animal waste" means animal excreta, discarded products, bedding, wash waters, waste feed, and silage drainage. "Animal waste" also includes the compost products resulting from the composting of dead animals in operations subject to section 1511.022 of the Revised Code when either of the following applies:

(1) The composting is conducted by the person who raises the animals

and the compost product is used in agricultural operations owned or operated by that person, regardless of whether the person owns the animals;

(2) The composting is conducted by the person who owns the animals, but does not raise them and the compost product is used in agricultural operations either by a person who raises the animals or by a person who raises grain that is used to feed them and that is supplied by the owner of the animals.

(H) "Composting" means the controlled decomposition of organic solid material consisting of dead animals that stabilizes the organic fraction of the material.

Sec. 1511.02. The chief of the division of soil and water ~~conservation~~ resources, subject to the approval of the director of natural resources, shall do all of the following:

(A) Provide administrative leadership to local soil and water conservation districts in planning, budgeting, staffing, and administering district programs and the training of district supervisors and personnel in their duties, responsibilities, and authorities as prescribed in this chapter and Chapter 1515. of the Revised Code;

(B) Administer this chapter and Chapter 1515. of the Revised Code pertaining to state responsibilities and provide staff assistance to the Ohio soil and water conservation commission in exercising its statutory responsibilities;

(C) Assist in expediting state responsibilities for watershed development and other natural resource conservation works of improvement;

(D) Coordinate the development and implementation of cooperative programs and working agreements between local soil and water conservation districts and divisions or sections of the department of natural resources, or other agencies of local, state, and federal government;

(E) Subject to the approval of the Ohio soil and water conservation commission, adopt, amend, or rescind rules pursuant to Chapter 119. of the Revised Code. Rules adopted pursuant to this section:

(1) Shall establish technically feasible and economically reasonable standards to achieve a level of management and conservation practices in farming or silvicultural operations that will abate wind or water erosion of the soil or abate the degradation of the waters of the state by animal waste or by soil sediment including substances attached thereto, and establish criteria for determination of the acceptability of such management and conservation practices;

(2) Shall establish technically feasible and economically reasonable standards to achieve a level of management and conservation practices that

will abate wind or water erosion of the soil or abate the degradation of the waters of the state by soil sediment in conjunction with land grading, excavating, filling, or other soil-disturbing activities on land used or being developed for nonfarm commercial, industrial, residential, or other nonfarm purposes, and establish criteria for determination of the acceptability of such management and conservation practices. The standards shall be designed to implement applicable areawide waste treatment management plans prepared under section 208 of the "Federal Water Pollution Control Act," 86 Stat. 816 (1972), 33 U.S.C.A. 1288, as amended. The standards and criteria shall not apply in any municipal corporation or county that adopts ordinances or rules pertaining to sediment control, nor to lands being used in a strip mine operation as defined in section 1513.01 of the Revised Code, nor to lands being used in a surface mining operation as defined in section 1514.01 of the Revised Code.

(3) May recommend criteria and procedures for the approval of urban sediment pollution abatement plans and issuance of permits prior to any grading, excavating, filling, or other whole or partial disturbance of five or more contiguous acres of land owned by one person or operated as one development unit and require implementation of such a plan. Areas of less than five contiguous acres are not exempt from compliance with other provisions of this chapter and rules adopted under them.

(4) Shall establish procedures for administration of rules for agricultural pollution abatement and urban sediment pollution abatement and for enforcement of rules for agricultural pollution abatement;

(5) Shall specify the pollution abatement practices eligible for state cost sharing and determine the conditions for eligibility, the construction standards and specifications, the useful life, the maintenance requirements, and the limits of cost sharing for those practices. Eligible practices shall be limited to practices that address agricultural or silvicultural operations and that require expenditures that are likely to exceed the economic returns to the owner or operator and that abate soil erosion or degradation of the waters of the state by animal waste or soil sediment including pollutants attached thereto.

~~(6) Until June 1, 1996, shall specify the multiflora rose control practices eligible for state cost sharing, the conditions of eligibility for state cost sharing, the limits of cost sharing for those practices, specifications for carrying out those practices to ensure effective control of the multiflora rose and to safeguard the health and safety of human beings and domestic animals and the environment, and the contract provisions to be included in cost-sharing agreements with landowners;~~

~~(7) Until June 1, 1996, shall establish procedures for administering grants to soil and water conservation districts for control of multiflora rose;~~

(8) Shall establish procedures for administering grants to owners or operators of agricultural land or concentrated animal feeding operations for the implementation of operation and management plans;

~~(9)~~(7) Shall establish procedures for administering grants to soil and water conservation districts for urban sediment pollution abatement programs, specify the types of projects eligible for grants, establish limits on the availability of grants, and establish requirements governing the execution of projects to encourage the reduction of erosion and sedimentation associated with soil-disturbing activities;

~~(10)~~(8) Shall do all of the following with regard to composting conducted in conjunction with agricultural operations:

(a) Provide for the distribution of educational material concerning composting to the offices of the Ohio cooperative extension service for the purposes of section 1511.022 of the Revised Code;

(b) Establish methods, techniques, or practices for composting dead animals, or particular types of dead animals, that are to be used at such operations, as the chief considers to be necessary or appropriate;

(c) Establish requirements and procedures governing the review and approval or disapproval of composting plans by the supervisors of soil and water conservation districts under division ~~(U)~~(Q) of section 1515.08 of the Revised Code.

~~(11)~~(9) Shall be adopted, amended, or rescinded after the chief does all of the following:

(a) Mails notice to each statewide organization that the chief determines represents persons or local governmental agencies who would be affected by the proposed rule, amendment thereto, or rescission thereof at least thirty-five days before any public hearing thereon;

(b) Mails a copy of each proposed rule, amendment thereto, or rescission thereof to any person who requests a copy, within five days after receipt of the request;

(c) Consults with appropriate state and local governmental agencies or their representatives, including statewide organizations of local governmental officials, industrial representatives, and other interested persons;

(d) If the rule relates to agricultural pollution abatement, develops an economic impact statement concerning the effect of the proposed rule or amendment.

~~(12)~~(10) Shall not conflict with air or water quality standards adopted

pursuant to section 3704.03 or 6111.041 of the Revised Code. Compliance with rules adopted pursuant to this section does not affect liability for noncompliance with air or water quality standards adopted pursuant to section 3704.03 or 6111.041 of the Revised Code. The application of a level of management and conservation practices recommended under this section to control windblown soil from farming operations creates a presumption of compliance with section 3704.03 of the Revised Code as that section applies to windblown soil.

~~(13)~~(11) Insofar as the rules relate to urban sediment pollution, shall not be applicable in a municipal corporation or county that adopts ordinances or rules for urban sediment control, except that a municipal corporation or county that adopts such ordinances or rules may receive moneys for urban sediment control that are disbursed by the board of supervisors of the applicable soil and water conservation district under division ~~(R)~~(N) of section 1515.08 of the Revised Code. The rules shall not exempt any person from compliance with municipal ordinances enacted pursuant to Section 3 of Article XVIII, Ohio Constitution.

(F) Cost share with landowners on practices established pursuant to division (E)(5) of this section as moneys are appropriated and available for that purpose. Any practice for which cost share is provided shall be maintained for its useful life. Failure to maintain a cost share practice for its useful life shall subject the landowner to full repayment to the division.

(G) Issue orders requiring compliance with any rule adopted under division (E)(1) of this section or with section 1511.022 of the Revised Code. Before the chief issues an order, the chief shall afford each person allegedly liable an adjudication hearing under Chapter 119. of the Revised Code. The chief may require in an order that a person who has caused agricultural pollution by failure to comply with the standards established under division (E)(1) of this section operate under an operation and management plan approved by the chief under this section. The chief shall require in an order that a person who has failed to comply with division (A) of section 1511.022 of the Revised Code prepare a composting plan in accordance with rules adopted under division (E)(10)(c) of this section and operate in accordance with that plan or that a person who has failed to operate in accordance with such a plan begin to operate in accordance with it. Each order shall be issued in writing and contain a finding by the chief of the facts upon which the order is based and the standard that is not being met.

(H) Employ field assistants and such other employees as are necessary for the performance of the work prescribed by Chapter 1515. of the Revised Code, for performance of work of the division, and as agreed to under

working agreements or contractual arrangements with local soil and water conservation districts, prescribe their duties, and fix their compensation in accordance with such schedules as are provided by law for the compensation of state employees.

All employees of the division, unless specifically exempted by law, shall be employed subject to the classified civil service laws in force at the time of employment.

(I) In connection with new or relocated projects involving highways, underground cables, pipelines, railroads, and other improvements affecting soil and water resources, including surface and subsurface drainage:

(1) Provide engineering service as is mutually agreeable to the Ohio soil and water conservation commission and the director to aid in the design and installation of soil and water conservation practices as a necessary component of such projects;

(2) Maintain close liaison between the owners of lands on which the projects are executed, local soil and water conservation districts, and authorities responsible for such projects;

(3) Review plans for such projects to ensure their compliance with standards developed under division (E) of this section in cooperation with the department of transportation or with any other interested agency that is engaged in soil or water conservation projects in the state in order to minimize adverse impacts on soil and water resources adjacent to or otherwise affected by these projects;

(4) Recommend measures to retard erosion and protect soil and water resources through the installation of water impoundment or other soil and water conservation practices;

(5) Cooperate with other agencies and subdivisions of the state to protect the agricultural status of rural lands adjacent to such projects and control adverse impacts on soil and water resources.

(J) Collect, analyze, inventory, and interpret all available information pertaining to the origin, distribution, extent, use, and conservation of the soil resources of the state;

(K) Prepare and maintain up-to-date reports, maps, and other materials pertaining to the soil resources of the state and their use and make that information available to governmental agencies, public officials, conservation entities, and the public;

(L) Provide soil and water conservation districts with technical assistance including on-site soil investigations and soil interpretation reports on the suitability or limitations of soil to support a particular use or to plan soil conservation measures. The assistance shall be upon such terms as are

mutually agreeable to the districts and the department of natural resources.

(M) Assist local government officials in utilizing land use planning and zoning, current agricultural use value assessment, development reviews, and land management activities;

(N) When necessary for the purposes of this chapter or Chapter 1515. of the Revised Code, develop or approve operation and management plans.

This section does not restrict the excrement of domestic or farm animals defecated on land outside a concentrated animal feeding operation or runoff therefrom into the waters of the state.

Sec. 1511.021. (A) Any person who owns or operates agricultural land or a concentrated animal feeding operation may develop and operate under an operation and management plan approved by the chief of the division of soil and water ~~conservation~~ resources under section 1511.02 of the Revised Code or by the supervisors of the local soil and water conservation district under section 1515.08 of the Revised Code.

(B) Any person who wishes to make a complaint regarding nuisances involving agricultural pollution may do so orally or by submitting a written, signed, and dated complaint to the chief or to the chief's designee. After receiving an oral complaint, the chief or the chief's designee may cause an investigation to be conducted to determine whether agricultural pollution has occurred or is imminent. After receiving a written, signed, and dated complaint, the chief or the chief's designee shall cause such an investigation to be conducted.

(C) In a private civil action for nuisances involving agricultural pollution, it is an affirmative defense if the person owning, operating, or otherwise responsible for agricultural land or a concentrated animal feeding operation is operating under and in substantial compliance with an approved operation and management plan developed under division (A) of this section, with an operation and management plan developed by the chief under section 1511.02 of the Revised Code or by the supervisors of the local soil and water conservation district under section 1515.08 of the Revised Code, or with an operation and management plan required by an order issued by the chief under division (G) of section 1511.02 of the Revised Code. Nothing in this section is in derogation of the authority granted to the chief in division (E) of section 1511.02 and in section 1511.07 of the Revised Code.

Sec. 1511.022. (A) Any person who owns or operates an agricultural operation, or owns the animals raised by the owner or operator of an agricultural operation, and who wishes to conduct composting of dead animals resulting from the agricultural operation shall do both of the

following:

(1) Participate in an educational course concerning composting conducted by the Ohio cooperative extension service and obtain a certificate of completion for the course;

(2) Use the appropriate method, technique, or practice of composting established in rules adopted under division (E)(4)(8) of section 1511.02 of the Revised Code.

(B) Any person who fails to comply with division (A) of this section shall prepare and operate under a composting plan in accordance with an order issued by the chief of the division of soil and water ~~conservation resources~~ under division (G) of section 1511.02 of the Revised Code. If the person's proposed composting plan is disapproved by the board of supervisors of the appropriate soil and water conservation district under division (U)(Q)(3) of section 1515.08 of the Revised Code, the person may appeal the plan disapproval to the chief, who shall afford the person a hearing. Following the hearing, the chief shall uphold the plan disapproval or reverse it. If the chief reverses the disapproval, the plan shall be deemed approved.

Sec. 1511.03. The chief of the division of soil and water ~~conservation resources~~ may enter into contracts or agreements, with the approval of the director of natural resources, with any agency of the United States government, or any other public or private agency, or organization, for the performance of the prescribed duties of the division, or for accomplishing cooperative projects within the designated duties of the division.

Sec. 1511.04. The chief of the division of soil and water ~~conservation resources~~ may accept, on behalf of the department of natural resources, donations, grants and contributions in money, service, or equipment to enlarge or expedite the prescribed work of the division.

Sec. 1511.05. The chief of the division of soil and water ~~conservation resources~~, subject to approval of the terms of the agreement by the soil and water conservation commission, shall enter into cooperative agreements with the board of supervisors of any soil and water conservation district desiring to enter into such agreements pursuant to section 1515.08 of the Revised Code. Such agreements shall be entered into to obtain compliance with rules and orders of the chief pertaining to agricultural pollution abatement and urban sediment pollution abatement.

The chief or any person designated by the chief may upon obtaining agreement with the owner, tenant, or manager of any land, public or private, enter thereon to make inspections to determine whether or not there is compliance with the rules adopted under division (E)(1) of section 1511.02

of the Revised Code. Upon reason to believe there is a violation, the chief or ~~his~~ the chief's designee may apply for and a judge of the court of common pleas for the county where the land is located may issue an appropriate inspection warrant as necessary to achieve the purposes of this chapter.

Sec. 1511.06. The chief of the division of soil and water ~~conservation~~ resources may enter into agreements with local government agencies for the purpose of soil surveys, land use inventories, and other soil-related duties.

Sec. 1511.07. (A)(1) No person shall fail to comply with an order of the chief of the division of soil and water ~~conservation~~ resources issued pursuant to division (G) of section 1511.02 of the Revised Code.

(2) In addition to the remedies provided and irrespective of whether an adequate remedy at law exists, the chief may apply to the court of common pleas in the county where a violation of a standard established under division (E)(1) or ~~(4)(8)~~(b) of section 1511.02 of the Revised Code causes pollution of the waters of the state for an order to compel the violator to cease the violation and to remove the agricultural pollutant or to comply with the rules adopted under division (E)~~(4)(8)~~(b) of that section, as appropriate.

(3) In addition to the remedies provided and irrespective of whether an adequate remedy at law exists, whenever the chief officially determines that an emergency exists because of an unauthorized release, spill, or discharge of animal waste, or a violation of a rule adopted under division (E)~~(4)(8)~~(b) of section 1511.02 of the Revised Code, that causes pollution of the waters of the state, the chief may, without notice or hearing, issue an order reciting the existence of the emergency and requiring that necessary action be taken to meet the emergency. The order shall be effective immediately. Any person to whom the order is directed shall comply with the order immediately, but on application to the chief shall be afforded a hearing as soon as possible, but not later than twenty days after making the application. On the basis of the hearing, the chief shall continue the order in effect, revoke it, or modify it. No emergency order shall remain in effect for more than sixty days after its issuance. If a person to whom an order is issued does not comply with the order within a reasonable period, as determined by the chief, the chief or the chief's designee may enter upon private or public lands and take action to mitigate, minimize, remove, or abate the release, spill, discharge, or conditions caused by the violation of the rule.

(B) The attorney general, upon the written request of the chief, shall bring appropriate legal action in Franklin county against any person who fails to comply with an order of the chief issued pursuant to division (G) of section 1511.02 of the Revised Code.

Sec. 1511.071. There is hereby created in the state treasury the agricultural pollution abatement fund, which shall be administered by the chief of the division of soil and water ~~conservation~~ resources. The fund may be used to pay costs incurred by the division under division (A)(3) of section 1511.07 of the Revised Code in investigating, mitigating, minimizing, removing, or abating any pollution of the waters of the state caused by an unauthorized release, spill, or discharge of animal waste into or upon the environment that requires emergency action to protect the public health.

Any person responsible for causing or allowing an unauthorized release, spill, or discharge is liable to the chief for any costs incurred by the division and soil and water conservation districts in investigating, mitigating, minimizing, removing, or abating the release, spill, or discharge, regardless of whether those costs were paid out of the agricultural pollution abatement fund or any other fund of the division or a district. Upon the request of the chief, the attorney general shall bring a civil action against the responsible person to recover those costs. Moneys recovered under this section shall be paid into the agricultural pollution abatement fund.

Sec. 1511.08. Any person claiming to be deprived of a right or protection afforded ~~him~~ the person by law by an order of the chief of the division of soil and water ~~conservation~~ resources, except an order which adopts a rule, may appeal to the court of common pleas of Franklin county or the court of common pleas of the county in which the alleged violation exists.

If the court finds that the order of the chief appealed from was lawful and reasonable, it shall affirm such order. If the court finds that such order was unreasonable or unlawful, it shall vacate such order and make the order which it finds the chief should have made. The judgment of the court is final unless reversed, vacated, or modified on appeal.

Sec. 1514.08. (A) The chief of the division of mineral resources management may adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code in order to prescribe procedures for submitting applications for permits, amendments to permits, and amendments to plans of mining and reclamation; filing annual reports and final reports; requesting inspection and approval of reclamation; paying permit and filing fees; and filing and obtaining the release of performance bonds deposited with the state. For the purpose of preventing damage to adjoining property or achieving one or more of the performance standards established in division (A)(10) of section 1514.02 of the Revised Code, the chief may establish classes of mining industries, based upon industrial categories, combinations of minerals produced, and geological conditions in

which surface or in-stream mining operations occur, and may prescribe different rules consistent with the performance standards for each class. For the purpose of apportioning the workload of the division of mineral resources management among the quarters of the year, the rules may require that applications for permits and annual reports be filed in different quarters of the year, depending upon the county in which the operation is located.

(B) The chief shall adopt rules under this section that do all of the following:

(1) With respect to in-stream mining, and in consultation with the chief of the division of soil and water resources, determine periods of low flow, which are the only time periods during which in-stream mining is allowed, and develop and implement any criteria, in addition to the criteria established in section 1514.02 of the Revised Code, that the chief determines are necessary for the permitting of in-stream mining;

(2) Establish criteria and procedures for approving or disapproving the transfer of a surface or in-stream mining permit under division (F) of section 1514.02 of the Revised Code;

(3) Define when any of the following may be considered to be "significant" for purposes of section 1514.022 of the Revised Code:

(a) An amendment to a permit issued under section 1514.02 of the Revised Code for a surface or in-stream mining operation;

(b) An amendment to the plan of mining and reclamation that must be filed with an application for either permit under section 1514.02 of the Revised Code;

(c) Changes to that plan of mining and reclamation that are proposed in a permit renewal application filed under section 1514.021 of the Revised Code.

In defining "significant," the chief shall focus on changes that increase the likelihood that the mining operation may have a negative impact on the public.

(4) Establish a framework and procedures under which the amount of any bond required to be filed under this chapter to ensure the satisfactory performance of the reclamation measures required under this chapter may be reduced by subtracting a credit based on the operator's past compliance with this chapter and rules adopted and orders issued under it. The rules also shall apply to cash, an irrevocable letter of credit, or a certificate of deposit that is on deposit in lieu of a bond. In establishing the amount of credit that an operator or applicant may receive based on past compliance, the chief may consider past compliance with respect to any permit for a surface or in-stream mining operation that has been issued in this state to the operator

or applicant.

(5) Establish criteria and procedures for granting a variance from compliance with the prohibitions established in divisions (E)(3) and (F)(3) of section 1514.10 of the Revised Code. The criteria shall ensure that an operator may obtain a variance only if compliance with the applicable prohibition is not necessary to prevent damage to the watercourse or surrounding areas.

Sec. 1514.10. No person shall:

(A)(1) Engage in surface mining without a permit;

(2) Engage in in-stream mining or conduct an in-stream mining operation without an in-stream mining permit issued by the chief of the division of mineral resources management. A person who, on ~~the effective date of this amendment~~ March 15, 2002, holds a valid permit to conduct in-stream mining that is issued under section 10 of the "Rivers and Harbors Appropriation Act of 1899," 30 Stat. 1151, 33 U.S.C. 403, as amended, shall not be required to obtain an in-stream mining permit from the chief under this chapter until the existing permit expires.

(B) Exceed the limits of a surface or in-stream mining permit or amendment to a permit by mining land contiguous to an area of land affected under a permit or amendment, which contiguous land is not under a permit or amendment;

(C) Purposely misrepresent or omit any material fact in an application for a surface or in-stream mining permit or amendment, an annual or final report, or any hearing or investigation conducted by the chief or the reclamation commission;

(D) Fail to perform any measure set forth in the approved plan of mining and reclamation that is necessary to prevent damage to adjoining property or to achieve a performance standard required in division (A)(10) of section 1514.02 of the Revised Code, or violate any other requirement of this chapter, a rule adopted thereunder, or an order of the chief;

(E) Conduct surface excavations of minerals within any of the following:

(1) One hundred twenty feet horizontal distance outward from the highwater mark on each bank of an area designated as a wild, scenic, or recreational river area under sections ~~1517.14~~ 1547.81 to ~~1517.18~~ 1547.87 of the Revised Code or of a portion of a river designated as a component of the national wild and scenic river system under the "Wild and Scenic Rivers Act," 82 Stat. 906 (1968), 16 U.S.C. 1274, as amended;

(2) Seventy-five feet horizontal distance outward from the highwater mark on each bank of a watercourse that drains a surface area of more than

one hundred square miles;

(3) Fifty feet horizontal distance outward from the highwater mark on each bank of a watercourse that drains a surface area of more than twenty-five square miles, but fewer than one hundred square miles unless a variance is obtained under rules adopted by the chief.

(F) Conduct any surface mining activity within any of the following:

(1) Seventy-five feet horizontal distance outward from the highwater mark on each bank of an area designated as a wild, scenic, or recreational river area under sections ~~1517.14~~ 1547.81 to ~~1517.18~~ 1547.87 of the Revised Code or of a portion of a river designated as a component of the national wild and scenic river system under the "Wild and Scenic Rivers Act," 82 Stat. 906 (1968), 16 U.S.C. 1274, as amended;

(2) Seventy-five feet horizontal distance outward from the highwater mark on each bank of a watercourse that drains a surface area of more than one hundred square miles;

(3) Fifty feet horizontal distance outward from the highwater mark on each bank of a watercourse that drains a surface area of more than twenty-five square miles, but fewer than one hundred square miles unless a variance is obtained under rules adopted by the chief.

A person who has been issued a surface mining permit prior to ~~the effective date of this amendment~~ March 15, 2002 may continue to operate under that permit and shall not be subject to the prohibitions established in divisions (E) and (F) of this section until the permit is renewed.

The number of square miles of surface area that a watercourse drains shall be determined by consulting the "gazetteer of Ohio streams," which is a portion of the Ohio water plan inventory published in 1960 by the division of water in the department of natural resources, or its successor, if any.

(G) Engage in any part of a process that is followed in the production of minerals from the bottom of the channel of a watercourse in any of the following circumstances or areas:

(1) In an area designated as a wild, scenic, or recreational river area under sections ~~1517.14~~ 1547.81 to ~~1517.18~~ 1547.87 of the Revised Code, in a portion of a river designated as a component of the national wild and scenic river system under the "Wild and Scenic Rivers Act," 82 Stat. 906 (1968), 16 U.S.C. 1274, as amended, or within one-half mile upstream of any portion of such an area or component;

(2) During periods other than periods of low flow, as determined by rules adopted under section 1514.08 of the Revised Code;

(3) During critical fish or mussel spawning seasons as determined by the chief of the division of wildlife under Chapter 1531. of the Revised Code

and rules adopted under it;

(4) In an area known to possess critical spawning habitat for a species of fish or mussel that is on the federal endangered species list established in accordance with the "Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531-1543, as amended, or the state endangered species list established in rules adopted under section 1531.25 of the Revised Code.

Division (G) of this section does not apply to the activities described in divisions (M)(1) and (2) of section 1514.01 of the Revised Code.

Sec. 1514.13. (A) The chief of the division of mineral resources management shall use the compilation of data for ground water modeling submitted under section 1514.02 of the Revised Code to establish a projected cone of depression for any surface mining operation that may result in dewatering. The chief shall consult with the chief of the division of soil and water resources when projecting a cone of depression. An applicant for a surface mining permit for such an operation may submit ground water modeling that shows a projected cone of depression for that operation to the chief, provided that the modeling complies with rules adopted by the chief regarding ground water modeling. However, the chief shall establish the projected cone of depression for the purposes of this section.

The chief shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code establishing requirements and standards governing both of the following:

(1) Ground water modeling for establishing a projected cone of depression. A ground water model shall be generally accepted in the scientific community.

(2) Replacement of water supplies.

(B)(1) If an owner of real property who obtains all or part of the owner's water supply for domestic, agricultural, industrial, or other legitimate use from ground water has a diminution, contamination, or interruption of that water supply and the owner's real property is located within the projected cone of depression of a surface mining operation established under this section, the owner may submit a written complaint to the operator of that operation or to the chief informing the operator or the chief that there is a diminution, contamination, or interruption of the owner's water supply. The complaint shall include the owner's name, address, and telephone number.

If the chief receives a written complaint, the chief immediately shall send a copy of the complaint to the operator, and the operator immediately shall respond by sending the chief a statement that explains how the operator resolved or will resolve the complaint. If the operator receives a written complaint, the operator immediately shall send to the chief a copy of

the complaint and include a statement that explains how the operator resolved or will resolve the complaint. Not later than seventy-two hours after receipt of the complaint, the operator shall provide the owner a supply of water that is comparable, in quantity and quality, to the owner's water supply prior to the diminution, contamination, or interruption of the owner's water supply. The operator shall maintain that water supply until the operator provides a permanent replacement water supply to the owner under division (B)(3) of this section or until the division of mineral resources management completes the evaluation under division (B)(2) of this section, whichever is applicable.

(2) A rebuttable presumption exists that the operation caused the diminution, contamination, or interruption of the owner's water supply. However, not later than fourteen days after receipt of the complaint, the operator may submit to the division information showing that the operation is not the proximate cause of the diminution, contamination, or interruption of the owner's water supply. The division shall evaluate the information submitted by the operator to determine if the presumption is rebutted. If the operator fails to rebut the presumption, the division immediately shall notify the operator that the operator failed to rebut the presumption. Not later than fourteen days after receipt of that notice, the operator shall provide the owner a permanent replacement water supply that is comparable, in quantity and quality, to the owner's water supply prior to the diminution, contamination, or interruption of the owner's water supply. If the operator rebuts the presumption, the division immediately shall notify the operator that the operator rebutted the presumption, and, upon receipt of that notice, the operator may cease providing a supply of water to the owner under division (B)(1) of this section.

(3) If, within fourteen days after receipt of the complaint, the operator does not submit to the division information showing that the operation is not the proximate cause of the diminution, contamination, or interruption of the owner's water supply, the operator shall provide the owner, not later than twenty-eight days after receipt of the complaint, a permanent replacement water supply that is comparable, in quantity and quality, to the owner's water supply prior to the diminution, contamination, or interruption of the owner's water supply.

(4) The division may investigate a complaint under division (B) of this section.

(C) If an owner of real property who obtains all or part of the owner's water supply for domestic, agricultural, industrial, or other legitimate use from ground water has a diminution, contamination, or interruption of that

water supply and the owner's real property is not located within the projected cone of depression of a surface mining operation established under this section, the owner may submit a written complaint to the operator of that operation or to the chief informing the operator or the chief that there is a diminution, contamination, or interruption of the owner's water supply. The complaint shall include the owner's name, address, and telephone number.

If the operator receives a written complaint, the operator immediately shall send the chief a copy of the complaint. If the chief receives a written complaint, the chief immediately shall send the operator a copy of the complaint. The chief shall investigate any complaint submitted under this division and, upon completion of the investigation, immediately shall send the results of the investigation to the operator and to the owner that filed the complaint.

An owner that submits a written complaint under this division may resolve the diminution, contamination, or interruption of the owner's water supply with the operator of that operation or may commence a civil action for that purpose.

(D) An operator may request the chief to amend the plan of mining and reclamation filed with the application under section 1514.02 of the Revised Code when a ground water user may affect the projected cone of depression established for the operation under division (A) of this section. The operator shall submit additional data that reflect the ground water user's impact on the ground water. The chief shall perform ground water modeling using the additional data and may establish a revised projected cone of depression for that operation.

(E) This section shall not be construed as creating, modifying, or affecting any right, liability, or remedy of surface riparian owners.

Sec. 1515.08. The supervisors of a soil and water conservation district have the following powers in addition to their other powers:

(A) To conduct surveys, investigations, and research relating to the character of soil erosion, floodwater and sediment damages, and the preventive and control measures and works of improvement for flood prevention and the conservation, development, utilization, and disposal of water needed within the district, and to publish the results of those surveys, investigations, or research, provided that no district shall initiate any research program except in cooperation or after consultation with the Ohio agricultural research and development center;

(B) To develop plans for the conservation of soil resources, for the control and prevention of soil erosion, and for works of improvement for

flood prevention and the conservation, development, utilization, and disposal of water within the district, and to publish those plans and information;

(C) To implement, construct, repair, maintain, and operate preventive and control measures and other works of improvement for natural resource conservation and development and flood prevention, and the conservation, development, utilization, and disposal of water within the district on lands owned or controlled by this state or any of its agencies and on any other lands within the district, which works may include any facilities authorized under state or federal programs, and to acquire, by purchase or gift, to hold, encumber, or dispose of, and to lease real and personal property or interests in such property for those purposes;

(D) To cooperate or enter into agreements with any occupier of lands within the district in the carrying on of natural resource conservation operations and works of improvement for flood prevention and the conservation, development, utilization, and management of natural resources within the district, subject to such conditions as the supervisors consider necessary;

(E) To accept donations, gifts, grants, and contributions in money, service, materials, or otherwise, and to use or expend them according to their terms;

(F) To adopt, amend, and rescind rules to carry into effect the purposes and powers of the district;

(G) To sue and plead in the name of the district, and be sued and impleaded in the name of the district, with respect to its contracts and, as indicated in section 1515.081 of the Revised Code, certain torts of its officers, employees, or agents acting within the scope of their employment or official responsibilities, or with respect to the enforcement of its obligations and covenants made under this chapter;

(H) To make and enter into all contracts, leases, and agreements and execute all instruments necessary or incidental to the performance of the duties and the execution of the powers of the district under this chapter, provided that all of the following apply:

(1) Except as provided in section 307.86 of the Revised Code regarding expenditures by boards of county commissioners, when the cost under any such contract, lease, or agreement, other than compensation for personal services or rental of office space, involves an expenditure of more than the amount established in that section regarding expenditures by boards of county commissioners, the supervisors shall make a written contract with the lowest and best bidder after advertisement, for not less than two nor

more than four consecutive weeks preceding the day of the opening of bids, in a newspaper of general circulation within the district and in such other publications as the supervisors determine. The notice shall state the general character of the work and materials to be furnished, the place where plans and specifications may be examined, and the time and place of receiving bids.

(2) Each bid for a contract shall contain the full name of every person interested in it.

(3) Each bid for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement shall meet the requirements of section 153.54 of the Revised Code.

(4) Each bid for a contract, other than a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement, at the discretion of the supervisors, may be accompanied by a bond or certified check on a solvent bank in an amount not to exceed five per cent of the bid, conditioned that, if the bid is accepted, a contract shall be entered into.

(5) The supervisors may reject any and all bids.

(I) To make agreements with the department of natural resources giving it control over lands of the district for the purpose of construction of improvements by the department under section 1501.011 of the Revised Code;

(J) To charge, alter, and collect rentals and other charges for the use or services of any works of the district;

(K) To enter, either in person or by designated representatives, upon lands, private or public, in the necessary discharge of their duties;

(L) To enter into agreements or contracts with the department for the determination, implementation, inspection, and funding of agricultural pollution abatement and urban sediment pollution abatement measures whereby landowners, operators, managers, and developers may meet adopted state standards for a quality environment, except that failure of a district board of supervisors to negotiate an agreement or contract with the department shall authorize the division of soil and water ~~conservation resources~~ to implement the required program;

(M) To conduct demonstrations and provide information to the public regarding practices and methods for natural resource conservation, development, and utilization;

~~(N) Until June 1, 1996, to conduct surveys and investigations relating to the incidence of the multiflora rose within the district and of the nature and extent of the adverse effects of the multiflora rose on agriculture, forestry, recreation, and other beneficial land uses;~~

~~(O)~~ Until June 1, 1996, to develop plans for the control of the multiflora rose within the district and to publish those plans and information related to control of the multiflora rose;

~~(P)~~ Until June 1, 1996, to enter into contracts or agreements with the chief of the division of soil and water conservation to implement and administer a program for control of the multiflora rose and to receive and expend funds provided by the chief for that purpose;

~~(Q)~~ Until June 1, 1996, to enter into cost sharing agreements with landowners for control of the multiflora rose. Before entering into any such agreement, the board of supervisors shall determine that the landowner's application meets the eligibility criteria established under division (E)(6) of section 1511.02 of the Revised Code. The cost sharing agreements shall contain the contract provisions required by the rules adopted under that division and such other provisions as the board of supervisors considers appropriate to ensure effective control of the multiflora rose.

~~(R)~~ To enter into contracts or agreements with the chief of the division of soil and water resources to implement and administer a program for urban sediment pollution abatement and to receive and expend moneys provided by the chief for that purpose;

~~(S)~~~~(O)~~ To develop operation and management plans, as defined in section 1511.01 of the Revised Code, as necessary;

~~(T)~~~~(P)~~ To determine whether operation and management plans developed under division (A) of section 1511.021 of the Revised Code comply with the standards established under division (E)(1) of section 1511.02 of the Revised Code and to approve or disapprove the plans, based on such compliance. If an operation and management plan is disapproved, the board shall provide a written explanation to the person who submitted the plan. The person may appeal the plan disapproval to the chief, who shall afford the person a hearing. Following the hearing, the chief shall uphold the plan disapproval or reverse it. If the chief reverses the plan disapproval, the plan shall be deemed approved under this division. In the event that any person operating or owning agricultural land or a concentrated animal feeding operation in accordance with an approved operation and management plan who, in good faith, is following that plan, causes agricultural pollution, the plan shall be revised in a fashion necessary to mitigate the agricultural pollution, as determined and approved by the board of supervisors of the soil and water conservation district.

~~(U)~~~~(Q)~~ With regard to composting conducted in conjunction with agricultural operations, to do all of the following:

- (1) Upon request or upon their own initiative, inspect composting at any

such operation to determine whether the composting is being conducted in accordance with section 1511.022 of the Revised Code;

(2) If the board determines that composting is not being so conducted, request the chief to issue an order under division (G) of section 1511.02 of the Revised Code requiring the person who is conducting the composting to prepare a composting plan in accordance with rules adopted under division (E)~~(4)~~(8)(c) of that section and to operate in accordance with that plan or to operate in accordance with a previously prepared plan, as applicable;

(3) In accordance with rules adopted under division (E)~~(4)~~(8)(c) of section 1511.02 of the Revised Code, review and approve or disapprove any such composting plan. If a plan is disapproved, the board shall provide a written explanation to the person who submitted the plan.

As used in division ~~(U)~~(Q) of this section, "composting" has the same meaning as in section 1511.01 of the Revised Code.

~~(V)~~(R) With regard to conservation activities that are conducted in conjunction with agricultural operations, to assist the county auditor, upon request, in determining whether a conservation activity is a conservation practice for purposes of Chapter 929. or sections 5713.30 to 5713.37 and 5715.01 of the Revised Code.

As used in this division, "conservation practice" has the same meaning as in section 5713.30 of the Revised Code.

~~(W)~~(S) To do all acts necessary or proper to carry out the powers granted in this chapter.

The director of natural resources shall make recommendations to reduce the adverse environmental effects of each project that a soil and water conservation district plans to undertake under division (A), (B), (C), or (D) of this section and that will be funded in whole or in part by moneys authorized under section 1515.16 of the Revised Code and shall disapprove any such project that the director finds will adversely affect the environment without equal or greater benefit to the public. The director's disapproval or recommendations, upon the request of the district filed in accordance with rules adopted by the Ohio soil and water conservation commission, shall be reviewed by the commission, which may confirm the director's decision, modify it, or add recommendations to or approve a project the director has disapproved.

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

Sec. 1515.14. Within the limits of funds appropriated to the department of natural resources and the soil and water conservation district assistance

fund created in this section, there shall be paid in each calendar year to each local soil and water conservation district an amount not to exceed one dollar for each one dollar received in accordance with section 1515.10 of the Revised Code, received from tax levies in excess of the ten-mill levy limitation approved for the benefit of local soil and water conservation districts, or received from an appropriation by a municipal corporation or a township to a maximum of eight thousand dollars, provided that the Ohio soil and water conservation commission may approve payment to a district in an amount in excess of eight thousand dollars in any calendar year upon receipt of a request and justification from the district. The county auditor shall credit such payments to the special fund established pursuant to section 1515.10 of the Revised Code for the local soil and water conservation district. The department may make advances at least quarterly to each district on the basis of the estimated contribution of the state to each district. Moneys received by each district shall be expended for the purposes of the district.

For the purpose of providing money to soil and water conservation districts under this section, there is hereby created in the state treasury the soil and water conservation district assistance fund consisting of money credited to it under section 3714.073 and division (A)(5) of section 3734.57 of the Revised Code.

Sec. 1515.183. Upon acceptance of a petition requesting the construction of an improvement, the supervisors of a soil and water conservation district shall begin to prepare, as a guide to the board of county commissioners and the petitioners, a preliminary report regarding the proposed improvement. The supervisors shall present the completed preliminary report at the hearing that is held on the proposed improvement.

The preliminary report shall include a preliminary estimate of cost, comments on the feasibility of the project, and a statement of the supervisors' opinion as to whether the benefits from the project are likely to exceed the estimated cost. The preliminary report shall identify all factors that are apparent to the supervisors, both favorable and unfavorable to the proposed improvement, so that the petitioners may be informed concerning what is involved with the construction of the improvement.

In addition to reporting on the improvement as petitioned, the supervisors may submit alternate proposals to accomplish the intent of the petition. The preliminary report and all alternate proposals shall be reviewed and receive concurrence from an engineer who is employed by the division of soil and water ~~conservation~~ resources or by the natural resources conservation service in the United States department of agriculture and who

is responsible for providing technical assistance to the district or from any other registered professional engineer whom the supervisors choose.

Sec. 1517.02. There is hereby created in the department of natural resources the division of natural areas and preserves, which shall be administered by the chief of the division of natural areas and preserves. The chief shall take an oath of office and shall file in the office of the secretary of state a bond signed by the chief and by a surety approved by the governor for a sum fixed pursuant to section 121.11 of the Revised Code.

The chief shall administer a system of nature preserves ~~and wild, scenic, and recreational river areas~~. The chief shall establish a system of nature preserves through acquisition and dedication of natural areas of state or national significance, which shall include, but not be limited to, areas that represent characteristic examples of Ohio's natural landscape types and its natural vegetation and geological history. The chief shall encourage landowners to dedicate areas of unusual significance as nature preserves, and shall establish and maintain a registry of natural areas of unusual significance.

The chief may ~~supervise, operate, protect, and maintain wild, scenic, and recreational river areas, as designated by the director of natural resources. The chief may cooperate with~~ participate in watershed planning activities with other states or federal agencies ~~administering any federal program concerning wild, scenic, or recreational river areas.~~

The chief shall do the following:

(A) Formulate policies and plans for the acquisition, use, management, and protection of nature preserves;

(B) Formulate policies for the selection of areas suitable for registration;

(C) Formulate policies for the dedication of areas as nature preserves;

(D) Prepare and maintain surveys and inventories of natural areas, rare and endangered species of plants and animals, and other unique natural features. The information shall be stored in the Ohio natural heritage database, established pursuant to this division, and may be made available to any individual or private or public agency for research, educational, environmental, land management, or other similar purposes that are not detrimental to the conservation of a species or feature. Information regarding sensitive site locations of species that are listed pursuant to section 1518.01 of the Revised Code and of unique natural features that are included in the Ohio natural heritage database is not subject to section 149.43 of the Revised Code if the chief determines that the release of the information could be detrimental to the conservation of a species or unique natural feature.

(E) Adopt rules for the use, visitation, and protection of nature preserves; and natural areas owned or managed through easement, license, or lease by the department and administered by the division; ~~and lands owned or managed through easement, license, or lease by the department and administered by the division that are within or adjacent to any wild, scenic, or recreational river area;~~ in accordance with Chapter 119. of the Revised Code;

(F) Provide facilities and improvements within the state system of nature preserves that are necessary for their visitation, use, restoration, and protection and do not impair their natural character;

(G) Provide interpretive programs and publish and disseminate information pertaining to nature preserves and natural areas for their visitation and use;

(H) Conduct and grant permits to qualified persons for the conduct of scientific research and investigations within nature preserves;

(I) Establish an appropriate system for marking nature preserves;

(J) Publish and submit to the governor and the general assembly a biennial report of the status and condition of each nature preserve, activities conducted within each preserve, and plans and recommendations for natural area preservation.

Sec. 1517.10. (A) As used in this section, "felony" has the same meaning as in section 109.511 of the Revised Code.

(B)(1) Any person selected by the chief of the division of natural areas and preserves for custodial or patrol service on the lands and waters operated or administered by the division shall be employed in conformity with the law applicable to the classified civil service of the state. Subject to division (C) of this section, the chief may designate that person as a preserve officer. A preserve officer, in any nature preserve, in any natural area owned or managed through easement, license, or lease by the department of natural resources and administered by the division, and on lands owned or managed through easement, license, or lease by the department and administered by the division that are ~~within or adjacent to any wild, scenic, or recreational river area established under this chapter~~ and along any trail established under Chapter 1519. of the Revised Code, has the authority specified under section 2935.03 of the Revised Code for peace officers of the department of natural resources to keep the peace, to enforce all laws and rules governing those lands and waters, and to make arrests for violation of those laws and rules, provided that the authority shall be exercised on lands or waters administered by another division of the department only pursuant to an agreement with the chief of that division or to a request for assistance by an

enforcement officer of that division in an emergency. A preserve officer, in or along any watercourse within, abutting, or upstream from the boundary of any area administered by the department, has the authority to enforce section 3767.32 of the Revised Code and any other laws prohibiting the dumping of refuse into or along waters and to make arrests for violation of those laws. The jurisdiction of a preserve officer shall be concurrent with that of the peace officers of the county, township, or municipal corporation in which the violation occurs.

The governor, upon the recommendation of the chief, shall issue to each preserve officer a commission indicating authority to make arrests as provided in this section.

The chief shall furnish a suitable badge to each commissioned preserve officer as evidence of the preserve officer's authority.

(2) If any person employed under this section is designated by the chief to act as an agent of the state in the collection of money resulting from the sale of licenses, fees of any nature, or other money belonging to the state, the chief shall require a surety bond from the person in an amount not less than one thousand dollars.

(3) A preserve officer may render assistance to a state or local law enforcement officer at the request of the officer or in the event of an emergency. Preserve officers serving outside the division of natural areas and preserves under this section or serving under the terms of a mutual aid compact authorized under section 1501.02 of the Revised Code shall be considered as performing services within their regular employment for the purposes of compensation, pension or indemnity fund rights, workers' compensation, and other rights or benefits to which they may be entitled as incidents of their regular employment.

Preserve officers serving outside the division of natural areas and preserves under this section or under the terms of a mutual aid compact retain personal immunity from civil liability as specified in section 9.86 of the Revised Code and shall not be considered an employee of a political subdivision for purposes of Chapter 2744. of the Revised Code. A political subdivision that uses preserve officers under this section or under the terms of a mutual aid compact authorized under section 1501.02 of the Revised Code is not subject to civil liability under Chapter 2744. of the Revised Code as a result of any action or omission of any preserve officer acting under this section or under a mutual aid compact.

(C)(1) The chief of the division of natural areas and preserves shall not designate a person as a preserve officer pursuant to division (B)(1) of this section on a permanent basis, on a temporary basis, for a probationary term,

or on other than a permanent basis if the person previously has been convicted of or has pleaded guilty to a felony.

(2)(a) The chief of the division of natural areas and preserves shall terminate the employment as a preserve officer of a person designated as a preserve officer under division (B)(1) of this section if that person does either of the following:

(i) Pleads guilty to a felony;

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated plea agreement as provided in division (D) of section 2929.43 of the Revised Code in which the preserve officer agrees to surrender the certificate awarded to the preserve officer under section 109.77 of the Revised Code.

(b) The chief shall suspend from employment as a preserve officer a person designated as a preserve officer under division (B)(1) of this section if that person is convicted, after trial, of a felony. If the preserve officer files an appeal from that conviction and the conviction is upheld by the highest court to which the appeal is taken or if the preserve officer does not file a timely appeal, the chief shall terminate the employment of that preserve officer. If the preserve officer files an appeal that results in the preserve officer's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against the preserve officer, the chief shall reinstate that preserve officer. A preserve officer who is reinstated under division (C)(2)(b) of this section shall not receive any back pay unless that preserve officer's conviction of the felony was reversed on appeal, or the felony charge was dismissed, because the court found insufficient evidence to convict the preserve officer of the felony.

(3) Division (C) of this section does not apply regarding an offense that was committed prior to January 1, 1997.

(4) The suspension from employment, or the termination of the employment, of a preserve officer under division (C)(2) of this section shall be in accordance with Chapter 119. of the Revised Code.

Sec. 1517.11. There is hereby created in the state treasury the natural areas and preserves fund, which shall consist of moneys transferred into it under section 5747.113 of the Revised Code and of contributions made directly to it. Any person may contribute directly to the fund in addition to or independently of the income tax refund contribution system established in that section.

Moneys in the fund shall be disbursed pursuant to vouchers approved by the director of natural resources for use by the division of natural areas and preserves solely for the following purposes:

(A) The acquisition of new or expanded natural areas; and nature

preserves, ~~and wild, scenic, and recreational river areas;~~

(B) Facility development in natural areas; and nature preserves, ~~and wild, scenic, and recreational river areas;~~

(C) Special projects, including, but not limited to, biological inventories, research grants, and the production of interpretive material related to natural areas; and nature preserves, ~~and wild, scenic, and recreational river areas;~~

(D) Routine maintenance for health and safety purposes.

Moneys appropriated from the fund shall not be used to fund salaries of permanent employees or administrative costs.

All investment earnings of the fund shall be credited to the fund.

Sec. 1519.03. The director of natural resources, through the chief of the division of ~~real estate~~ parks and land management recreation, shall prepare and maintain a current inventory of trails, abandoned or unmaintained roads, streets, and highways, abandoned railroad rights-of-way, utility easements, canals, and other scenic or historic corridors or rights-of-way that are suitable for recreational use. The director shall prepare and publish a comprehensive plan for development of a statewide trails system to serve present and future trail recreation needs of the state. Any state department, agency, political subdivision, or planning commission shall furnish available maps, descriptions, and other pertinent information to the director or provide access to ~~his~~ the director's representatives for inspection and duplication, upon request by the director, for trail inventory and planning purposes.

Sec. 1520.02. (A) The director of natural resources has exclusive authority to administer, manage, and establish policies governing canal lands.

(B)(1) The director may sell, lease, exchange, give, or grant all or part of the state's interest in any canal lands in accordance with section 1501.01 of the Revised Code. The director may stipulate that an appraisal or survey need not be conducted for, and may establish any terms or conditions that the director determines appropriate for, any such conveyance.

Prior to proposing the conveyance of any canal lands, the director shall consider the local government needs and economic development potential with respect to the canal lands and the recreational, ecological, and historical value of the canal lands. In addition, the conveyance of canal lands shall be conducted in accordance with the director's policies governing the protection and conservation of canal lands established under this section.

(2) With regard to canal lands, the chief of the division of ~~water~~ parks and recreation, with the approval of the director, may sell, lease, or transfer minerals or mineral rights when the chief, with the approval of the director, determines that the sale, lease, or transfer is in the best interest of the state.

Consideration for minerals and mineral rights shall be by rental or on a royalty basis as prescribed by the chief, with the approval of the director, and payable as prescribed by contract. Moneys collected under division (B)(2) of this section shall be paid into the state treasury to the credit of the canal lands fund created in section 1520.05 of the Revised Code.

(C) The director may transfer to the Ohio historical society any equipment, maps, and records used on or related to canal lands that are of historical interest and that are not needed by the director to administer this chapter.

(D) If the director determines that any canal lands are a necessary part of a county's drainage or ditch system and are not needed for any purpose of the department of natural resources, the director may sell, grant, or otherwise convey those canal lands to that county in accordance with division (B) of this section. The board of county commissioners shall accept the transfer of canal lands.

(E) Notwithstanding any other section of the Revised Code, the county auditor shall transfer any canal lands conveyed under this section, and the county recorder shall record the deed for those lands in accordance with section 317.12 of the Revised Code.

Sec. 1520.03. (A) The director of natural resources may appropriate real property in accordance with Chapter 163. of the Revised Code for the purpose of administering this chapter.

(B)(1) The director shall operate and maintain all canals and canal reservoirs owned by the state except those canals that are operated by the Ohio historical society on July 1, 1989.

(2) On behalf of the director, the division of ~~water~~ parks and recreation shall have the care and control of all canals and canal reservoirs owned by the state, the water in them, and canal lands and shall protect, operate, and maintain them and keep them in repair. The chief of the division of ~~water~~ parks and recreation may remove obstructions from or on them and shall make any alterations or changes in or to them and construct any feeders, dikes, reservoirs, dams, locks, or other works, devices, or improvements in or on them that are necessary in the discharge of the chief's duties.

In accordance with Chapter 119. of the Revised Code, the chief may adopt, amend, and rescind rules that are necessary for the administration of this division.

(C) The director may sell or lease water from any canal or canal reservoir that the director operates and maintains only to the extent that the water is in excess of the quantity that is required for navigation, recreation, and wildlife purposes. ~~The~~ With the approval of the director, the chief may

adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code necessary to administer this division.

The withdrawal of water from any canal or canal reservoir for domestic use is exempt from this division. However, the director may require water conservation measures for water that is withdrawn from any canal or canal reservoir for domestic use during drought conditions or other emergencies declared by the governor.

(D) No person shall take or divert water from any canal or canal reservoir operated and maintained by the director except in accordance with division (C) of this section.

(E) At the request of the director, the attorney general may commence a civil action for civil penalties and injunctions, in a court of common pleas, against any person who has violated or is violating division (D) of this section. The court of common pleas in which an action for injunctive relief is filed has jurisdiction to and shall grant preliminary and permanent injunctive relief upon a showing that the person against whom the action is brought has violated or is violating that division.

Upon a finding of a violation, the court shall assess a civil penalty of not more than one thousand dollars for each day of each violation if the violator is an individual who took or diverted the water in question for residential or agricultural use. The court shall assess a civil penalty of not more than five thousand dollars for each day of each violation if the violator is any other person who took or diverted the water in question for industrial or commercial use excluding agricultural use. Moneys from civil penalties assessed under this division shall be paid into the state treasury to the credit of the canal lands fund created in section 1520.05 of the Revised Code.

Any action under this division is a civil action, governed by the rules of civil procedure and other rules of practice and procedure applicable to civil actions.

(F) As used in this section, "person" means any agency of this state, any political subdivision of this state or of the United States, or any legal entity defined as a person under section 1.59 of the Revised Code.

Sec. 1521.03. The chief of the division of soil and water resources shall do all of the following:

(A) Assist in an advisory capacity any properly constituted watershed district, conservancy district, or soil and water conservation district or any county, municipal corporation, or other government agency of the state in the planning of works for ground water recharge, flood mitigation, floodplain management, flood control, flow capacity and stability of streams, rivers, and watercourses, or the establishment of water conservation

practices, within the limits of the appropriations for those purposes;

(B) Have authority to conduct basic inventories of the water and related natural resources in each drainage basin in the state; to develop a plan on a watershed basis that will recognize the variety of uses to which water may be put and the need for its management for those uses; with the approval of the director of natural resources and the controlling board, to transfer appropriated or other funds, authorized for those inventories and plan, to any division of the department of natural resources or other state agencies for the purpose of developing pertinent data relating to the plan of water management; and to accept and expend moneys contributed by any person for implementing the development of the plan;

(C) Have authority to make detailed investigations of all factors relating to floods, floodplain management, and flood control in the state with particular attention to those factors bearing upon the hydraulic and hydrologic characteristics of rivers, streams, and watercourses, recognizing the variety of uses to which water and watercourses may be put;

(D) Cooperate with the United States or any agency thereof and with any political subdivision of the state in planning and constructing flood control works;

(E) Hold meetings or public hearings, whichever is considered appropriate by the chief, to assist in the resolution of conflicts between ground water users. Such meetings or hearings shall be called upon written request from boards of health of city or general health districts created by or under the authority of Chapter 3709. of the Revised Code or authorities having the duties of a board of health as authorized by section 3709.05 of the Revised Code, boards of county commissioners, boards of township trustees, legislative authorities of municipal corporations, or boards of directors of conservancy districts and may be called by the chief upon the request of any other person or at the chief's discretion. The chief shall collect and present at such meetings or hearings the available technical information relevant to the conflicts and to the ground water resource. The chief shall prepare a report, and may make recommendations, based upon the available technical data and the record of the meetings or hearings, about the use of the ground water resource. In making the report and any recommendations, the chief also may consider the factors listed in division (B) of section 1521.17 of the Revised Code. The technical information presented, the report prepared, and any recommendations made under this division shall be presumed to be prima-facie authentic and admissible as evidence in any court pursuant to Evidence Rule 902.

(F) Perform stream or ground water gauging and may contract with the

United States government or any other agency for the gauging of any streams or ground water within the state;

(G) Primarily with regard to water quantity, have authority to collect, study, map, and interpret all available information, statistics, and data pertaining to the availability, supply, use, conservation, and replenishment of the ground and surface waters in the state in coordination with other agencies of this state;

(H) Primarily with regard to water quantity and availability, be authorized to cooperate with and negotiate for the state with any agency of the United States government, of this state, or of any other state pertaining to the water resources of the state;

(I) Provide engineering support for the coastal management program established under Chapter 1506. of the Revised Code.

Sec. 1521.031. There is hereby created in the department of natural resources the Ohio water advisory council. The council shall consist of seven members appointed by the governor with the advice and consent of the senate. No more than four of the members shall be of the same political party. Members shall be persons who have a demonstrated interest in water management and whose expertise reflects the various responsibilities of the division of soil and water resources under this chapter and Chapter 1523. of the Revised Code, including, but not limited to, dam safety, surface water, groundwater, and flood plain management. The chief of the division of soil and water resources may participate in the deliberations of the council, but shall not vote.

Terms of office of members shall be for two years commencing on the second day of February and ending on the first day of February. Each member shall hold office from the date of appointment until the end of the term for which ~~he was~~ appointed. The governor may remove any member at any time for inefficiency, neglect of duty, or malfeasance in office. In the event of the death, removal, resignation, or incapacity of any member, the governor, with the advice and consent of the senate, shall appoint a successor to hold office for the remainder of the term for which ~~his~~ the member's predecessor was appointed. Any member shall continue in office following the expiration date of ~~his~~ the member's term until ~~his~~ the member's successor takes office or until sixty days have elapsed, whichever occurs first. Membership on the council does not constitute holding a public office or position of employment under the Revised Code and is not grounds for removal of public officers or employees from their offices or positions of employment.

The council annually shall select from its members a ~~chairman~~

chairperson and a ~~vice-chairman~~ vice-chairperson. The council shall hold at least one meeting each calendar quarter and shall keep a record of its proceedings, which shall be open to the public for inspection. Special meetings may be called by the ~~chairman~~ chairperson and shall be called upon the written request of two or more members. A majority of the members constitutes a quorum. The division shall furnish clerical, technical, legal, and other services required by the council in the performance of its duties.

Members shall receive no compensation, but shall be reimbursed from the appropriations for the division for the actual and necessary expenses incurred by them in the performance of their official duties.

The council shall:

(A) Advise the chief of the division of soil and water resources in carrying out the duties of the division under this chapter and Chapter 1523. of the Revised Code;

(B) Recommend such policy and legislation with respect to water management and conservation as will promote the economic, industrial, and social development of the state while minimizing threats to the state's natural environment;

(C) Review and make recommendations on the development of plans and programs for long-term, comprehensive water management throughout the state; and

(D) Recommend ways to enhance cooperation among governmental agencies having an interest in water to encourage wise use and protection of the state's ground and surface waters. To this end, the council shall request nonvoting representation from appropriate governmental agencies.

Sec. 1521.04. The chief of the division of soil and water resources, with the approval of the director of natural resources, may make loans and grants from the water management fund created in section 1501.32 of the Revised Code to governmental agencies for water management, water supply improvements, and planning and may administer grants from the federal government and from other public or private sources for carrying out those functions and for the performance of any acts that may be required by the United States or by any agency or department thereof as a condition for the participation by any governmental agency in any federal financial or technical assistance program. Direct and indirect costs of administration may be paid from the fund.

The chief may use the water management fund for the purposes of administering the water diversion and consumptive use permit programs established in sections 1501.30 to 1501.35 of the Revised Code; to perform

watershed and water resources studies for the purposes of water management planning; and to acquire, construct, reconstruct, improve, equip, maintain, operate, and dispose of water management improvements. The chief may fix, alter, charge, and collect rates, fees, rentals, and other charges to be paid into the fund by governmental agencies and persons who are supplied with water by facilities constructed or operated by the department of natural resources in order to amortize and defray the cost of the construction, maintenance, and operation of those facilities.

Sec. 1521.05. (A) As used in this section:

(1) "Construct" or "construction" includes drilling, boring, digging, deepening, altering, and logging.

(2) "Altering" means changing the configuration of a well, including, without limitation, deepening a well, extending or replacing any portion of the inside or outside casing or wall of a well that extends below ground level, plugging a portion of a well back to a certain depth, and reaming out a well to enlarge its original diameter.

(3) "Logging" means describing the lithology, grain size, color, and texture of the formations encountered during the drilling, boring, digging, deepening, or altering of a well.

(4) "Grouting" means neat cement; bentonite products in slurry, granular, or pelletized form, excluding drilling mud or fluids; or any combination of neat cement and bentonite products that is placed within a well to seal the annular space or to seal an abandoned well and that is impervious to and capable of preventing the movement of water.

(5) "Abandoned well" means a well whose use has been permanently discontinued and that poses potential health and safety hazards or that has the potential to transmit surface contaminants into the aquifer in which the well has been constructed.

(6) "Sealing" means the complete filling of an abandoned well with grouting or other approved materials in order to permanently prevent the vertical movement of water in the well and thus prevent the contamination of ground water or the intermixing of water between aquifers.

(B) Any person that constructs a well shall keep a careful and accurate log of the construction of the well. The log shall show all of the following:

(1) The character, including, without limitation, the lithology, color, texture, and grain size, the name, if known, and the depth of all formations passed through or encountered;

(2) The depths at which water is encountered;

(3) The static water level of the completed well;

(4) A copy of the record of all pumping tests and analyses related to

those tests, if any;

(5) Construction details, including lengths, diameters, and thicknesses of casing and screening and the volume, type of material, and method of introducing gravel packing and grouting into the well;

(6) The type of pumping equipment installed, if any;

(7) The name of the owner of the well, the address of the location where the well was constructed, and either the state plane coordinates or the latitude and longitude of the well;

(8) The signature of the individual who constructed the well and filed the well log;

(9) Any other information required by the chief of the division of soil and water resources.

The log shall be ~~furnished to~~ filed with the division of soil and water resources within thirty days after the completion of construction of the well on forms prescribed and prepared by the division. The log shall be kept on file by the division.

(C) Any person that seals a well shall keep a careful and accurate report of the sealing of the well. The sealing report shall show all of the following:

(1) The name of the owner of the well, the address of the location where the well was constructed, and either the state plane coordinates or the latitude and longitude of the well;

(2) The depth of the well, the size and length of its casing, and the static water level of the well;

(3) The sealing procedures, including the volume and type of sealing material or materials and the method and depth of placement of each material;

(4) The date on which the sealing was performed;

(5) The signature of the individual who sealed the well and filed the sealing report;

(6) Any other information required by the chief.

The sealing report shall be ~~furnished to~~ filed with the division within thirty days after the completion of the sealing of the well on forms prescribed and prepared by the division.

(D) In accordance with Chapter 119. of the Revised Code, the chief may adopt, amend, and rescind rules requiring other persons that are involved in the construction or subsequent development of a well to submit well logs under division (B) of this section containing any or all of the information specified in divisions (B)(1) to (9) of this section and specifying additional information to be included in sealing reports required under division (C) of this section. The chief shall adopt rules establishing procedures and

requirements governing the payment and collection of water well log filing fees, including the amount of any filing fee to be imposed as an alternative to the twenty-dollar filing fee established in division (G) of this section and including procedures for the quarterly transfer of filing fees by boards of health and the director of environmental protection under that division.

(E)(1) No person shall fail to keep and ~~submit~~ file a well log or a sealing report as required by this section.

(2) No person shall make a false statement in any well log or sealing report required to be kept and ~~submitted~~ filed under this section. Violation of division (E)(2) of this section is falsification under section 2921.13 of the Revised Code.

(F) For the purposes of prosecution of a violation of division (E)(1) of this section, a prima-facie case is established when the division obtains either of the following:

(1) A certified copy of a permit for a private water system issued in accordance with rules adopted under section 3701.344 of the Revised Code, or a certified copy of the invoice or a canceled check from the owner of a well indicating the construction or sealing services performed;

(2) A certified copy of any permit issued under Chapter 3734. or 6111. of the Revised Code or plan approval granted under Chapter 6109. of the Revised Code for any activity that includes the construction or sealing of a well as applicable.

(G) In accordance with rules adopted under this section, a person or entity that constructs a well for the purpose of extracting potable water as part of a private water system that is subject to rules adopted under section 3701.344 of the Revised Code or a public water system that is required to be licensed under Chapter 6109. of the Revised Code shall pay a well log filing fee of twenty dollars per well log or, if the chief has adopted rules establishing an alternative fee amount, the fee amount established under rules. The fee shall be collected by a board of health under section 3701.344 of the Revised Code or the environmental protection agency under section 6109.22 of the Revised Code, as applicable.

Each calendar quarter, a board of health or the environmental protection agency, as applicable, shall forward all well log filing fees collected during the previous calendar quarter to the division of soil and water resources. The fees shall be forwarded in accordance with procedures established in rules adopted under this section.

Proceeds of well log filing fees shall be used by the division of soil and water resources for the purposes of acquiring, maintaining, and dispensing digital and paper records of well logs that are filed with the division.

Sec. 1521.06. (A) No dam may be constructed for the purpose of storing, conserving, or retarding water, or for any other purpose, nor shall any levee be constructed for the purpose of diverting or retaining flood water, unless the person or governmental agency desiring the construction has a construction permit for the dam or levee issued by the chief of the division of soil and water resources.

A construction permit is not required under this section for:

(1) A dam that is or will be less than ten feet in height and that has or will have a storage capacity of not more than fifty acre-feet at the elevation of the top of the dam, as determined by the chief. For the purposes of this section, the height of a dam shall be measured from the natural stream bed or lowest ground elevation at the downstream or outside limit of the dam to the elevation of the top of the dam.

(2) A dam, regardless of height, that has or will have a storage capacity of not more than fifteen acre-feet at the elevation of the top of the dam, as determined by the chief;

(3) A dam, regardless of storage capacity, that is or will be six feet or less in height, as determined by the chief;

(4) A dam or levee that belongs to a class exempted by the chief;

(5) The repair, maintenance, improvement, alteration, or removal of a dam or levee that is subject to section 1521.062 of the Revised Code, unless the construction constitutes an enlargement or reconstruction of the structure as determined by the chief;

(6) A dam or impoundment constructed under Chapter 1513. of the Revised Code.

(B) Before a construction permit may be issued, three copies of the plans and specifications, including a detailed cost estimate, for the proposed construction, prepared by a registered professional engineer, together with the filing fee specified by this section and the bond or other security required by section 1521.061 of the Revised Code, shall be filed with the chief. The detailed estimate of the cost shall include all costs associated with the construction of the dam or levee, including supervision and inspection of the construction by a registered professional engineer. The filing fee shall be based on the detailed cost estimate for the proposed construction as filed with and approved by the chief, and shall be determined by the following schedule unless otherwise provided by rules adopted under this section:

(1) For the first one hundred thousand dollars of estimated cost, a fee of four per cent;

(2) For the next four hundred thousand dollars of estimated cost, a fee of three per cent;

(3) For the next five hundred thousand dollars of estimated cost, a fee of two per cent;

(4) For all costs in excess of one million dollars, a fee of one-half of one per cent.

In no case shall the filing fee be less than one thousand dollars or more than one hundred thousand dollars. If the actual cost exceeds the estimated cost by more than fifteen per cent, an additional filing fee shall be required equal to the fee determined by the preceding schedule less the original filing fee. All fees collected pursuant to this section, and all fines collected pursuant to section 1521.99 of the Revised Code, shall be deposited in the state treasury to the credit of the dam safety fund, which is hereby created. Expenditures from the fund shall be made by the chief for the purpose of administering this section and sections 1521.061 and 1521.062 of the Revised Code.

(C) The chief shall, within thirty days from the date of the receipt of the application, fee, and bond or other security, issue or deny a construction permit for the construction or may issue a construction permit conditioned upon the making of such changes in the plans and specifications for the construction as the chief considers advisable if the chief determines that the construction of the proposed dam or levee, in accordance with the plans and specifications filed, would endanger life, health, or property.

(D) The chief may deny a construction permit after finding that a dam or levee built in accordance with the plans and specifications would endanger life, health, or property, because of improper or inadequate design, or for such other reasons as the chief may determine.

In the event the chief denies a permit for the construction of the dam or levee, or issues a permit conditioned upon a making of changes in the plans or specifications for the construction, the chief shall state the reasons therefor and so notify, in writing, the person or governmental agency making the application for a permit. If the permit is denied, the chief shall return the bond or other security to the person or governmental agency making application for the permit.

The decision of the chief conditioning or denying a construction permit is subject to appeal as provided in Chapter 119. of the Revised Code. A dam or levee built substantially at variance from the plans and specifications upon which a construction permit was issued is in violation of this section. The chief may at any time inspect any dam or levee, or site upon which any dam or levee is to be constructed, in order to determine whether it complies with this section.

(E) A registered professional engineer shall inspect the construction for

which the permit was issued during all phases of construction and shall furnish to the chief such regular reports of the engineer's inspections as the chief may require. When the chief finds that construction has been fully completed in accordance with the terms of the permit and the plans and specifications approved by the chief, the chief shall approve the construction. When one year has elapsed after approval of the completed construction, and the chief finds that within this period no fact has become apparent to indicate that the construction was not performed in accordance with the terms of the permit and the plans and specifications approved by the chief, or that the construction as performed would endanger life, health, or property, the chief shall release the bond or other security. No bond or other security shall be released until one year after final approval by the chief, unless the dam or levee has been modified so that it will not retain water and has been approved as nonhazardous after determination by the chief that the dam or levee as modified will not endanger life, health, or property.

(F) When inspections required by this section are not being performed, the chief shall notify the person or governmental agency to which the permit has been issued that inspections are not being performed by the registered professional engineer and that the chief will inspect the remainder of the construction. Thereafter, the chief shall inspect the construction and the cost of inspection shall be charged against the owner. Failure of the registered professional engineer to submit required inspection reports shall be deemed notice that the engineer's inspections are not being performed.

(G) The chief may order construction to cease on any dam or levee that is being built in violation of this section, and may prohibit the retention of water behind any dam or levee that has been built in violation of this section. The attorney general, upon written request of the chief, may bring an action for an injunction against any person who violates this section or to enforce an order or prohibition of the chief made pursuant to this section.

(H) The chief may adopt rules in accordance with Chapter 119. of the Revised Code, for the design and construction of dams and levees for which a construction permit is required by this section or for which periodic inspection is required by section 1521.062 of the Revised Code, for establishing a filing fee schedule in lieu of the schedule established under division (B) of this section, for deposit and forfeiture of bonds and other securities required by section 1521.061 of the Revised Code, for the periodic inspection, operation, repair, improvement, alteration, or removal of all dams and levees, as specified in section 1521.062 of the Revised Code, and for establishing classes of dams or levees that are exempt from the

requirements of this section and section 1521.062 of the Revised Code as being of a size, purpose, or situation that does not present a substantial hazard to life, health, or property. The chief may, by rule, limit the period during which a construction permit issued under this section is valid. The rules may allow for the extension of the period during which a permit is valid upon written request, provided that the written request includes a revised construction cost estimate, and may require the payment of an additional filing fee for the requested extension. If a construction permit expires without an extension before construction is completed, the person or agency shall apply for a new permit, and shall not continue construction until the new permit is issued.

Sec. 1521.061. Except as otherwise provided in this section, a construction permit shall not be issued under section 1521.06 of the Revised Code unless the person or governmental agency applying for the permit executes and files a surety bond conditioned on completion of the dam or levee in accordance with the terms of the permit and the plans and specifications approved by the chief of the division of soil and water resources, in an amount equal to fifty per cent of the estimated cost of the project.

If a permittee requests an extension of the time period during which a construction permit is valid in accordance with rules adopted under section 1521.06 of the Revised Code, the chief shall determine whether the revised construction cost estimate provided with the request exceeds the original construction cost estimate that was filed with the chief by more than twenty-five per cent. If the revised construction cost estimate exceeds the original construction cost estimate by more than twenty-five per cent, the chief may require an additional surety bond to be filed so that the total amount of the surety bonds equals at least fifty per cent of the revised construction cost estimate.

The chief shall not approve any bond until it is personally signed and acknowledged by both principal and surety, or as to either by the attorney in fact thereof, with a certified copy of the power of attorney attached. The chief shall not approve the bond unless there is attached a certificate of the superintendent of insurance that the company is authorized to transact a fidelity and surety business in this state.

All bonds shall be given in a form prescribed by the chief and shall run to the state as obligee.

The applicant may deposit, in lieu of a bond, cash in an amount equal to the amount of the bond or United States government securities or negotiable certificates of deposit issued by any bank organized or transacting business

in this state having a par value equal to or greater than the amount of the bond. Such cash or securities shall be deposited upon the same terms as bonds. If one or more certificates of deposit are deposited in lieu of a bond, the chief shall require the bank that issued any such certificate to pledge securities of the aggregate market value equal to the amount of the certificate that is in excess of the amount insured by the federal deposit insurance corporation. The securities to be pledged shall be those designated as eligible under section 135.18 of the Revised Code. The securities shall be security for the repayment of the certificate of deposit.

Immediately upon a deposit of cash, securities, or certificates of deposit, the chief shall deliver them to the treasurer of state, who shall hold them in trust for the purposes for which they have been deposited. The treasurer of state is responsible for the safekeeping of such deposits. An applicant making a deposit of cash, securities, or certificates of deposit may withdraw and receive from the treasurer of state, on the written order of the chief, all or any portion of the cash, securities, or certificates of deposit, upon depositing with the treasurer of state cash, other United States government securities, or negotiable certificates of deposit issued by any bank organized or transacting business in this state equal in par value to the par value of the cash, securities, or certificates of deposit withdrawn. An applicant may demand and receive from the treasurer of state all interest or other income from any such securities or certificates as it becomes due. If securities so deposited with and in the possession of the treasurer of state mature or are called for payment by the issuer thereof, the treasurer of state, at the request of the applicant who deposited them, shall convert the proceeds of the redemption or payment of the securities into such other United States government securities, negotiable certificates of deposit issued by any bank organized or transacting business in this state, or cash as the applicant designates.

When the chief finds that a person or governmental agency has failed to comply with the conditions of the person's or agency's bond, the chief shall make a finding of that fact and declare the bond, cash, securities, or certificates of deposit forfeited in the amount set by rule of the chief. The chief shall thereupon certify the total forfeiture to the attorney general, who shall proceed to collect that amount.

In lieu of total forfeiture, the surety, at its option, may cause the dam or levee to be completed as required by section 1521.06 of the Revised Code and rules of the chief, or otherwise rendered nonhazardous, or pay to the treasurer of state the cost thereof.

All moneys collected on account of forfeitures of bonds, cash,

securities, and certificates of deposit under this section shall be credited to the dam safety fund created in section 1521.06 of the Revised Code. The chief shall make expenditures from the fund to complete dams and levees for which bonds have been forfeited or to otherwise render them nonhazardous.

Expenditures from the fund for those purposes shall be made pursuant to contracts entered into by the chief with persons who agree to furnish all of the materials, equipment, work, and labor as specified and provided in the contract.

A surety bond shall not be required for a permit for a dam or levee that is to be designed and constructed by an agency of the United States government, if the agency files with the chief written assurance of the agency's financial responsibility for the structure during the one-year period following the chief's approval of the completed construction provided for under division (E) of section 1521.06 of the Revised Code.

Sec. 1521.062. (A) All dams and levees constructed in this state and not exempted by this section or by the chief of the division of soil and water resources under section 1521.06 of the Revised Code shall be inspected periodically by the chief, except for classes of dams that, in accordance with rules adopted under this section, are required to be inspected by registered professional engineers who have been approved for that purpose by the chief. The inspection shall ensure that continued operation and use of the dam or levee does not constitute a hazard to life, health, or property. Periodic inspections shall not be required of the following structures:

(1) A dam that is less than ten feet in height and has a storage capacity of not more than fifty acre-feet at the elevation of the top of the dam, as determined by the chief. For the purposes of this section, the height of a dam shall be measured from the natural stream bed or lowest ground elevation at the downstream or outside limit of the dam to the elevation of the top of the dam.

(2) A dam, regardless of height, that has a storage capacity of not more than fifteen acre-feet at the elevation of the top of the dam, as determined by the chief;

(3) A dam, regardless of storage capacity, that is six feet or less in height, as determined by the chief;

(4) A dam or levee belonging to a class exempted by the chief;

(5) A dam or levee that has been exempted in accordance with rules adopted under section 1521.064 of the Revised Code.

(B) In accordance with rules adopted under this section, the owner of a dam that is in a class of dams that is designated in the rules for inspection by

registered professional engineers shall obtain the services of a registered professional engineer who has been approved by the chief to conduct the periodic inspection of dams pursuant to schedules and other standards and procedures established in the rules. The registered professional engineer shall prepare a report of the inspection in accordance with the rules and provide the inspection report to the dam owner who shall submit it to the chief. A dam that is designated under the rules for inspection by a registered professional engineer, but that is not inspected within a five-year period may be inspected by the chief at the owner's expense.

(C) Intervals between periodic inspections shall be determined by the chief, but shall not exceed five years.

(D) In the case of a dam or levee that the chief inspects, the chief shall furnish a report of the inspection to the owner of the dam or levee. With regard to a dam or levee that has been inspected, either by the chief or by a registered professional engineer, and that is the subject of an inspection report prepared or received by the chief, the chief shall inform the owner of any required repairs, maintenance, investigations, and other remedial and operational measures. The chief shall order the owner to perform such repairs, maintenance, investigations, or other remedial or operational measures as the chief considers necessary to safeguard life, health, or property. The order shall permit the owner a reasonable time in which to perform the needed repairs, maintenance, investigations, or other remedial measures, and the cost thereof shall be borne by the owner. All orders of the chief are subject to appeal as provided in Chapter 119. of the Revised Code. The attorney general, upon written request of the chief, may bring an action for an injunction against any person who violates this section or to enforce an order of the chief made pursuant to this section.

(E) The owner of a dam or levee shall monitor, maintain, and operate the structure and its appurtenances safely in accordance with state rules, terms and conditions of permits, orders, and other requirements issued pursuant to this section or section 1521.06 of the Revised Code. The owner shall fully and promptly notify the division of soil and water resources and other responsible authorities of any condition that threatens the safety of the structure and shall take all necessary actions to safeguard life, health, and property.

(F) Before commencing the repair, improvement, alteration, or removal of a dam or levee, the owner shall file an application including plans, specifications, and other required information with the division and shall secure written approval of the application by the chief. Emergency actions by the owner required to safeguard life, health, or property are exempt from

this requirement. The chief may, by rule, define maintenance, repairs, or other remedial measures of a routine nature that are exempt from this requirement.

(G) The chief may remove or correct, at the expense of the owner, any unsafe structures found to be constructed or maintained in violation of this section or section 1521.06 of the Revised Code. In the case of an owner other than a governmental agency, the cost of removal or correction of any unsafe structure, together with a description of the property on which the unsafe structure is located, shall be certified by the chief to the county auditor and placed by the county auditor upon the tax duplicate. This cost is a lien upon the lands from the date of entry and shall be collected as other taxes and returned to the division. In the case of an owner that is a governmental agency, the cost of removal or correction of any unsafe structure shall be recoverable from the owner by appropriate action in a court of competent jurisdiction.

(H) If the condition of any dam or levee is found, in the judgment of the chief, to be so dangerous to the safety of life, health, or property as not to permit time for the issuance and enforcement of an order relative to repair, maintenance, or operation, the chief shall employ any of the following remedial means necessary to protect life, health, and property:

- (1) Lower the water level of the lake or reservoir by releasing water;
- (2) Completely drain the lake or reservoir;
- (3) Take such other measures or actions as the chief considers necessary to safeguard life, health, and property.

The chief shall continue in full charge and control of the dam or levee until the structure is rendered safe. The cost of the remedy shall be recoverable from the owner of the structure by appropriate action in a court of competent jurisdiction.

(I) The chief may accept and expend gifts, bequests, and grants from the United States government or from any other public or private source and may contract with the United States government or any other agency or entity for the purpose of carrying out the dam safety functions set forth in this section and section 1521.06 of the Revised Code.

(J) In accordance with Chapter 119. of the Revised Code, the chief may adopt, and may amend or rescind, rules that do all of the following:

- (1) Designate classes of dams for which dam owners must obtain the services of a registered professional engineer to periodically inspect the dams and to prepare reports of the inspections for submittal to the chief;
- (2) Establish standards in accordance with which the chief must approve or disapprove registered professional engineers to inspect dams together

with procedures governing the approval process;

(3) Establish schedules, standards, and procedures governing periodic inspections and standards and procedures governing the preparation and submittal of inspection reports;

(4) Establish provisions regarding the enforcement of this section and rules adopted under it.

(K) The owner of a dam or levee shall notify the chief in writing of a change in ownership of the dam or levee prior to the exchange of the property.

Sec. 1521.063. (A) Except for the federal government, the owner of ~~any~~ a dam, that is classified as a class I, class II, or class III dam under rules adopted under section 1521.06 of the Revised Code and subject to section 1521.062 of the Revised Code shall pay an annual fee, based upon the height of the dam, the linear foot length of the dam, and the per-acre foot of volume of water impounded by the dam. The fee shall be paid to the division of soil and water ~~on or before June 30, 1988, and resources~~ on or before the thirtieth day of June of each ~~succeeding~~ year. The annual fee shall be as follows until otherwise provided by rules adopted under this section:

(1) For any dam classified as a class I dam under rules adopted by the chief of the division of soil and water resources under section 1521.06 of the Revised Code, thirty three hundred dollars plus ten dollars per foot of height of dam, five cents per foot of length of the dam and five cents per-acre foot of water impounded by the dam;

(2) For any dam classified as a class II dam under those rules, thirty ninety dollars plus ~~one dollar~~ six dollars per foot of height of dam, five cents per foot of length of the dam and five cents per-acre foot of water impounded by the dam;

(3) For any dam classified as a class III dam under those rules, thirty ninety dollars plus four dollars per foot of height of the dam, five cents per foot of length of the dam, and five cents per-acre foot of volume of water impounded by the dam.

For purposes of this section, the height of a dam is the vertical height, to the nearest foot, as determined by the division under section 1521.062 of the Revised Code.

All fees collected under this section shall be deposited in the dam safety fund created in section 1521.06 of the Revised Code. Any owner who fails to pay any annual fee required by this section within sixty days after the due date shall be assessed a penalty of ten per cent of the annual fee plus interest at the rate of one-half per cent per month from the due date until the date of payment.

There is hereby created the compliant dam discount program to be administered by the chief. Under the program, the chief may reduce the amount of the annual fee that an owner of a dam is required to pay under division (A)(1), (2), or (3) of this section if the owner is in compliance with section 1521.062 of the Revised Code and has developed an emergency action plan pursuant to standards established in rules adopted under this section. The chief shall not discount an annual fee by more than twenty-five per cent of the total annual fee that is due. In addition, the chief shall not discount the annual fee that is due from the owner of a dam who has been assessed a penalty under this section.

(B) The chief shall, in accordance with Chapter 119. of the Revised Code and subject to the prior approval of the director of natural resources, adopt, and may amend or rescind, rules for the collection of fees and the administration, implementation, and enforcement of this section and for the establishment of an annual fee schedule in lieu of the schedule established ~~under~~ in division (A) of this section.

(C)(1) No person, political subdivision, or state governmental agency shall violate or fail to comply with this section or any rule or order adopted or issued under it.

(2) The attorney general, upon written request of the chief, may commence an action against any such violator. Any action under division (C)(2) of this section is a civil action.

(D) As used in this section, "political subdivision" includes townships, municipal corporations, counties, school districts, municipal universities, park districts, sanitary districts, and conservancy districts and subdivisions thereof.

Sec. 1521.064. The chief of the division of soil and water resources, in accordance with Chapter 119. of the Revised Code, shall adopt, and may amend and rescind, rules establishing a program under which dams and levees may be exempted from inspections under section 1521.062 of the Revised Code if the continued operation and use of, and any rupturing of or other structural damage to, the dams and levees will not constitute a hazard to life, health, or property. The rules shall establish, without limitation, all of the following:

(A) A procedure by which the owner of such a dam or levee may apply for an exemption under this section;

(B) The standards that a dam or levee shall meet in order to be exempted under this section;

(C) A procedure by which the chief shall periodically review the status of a dam or levee that has been exempted under this section to determine if

the exemption should be rescinded;

(D) A requirement that the owner of any dam or levee exempted under this section shall agree, in writing, to accept liability for any injury, death, or loss to persons or property caused by the rupturing of or other structural damage to the dam or levee.

Sec. 1521.07. The chief of the division of soil and water resources or any employee in the service of the division may enter upon lands to make surveys and inspections in accordance with this chapter, when necessary in the discharge of the duties enumerated in this chapter.

Sec. 1521.10. In order to be entitled to the compensation provided for in section 1521.09 of the Revised Code, the landowner ~~must~~ shall have prepared and submit to the division of soil and water resources complete plans for the dam provided for in such section. The plans shall have the approval of the chief of the division of soil and water resources and the dam shall be constructed in accordance with such plans before compensation can be claimed.

Sec. 1521.11. Upon the completion of the dam referred to in section 1521.09 of the Revised Code to the satisfaction of the division of soil and water resources, it shall certify the completion and the capacity thereof to the county auditor who shall thereupon make such reduction in the assessed valuation of the contiguous landowner as ~~he~~ the contiguous landowner is entitled to receive under sections 1521.09 to 1521.12, ~~inclusive~~, of the Revised Code.

Sec. 1521.12. In the event that any dam is constructed before plans are submitted to and approved by the division of soil and water resources as required by section 1521.10 of the Revised Code, the landowner may submit plans of the dam ~~he~~ the landowner has built, showing the area of the drainage basin above the dam, a cross section of the dam site, a cross section, plan, and elevation of the dam, a map of the spillway, a topographic map of the reservoir basin, and such other data and information as the division requires. If the plans receive the approval of the division, and upon examination the dam is found to be satisfactorily completed in accordance with such plans, ~~said~~ the division shall certify the completion and capacity thereof to the county auditor. If the plans fail to meet the requirements of the division, the owner may submit revised plans, and when such revised plans have been approved and the dam rebuilt to conform to such plans, the completion of the dam and its capacity shall then be certified to the auditor who shall thereupon make such reduction in the assessed valuation of the contiguous land as such owner is entitled to receive under sections 1521.09 to 1521.12, ~~inclusive~~, of the Revised Code.

Sec. 1521.13. (A) Development in one-hundred-year floodplain areas shall be protected to at least the one-hundred-year flood level, and flood water conveyance shall be maintained, at a minimum, in accordance with standards established under the national flood insurance program. This division does not preclude a state agency or political subdivision from establishing flood protection standards that are more restrictive than this division.

(B) Prior to the expenditure of money for or the construction of buildings, structures, roads, bridges, or other facilities in locations that may be subject to flooding or flood damage, all state agencies and political subdivisions shall notify and consult with the division of soil and water resources and shall furnish information that the division reasonably requires in order to avoid the uneconomic, hazardous, or unnecessary use of floodplains in connection with such facilities.

(C) The chief of the division of soil and water resources shall do all of the following:

(1) Coordinate the floodplain management activities of state agencies and political subdivisions with the floodplain management activities of the United States, including the national flood insurance program;

(2) Collect, prepare, and maintain technical data and information on floods and floodplain management and make the data and information available to the public, state agencies, political subdivisions, and agencies of the United States;

(3) Cooperate and enter into agreements with persons for the preparation of studies and reports on floods and floodplain management;

(4) Assist any county, municipal corporation, or state agency in developing comprehensive floodplain management programs;

(5) Provide technical assistance to any county, municipal corporation, or state agency through engineering assistance, data collection, preparation of model laws, training, and other activities relating to floodplain management;

(6) For the purpose of reducing damages and the threat to life, health, and property in the event of a flood, cooperate with state agencies, political subdivisions, and the United States in the development of flood warning systems, evacuation plans, and flood emergency preparedness plans;

(7) Upon request, assist the emergency management agency established by section 5502.22 of the Revised Code in the preparation of flood hazard mitigation reports required as a condition for receiving federal disaster aid under the "Disaster Relief Act of 1974," 88 Stat. 143, 42 U.S.C.A. 5121, as amended, and regulations adopted under it;

(8) Adopt, and may amend or rescind, rules in accordance with Chapter

119. of the Revised Code for the administration, implementation, and enforcement of this section and sections 1521.14 and 1521.18 of the Revised Code;

(9) Establish, by rule, technical standards for the delineation and mapping of floodplains and for the conduct of engineering studies to determine the vertical and horizontal limits of floodplains and for the assessment of development impacts on flood heights and flood conveyance. The standards established in rules adopted under this division shall be consistent with and no more stringent than the analogous standards established under the national flood insurance program.

(10) On behalf of the director of natural resources, administer section 1506.04 of the Revised Code.

In addition to the duties imposed in divisions (C)(1) to (10) of this section, and with respect to existing publicly owned facilities that have suffered flood damage or that may be subject to flood damage, the chief may conspicuously mark past and probable flood heights in order to assist in creating public awareness of and knowledge about flood hazards.

(D)(1) Development that is funded, financed, undertaken, or preempted by state agencies shall comply with division (A) of this section and with rules adopted under division (C)(9) of this section.

(2) State agencies shall apply floodproofing measures in order to reduce potential additional flood damage of existing publicly owned facilities that have suffered flood damage.

(3) Before awarding funding or financing or granting a license, permit, or other authorization for a development that is or is to be located within a one-hundred-year floodplain, a state agency shall require the applicant to demonstrate to the satisfaction of the agency that the development will comply with division (A) of this section, rules adopted under division (C)(9) of this section, and any applicable local floodplain management resolution or ordinance.

(4) Prior to the disbursement of any state disaster assistance money in connection with any incident of flooding to or within a county or municipal corporation that is not listed by the chief as being in compliance under division (D)(1) of section 1521.18 of the Revised Code, a state agency that has authority to disburse such money shall require the county or municipal corporation to establish or reestablish compliance as provided in that division.

(E)(1) Subject to section 1521.18 of the Revised Code, a county or a municipal corporation may do all of the following:

(a) Adopt floodplain maps that reflect the best available data and that

indicate the areas to be regulated under a floodplain management resolution or ordinance, as applicable;

(b) Develop and adopt a floodplain management resolution or ordinance, as applicable;

(c) Adopt floodplain management standards that exceed the standards that are established under the national flood insurance program.

(2) A county or municipal corporation shall examine and apply, where economically feasible, floodproofing measures in order to reduce potential additional flood damage of existing publicly owned facilities that have suffered flood damage.

(3) A county that adopts a floodplain management resolution shall do so in accordance with the procedures established in section 307.37 of the Revised Code. The county may enforce the resolution by issuing stop work orders, seeking injunctive relief, or pursuing other civil actions that the county considers necessary to ensure compliance with the resolution. In addition, failure to comply with the floodplain management resolution constitutes a violation of division (D) of section 307.37 of the Revised Code.

(4) No action challenging the validity of a floodplain management resolution adopted by a county or a floodplain management ordinance adopted by a municipal corporation, or an amendment to such a resolution or ordinance, because of a procedural error in the adoption of the resolution, ordinance, or amendment shall be brought more than two years after the adoption of the resolution, ordinance, or amendment.

Sec. 1521.14. Upon the written request of the director of natural resources, the attorney general shall bring an action for appropriate relief in a court of competent jurisdiction against any development that is not in compliance with the standards of the national flood insurance program and that is one of the following:

(A) Located in a county or municipal corporation that is not listed by the chief of the division of soil and water resources as being in compliance under division (D)(1) of section 1521.18 of the Revised Code;

(B) Funded, financed, undertaken, or preempted by a state agency.

Sec. 1521.15. (A) The chief of the division of soil and water resources shall develop and maintain, in cooperation with local, state, federal, and private agencies and entities, a water resources inventory for the collection, interpretation, storage, retrieval, exchange, and dissemination of information concerning the water resources of this state, including, but not limited to, information on the location, type, quantity, and use of those resources and the location, type, and quantity of consumptive use and diversion of the

water resources. The water resources inventory also shall include, without limitation, information to assist in determining the reasonableness of water use and sharing under common law, promoting reasonable use and development of water resources, and resolving water use conflicts.

All agencies of the state shall cooperate with the chief in the development and maintenance of the inventory.

(B) The chief shall cooperate with the other great lakes states and provinces to develop a common base of data regarding the management of the water resources of the Lake Erie drainage basin and to establish systematic arrangements for the exchange of those data.

~~(C) The chief shall prepare and present to the governor no later than September 1, 1998, a long term water resources plan for the protection, conservation, and management of the water resources of the Lake Erie drainage basin. The plan shall include, without limitation, all of the following:~~

~~(1) An inventory of surface and ground water resources;~~

~~(2) Identification and assessment of existing uses and future demand for all of the following:~~

~~(a) Withdrawal of water resources for domestic, agricultural, manufacturing, mining, navigation, power production, recreation, fish and wildlife, and other uses;~~

~~(b) Diversion;~~

~~(c) Consumptive use.~~

~~(3) Guidelines to minimize consumptive use;~~

~~(4) Guidelines and procedures to coordinate, conserve, develop, protect, use, and manage the water resources of the Lake Erie drainage basin.~~

Sec. 1521.16. (A) Any person who owns a facility that has the capacity to withdraw waters of the state in an amount greater than one hundred thousand gallons per day from all sources and whose construction is completed before January 1, 1990, shall register the facility by January 1, 1991, with the chief of the division of soil and water resources, and any person who owns a facility that has the capacity to withdraw waters of the state in such an amount and whose construction is completed on or after January 1, 1990, shall register the facility with the chief within three months after the facility is completed. The person shall register the facility using a form prescribed by the chief that shall include, without limitation, the name and address of the registrant and date of registration; the locations and sources of the facility's water supply; the facility's withdrawal capacity per day and the amount withdrawn from each source; the uses made of the water, places of use, and places of discharge; and such other information as

the chief may require by rule.

The registration date of any facility whose construction was completed prior to January 1, 1990, and that is registered under this division prior to January 1, 1991, shall be January 1, 1990. The registration date of any facility whose construction was completed prior to January 1, 1990, and that is required to register under this division prior to January 1, 1991, but that is not registered prior to that date, and the registration date of any facility whose construction was completed after January 1, 1990, and that is required to register under this division shall be the date on which the registration is received by the chief.

(B) In accordance with division (D) of this section, the chief shall adopt rules establishing standards and criteria for determining when an area of ground water is a ground water stress area, the geographic limits of such an area, and a threshold withdrawal capacity for the area below which registration under this division shall not be required. At any time following the adoption of those rules, the chief may by order designate an area of ground water as a ground water stress area and shall establish in any such order a threshold withdrawal capacity for the area below which registration under this division shall not be required.

Following the designation of a ground water stress area, the chief immediately shall give notice by publication in a newspaper of general circulation in the designated area that shall include a map delineating the designated ground water stress area and a statement of the threshold withdrawal capacity established for the area below which registration under this division shall not be required. The notice shall not appear in the legal notices section of the newspaper. Any person who owns a facility in the designated ground water stress area that is not registered under division (A) of this section and that has the capacity to withdraw waters of the state in an amount greater than the threshold withdrawal capacity for the area from all sources shall register ~~his~~ the facility with the chief not later than thirty days after publication of the notice. A person registering a facility under this division shall do so using a form prescribed by the chief. The form shall include the information specified in division (A) of this section.

(C) Any person who owns a facility registered under division (A) or (B) of this section shall file a report annually with the chief listing the amount of water withdrawn per day by the facility, the return flow per day, and any other information the chief may require by rule. Any person who, under Chapter 6109. of the Revised Code, provides such information to the Ohio environmental protection agency is exempt from reporting under this division. The director of environmental protection shall provide the chief

any such reported information upon ~~his~~ request.

(D) The chief shall adopt, and may amend or rescind, rules in accordance with Chapter 119. of the Revised Code to carry out this section.

(E)(1) No person knowingly shall fail to register a facility or file a report as required under this section.

(2) No person shall file a false report under this section. Violation of division (E)(2) of this section is falsification under section 2921.13 of the Revised Code.

(F) At the request of the director of natural resources, the attorney general may commence a civil action to compel compliance with this section, in a court of common pleas, against any person who has violated or is violating division (E)(1) of this section. The court of common pleas in which a civil action is commenced under this division has jurisdiction to and shall compel compliance with this section upon a showing that the person against whom the action is brought has violated or is violating that division.

Any action under this division is a civil action, governed by the rules of civil procedure and other rules of practice and procedure applicable to civil actions.

Sec. 1521.18. (A) For the purposes of this section, a one-hundred-year floodplain is limited to an area identified as a one-hundred-year floodplain in accordance with the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended.

(B) Each municipal corporation or county that has within its boundaries a one-hundred-year floodplain and that adopts a floodplain management ordinance or resolution or any amendments to such an ordinance or resolution on or after April 11, 1991, after adopting the ordinance, resolution, or amendments and before submitting the ordinance, resolution, or amendments to the federal emergency management agency for final approval for compliance with applicable standards adopted under the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended, shall submit the ordinance, resolution, or amendments to the chief of the division of soil and water resources for the chief's review for compliance with those standards. Within forty-five days after receiving any such ordinance, resolution, or amendments, the chief shall complete the review and notify the municipal corporation or county as to whether the ordinance, resolution, or amendments comply with those standards. If the chief finds that the ordinance, resolution, or amendments comply with those standards, the chief shall forward it or them to the federal emergency management agency for final approval.

(C)(1) If the chief determines that a county or municipal corporation

that has adopted a floodplain management resolution or ordinance fails to administer or enforce the resolution or ordinance, the chief shall send a written notice by certified mail to the board of county commissioners of the county or the chief executive officer of the municipal corporation stating the nature of the noncompliance.

(2) In order to maintain its compliance status in accordance with division (D) of this section, a county or municipal corporation that has received a notice of noncompliance under division (C)(1) of this section may submit information to the chief not later than thirty days after receiving the notice that demonstrates compliance or indicates the actions that the county or municipal corporation is taking to administer or enforce the resolution or ordinance. The chief shall review the information and shall issue a final determination by certified mail to the county or municipal corporation of the compliance or noncompliance status of the county or municipal corporation. If the chief issues a final determination of noncompliance, the chief shall send a copy of that determination to the federal emergency management agency concurrently with mailing the notice to the municipal corporation or county.

(D)(1) A county or municipal corporation is considered to be in compliance for the purposes of this section if either of the following applies:

(a) The county or municipal corporation has adopted a floodplain management resolution or ordinance that the chief has determined complies with applicable standards adopted under the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended, and is adequately administering and enforcing it as determined under division (C) of this section.

(b) The county or municipal corporation is participating in the national flood insurance program and has not received a notice of noncompliance under division (B) or (C) of this section.

(2) The chief shall maintain a list of all counties and municipal corporations that have one-hundred-year floodplains within their boundaries. The list shall indicate whether each such county or municipal corporation is in compliance or noncompliance as provided in division (D)(1) of this section and whether each such county or municipal corporation is participating in the national flood insurance program. The chief shall provide a copy of the list to the general assembly and all state agencies annually and shall notify the general assembly and the agencies of any changes at least quarterly.

(E) Any county or municipal corporation that is adversely affected by any determination of the chief under this section may appeal it in

accordance with Chapter 119. of the Revised Code not later than thirty days after the final determination.

Sec. 1521.19. (A) There is hereby created the Ohio water resources council consisting of the directors of agriculture, development, environmental protection, health, natural resources, transportation, and the Ohio public works commission, the chairperson of the public utilities commission of Ohio, the executive director of the Ohio water development authority, and an executive assistant in the office of the governor appointed by the governor. The governor shall appoint one of the members of the council to serve as its chairperson. The council may adopt bylaws that are necessary for the implementation of this section. The council shall provide a forum for policy development, collaboration and coordination among state agencies, and strategic direction with respect to state water resource programs. The council shall be assisted in its functions by a state agency coordinating group and an advisory group as provided in this section.

(B) The state agency coordinating group shall consist of the executive director of the Ohio Lake Erie commission and a member or members from each state agency, commission, and authority represented on the council, to be appointed by the applicable director, chairperson, or executive director. However, the environmental protection agency shall be represented on the group by the chiefs of the divisions within that agency having responsibility for surface water programs and drinking and ground water programs, and the department of natural resources shall be represented on the group by the chief of the division of ~~water and the chief of the division of soil and water conservation resources~~. The chairperson of the council shall appoint a leader of the state agency coordinating group. The group shall provide assistance to and perform duties on behalf of the council as directed by the council.

(C) The advisory group shall consist of not more than twenty-four members, each representing an organization or entity with an interest in water resource issues. The council shall appoint the members of the advisory group. Of the initial appointments, not more than ten members shall be appointed for one-year terms, and not more than ten members shall be appointed for two-year terms. Of the four initial appointments made after ~~the effective date of this amendment~~ April 6, 2007, two of the members shall be appointed for one-year terms, and two of the members shall be appointed for two-year terms. Thereafter, all advisory group members shall serve two-year terms. Members may be reappointed. Each member shall hold office from the date of the member's appointment until the end of the member's term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes

office or until a period of sixty days has elapsed, whichever occurs first. The council may remove a member for misfeasance, nonfeasance, or malfeasance in office. The council shall appoint members to fill any vacancies on the group. A member appointed to fill a vacancy shall hold office for the remainder of the term for which that member was appointed.

The chairperson of the council shall appoint a chairperson of the advisory group. The advisory group shall advise the council on water resources issues addressed by the council.

(D) There is hereby created in the state treasury the Ohio water resources council fund. The department of natural resources shall serve as the fiscal agent for the fund. The departments of agriculture, development, environmental protection, health, natural resources, and transportation shall transfer moneys to the fund in equal amounts via intrastate transfer voucher. The public utilities commission of Ohio, Ohio public works commission, and Ohio water development authority may transfer moneys to the fund. If a voluntary transfer of moneys is made to the fund, the portion that is required to be transferred by the departments of agriculture, development, environmental protection, health, natural resources, and transportation may be equally reduced. Moneys in the fund shall be used to pay the operating expenses of the Ohio water resources council, including those specified in division (E) of this section.

(E) The Ohio water resources council may hire staff to support its activities. The council may enter into contracts and agreements with federal agencies, state agencies, political subdivisions, and private entities to assist in accomplishing its objectives. Advisory group members shall be reimbursed for expenses necessarily incurred in the performance of their duties pursuant to section 126.31 of the Revised Code and any applicable rules pertaining to travel reimbursement adopted by the office of budget and management.

Sec. 1523.01. In addition to all other powers granted to and duties devolving upon the chief of the division of soil and water resources, when in the chief's judgment it is for the public welfare and the best interests of the citizens of the state that the surplus, flood, and other waters of any of the watersheds, rivers, streams, watercourses, or public waters should be conserved, impounded, and stored in order to insure and promote the public health, welfare, and safety and to encourage and promote agriculture, commerce, manufacturing, and other public purposes, such chief shall proceed in furtherance of the purposes of sections 1523.01 to 1523.13 of the Revised Code, and for the preservation of the use of such waters for navigation, in case such waters are required for navigation, to construct such

reservoirs, dams, storage basins, dikes, canals, raceways, and other improvements as are necessary for such purposes, or the chief may make additions to, enlarge, and make alterations in and upon such reservoirs, dams, storage basins, dikes, canals, raceways, and other improvements already in existence and constituting a part of the public works, as are necessary for such purposes. Any rights or privileges granted by sections 1523.01 to 1523.13 of the Revised Code, shall not interfere with the control and maintenance of the state reservoirs or public parks which have been dedicated to the public for purposes of recreation and pleasure.

~~Said~~ The chief, subject to the written approval of the director of natural resources and the governor, may acquire by gift, purchase, or by appropriation proceedings, in the name of and on behalf of the state, such real and personal property, rights, privileges, and appurtenances as are necessary in the chief's judgment for the construction of such reservoirs, dams, storage basins, dikes, canals, raceways, and other improvements, or for the alteration, enlargement, or maintenance of existing reservoirs, dams, and other improvements, together with such rights of way, drives, and roadways as are necessary for convenient access thereto. The appropriation proceedings referred to in this section shall be restricted to private property only.

Before proceeding to purchase or appropriate any such property or rights, the cost of which, together with the land or real estate necessary upon which to locate and construct such improvements, including damages to remaining property, is in excess of one thousand dollars, the chief shall prepare plans, specifications, and estimates of such cost, including all material and labor therefor, together with the cost of such land or real estate and damages, and shall thereupon submit such plans, specifications, and estimates to the director, who in turn shall submit them to the governor for approval.

The governor shall thereupon publish written notice once a week for two consecutive weeks in a newspaper published in and of general circulation in the counties where any such improvements are proposed to be constructed, setting forth the location and character of the proposed improvements, that the plans, specifications, and estimates therefor are on file in the governor's office, and that objections thereto will be heard by the governor on a day to be named in ~~said~~ the notice, which day shall be not less than ten nor more than twenty days after the first publication thereof. Within thirty days after the date fixed for ~~said~~ the hearing, the governor shall return such plans, specifications, and estimates to the director, with the governor's written approval or rejection thereof indorsed thereon. The director shall

immediately return such plans, specifications, and estimates, together with the governor's indorsement thereon, to the chief.

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

Sec. 1523.02. If the governor approves the plans, specifications, and estimates authorized by section 1523.01 of the Revised Code, the chief of the division of soil and water resources shall thereupon proceed, as provided in sections 1523.02 to 1523.13 of the Revised Code, to construct the improvements or to make alterations in or to enlarge those already existing, in such manner and form as is shown by such plans and specifications. In order to provide the funds for such construction, alteration, or enlargement, the chief shall issue and sell bonds of the state, not in excess of the estimated cost of such improvements. The bonds shall be issued in denominations of not less than one hundred dollars payable as a whole or in series on or before fifty years from the date thereof, with interest not to exceed the rate provided in section 9.95 of the Revised Code, payable either annually or semiannually.

The bonds shall show on their face the purpose for which issued and shall create no liability upon or be considered an indebtedness of the state, but both the principal and interest shall be paid solely out of the proceeds arising from the improvements constructed, altered, or enlarged by the chief, or from the proceeds of the sale or foreclosure of the lien securing the bonds on such improvement or such part thereof as is constructed from the money realized from the sale of the bonds.

The form of the bonds shall be approved by the attorney general, and they shall be signed by the governor and attested by the director of natural resources and the chief. The bonds may be issued as coupon bonds, payable to bearer only, or upon demand of the owner or holder thereof as registered bonds.

Such bonds shall be sold by the chief to the highest bidder therefor, but for not less than the par value thereof, with accrued interest thereon, after thirty days' notice in at least two newspapers of general circulation in the county where such improvements are to be constructed, altered, or enlarged, setting forth the nature, amount, rate of interest, and length of time the bonds have to run, with the time and place of sale.

The treasurer of state shall be the treasurer of the fund realized from the sale of such bonds, and the auditor of state shall be the auditor of such fund. The proceeds of such sale shall be turned over to the treasurer of state and shall be deposited by the treasurer of state in a solvent bank, located either

in Columbus or in the county in which such improvements are located. Such proceeds shall be kept by such bank in a fund to be known as the water conservation improvement fund. Such fund shall be used to acquire the necessary real estate and to construct such new improvements and for no other purpose, except that the treasurer of state may pay the interest on the bonds during the period of condemnation and the construction, alteration, or enlargement of such improvements out of the proceeds arising from the sale of the bonds for a term not exceeding three years from the date on which the bonds are issued. The bank shall give bond to the state in such amount as the treasurer of state considers advisable, and with surety to the satisfaction of the treasurer of state, for the benefit of the holders of the bonds, and for the benefit of any contractors performing labor or furnishing material for such improvements, as provided by law, conditioned that it will safely keep the money and will make no payments or disbursements therefrom except as provided in sections 1523.01 to 1523.13 of the Revised Code.

The treasurer of state shall hold such fund as trustee for the holders of the bonds and for all persons performing labor or furnishing material for the construction, alteration, or enlargement of any improvement made under such sections. Such funds shall not be turned into the state treasury, but shall be deposited and disbursed by the treasurer of state as provided in such sections. The interest coupons attached to such bonds shall bear the signature of the treasurer of state, executed by the treasurer of state or printed or lithographed thereon.

Both the interest and principal of such bonds shall be made payable at the office of the treasurer of state in Columbus, and shall be paid by the treasurer of state, without warrant or authority of the director of budget and management, to the owner or holder of such bonds upon presentation by the owner or holder of matured interest coupons or bonds.

Sec. 1523.03. Immediately after the sale of the bonds authorized by section 1523.02 of the Revised Code and the payment of the proceeds thereof to the treasurer of state as provided in such section, the chief of the division of soil and water resources shall make a written contract for the construction of the improvements or for the making of additions to or alterations in existing improvements with the lowest responsive and responsible bidder, in accordance with section 9.312 of the Revised Code, after advertisements once a week for four consecutive weeks in one newspaper in each of the cities of Columbus, Cleveland, and Cincinnati having a general circulation therein, one trade paper having a circulation among contractors engaged in the construction of public improvement work of like character, and two newspapers having a general circulation within

the county in which the dam, reservoir, storage basin, or other improvement is located or is to be located.

All bids shall be filed with the chief, within the time fixed for the filing of such bids in ~~said~~ the advertisement. The bids shall be opened and publicly read by the chief at twelve noon on the last day for filing them. Each bid shall contain the full names of every person or company interested in it, shall separately state the price of both the labor and material to be furnished under it, and shall meet the requirements of section 153.54 of the Revised Code.

The chief may reject any bids. If the chief rejects all bids, the chief shall within sixty days thereafter readvertise for bids for the construction of such improvements, as provided in this section, and may continue to readvertise for bids every sixty days until bids are received which are made to the chief's satisfaction and in conformity to sections 1523.01 to 1523.13 of the Revised Code.

The chief may award separate contracts to bidders for each part of the labor to be done or material to be furnished for the construction of such improvements, provided that the amount of the contract, if awarded as a whole, or the aggregate of ~~said~~ the several contracts, if awarded separately, shall not, together with the cost of the land necessary for such improvements and the estimated damages to remaining property, be in excess of the estimated cost of the construction thereof, including such land and damages. Such contracts shall provide that all payments thereunder shall be made only from the proceeds of the sale of the bonds issued for the construction of such improvements. No contractor shall receive payment for any work or labor performed or material furnished for such improvements unless the contract therefor was, at the time of its execution, approved by the governor by the governor's written indorsement on such contract.

Sec. 1523.04. When estimates or statements for either material theretofore furnished or labor theretofore performed under a contract entered into as provided in section 1523.03 of the Revised Code are presented to the chief of the division of soil and water ~~of the department of natural~~ resources by the contractor, certified as to the correctness thereof under oath by ~~him~~ the contractor or ~~his~~ the contractor's authorized agent and approved in writing by the chief, the chief shall pay the amount of such estimates or statements from the water conservation improvement fund.

Sec. 1523.05. The chief of the division of soil and water resources shall by contract in writing sell or lease for agricultural, commercial, manufacturing, or other lawful purposes, for any term not exceeding fifty years, the water, or any part thereof, conserved and stored by the

improvements then existing, or that will be conserved and stored by any improvements thereafter to be constructed by ~~him~~ the chief. The chief may lease the land surrounding ~~said~~ the water for a term not exceeding fifty years, as shown by the plans and specifications prepared by ~~him~~ the chief and approved by the governor as provided in section 1523.01 of the Revised Code. Such agreements shall be for a certain price or rental for the water or lands furnished to or used by the grantees, lessees, or their assigns, to be paid quarterly, semiannually, or annually as the chief deems advisable.

~~Said~~ The chief may, for a term not exceeding fifty years, sell or lease power generated by any head of water raised or maintained by any such improvement, or ~~he~~ the chief may sell or lease the right to use such head of water for generating power or other hydraulic purposes.

All such contracts of sale or lease, whether for water or power, shall contain such reservations or restrictions as the chief deems necessary and proper in furtherance of the purposes of sections 1523.01 to 1523.13; ~~inclusive~~, of the Revised Code, and the preservation of the use of such waters for navigation in case they are required therefor.

Such contracts or leases ~~must~~ shall be approved by the attorney general as to their general form and legality and, before becoming binding obligations on the state, they shall be approved by the governor by ~~his~~ the governor's written indorsement thereon.

Sec. 1523.06. (A) The chief of the division of soil and water resources before selling bonds as provided in section 1523.02 of the Revised Code or before receiving bids for the construction of improvements as authorized by section 1523.03 of the Revised Code may enter into tentative agreements for the sale or lease of water or power to:

(1) Ascertain whether the public interest and welfare reasonably require the proposed improvements in the proposed locality;

(2) Determine whether the revenues which the state may derive from the lease of lands and the lease and sale of the waters which are estimated will be conserved, impounded, and stored, or from the sale or lease of the power generated by such improvements, will be sufficient:

(a) To pay the interest on bonds issued under section 1523.02 of the Revised Code;

(b) To create a sinking fund to retire ~~said~~ the bonds at their maturity;

(c) To maintain and keep ~~said~~ the improvements in repair.

(B) The performance and carrying out of such tentative agreements shall be conditioned upon the ability of such chief to:

(1) Sell ~~said~~ the proposed bonds at not less than par and accrued interest;

(2) Secure bids for the furnishing of all the labor and material necessary in the construction of such improvements, including all real estate required and damages incurred, at such a price that the rentals or compensation to be paid will provide during the terms of such contracts or leases a sum sufficient to pay ~~said the~~ interest, retire ~~said the~~ bonds, and maintain and keep ~~said the~~ improvements in repair.

Sec. 1523.07. The treasurer of state shall be treasurer and the auditor of state shall be auditor of all moneys derived from the use of the improvements authorized by sections 1523.01 to 1523.13, ~~inclusive~~, of the Revised Code. The treasurer of state shall hold ~~said the~~ moneys as trustee for the maintenance of any improvements constructed under such sections, and for the holders of any bonds issued in accordance with section 1523.02 of the Revised Code. ~~Said The~~ moneys shall not be turned into the state treasury, but shall be deposited and disbursed by the treasurer of state in the manner provided in this section. All such moneys shall be collected by the treasurer of state on statements to be furnished by the chief of the division of soil and water resources and when so collected shall be deposited in solvent banks in the state upon the same terms as state funds are now loaned. ~~Said The~~ funds shall be kept by such banks in a fund known as the "water conservation fund" and shall be used, first, to maintain and keep in repair the dams, reservoirs, storage basins, and other improvements, and, second, to pay the interest upon and principal of the bonds issued and sold pursuant to section 1523.02 of the Revised Code, as such interest falls due or ~~said the~~ bonds mature.

The banks in which the treasurer of state deposits any of the moneys belonging either to the water conservation improvement fund provided for in section 1523.02 of the Revised Code or the water conservation fund provided for in this section shall be state depository banks as provided for in sections 135.01 to 135.21, ~~inclusive~~, of the Revised Code. An amount not to exceed fifty thousand dollars of the money on deposit at any one time in the water conservation improvement fund, and an amount not to exceed ten thousand dollars in the water conservation fund shall be held by any of ~~said the~~ banks as an active deposit, and ~~said the~~ banks shall pay the treasurer of state on such deposits, both active and inactive, the same rate of interest then being paid by them upon the funds of the state then deposited with them by the treasurer of state. All such payments of interest shall be credited to the respective funds upon which such interest is paid.

Sec. 1523.08. When the cost of any repairs to the improvements authorized by section 1523.01 of the Revised Code does not exceed one thousand dollars, the chief of the division of soil and water ~~of the~~

~~department of natural~~ resources either may make such repairs ~~himself~~ or may let a contract therefor without advertising for bids. If the cost of any such repairs is in excess of one thousand dollars, the chief shall advertise for bids for the making of such repairs and let a contract therefor as provided in section 1523.03 of the Revised Code.

When itemized statements are presented to the chief showing the amount of labor performed and material furnished in the making of such repairs, verified by the person making them and approved in writing by the chief, the chief shall pay the amount of such statement from the water conservation fund.

Sec. 1523.09. If a reservoir, dam, storage basin, or other improvement constructed or enlarged by the chief of the division of soil and water resources as provided in sections 1523.01 to 1523.13 of the Revised Code constitutes a part of the canal system of the state or is located upon any river, stream, or body of water formerly used as a feeder for the canal system, no water shall be sold or leased from the improvement ~~by the chief~~ except in accordance with section 1520.03 of the Revised Code.

Sec. 1523.10. The funds derived from the sale, use, or lease of the water impounded and conserved or the power generated by the improvements constructed pursuant to sections 1523.01 to 1523.13, ~~inclusive~~, of the Revised Code, or from the lease of the lands and improvements adjacent thereto are hereby expressly pledged for the purpose of maintaining and keeping ~~said~~ the improvements in repair and for the payment of the interest on and principal of the bonds issued under section 1523.02 of the Revised Code, as the same fall due and mature. The owners of such bonds are hereby given a lien for the payment of the principal and interest of such bonds upon any dam, reservoir, storage basin, or other improvements, or any part thereof, with the appurtenances belonging thereto, constructed by the chief of the division of soil and water resources with the funds derived from the sale of such bonds.

If default is made in the payment of the interest on any of ~~said~~ the bonds for three or more successive years, or if bonds, aggregating in par value not less than ten per cent of the total amount of such bonds then outstanding are not paid at maturity, then all of ~~said~~ the bonds, both principal and interest, shall become due and payable, and the owners of any of ~~said~~ the bonds, aggregating in par value not less than ten per cent of the total amount of such bonds then outstanding, may institute proceedings to foreclose such lien against the state in the court of common pleas of the county in which is located any of ~~said~~ the improvements, constructed, altered, or enlarged out of the proceeds of the sale of such bonds.

~~Said~~ The court shall have jurisdiction of such action with full power to foreclose such lien and to make an order to the sheriff of ~~said~~ the county, acting as a master commissioner, directing ~~him~~ the sheriff to make a sale of such improvements or part thereof at not less than two-thirds of the appraised value thereof, and upon such terms and in manner and form as provided for in ~~said~~ the order, and to pay the proceeds of such sale to the clerk of the court of common pleas. Upon motion of the purchaser of such improvements at such sale, the court, if such sale is found to be regular in all respects and according to law, shall confirm the sale and order the sheriff to execute a deed to such purchaser and ~~his~~ the purchaser's assigns, conveying to ~~him~~ the purchaser and the purchaser's assigns all the right, title, and interest of the holders of ~~said~~ the bonds in and to ~~said~~ the improvements, and all the right, title, and interest of the state, for a period of not more than fifty years from the date of such conveyance, in the same, with full right and franchise, for ~~said~~ the period of not to exceed fifty years, to operate ~~said~~ the improvements and dispose of the water conserved or the power generated thereby, with the further right, for ~~said~~ the period of fifty years, to flow, transport, and convey ~~said~~ the water from ~~said~~ the improvements, or to conduct and transmit power generated thereby through, over, and upon any of the lands of the state or channels or beds of any of its reservoirs, lakes, canals, races, aqueducts, or watercourses. In the exercise of such rights, such purchaser or ~~his~~ the purchaser's assigns shall at all times during the term of ~~said~~ the grant maintain the improvements so conveyed to them in a good state of repair and shall not interfere with the navigation of the canals of the state or with the control and maintenance thereof or with the sale of water by the state from its dams, reservoirs, and improvements other than those so constructed. The state does not incur any liability by reason of such sale and the rights granted thereunder to continue to maintain such canals, races, channels, or watercourses, or to continue the use thereof. Such conveyance or grant by the sheriff as such master commissioner shall contain a clause giving the chief such control of waste gates and wickets as to regulate the flow of water in the state reservoirs or canals, in such manner as to maintain the proper level therein and to prevent the flowing into such reservoirs and canals of such quantities of water as might impair any of the property of the state or its lessees, except as otherwise provided in section 1520.03 of the Revised Code.

Upon the foreclosure of ~~said~~ the lien and the sale of ~~said~~ the improvements, all contracts or leases for the sale, use, or lease of water, the lands and improvements adjacent thereto, or power rights then outstanding shall become void, and the rights of the state and the several lessees

thereunder, shall cease.

Upon the making of an order by the court for the sale of such improvements, and before they are offered for sale by the sheriff, the court shall appoint three disinterested appraisers, one of whom shall be a water-works or hydraulic engineer with at least five years' experience in the practice of ~~his~~ the engineer's profession, and two of whom shall be freeholders residing in the county in which any of such improvements are located. ~~Said~~ The appraisers shall appraise ~~said~~ the improvements and shall, within the time fixed by the court, file such appraisal in writing with the clerk. If the lien given by this section as security for the payment of ~~said~~ the bonds covers a part only of ~~said~~ the improvements, ~~said~~ the appraisers shall appraise ~~said~~ the improvements as an entirety, and shall also appraise separately the part constructed from the proceeds of the sale of ~~said~~ the bonds, the lien of which is being foreclosed in such proceeding.

In making such appraisal and fixing the value of ~~said~~ the improvements or of such part thereof, ~~said~~ the appraisers shall have access to all papers and documents on file in the office of the chief relating to such improvements, including the plans and specifications therefor, and the bids made and contracts entered into for the construction thereof, and all leases and contracts for the sale of water impounded therein and power generated thereby. The order of the court shall direct the sale only of such part of ~~said~~ the improvements as have been constructed from the proceeds of the sale of ~~said~~ the bonds. The purchaser at such sale, in the operation of such improvements during the term of the franchise granted to ~~him~~ the purchaser by this section, shall draw from the dam or reservoir impounding such water only such portion thereof as the appraised value of that part of such improvements, constructed from the proceeds of the sale of such bonds and sold to ~~him~~ the purchaser under the order of the court, bears to the entire appraised value of such improvements.

If at any time during the term of the franchise granted to the purchaser of such improvements at such foreclosure sale any controversy arises between ~~him~~ the purchaser or ~~his~~ the purchaser's assigns and the chief as to the operation of such improvements, or as to the amount of water which ~~said~~ the purchaser is drawing or is entitled to draw therefrom, either ~~said~~ the purchaser or ~~said~~ the chief may file a petition in ~~said~~ the court, setting forth the facts connected with such controversy.

Notice in writing of the filing of such petition shall be given to the opposite party to ~~said~~ the controversy within thirty days from the date of the filing thereof, either by service of such notice personally upon such opposite party by the sheriff of such county or by service by mail by the clerk. Such

notice shall be mailed to the name and address which the purchaser filed with ~~said the~~ clerk at the time of the delivery to the purchaser by the sheriff of the deed. Within thirty days from the serving or mailing of such notice, the opposite party to ~~said the~~ controversy shall file ~~his an~~ answer in ~~said the~~ court, and thereupon the court shall hear and determine ~~said the~~ controversy and make such order in regard to it as is just and proper, which order shall be binding upon all the parties to ~~said the~~ controversy.

At the termination of ~~said the~~ period of not to exceed fifty years, all of the rights and privileges conveyed to ~~said the~~ purchaser by the deed and grant of such sheriff as master commissioner shall cease and ~~said the~~ improvements, with all the appurtenances belonging thereto, shall revert to and become the property of the state, free and clear of any claims whatever against them.

The clerk shall distribute and pay the money received by ~~him the~~ clerk from the sheriff as such master commissioner from the sale of such improvements to the holders of ~~said the~~ bonds pro rata, and upon such payment to any of ~~said the~~ bondholders, they shall surrender to the ~~said the~~ clerk their bonds, with all unpaid interest coupons thereon. The clerk shall thereupon cancel the same and deliver them, so canceled, to the treasurer of the water conservation improvement fund.

Sec. 1523.11. All appropriations of property made by the chief of the division of soil and water resources in carrying out sections 1523.01 to 1523.13, ~~inclusive~~, of the Revised Code, shall be made in accordance with sections 163.01 to 163.22, ~~inclusive~~, of the Revised Code, provided that possession of any property so appropriated shall not be taken by the state or the chief before the compensation and damages awarded therefor in the appropriation proceedings have been paid into court.

Sec. 1523.12. Sections 1523.01 to 1523.13, ~~inclusive~~, of the Revised Code do not authorize any reduction in the quantity or any impairment in the quality of the water in any watershed, stream, or basin, developed or undeveloped, from which any political subdivision is, at the time the chief of the division of soil and water resources proposes and is proceeding to construct in such watershed, stream, or basin any of the improvements authorized by such sections, taking water for the use of itself or its inhabitants, or has plans under way, or has made or begun appropriation of any property or rights in such watershed, stream, or basin for the purpose of acquiring a water supply for itself or its inhabitants for either domestic, industrial, or other uses. Such sections do not authorize the chief to sell or lease the right to use water at any time for any purpose or to such an extent as to prejudice, abrogate, or supersede any of the water rights granted by the

state to the city of Akron as provided in volume 102, Ohio Laws, page 175, sections 1 to 3, ~~inclusive~~.

Sec. 1523.13. If by reason of severe drought or other causes the water supply of any political subdivision is, in the judgment of the chief of the division of soil and water resources, at any time so reduced or impaired as to endanger the property of such political subdivision, or the health, safety, or property of the inhabitants thereof, then the chief, under such regulations as ~~he~~ the chief prescribes, may grant to such political subdivision the right, during the continuance of such emergency, to draw or take such quantity of water as is necessary to protect the property of such political subdivision and the health, safety, or property of its inhabitants from any improvement constructed under sections 1523.01 to 1523.13, ~~inclusive~~, of the Revised Code, before any of the lessees or grantees of the state using the water for industrial purposes take water therefrom. Such political subdivision shall pay such price per thousand gallons for the water so taken by it as is fixed by the chief and the governor. The price so fixed shall not exceed the maximum price then being paid for water to the state by any of its lessees or grantees. Such grant by the chief to such political subdivision shall not modify the terms or impair the validity of any leases then existing between the state and other persons, firms, or corporations, except as expressly provided in this section.

Sec. 1523.14. The director of transportation in constructing highways, bridges, and culverts as provided by law; the board of county commissioners in constructing highways, bridges, and culverts as provided by law; the board of township trustees of any township in constructing highways, bridges, and culverts as provided by law; and any municipal corporation constructing or improving viaducts, bridges, and culverts under section 717.01 of the Revised Code, either severally or jointly, upon request of the chief of the division of soil and water resources and with the approval of the director of transportation, may construct and maintain slack-water dams in connection with ~~said~~ the highway, highway bridge, or culvert so as to create reservoirs, ponds, water parks, basins, lakes, or other incidental works to conserve the water supply of the state.

Sec. 1523.15. The chief of the division of soil and water ~~of the department of natural~~ resources may request the public authority having charge of the construction of state, county, or township highways, highway bridges, and culverts, or municipal streets, for the construction of slack-water dams in connection with the construction of any such highway, street, highway bridge, or culvert whenever, in ~~his~~ the chief's opinion, the construction of such dam is desirable and feasible for the economical

creation and construction of reservoirs, ponds, water parks, basins, lakes, or other incidental works for the conservation of the water supply of the state.

The public authority having charge of such construction may approve such request when, in its opinion, the construction of such dams will not unnecessarily delay or hinder the construction of the highway, street, highway bridge, or culvert, or will not interfere with its value or use for highway purposes.

If such request is approved, the chief, in cooperation with the department of transportation and the public authority participating in the project, shall make a survey and prepare plans, specifications, and estimates for the construction of such dams and the reservoir, pond, water park, basin, lake, or other incidental works in connection therewith.

Upon approval of the plans and specifications and determination to proceed with the project, the chief shall enter into an agreement with the public authority on the distribution of the cost and expense of the construction of such dams and incidental works in connection therewith. The portion of the cost to be paid by the division of soil and water resources shall be paid from any funds appropriated for or paid into the division and available for such purpose.

Such dams shall be constructed under and subject to any laws governing the construction of state, county, or township highways, bridges, or culverts. Any public authority undertaking construction under sections 1523.14 to 1523.20 of the Revised Code shall proceed in the same manner as provided for the construction of highway or street improvements.

Sec. 1523.16. Any department or division of the state government, or any county, township, municipal corporation, park board, or district, or any organization, club, corporation, or private person may petition the chief of the division of soil and water resources for the construction of dams and reservoir projects in connection with the construction of any highway, highway bridge, or culvert.

Upon receipt of such a petition and its approval by the chief, ~~he~~ the chief shall proceed as authorized by section 1523.15 of the Revised Code. If the public authority having charge of the construction of such highway, street, highway bridge, or culvert approves the request, then the chief shall enter into an agreement with the public authority, organization, or person petitioning for the construction of such dam or reservoir on the apportionment of the cost and expense of construction. The cost and expense of such dam project shall include the cost of clearing and grubbing and the cost of property and damages incidental thereto. Such agreement shall also contain provisions for the proper maintenance and repair of such

projects after completion, and also apportion the revenue derived therefrom between the division of soil and water resources and the petitioner.

Sec. 1523.17. In all cases in which a public authority, private organization, or person petitions for the construction of a dam and reservoir project as authorized by ~~section~~ sections 1523.14 to 1523.20 of the Revised Code, the chief of the division of soil and water ~~of the department of natural resources~~, as a condition precedent to the construction of such project, shall require the petitioning authority, organization, or person to pay ~~his~~ the petitioning authority's, organization's, or person's share of the cost and expense of such project.

Any deficiency shall be made up by the parties bearing the cost before any further work is done. If the deficiency is not made up within sixty days after it is known, the amount paid in, less the expense incurred by the chief and the cooperating public authorities, shall be refunded to the donor. After completion of the work, any amount remaining to the credit of the project shall likewise be refunded.

Sec. 1523.18. In the construction of dams, reservoirs, and other incidental works under sections 1523.14 to 1523.20 of the Revised Code, the chief of the division of soil and water resources shall proceed as provided by law, and shall enter into contracts therefor as provided in sections 153.01 to 153.29 of the Revised Code. The director of transportation, the chief of the division of wildlife with the approval of the director of natural resources, and any county, township, municipal corporation, and public park board or district may proceed with the letting of contracts for the construction of such dams or reservoir projects, approved by the chief of the division of soil and water resources, under any laws regulating the letting of contracts applicable to their respective departments, divisions, districts, or political subdivisions, and the authority of sections 1523.14 to 1523.20 of the Revised Code.

Sec. 1523.19. The chief of the division of soil and water resources shall have the supervision, care, and control of all dams, reservoirs, ponds, water parks, basins, lakes, or other incidental works constructed under sections 1523.14 to 1523.20, ~~inclusive~~, of the Revised Code, and shall maintain and keep them in repair. The cost of such maintenance and repair shall be paid from any funds appropriated to the division of soil and water resources for that purpose or paid into the state treasury as agreed upon with the public or contracting authorities co-operating in the construction of such projects.

Such projects may also be maintained by any department or division of state government or other public authorities leasing or operating the projects, through agreements made with ~~said~~ the chief. All rentals derived

from the lessees of such projects shall be used by ~~said~~ the chief in the maintenance or repair of all such projects constructed under such sections. The costs and expenses of the reconstruction of any such projects shall be distributed, unless otherwise agreed, on the same basis and pro-rata share of the costs and expenses as was paid by the contracting authorities contributing to the cost of the original project.

Sec. 1523.20. When the chief of the division of soil and water resources and the owners of the lands, waters, or riparian rights are unable to agree upon the terms, purchase price, and sale thereof, the chief may acquire the lands by appropriation proceedings in the manner provided by sections 163.01 to 163.22 of the Revised Code.

The title or lease to any such lands, waters, or riparian rights shall be taken by the chief, subject to the approval of the governor and the attorney general, in the name of the state. The lease rentals or purchase price of any such lands, waters, or riparian rights, as well as all costs and expenses of constructing any such reservoirs, ponds, water parks, basins, lakes, or other incidental works on those lands, may be paid for from any funds appropriated for the use of or paid into the division of soil and water resources and available for that purpose. The chief may accept contributions to those funds from individuals, associations, clubs, organizations, and corporations.

Sec. 1533.11. (A) Except as provided in this section, no person shall hunt deer on lands of another without first obtaining an annual deer permit. Except as provided in this section, no person shall hunt wild turkeys on lands of another without first obtaining an annual wild turkey permit. Each applicant for a deer or wild turkey permit shall pay an annual fee of twenty-three dollars for each permit unless the rules adopted under division (B) of section 1533.12 of the Revised Code provide for issuance of a deer or wild turkey permit to the applicant free of charge. Except as provided in rules adopted under division (B)(2) of that section, each applicant who is a resident of this state and who at the time of application is sixty-six years of age or older shall procure a senior deer or wild turkey permit, the fee for which shall be one-half of the regular deer or wild turkey permit fee. Each applicant who is under the age of eighteen years shall procure a youth deer or wild turkey permit, the fee for which shall be one-half of the regular deer or wild turkey permit fee. Except as provided in division (A)(2) of section 1533.12 of the Revised Code, a deer or wild turkey permit shall run concurrently with the hunting license. The money received shall be paid into the state treasury to the credit of the wildlife fund, created in section 1531.17 of the Revised Code, exclusively for the use of the division of

wildlife in the acquisition and development of land for deer or wild turkey management, for investigating deer or wild turkey problems, and for the stocking, management, and protection of deer or wild turkey. Every person, while hunting deer or wild turkey on lands of another, shall carry the person's deer or wild turkey permit and exhibit it to any enforcement officer so requesting. Failure to so carry and exhibit such a permit constitutes an offense under this section. The chief of the division of wildlife shall adopt any additional rules the chief considers necessary to carry out this section and section 1533.10 of the Revised Code.

The owner and the children of the owner of lands in this state may hunt deer or wild turkey thereon without a deer or wild turkey permit. The tenant and children of the tenant may hunt deer or wild turkey on lands where they reside without a deer or wild turkey permit.

(B) A deer or wild turkey permit is not transferable. No person shall carry a deer or wild turkey permit issued in the name of another person.

(C) The wildlife refunds fund is hereby created in the state treasury. The fund shall consist of money received from application fees for deer permits that are not issued. Money in the fund shall be used to make refunds of such application fees.

(D) If the division establishes a system for the electronic submission of information regarding deer or wild turkey that are taken, the division shall allow the owner and the children of the owner of lands in this state to use the owner's name or address for purposes of submitting that information electronically via that system.

Sec. 1541.03. All lands and waters dedicated and set apart for state park purposes shall be under the control and management of the division of parks and recreation, which shall protect, maintain, and keep them in repair. The division shall have the following powers over all such lands and waters:

(A) To make alterations and improvements;

(B) To construct and maintain dikes, wharves, landings, docks, dams, and other works;

(C) To construct and maintain roads and drives in, around, upon, and to the lands and waters to make them conveniently accessible and useful to the public;

(D) Except as otherwise provided in this section, to adopt, amend, and rescind, in accordance with Chapter 119. of the Revised Code, rules necessary for the proper management of state parks, bodies of water, and the lands adjacent to them under its jurisdiction and control, including the following:

(1) Governing opening and closing times and dates of the parks;

(2) Establishing fees and charges for use of facilities in state parks;
(3) Governing camps, camping, and fees for camps and camping;
(4) Governing the application for and rental of, rental fees for, and the use of cottages;

(5) Relating to public use of state park lands, and governing the operation of motor vehicles, including speeds, and parking on those lands;

(6) Governing all advertising within state parks and the requirements for the operation of places selling tangible personal property and control of food service sales on lands and waters under the control of the division, which rules shall establish uniform requirements;

(7) Providing uniform standards relating to the size, type, location, construction, and maintenance of structures and devices used for fishing or moorage of watercraft, rowboats, sailboats, and powercraft, as those terms are defined in section 1547.01 of the Revised Code, over waters under the control of the division and establishing reasonable fees for the construction of and annual use permits for those structures and devices;

(8) Governing state beaches, swimming, inflatable devices, and fees for them;

(9) Governing the removal and disposition of any watercraft, rowboat, sailboat, or powercraft, as those terms are defined in section 1547.01 of the Revised Code, left unattended for more than seven days on any lands or waters under the control of the division;

(10) Governing the establishment and collection of check collection charges for checks that are returned to the division or dishonored for any reason.

(E) To coordinate and plan trails in accordance with section 1519.03 of the Revised Code;

(F) To cooperate with the United States and agencies of it and with political subdivisions in administering federal recreation moneys under the "Land and Water Conservation Fund Act of 1965," 78 Stat. 897, 16 U.S.C. 4601-8, as amended; prepare and distribute the statewide comprehensive outdoor recreation plan; and administer the state recreational vehicle fund created in section 4519.11 of the Revised Code;

(G) To administer any state or federally funded grant program that is related to natural resources and recreation as considered necessary by the director of natural resources;

(H) To assist the department of natural resources and its divisions by providing department-wide planning, capital improvements planning, and special purpose planning.

With the approval of the director, the chief of the division of parks and

recreation may enter into contracts or agreements with any agency of the United States government, any other public agency, or any private entity or organization for the performance of the duties of the division.

The division shall adopt rules under this section establishing a discount program for all persons who are issued a golden buckeye card under section 173.06 of the Revised Code. The discount program shall provide a discount for all park services and rentals, but shall not provide a discount for the purchase of merchandise.

The division shall not adopt rules establishing fees or charges for parking a motor vehicle in a state park or for admission to a state park.

Every resident of this state with a disability that has been determined by the veterans administration to be permanently and totally disabling, who receives a pension or compensation from the veterans administration, and who received an honorable discharge from the armed forces of the United States, and every veteran to whom the registrar of motor vehicles has issued a set of license plates under section 4503.41 of the Revised Code, shall be exempt from the fees for camping, provided that the resident or veteran carries in the state park such evidence of the resident's or veteran's disability as the chief of the division of parks and recreation prescribes by rule.

Unless otherwise provided by division rule, every resident of this state who is sixty-five years of age or older or who is permanently and totally disabled and who furnishes evidence of that age or disability in a manner prescribed by division rule shall be charged one-half of the regular fee for camping, except on the weekends and holidays designated by the division, and shall not be charged more than ninety per cent of the regular charges for state recreational facilities, equipment, services, and food service operations utilized by the person at any time of year, whether maintained or operated by the state or leased for operation by another entity.

As used in this section, "food service operations" means restaurants that are owned by the department of natural resources at Hocking Hills, Lake Hope, Malabar Farm, and Rocky Fork state parks or are part of a state park lodge. "Food service operations" does not include automatic vending machines, concession stands, or snack bars.

As used in this section, "prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the military forces of the United States who was captured, separated, and incarcerated by an enemy of the United States. Any person who has been a prisoner of war, was honorably discharged from the military forces, and is a resident of this state is exempt from the fees for camping. To claim this exemption, the person shall present written evidence in the form of a record of separation, a

letter from one of the military forces of the United States, or such other evidence as the chief prescribes by rule that satisfies the eligibility criteria established by this section.

Sec. 1547.01. (A) As used in sections 1541.03, 1547.26, 1547.39, 1547.40, 1547.53, 1547.54, 1547.541, 1547.542, 1547.543, 1547.56, 1547.57, 1547.66, 3733.21, and 5311.01 of the Revised Code, "watercraft" means any of the following when used or capable of being used for transportation on the water:

- (1) A vessel operated by machinery either permanently or temporarily affixed;
- (2) A sailboat other than a sailboard;
- (3) An inflatable, manually propelled boat that is required by federal law to have a hull identification number meeting the requirements of the United States coast guard;
- (4) A canoe or rowboat.

"Watercraft" does not include ferries as referred to in Chapter 4583. of the Revised Code.

Watercraft subject to section 1547.54 of the Revised Code shall be divided into five classes as follows:

- Class A: Less than sixteen feet in length;
- Class 1: At least sixteen feet, but less than twenty-six feet in length;
- Class 2: At least twenty-six feet, but less than forty feet in length;
- Class 3: At least forty feet, but less than sixty-five feet in length;
- Class 4: At least sixty-five feet in length.

(B) As used in this chapter:

(1) "Vessel" includes every description of craft, including nondisplacement craft and seaplanes, designed to be used as a means of transportation on water.

(2) "Rowboat" means any vessel, except a canoe, that is designed to be rowed and that is propelled by human muscular effort by oars or paddles and upon which no mechanical propulsion device, electric motor, internal combustion engine, or sail has been affixed or is used for the operation of the vessel.

(3) "Sailboat" means any vessel, equipped with mast and sails, dependent upon the wind to propel it in the normal course of operation.

(a) Any sailboat equipped with an inboard engine is deemed a powercraft with auxiliary sail.

(b) Any sailboat equipped with a detachable motor is deemed a sailboat with auxiliary power.

(c) Any sailboat being propelled by mechanical power, whether under

sail or not, is deemed a powercraft and subject to all laws and rules governing powercraft operation.

(4) "Powercraft" means any vessel propelled by machinery, fuel, rockets, or similar device.

(5) "Person" includes any legal entity defined as a person in section 1.59 of the Revised Code and any body politic, except the United States and this state, and includes any agent, trustee, executor, receiver, assignee, or other representative thereof.

(6) "Owner" includes any person who claims lawful possession of a vessel by virtue of legal title or equitable interest therein that entitled the person to that possession.

(7) "Operator" includes any person who navigates or has under the person's control a vessel, or vessel and detachable motor, on the waters in this state.

(8) "Visible" means visible on a dark night with clear atmosphere.

(9) "Waters in this state" means all streams, rivers, lakes, ponds, marshes, watercourses, waterways, and other bodies of water, natural or humanmade, that are situated wholly or partially within this state or within its jurisdiction and are used for recreational boating.

(10) "Navigable waters" means waters that come under the jurisdiction of the department of the army of the United States and any waterways within or adjacent to this state, except inland lakes having neither a navigable inlet nor outlet.

(11) "In operation" in reference to a vessel means that the vessel is being navigated or otherwise used on the waters in this state.

(12) "Sewage" means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body waste.

(13) "Canoe" means a narrow vessel of shallow draft, pointed at both ends and propelled by human muscular effort, and includes kayaks, racing shells, and rowing sculls.

(14) "Coast guard approved" means bearing an approval number assigned by the United States coast guard.

(15) "Type one personal flotation device" means a device that is designed to turn an unconscious person floating in water from a face downward position to a vertical or slightly face upward position and that has at least nine kilograms, approximately twenty pounds, of buoyancy.

(16) "Type two personal flotation device" means a device that is designed to turn an unconscious person in the water from a face downward position to a vertical or slightly face upward position and that has at least seven kilograms, approximately fifteen and four-tenths pounds, of

buoyancy.

(17) "Type three personal flotation device" means a device that is designed to keep a conscious person in a vertical or slightly face upward position and that has at least seven kilograms, approximately fifteen and four-tenths pounds, of buoyancy.

(18) "Type four personal flotation device" means a device that is designed to be thrown to a person in the water and not worn and that has at least seven and five-tenths kilograms, approximately sixteen and five-tenths pounds, of buoyancy.

(19) "Type five personal flotation device" means a device that, unlike other personal flotation devices, has limitations on its approval by the United States coast guard, including, without limitation, all of the following:

(a) The approval label on the type five personal flotation device indicates that the device is approved for the activity in which the vessel is being used or as a substitute for a personal flotation device of the type required on the vessel in use.

(b) The personal flotation device is used in accordance with any requirements on the approval label.

(c) The personal flotation device is used in accordance with requirements in its owner's manual if the approval label refers to such a manual.

(20) "Inflatable watercraft" means any vessel constructed of rubber, canvas, or other material that is designed to be inflated with any gaseous substance, constructed with two or more air cells, and operated as a vessel. Inflatable watercraft propelled by a motor shall be classified as powercraft and shall be registered by length. Inflatable watercraft propelled by a sail shall be classified as a sailboat and shall be registered by length.

(21) "Idle speed" means the slowest possible speed needed to maintain steerage or maneuverability.

(22) "Diver's flag" means a red flag not less than one foot square having a diagonal white stripe extending from the masthead to the opposite lower corner that when displayed indicates that divers are in the water.

(23) "Muffler" means an acoustical suppression device or system that is designed and installed to abate the sound of exhaust gases emitted from an internal combustion engine and that prevents excessive or unusual noise.

(24) "Law enforcement vessel" means any vessel used in law enforcement and under the command of a law enforcement officer.

(25) "Personal watercraft" means a vessel, less than sixteen feet in length, that is propelled by machinery and designed to be operated by an individual sitting, standing, or kneeling on the vessel rather than by an

individual sitting or standing inside the vessel.

(26) "No wake" has the same meaning as "idle speed."

(27) "Watercraft dealer" means any person who is regularly engaged in the business of manufacturing, selling, displaying, offering for sale, or dealing in vessels at an established place of business. "Watercraft dealer" does not include a person who is a marine salvage dealer or any other person who dismantles, salvages, or rebuilds vessels using used parts.

(28) "Electronic" includes electrical, digital, magnetic, optical, electromagnetic, or any other form of technology that entails capabilities similar to these technologies.

(29) "Electronic record" means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another.

(30) "Electronic signature" means a signature in electronic form attached to or logically associated with an electronic record.

(31) "Drug of abuse" has the same meaning as in section 4506.01 of the Revised Code.

~~(C) Unless otherwise provided, this chapter applies to all vessels operating on the waters in this state. Nothing in this chapter shall be construed in contravention of any valid federal act or regulation, but is in addition to the act or regulation where not inconsistent.~~

~~The state reserves to itself the exclusive right to regulate the minimum equipment requirements of watercraft and vessels operated on the waters in this state.~~

(32) "Watercourse" means a substantially natural channel with recognized banks and bottom in which a flow of water occurs, with an average of at least ten feet mean surface water width and at least five miles of length.

(33) "Impoundment" means the reservoir created by a dam or other artificial barrier across a watercourse that causes water to be stored deeper than and generally beyond the banks of the natural channel of the watercourse during periods of normal flow, but does not include water stored behind rock piles, rock riffle dams, and low channel dams where the depth of water is less than ten feet above the channel bottom and is essentially confined within the banks of the natural channel during periods of normal stream flow.

(34) "Wild river area" means an area declared a wild river area by the director of natural resources under this chapter and includes those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and

waters unpolluted, representing vestiges of primitive America.

(35) "Scenic river area" means an area declared a scenic river area by the director under this chapter and includes those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads.

(36) "Recreational river area" means an area declared a recreational river area by the director under this chapter and includes those rivers or sections of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past.

Sec. 1547.02. Unless otherwise provided, this chapter applies to all vessels operating on the waters in this state. Nothing in this chapter shall be construed in contravention of any valid federal act or regulation, but is in addition to the act or regulation where not inconsistent.

The state reserves to itself the exclusive right to regulate the minimum equipment requirements of watercraft and vessels operated on the waters in this state.

Sec. 1547.51. There is hereby created within the department of natural resources the division of watercraft. The division shall ~~administer~~ do all of the following:

(A) Administer and enforce all laws relative to the identification, numbering, registration, titling, use, and operation of vessels operated on the waters in this state ~~and, with the approval of the director of natural resources, educate;~~

(B) Educate and inform the citizens of the state about, and promote, conservation, navigation, safety practices, and the benefits of recreational boating;

(C) Provide wild, scenic, and recreational river area conservation education and provide for corridor protection, restoration, habitat enhancement, and clean-up projects in wild river areas, scenic river areas, and recreational river areas;

(D) Provide for and assist in the development, maintenance, and operation of marine recreational facilities, docks, launching facilities, and harbors for the benefit of public navigation, recreation, or commerce if the chief of the division of watercraft determines that they are in the best interests of the state.

Sec. 1547.52. (A) The division of watercraft shall be administered by the chief of the division of watercraft. The chief may adopt, amend, and rescind:

(1) Rules considered necessary by the chief to supplement the identification, operation, titling, use, registration, and numbering of watercraft or vessels as provided in this chapter and Chapter 1548. of the Revised Code;

(2) Rules governing the navigation of vessels on waters in this state, including, but not limited to, rules regarding steering and sailing, the conduct of vessels in sight of one another or in restricted visibility, lights and shapes of lights used on vessels, and sound and light signals. As the chief considers necessary, these navigational rules shall be consistent with and equivalent to the regulations and interpretive rulings governing inland waters adopted or issued under the "Inland Navigational Rules Act of 1980," 94 Stat. 3415, 33 U.S.C.A. 151, 1604, 1605, 1608, 2001 to 2008, and 2071 to 2073.

(3) Rules governing the use, visitation, protection, and administration of wild river areas, scenic river areas, and recreational river areas;

(4) Rules establishing fees and charges for all of the following:

(a) Boating skill development classes and other educational classes;

(b) Law enforcement services provided at special events when the services are in addition to normal enforcement duties;

(c) Inspections of vessels or motors conducted under this chapter or Chapter 1548. of the Revised Code;

(d) The conducting of stream impact reviews of any planned or proposed construction, modification, renovation, or development project that may potentially impact a watercourse within a designated wild, scenic, or recreational river area.

All rules adopted by the chief under division (A) of this section shall be adopted in accordance with Chapter 119. of the Revised Code and are subject to the prior approval of the director of natural resources.

(B) The chief, with the approval of the director, may employ such clerical and technical help as the chief considers necessary.

(C) The chief may designate license agents with the approval of the director.

(D) The division is hereby designated as the agency to administer the Ohio boating safety program and allocated federal funds under, and the chief shall prepare and submit reports in such form as may be required by, the "Federal Boat Safety Act of 1971," 85 Stat. 222, 46 U.S.C.A. 1475(a)(6), as amended.

(E) The chief may sell any of the following:

(1) Items related to or that promote boating safety, including, but not limited to, pins, badges, books, bulletins, maps, publications, calendars, and

other educational articles;

- (2) Artifacts pertaining to boating;
- (3) Confiscated or forfeited items;
- (4) Surplus equipment.

Sec. 1547.531. (A)(1) Except as provided in division (A)(2) or (B) of this section, no person shall operate or give permission for the operation of any watercraft on the waters in this state unless the watercraft is registered in the name of the current owner in accordance with section 1547.54 of the Revised Code, and the registration is valid and in effect.

(2) On and after January 1, 1999, if a watercraft that is required to be issued a certificate of title under Chapter 1548. of the Revised Code is transferred to a new owner, it need not be registered under section 1547.54 of the Revised Code for forty-five days following the date of the transfer, provided that the new owner purchases a temporary watercraft registration under division (A) of this section or holds a bill of sale from a watercraft dealer.

For the purposes of division (A)(2) of this section, a temporary watercraft registration or a bill of sale from a watercraft dealer shall contain at least all of the following information:

- (a) The hull identification number or serial number of the watercraft;
- (b) The make of the watercraft;
- (c) The length of the watercraft;
- (d) The type of propulsion, if any;
- (e) The state in which the watercraft principally is operated;
- (f) The name of the owner;
- (g) The address of the owner, including the zip code;
- (h) The signature of the owner;
- (i) The date of purchase;
- (j) A notice to the owner that the temporary watercraft registration expires forty-five days after the date of purchase of the watercraft or that the watercraft cannot be operated on the waters in this state solely under the bill of sale beginning forty-five days after the date of purchase of the watercraft, as applicable.

(3) A person may purchase a temporary watercraft registration from the chief of the division of watercraft or from an authorized agent designated under section 1547.54 of the Revised Code. The chief shall furnish forms for temporary watercraft registrations to authorized agents. In addition to completing the registration form with the information specified in divisions (A)(2)(a) to (i) of this section, the person shall pay one of the applicable fees required under divisions (A)(2)(a) to (g) of section 1547.54 of the Revised

Code as provided in that section.

Moneys received for the payment of temporary watercraft registrations shall be deposited to the credit of the waterways safety fund created in section 1547.75 of the Revised Code.

(4) In addition to the applicable fee required under division (A)(3) of this section, the chief or an authorized agent shall charge an additional writing fee of three dollars for a temporary watercraft registration that the chief or the authorized agent issues. When the temporary watercraft registration is issued by an authorized agent, the agent may retain the additional writing fee. When the temporary watercraft registration is issued by the chief, the additional writing fee shall be deposited to the credit of the waterways safety fund.

(5) A person who purchases a temporary watercraft registration for a watercraft and who subsequently applies for a registration certificate under section 1547.54 of the Revised Code need not pay the fee required under division (A)(2) of that section for the initial registration certificate issued for that watercraft, provided that at the time of application for the registration certificate, the person furnishes proof of payment for the temporary watercraft registration.

(6) A person who purchases a temporary watercraft registration, who subsequently applies for a registration certificate under section 1547.54 of the Revised Code, and who is exempt from payment for the registration certificate under division ~~(O)~~(P) of that section may apply to the chief for a refund of the amount paid for the temporary watercraft registration at the time that the person applies for a registration certificate. The chief shall refund that amount upon issuance to the person of a registration certificate.

(7) All records of the division of watercraft made or maintained for the purposes of divisions (A)(2) to (8) of this section are public records. The records shall be available for inspection at reasonable hours and in a manner that is compatible with normal operations of the division.

(8) Pursuant to division (A)(1) of section 1547.52 of the Revised Code, the chief may adopt rules establishing all of the following:

(a) Record-keeping requirements governing the issuance of temporary watercraft registrations and the use of bills of sale from watercraft dealers for the purposes of division (A)(2) of this section;

(b) Procedures and requirements for the refund of fees under division (A)(6) of this section;

(c) Any other procedures and requirements necessary for the administration and enforcement of divisions (A)(2) to (8) of this section.

(B) All of the following watercraft are exempt from registration:

(1) Those that are exempt from numbering by the state under divisions (B) to (G) of section 1547.53 of the Revised Code;

(2) Those that have been issued a commercial documentation by the United States coast guard or its successor and are used exclusively for commercial purposes;

(3) Those that have been documented by the United States coast guard or its successor as temporarily transitting, whose principal use is not on the waters in this state, and that have not been used within this state for more than sixty days.

(C) No person shall operate a watercraft documented by the United States coast guard or its successor unless the certificate of documentation is valid, is on the watercraft for which it has been issued, and is available for inspection whenever the watercraft is in operation. In accordance with 46 C.F.R. part 67, as amended, the watercraft shall display the official number, the vessel name, and the home port listed on the certificate of documentation.

(D)(1) For the purposes of this section and section 1547.53 of the Revised Code, a watercraft is principally using the waters in this state if any of the following applies:

(a) The owner resides in this state and declares that the watercraft principally is using the waters in this state.

(b) The owner resides in another state, but declares that the watercraft principally is using the waters in this state.

(c) The watercraft is registered in another state or documented by the United States coast guard and is used within this state for more than sixty days regardless of whether it has been assigned a seasonal or permanent mooring at any public or private docking facility in this state.

(2) Notwithstanding division (D)(1)(c) of this section, a person on active duty in the armed forces of the United States may register a watercraft in the person's state of permanent residence in lieu of registering it in this state regardless of the number of days that the watercraft is used in this state.

Sec. 1547.54. (A)(1) Except as otherwise provided in section 1547.542 of the Revised Code, the owner of every watercraft requiring registration under this chapter shall file an application for a triennial registration certificate with the chief of the division of watercraft on forms that shall be provided by the chief or by an electronic means approved by the chief. The application shall be signed by the following:

(a) If the watercraft is owned by two persons under joint ownership with right of survivorship established under section 2131.12 of the Revised Code, by both of those persons as owners of the watercraft. The signatures may be

done by electronic signature if the owners themselves are renewing the registration and there are no changes in the registration information since the issuance of the immediately preceding registration certificate. In all other instances, the signatures shall be done manually.

(b) If the watercraft is owned by a minor, by the minor and a parent or legal guardian. The signatures may be done by electronic signature if the parent or legal guardian and the minor themselves are renewing the registration and there are no changes in the registration information since the issuance of the immediately preceding registration certificate. In all other instances, the signatures shall be done manually.

(c) In all other cases, by the owner of the watercraft. The signature may be done by electronic signature if the owner is renewing the registration personally and there are no changes in the registration information since the issuance of the immediately preceding registration certificate. In all other instances, the signatures shall be done manually.

(2) An application for a triennial registration of a watercraft filed under division (A)(1) of this section shall be accompanied by the following fee:

(a) For canoes, rowboats, and inflatable watercraft that are numbered under section 1547.53 of the Revised Code, twelve dollars;

(b) For canoes, row boats, and inflatable watercraft that are not numbered under section 1547.53 of the Revised Code, seventeen dollars;

(c) For class A watercraft, including motorized canoes, thirty dollars;

(d) For class 1 watercraft, forty-five dollars;

(e) For class 2 watercraft, sixty dollars;

(f) For class 3 watercraft, seventy-five dollars;

(g) For class 4 watercraft, ninety dollars.

(3) For the purpose of registration, any watercraft operated by means of power, sail, or any other mechanical or electrical means of propulsion, except motorized canoes, shall be registered by length as prescribed in this section.

(4) If an application for registration is filed by two persons as owners under division (A)(1)(a) of this section, the person who is listed first on the title shall serve as and perform the duties of the "owner" and shall be considered the person "in whose name the watercraft is registered" for purposes of divisions (B) to ~~(Q)~~(R) of this section and for purposes of all other sections in this chapter.

(B) All registration certificates issued under this section are valid for three years and are renewable on a triennial basis unless sooner terminated or discontinued in accordance with this chapter. The renewal date shall be printed on the registration certificate. A registration certificate may be

renewed by the owner in the manner prescribed by the chief. All fees shall be charged according to a proration of the time remaining in the registration cycle to the nearest year.

(C) In addition to the fees set forth in this section, the chief, or any authorized agent, shall charge an additional writing fee of three dollars for any registration certificate the chief or authorized agent issues. When the registration certificate is issued by an authorized agent, the additional writing fee of three dollars shall be retained by the issuing agent. When the registration certificate is issued by the chief, the additional writing fee of three dollars shall be deposited to the credit of the waterways safety fund established in section 1547.75 of the Revised Code.

(D) In addition to the fees established in this section, watercraft that are not powercraft shall be charged a waterways conservation assessment fee of five dollars. The fee shall be collected at the time of the issuance of a triennial watercraft registration under division (A)(2) of this section and deposited in the state treasury and credited to a distinct account in the waterways safety fund created in section 1547.75 of the Revised Code.

(E)(1) Upon receipt of the application in approved form, the chief shall enter the same upon the records of the office of the division of watercraft, assign a number to the watercraft if a number is required under section 1547.53 of the Revised Code, and issue to the applicant a registration certificate. If a number is assigned by the chief, it shall be set forth on the certificate. The registration certificate shall be on the watercraft for which it is issued and available at all times for inspection whenever the watercraft is in operation, except that livery operators may retain the registration certificate at the livery where it shall remain available for inspection at all times and except as otherwise provided in division ~~(D)~~(E)(2) of this section.

(2) A person who is operating on the waters of this state a canoe, rowboat, or inflatable watercraft that has not been numbered under section 1547.53 of the Revised Code and who is stopped by a law enforcement officer in the enforcement of this chapter or rules adopted under it shall present to the officer, not later than seventy-two hours after being stopped, a registration certificate. The registration certificate shall have been obtained under this section for the canoe, rowboat, or inflatable watercraft prior to the time that it was stopped. Failure of the person to present the registration certificate within seventy-two hours constitutes prima-facie evidence of a violation of this section.

~~(E)~~(F) No person shall issue or be issued a registration certificate for a watercraft that is required to be issued a certificate of title under Chapter 1548. of the Revised Code except upon presentation of a certificate of title

for the watercraft as provided in that chapter, proof of current documentation by the United States coast guard, a renewal registration form provided by the division of watercraft, or a certificate of registration issued under this section that has expired if there is no change in the ownership or description of the watercraft.

~~(F)~~(G) Whenever the ownership of a watercraft changes, a new application form together with the prescribed fee shall be filed with the chief or the chief's agent and a new registration certificate shall be issued. The application shall be signed manually by the person or persons specified in divisions (A)(1)(a) to (c) of this section and shall be accompanied by a two-dollar transfer fee. Any remaining time on the registration shall be transferred. An authorized agent of the chief shall charge an additional writing fee of three dollars, which shall be retained by the issuing agent. If the certificate is issued by the chief, an additional writing fee of three dollars for each certificate issued shall be collected and deposited to the credit of the waterways safety fund.

~~(G)~~(H) If an agency of the United States has in force an overall system of identification numbering for watercraft or certain types of watercraft within the United States, the numbering system employed by the division shall be in conformity with that system.

~~(H)~~(I)(1) The chief may assign any registration certificates to any authorized agent for the assignment of the registration certificates. If a person accepts that authorization, the person may be assigned a block of numbers and certificates that upon assignment, in conformity with this chapter and Chapter 1548. of the Revised Code and with rules of the division, shall be valid as if assigned directly by the division. Any person so designated as an agent by the chief shall post with the division security as may be required by the director of natural resources. The chief may issue an order temporarily or permanently restricting or suspending an agent's authorization without a hearing if the chief finds that the agent has violated this chapter or Chapter 1548. of the Revised Code, rules adopted under them, or any agreements prescribed by the chief.

(2) A clerk of the court of common pleas may apply for designation as an authorized agent of the chief. The division shall accept the clerk's bond that is required under section 2303.02 of the Revised Code for any security that is required for agents under this division, provided that the bond includes a rider or other provision specifically covering the clerk's duties as an authorized agent of the chief.

~~(I)~~(J) All records of the division made or kept pursuant to this section shall be public records. Those records shall be available for inspection at

reasonable hours and in a manner compatible with normal operations of the division.

~~(J)~~(K) The owner shall furnish the division notice within fifteen days of the following:

(1) The transfer, other than through the creation of a security interest in any watercraft, of all or any part of the owner's interest or, if the watercraft is owned by two persons under joint ownership with right of survivorship established under section 2131.12 of the Revised Code, of all or any part of the joint interest of either of the two persons. The transfer shall not terminate the registration certificate.

(2) Any change in the address appearing on the certificate . As a part of the notification, the owner shall furnish the chief with the owner's new address.

(3) The destruction or abandonment of the watercraft.

~~(K)~~(L) The chief may issue duplicate registration certificates or duplicate tags to owners of currently registered watercraft, the fee for which shall be four dollars.

~~(L)~~(M) If the chief finds that a registration certificate previously issued to an owner is in error to a degree that would impair its basic purpose and use, the chief may issue a corrected certificate to the owner without charge.

~~(M)~~(N) No authorized agent shall issue and no person shall receive or accept from an authorized agent a registration certificate assigned to the authorized agent under division ~~(H)~~(I) of this section unless the exact month, day, and year of issue are plainly written on the certificate by the agent. Certificates issued with incorrect dates of issue are void from the time they are issued.

~~(N)~~(O) The chief, in accordance with Chapter 119. of the Revised Code, shall adopt rules governing the renewal of watercraft registrations by electronic means.

~~(O)~~(P) As used in this section:

(1) "Disabled veteran" means a person who is included in either of the following categories:

(a) Because of a service-connected disability, has been or is awarded funds for the purchase of a motor vehicle under the "Disabled Veterans' and Servicemen's Automobile Assistance Act of 1970," 84 Stat. 1998, 38 U.S.C. 1901, and amendments thereto;

(b) Has a service-connected disability rated at one hundred per cent by the veterans administration.

(2) "Prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the military forces of the United States who was

captured, separated, and incarcerated by an enemy of the United States at any time, and any regularly appointed, enrolled, or enlisted member of the military forces of Great Britain, France, Australia, Belgium, Brazil, Canada, China, Denmark, Greece, the Netherlands, New Zealand, Norway, Poland, South Africa, or the republics formerly associated with the Union of Soviet Socialist Republics or Yugoslavia who was a citizen of the United States at the time of the appointment, enrollment, or enlistment, and was captured, separated, and incarcerated by an enemy of this country during World War II.

~~(P)~~(Q) Any disabled veteran, congressional medal of honor awardee, or prisoner of war may apply to the chief for a certificate of registration, or for a renewal of the certificate of registration, without the payment of any fee required by this section. The application for a certificate of registration shall be accompanied by evidence of disability or by documentary evidence in support of a congressional medal of honor that the chief requires by rule. The application for a certificate of registration by any person who has been a prisoner of war shall be accompanied by written evidence in the form of a record of separation, a letter from one of the armed forces of a country listed in division ~~(O)~~(P)(2) of this section, or other evidence that the chief may require by rule, that the person was honorably discharged or is currently residing in this state on active duty with one of the branches of the armed forces of the United States, or was a prisoner of war and was honorably discharged or received an equivalent discharge or release from one of the armed forces of a country listed in division ~~(O)~~(P)(2) of this section.

~~(O)~~(R) Annually by the fifteenth day of January, the director of natural resources shall determine the amount of fees that would have been collected in the prior calendar year for each certificate of registration issued or renewed pursuant to division ~~(P)~~(Q) of this section and shall certify the total amount of foregone revenue to the director of budget and management for reimbursement. The director of budget and management shall transfer the amount certified from the general revenue fund to the waterways safety fund ~~created pursuant to section 1547.75 of the Revised Code.~~

Sec. 1547.542. Any person or organization owning any number of canoes, rowboats, inflatable watercraft, or sailboats for the purpose of rental to the public may apply with the chief of the division of watercraft for and receive an annual certificate of livery registration. No watercraft shall be rented to the public from a livery or other place of business in this state unless it first has been numbered and registered in accordance with this section or section 1547.54 of the Revised Code. Certificates of livery registration shall be issued by an authorized agent who is selected by the

chief from among those designated under section 1547.54 of the Revised Code. The certificate shall display the name of the owner of the livery, the date of issuance, the date of expiration, the number of watercraft registered, the fee paid, an authorized facsimile of the signature of the chief provided by the authorized agent who is selected to issue the certificate, and the signature of the livery owner. The certificate shall bear the livery watercraft registration number assigned to the livery owner, which shall be displayed in accordance with section 1547.57 of the Revised Code on each watercraft in the fleet for which the certificate was issued. The owner of a livery shall obtain an amended certificate of livery registration from the chief whenever the composition of the fleet changes.

The fee for each watercraft registered under this section shall be an annual registration fee. The fee shall be one-third of the triennial registration fees prescribed in section 1547.54 of the Revised Code. However, if the size of the fleet does not increase, the fee for an amended certificate of livery registration shall be the fee prescribed for issuing a duplicate registration certificate under section 1547.54 of the Revised Code, and the chief shall not refund to the livery owner all or any portion of an annual registration fee applicable to a watercraft transferred or abandoned by the livery owner. If the size of the fleet increases, the livery owner shall be required to pay the applicable annual registration fee for each watercraft registered under an amended certificate of livery registration that is in excess of the number of watercraft contained in the annual certificate of livery registration.

In addition to the fees established in this section, watercraft that are not powercraft shall be charged a waterways conservation assessment fee. The fee shall be collected at the time of the issuance of an annual livery registration under this section and shall be one dollar and fifty cents for each watercraft included in the registration. The fee shall be deposited in the state treasury and credited to a distinct account in the waterways safety fund created in section 1547.75 of the Revised Code.

The certificate of livery registration, rental receipts, and required safety equipment are subject to inspection at any time at the livery's place of business by any authorized representative of the division of watercraft or any law enforcement officer in accordance with section 1547.63 of the Revised Code.

Except as provided in this section, all watercraft registered under this section are subject to this chapter and Chapter 1548. of the Revised Code.

The chief may issue an order temporarily or permanently restricting or suspending a livery certificate of registration and the privileges associated with it without a hearing if the chief finds that the holder of the certificate

has violated this chapter.

Sec. 1547.73. There is hereby created in the division of watercraft, a waterways safety council composed of five members appointed by the governor with the advice and consent of the senate. Not more than three of such appointees shall belong to the same political party. Terms of office shall be for five years, commencing on the first day of February and ending on the thirty-first day of January, ~~except that upon expiration of the term ending February 4, 1973, the new term which succeeds it shall commence on February 5, 1973 and end on January 31, 1978; upon expiration of the term ending February 3, 1974, the new term which succeeds it shall commence on February 4, 1974 and end on January 31, 1979; upon expiration of the term ending February 2, 1975, the new term which succeeds it shall commence on February 3, 1975 and end on January 31, 1980; and upon expiration of the term ending February 6, 1977, the new term which succeeds it shall commence on February 7, 1977 and end on January 31, 1982.~~ Each member shall hold office from the date of his appointment until the end of the term for which ~~he~~ the member was appointed. The chief of the division of watercraft shall act as secretary of the council. In the event of the death, removal, resignation, or incapacity of a member of the council, the governor, with the advice and consent of the senate, shall appoint a successor to fill the unexpired term who shall hold office for the remainder of the term for which ~~his~~ the member's predecessor was appointed. Any member shall continue in office subsequent to the expiration date of ~~his~~ the member's term until ~~his~~ the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. The governor may remove any appointed member of the council for misfeasance, nonfeasance, or malfeasance in office.

The council may:

(A) Advise with and recommend to the chief as to plans and ~~program~~ programs for the construction, maintenance, repair, and operation of refuge harbors and other projects for the harboring, mooring, docking, and storing of light draft vessels as provided in sections 1547.71, 1547.72, and 1547.78 of the Revised Code;

(B) Advise with and recommend to the chief as to the methods of coordinating the shore erosion projects of the department of natural resources with the refuge of light draft vessel harbor projects;

(C) Advise with and recommend to the chief as to plans and programs for the acquisition, protection, construction, maintenance, and administration of wild river areas, scenic river areas, and recreational river areas;

(D) Consider and make recommendations upon any matter which is brought to its attention by any person or ~~which~~ that the chief may submit to it;

~~(D)~~(E) Submit to the governor biennially recommendations for amendments to the laws of the state relative to refuge and light draft vessel harbor projects.

Before entering upon the discharge of ~~his~~ official duties, each member of the council shall take and subscribe to an oath of office, which oath, in writing, shall be filed in the office of the secretary of state.

The members of the council shall serve without compensation, but shall be entitled to receive their actual and necessary expenses incurred in the performance of their official duties from the waterways safety fund as provided in section 1547.75 of the Revised Code.

The council shall, by a majority vote of all its members, adopt and amend bylaws.

To be eligible for appointment as a member of the council, a person shall be a citizen of the United States; and an elector of the state; and possess a knowledge of and have an interest in small boat operations.

The council shall hold at least four regular quarterly meetings each year. Special meetings shall be held at such times as the bylaws of the council provide, or at the behest of a majority of its members. Notices of all meetings shall be given in such manner as the bylaws provide. The council shall choose annually from among its members a ~~chairman~~ chairperson to preside over its meetings. A majority of the members of the council shall constitute a quorum. No advice shall be given or recommendation made without a majority of the members of the council concurring therein.

~~Sec. 1517.14 1547.81. As used in sections 1517.14 to 1517.18 of the Revised Code, "watercourse" means a substantially natural channel with recognized banks and bottom, in which a flow of water occurs, with an average of at least ten feet mean surface water width and at least five miles of length. The director of natural resources or the director's representative may create, supervise, operate, protect, and maintain wild, scenic, and recreational river areas under the classifications established in section 1517.15 of the Revised Code. In creating wild, scenic, and recreational river areas, the director shall classify each such area as either a wild river area, a scenic river area, or a recreational river area. The director or the director's representative may prepare and maintain a plan for the establishment, development, use, and administration of those areas as a part of the comprehensive state plans for water management and outdoor recreation. The director or the director's representative may cooperate with federal~~

agencies administering any federal program concerning wild, scenic, or recreational river areas.

The director may propose for establishment as a wild, scenic, or recreational river area a part or parts of any watercourse in this state, with adjacent lands, that in the director's judgment possesses water conservation, scenic, fish, wildlife, historic, or outdoor recreation values that should be preserved, ~~using the classifications established in section 1517.15 of the Revised Code.~~ The area shall include lands adjacent to the watercourse in sufficient width to preserve, protect, and develop the natural character of the watercourse, but shall not include any lands more than one thousand feet from the normal waterlines of the watercourse unless an additional width is necessary to preserve water conservation, scenic, fish, wildlife, historic, or outdoor recreation values.

The director shall publish the intention to declare an area a wild, scenic, or recreational river area at least once in a newspaper of general circulation in each county, any part of which is within the area, and shall send written notice of the intention to the legislative authority of each county, township, and municipal corporation and to each conservancy district established under Chapter 6101. of the Revised Code, any part of which is within the area, and to the director of transportation, the director of development, the director of administrative services, and the director of environmental protection. The notices shall include a copy of a map and description of the area.

After thirty days from the last date of publication or dispatch of written notice as required in this section, the director shall enter a declaration in the director's journal that the area is a wild river area, scenic river area, or recreational river area. When so entered, the area is a wild, scenic, or recreational river area, as applicable. The director, after thirty days' notice as prescribed in this section and upon the approval of the recreation and resources commission created in section 1501.04 of the Revised Code, may terminate the status of an area as a wild river area, scenic river area, or recreational river area by an entry in the director's journal.

Declaration by the director that an area is a wild, scenic, or recreational river area does not authorize the director or any governmental agency or political subdivision to restrict the use of land by the owner thereof or any person acting under the landowner's authority or to enter upon the land and does not expand or abridge the regulatory authority of any governmental agency or political subdivision over the area.

The director may enter into a lease or other agreement with a political subdivision to administer all or part of a wild, scenic, or recreational river

area and may acquire real property or any estate, right, or interest therein in order to provide for the protection and public recreational use of a wild, scenic, or recreational river area.

The chief of the division of ~~natural areas and preserves~~ watercraft or the chief's representative may participate in watershed-wide planning with federal, state, and local agencies in order to protect the values of wild, scenic, and recreational river areas.

Sec. ~~1517.16~~ 1547.82. No state department, state agency, or political subdivision shall build or enlarge any highway, road, or structure or modify or cause the modification of the channel of any watercourse within a wild, scenic, or recreational river area outside the limits of a municipal corporation without first having obtained approval of the plans for the highway, road, or structure or channel modification from the director of natural resources or ~~his~~ the director's representative. The court of common pleas having jurisdiction, upon petition by the director, shall enjoin work on any highway, road, or structure or channel modification for which such approval has not been obtained.

Sec. ~~1517.17~~ 1547.83. The chief of the division of ~~natural areas and preserves~~ watercraft shall administer the state programs for wild river areas, scenic river areas, and recreational river areas. The chief may accept and administer state and federal financial assistance programs for the maintenance, protection, and administration of wild, scenic, and recreational river areas and for construction of facilities within those areas. The chief, with the approval of the director of natural resources, may expend for the purpose of administering the state programs for wild, scenic, and recreational river areas money that is appropriated by the general assembly for that purpose, money that is in the scenic rivers protection fund created in section 4501.24 of the Revised Code, and money that is in the waterways safety fund created in section 1547.75 of the Revised Code, including money generated by the waterways conservation assessment fee levied by sections 1547.54 and 1547.542 of the Revised Code, as determined to be necessary by the division of watercraft not to exceed six hundred fifty thousand dollars per fiscal year. The chief may condition any expenditures, maintenance activities, or construction of facilities on the adoption and enforcement of adequate floodplain zoning or land use rules.

~~The director of natural resources may make a lease or agreement with a political subdivision to administer all or part of a wild, scenic, or recreational river area.~~

~~The director may acquire real property or any estate, right, or interest therein for protection and public recreational use as a wild, scenic, or~~

~~recreational river area.~~

~~The chief may expend funds for the acquisition, protection, construction, maintenance, and administration of real property and public use facilities in wild, scenic, or recreational river areas when the funds are so appropriated by the general assembly. The chief may condition such expenditures, acquisition of land or easements, or construction of facilities within a wild, scenic, or recreational river area upon adoption and enforcement of adequate floodplain zoning rules.~~

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

The chief may cooperate with federal agencies administering any federal program concerning wild, scenic, or recreational river areas.

Sec. ~~1517.18~~ 1547.84. The director of natural resources shall appoint an advisory council for each wild, scenic, or recreational river area, composed of not more than ten persons who are representative of local government and local organizations and interests in the vicinity of the wild, scenic, or recreational river area, who shall serve without compensation. The chief of the division of ~~natural areas and preserves~~ watercraft or ~~his~~ the chief's representative shall serve as an ex officio member of each council.

~~The terms of all members serving on any advisory council under this section on the effective date of this amendment shall end on January 31, 1995. The director shall appoint new members to serve on each council for terms beginning on February 1, 1995, provided that a member serving on a council on the effective date of this amendment may be appointed to such a new term.~~ The initial members appointed to each council shall serve for terms of not more than three years, with the terms of not more than four members of any council ending in the same year. Thereafter, terms of office shall be for three years commencing on the first day of February and ending on the last day of January.

Each council shall advise the chief on the acquisition of land and easements and on the lands and waters that should be included in a wild, scenic, or recreational river area or a proposed wild, scenic, or recreational river area, facilities therein, and other aspects of establishment and administration of the area that may affect the local interest.

Sec. 1547.85. The director of natural resources may participate in the federal program for the protection of certain selected rivers that are located within the boundaries of the state as provided in the "Wild and Scenic Rivers Act," 82 Stat. 906 (1968), 16 U.S.C. 1271 et seq., as amended. The director may authorize the chief of the division of watercraft to participate in

any other federal program established for the purpose of protecting, conserving, or developing recreational access to waters in this state that possess outstanding scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values.

Sec. 1547.86. Any action taken by the chief of the division of watercraft under sections 1547.81 to 1547.87 of the Revised Code shall not be deemed in conflict with certain powers and duties conferred on and delegated to federal agencies and to municipal corporations under Section 7 of Article XVIII, Ohio Constitution, or as provided by sections 721.04 to 721.11 of the Revised Code.

Sec. 1547.87. The division of watercraft, in carrying out sections 1547.81 to 1547.87 of the Revised Code, may accept, receive, and expend gifts, devises, or bequests of money, lands, or other properties under the terms established in section 9.20 of the Revised Code.

Sec. 1547.99. (A) Whoever violates section 1547.91 of the Revised Code is guilty of a felony of the fourth degree.

(B) Whoever violates division (F) of section 1547.08, section 1547.10, division (I) of section 1547.111, section 1547.13, or section 1547.66 of the Revised Code is guilty of a misdemeanor of the first degree.

(C) Whoever violates a provision of this chapter or a rule adopted thereunder, for which no penalty is otherwise provided, is guilty of a minor misdemeanor.

(D) Whoever violates section 1547.07, 1547.132, or 1547.12 of the Revised Code without causing injury to persons or damage to property is guilty of a misdemeanor of the fourth degree.

(E) Whoever violates section 1547.07, 1547.132, or 1547.12 of the Revised Code causing injury to persons or damage to property is guilty of a misdemeanor of the third degree.

(F) Whoever violates division ~~(M)~~(N) of section 1547.54, division (G) of section 1547.30, or section 1547.131, 1547.25, 1547.33, 1547.38, 1547.39, 1547.40, 1547.65, 1547.69, or 1547.92 of the Revised Code or a rule adopted under division (A)(2) of section 1547.52 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(G) Whoever violates section 1547.11 of the Revised Code is guilty of a misdemeanor of the first degree and shall be punished as provided in division (G)(1), (2), or (3) of this section.

(1) Except as otherwise provided in division (G)(2) or (3) of this section, the court shall sentence the offender to a jail term of three consecutive days and may sentence the offender pursuant to section 2929.24 of the Revised Code to a longer jail term. In addition, the court shall impose

upon the offender a fine of not less than one hundred fifty nor more than one thousand dollars.

The court may suspend the execution of the mandatory jail term of three consecutive days that it is required to impose by division (G)(1) of this section if the court, in lieu of the suspended jail term, places the offender under a community control sanction pursuant to section 2929.25 of the Revised Code and requires the offender to attend, for three consecutive days, a drivers' intervention program that is certified pursuant to section 3793.10 of the Revised Code. The court also may suspend the execution of any part of the mandatory jail term of three consecutive days that it is required to impose by division (G)(1) of this section if the court places the offender under a community control sanction pursuant to section 2929.25 of the Revised Code for part of the three consecutive days; requires the offender to attend, for that part of the three consecutive days, a drivers' intervention program that is certified pursuant to section 3793.10 of the Revised Code; and sentences the offender to a jail term equal to the remainder of the three consecutive days that the offender does not spend attending the drivers' intervention program. The court may require the offender, as a condition of community control, to attend and satisfactorily complete any treatment or education programs, in addition to the required attendance at a drivers' intervention program, that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose any other conditions of community control on the offender that it considers necessary.

(2) If, within six years of the offense, the offender has been convicted of or pleaded guilty to one violation of section 1547.11 of the Revised Code or one other equivalent offense, the court shall sentence the offender to a jail term of ten consecutive days and may sentence the offender pursuant to section 2929.24 of the Revised Code to a longer jail term. In addition, the court shall impose upon the offender a fine of not less than one hundred fifty nor more than one thousand dollars.

In addition to any other sentence that it imposes upon the offender, the court may require the offender to attend a drivers' intervention program that is certified pursuant to section 3793.10 of the Revised Code.

(3) If, within six years of the offense, the offender has been convicted of or pleaded guilty to more than one violation or offense identified in division (G)(2) of this section, the court shall sentence the offender to a jail term of thirty consecutive days and may sentence the offender to a longer jail term of not more than one year. In addition, the court shall impose upon the

offender a fine of not less than one hundred fifty nor more than one thousand dollars.

In addition to any other sentence that it imposes upon the offender, the court may require the offender to attend a drivers' intervention program that is certified pursuant to section 3793.10 of the Revised Code.

(4) Upon a showing that serving a jail term would seriously affect the ability of an offender sentenced pursuant to division (G)(1), (2), or (3) of this section to continue the offender's employment, the court may authorize that the offender be granted work release after the offender has served the mandatory jail term of three, ten, or thirty consecutive days that the court is required by division (G)(1), (2), or (3) of this section to impose. No court shall authorize work release during the mandatory jail term of three, ten, or thirty consecutive days that the court is required by division (G)(1), (2), or (3) of this section to impose. The duration of the work release shall not exceed the time necessary each day for the offender to commute to and from the place of employment and the place in which the jail term is served and the time actually spent under employment.

(5) Notwithstanding any section of the Revised Code that authorizes the suspension of the imposition or execution of a sentence or the placement of an offender in any treatment program in lieu of being imprisoned or serving a jail term, no court shall suspend the mandatory jail term of ten or thirty consecutive days required to be imposed by division (G)(2) or (3) of this section or place an offender who is sentenced pursuant to division (G)(2) or (3) of this section in any treatment program in lieu of being imprisoned or serving a jail term until after the offender has served the mandatory jail term of ten or thirty consecutive days required to be imposed pursuant to division (G)(2) or (3) of this section. Notwithstanding any section of the Revised Code that authorizes the suspension of the imposition or execution of a sentence or the placement of an offender in any treatment program in lieu of being imprisoned or serving a jail term, no court, except as specifically authorized by division (G)(1) of this section, shall suspend the mandatory jail term of three consecutive days required to be imposed by division (G)(1) of this section or place an offender who is sentenced pursuant to division (G)(1) of this section in any treatment program in lieu of imprisonment until after the offender has served the mandatory jail term of three consecutive days required to be imposed pursuant to division (G)(1) of this section.

(6) As used in division (G) of this section:

(a) "Equivalent offense" has the same meaning as in section 4511.181 of the Revised Code.

(b) "Jail term" and "mandatory jail term" have the same meanings as in

section 2929.01 of the Revised Code.

(H) Whoever violates section 1547.304 of the Revised Code is guilty of a misdemeanor of the fourth degree and also shall be assessed any costs incurred by the state or a county, township, municipal corporation, or other political subdivision in disposing of an abandoned junk vessel or outboard motor, less any money accruing to the state, county, township, municipal corporation, or other political subdivision from that disposal.

(I) Whoever violates division (B) or (C) of section 1547.49 of the Revised Code is guilty of a minor misdemeanor.

(J) Whoever violates section 1547.31 of the Revised Code is guilty of a misdemeanor of the fourth degree on a first offense. On each subsequent offense, the person is guilty of a misdemeanor of the third degree.

(K) Whoever violates section 1547.05 or 1547.051 of the Revised Code is guilty of a misdemeanor of the fourth degree if the violation is not related to a collision, injury to a person, or damage to property and a misdemeanor of the third degree if the violation is related to a collision, injury to a person, or damage to property.

(L) The sentencing court, in addition to the penalty provided under this section for a violation of this chapter or a rule adopted under it that involves a powercraft powered by more than ten horsepower and that, in the opinion of the court, involves a threat to the safety of persons or property, shall order the offender to complete successfully a boating course approved by the national association of state boating law administrators before the offender is allowed to operate a powercraft powered by more than ten horsepower on the waters in this state. Violation of a court order entered under this division is punishable as contempt under Chapter 2705. of the Revised Code.

Sec. 1548.10. (A) The clerk of the court of common pleas shall charge and retain fees as follows:

(1) Fifteen dollars for each duplicate copy of a certificate of title. The clerk shall retain that entire fee.

(2) Fifteen dollars for each certificate of title, which shall include any notation or indication of any lien or security interest on a certificate of title and any memorandum certificate of title or non-negotiable evidence of ownership requested at the time the certificate of title is issued. The clerk shall retain ten dollars and fifty cents of that fee when there is a notation of a lien or security interest on the certificate of title and twelve dollars when there is no lien or security interest noted on the certificate of title.

(3) Five dollars for each certificate of title with no security interest noted that is issued to a licensed watercraft dealer for resale purposes. The clerk shall retain two dollars of that fee.

(4) Five dollars for each memorandum certificate of title or non-negotiable evidence of ownership that is applied for separately. The clerk shall retain that entire fee.

(B) The fees charged for a certificate of title and the notation or indication of any lien or security interest on a certificate of title that are not retained by the clerk shall be paid to the chief of the division of watercraft by monthly returns, which shall be forwarded to the chief not later than the fifth day of the month next succeeding that in which the certificate is forwarded, or that in which the chief is notified of a lien or security interest or cancellation of a lien or security interest.

The chief shall deposit one dollar of the amount the chief receives for each certificate of title in the automated title processing fund created in section 4505.09 of the Revised Code. Moneys deposited in that fund under this section shall be used for the purpose specified in division (B)(3)(b) of that section.

Sec. 1707.17. (A)(1) The license of every dealer in and salesperson of securities shall expire on the thirty-first day of December of each year, and may be renewed upon the filing with the division of securities of an application for renewal, and the payment of the fee prescribed in this section. The division shall give notice, without unreasonable delay, of its action on any application for renewal of a dealer's or salesperson's license.

(2) The license of every investment adviser and investment adviser representative licensed under section 1707.141 or 1707.161 of the Revised Code shall expire on the thirty-first day of December of each year. The licenses may be renewed upon the filing with the division of an application for renewal, and the payment of the fee prescribed in division (B) of this section. The division shall give notice, without unreasonable delay, of its action on any application for renewal.

(3) An investment adviser required to make a notice filing under division (B) of section 1707.141 of the Revised Code annually shall file with the division the notice filing and the fee prescribed in division (B) of this section, no later than the thirty-first day of December of each year.

(4) The license of every state retirement system investment officer licensed under section 1707.163 of the Revised Code and the license of a bureau of workers' compensation chief investment officer issued under section 1707.165 of the Revised Code shall expire on the thirtieth day of June of each year. The licenses may be renewed on the filing with the division of an application for renewal, and the payment of the fee prescribed in division (B) of this section. The division shall give notice, without unreasonable delay, of its action on any application for renewal.

(B)(1) The fee for each dealer's license, and for each annual renewal thereof, shall be ~~one~~ two hundred dollars.

(2) The fee for each salesperson's license, and for each annual renewal thereof, shall be ~~fifty~~ sixty dollars.

(3) The fee for each investment adviser's license, and for each annual renewal thereof, shall be ~~fifty~~ one hundred dollars.

(4) The fee for each investment adviser notice filing required by division (B) of section 1707.141 of the Revised Code shall be ~~fifty~~ one hundred dollars.

(5) The fee for each investment adviser representative's license, and for each annual renewal thereof, shall be thirty-five dollars.

(6) The fee for each state retirement system investment officer's license, and for each annual renewal thereof, shall be fifty dollars.

(7) The fee for a bureau of workers' compensation chief investment officer's license, and for each annual renewal thereof, shall be fifty dollars.

(C) A dealer's, salesperson's, investment adviser's, investment adviser representative's, bureau of workers' compensation chief investment officer's, or state retirement system investment officer's license may be issued at any time for the remainder of the calendar year. In that event, the annual fee shall not be reduced.

Sec. 1707.18. (A)(1) If a partnership licensed as a dealer is terminated under the laws of the state where the partnership is organized, or by death, resignation, withdrawal, or addition of a general partner, the license of the partnership shall be automatically extended for a period of thirty days after the termination. The license of the partnership and the licenses of its salespersons may be transferred to the successor partnership within that period if the division of securities finds that the successor partnership is substantially similar to its predecessor partnership, and if an application for transfer of license has been filed. The fee for such a transfer shall be fifty dollars, plus ~~ten~~ fifteen dollars for every salesperson's license that is transferred.

(2) If a partnership licensed as an investment adviser is terminated under the laws of the state where the partnership is organized, or by death, resignation, withdrawal, or addition of a general partner, the license of the partnership shall be automatically extended for a period of thirty days after the termination. The license of the partnership shall, and the licenses of its investment adviser representatives may, be transferred to the successor partnership within that period if the division finds that the successor partnership is substantially similar to its predecessor partnership, and if an application for transfer of license has been filed. The fee for such transfer

shall be fifty dollars, plus ~~ten~~ fifteen dollars for every investment adviser representative's license that is transferred.

(B)(1) If a licensed dealer changes its business form, reincorporates, or by merger or otherwise becomes a different person, as person is defined in section 1707.01 of the Revised Code, upon application the division may transfer the dealer's license and the licenses of its salespersons to the successor entity, if the division finds that the successor entity is substantially similar to the predecessor entity. The fee for such a transfer shall be fifty dollars plus ~~ten~~ fifteen dollars for every salesperson's license transferred.

(2) If a licensed investment adviser changes its business form, reincorporates, or by merger or otherwise becomes a different person, as person is defined in section 1707.01 of the Revised Code, upon application, the division may transfer the investment adviser license and the licenses of its investment adviser representatives to the successor entity, if the division finds that the successor entity is substantially similar to the predecessor entity. The fee for the transfer shall be fifty dollars plus ~~ten~~ fifteen dollars for every investment adviser representative's license transferred.

Sec. 1707.37. (A) All fees and charges collected under ~~Chapter 1707. of the Revised Code~~ this chapter shall be paid into the state treasury to the credit of the division of securities fund, which is hereby created. All expenses of the division of securities, other than those specified in division (B) of this section, shall be paid from the fund.

The fund shall be assessed a proportionate share of the administrative costs of the department of commerce in accordance with procedures prescribed by the director of commerce and approved by the director of budget and management. The assessments shall be paid from the division of securities fund to the division of administration fund.

If moneys in the division of securities fund are determined by the director of budget and management and the director of commerce to be in excess of those necessary to defray all the expenses in any fiscal year, the director of budget and management shall transfer the excess to the general revenue fund.

(B) There is hereby created in the state treasury the division of securities investor education and enforcement expense fund, which shall consist of all money received in settlement of any violation of this chapter and any cash transfers. Money in the fund shall be used to pay expenses of the division of securities relating to education or enforcement for the protection of securities investors and the public. The division may adopt rules pursuant to section 1707.20 of the Revised Code that establish what qualifies as such an expense.

Sec. 1710.01. As used in this chapter:

(A) "Special improvement district" means a special improvement district organized under this chapter.

(B) "Church" means a fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not formed for the private profit of any person.

(C) "Church property" means property that is described as being exempt from taxation under division (A)(2) of section 5709.07 of the Revised Code and that the county auditor has entered on the exempt list compiled under section 5713.07 of the Revised Code.

(D) "Municipal executive" means the mayor, city manager, or other chief executive officer of the municipal corporation in which a special improvement district is located.

(E) "Participating political subdivision" means the municipal corporation or township, or each of the municipal corporations or townships, that has territory within the boundaries of a special improvement district created under this chapter.

(F) "Legislative authority of a participating political subdivision" means, with reference to a township, the board of township trustees.

(G) "Public improvement" means the planning, design, construction, reconstruction, enlargement, or alteration of any facility or improvement, including the acquisition of land, for which a special assessment may be levied under Chapter 727. of the Revised Code, and includes any special energy improvement project.

(H) "Public service" means any service that can be provided by a municipal corporation or any service for which a special assessment may be levied under Chapter 727. of the Revised Code.

(I) "Special energy improvement project" means any property, device, structure, or equipment necessary for the acquisition, installation, equipping, and improvement of any real or personal property used for the purpose of creating a solar photo voltaic project or a solar thermal energy project, whether such real or personal property is publicly or privately owned.

(J) "Existing qualified nonprofit corporation" means a nonprofit corporation that existed before the creation of the corresponding district under this chapter, that is composed of members located within or adjacent to the district, that has established a police department under section 1702.80 of the Revised Code, and that is organized for purposes that include acquisition of real property within an area specified by its articles for the subsequent transfer of such property to its members exclusively for

charitable, scientific, literary, or educational purposes, or holding and maintaining and leasing such property; planning for and assisting in the development of its members; providing for the relief of the poor and distressed or underprivileged in the area and adjacent areas; combating community deterioration and lessening the burdens of government; providing or assisting others in providing housing for low- or moderate-income persons; and assisting its members by the provision of public safety and security services, parking facilities, transit service, landscaping, and parks.

Sec. 1710.02. (A) A special improvement district may be created within the boundaries of any one municipal corporation, any one township, or any combination of contiguous municipal corporations and townships ~~by a petition of the property owners within the proposed district,~~ for the purpose of developing and implementing plans for public improvements and public services that benefit the district. A district may be created by petition of the owners of real property within the proposed district, or by an existing qualified nonprofit corporation. If the district is created by an existing qualified nonprofit corporation, the purposes for which the district is created may be supplemental to the other purposes for which the corporation is organized. All territory in a special improvement district shall be contiguous; except that the territory in a special improvement district may be noncontiguous if at least one special energy improvement project is designated for each parcel of real property included within the special improvement district. Additional territory may be added to a special improvement district created under this chapter for the purpose of developing and implementing plans for special energy improvement projects if at least one special energy improvement project is designated for each parcel of real property included within such additional territory and the addition of territory is authorized by the initial plan proposed under division (F) of this section or a plan adopted by the board of directors of the special improvement district under section 1710.06 of the Revised Code.

The district shall be governed by the board of trustees of a nonprofit corporation. This board shall be known as the board of directors of the special improvement district. No special improvement district shall include any church property, or property of the federal or state government or a county, township, or municipal corporation, unless the church or the county, township, or municipal corporation specifically requests in writing that the property be included within the district, or unless the church is a member of the existing qualified nonprofit corporation creating the district at the time the district is created. More than one district may be created within a

participating political subdivision, but no real property may be included within more than one district unless the owner of the property files a written consent with the clerk of the legislative authority, the township fiscal officer, or the village clerk, as appropriate. The area of each district shall be contiguous; except that the area of a special improvement district may be noncontiguous if all parcels of real property included within such area contain at least one special energy improvement thereon.

(B) Except as provided in division (C) of this section, a district created under this chapter is not a political subdivision. A district created under this chapter shall be considered a public agency under section 102.01 and a public authority under section 4115.03 of the Revised Code. Each member of the board of directors of a district, each member's designee or proxy, and each officer and employee of a district shall be considered a public official or employee under section 102.01 of the Revised Code and a public official and public servant under section 2921.42 of the Revised Code. Districts created under this chapter are not subject to section ~~121.24~~ 121.251 of the Revised Code. Districts created under this chapter are subject to sections 121.22 and 121.23 of the Revised Code.

(C) Each district created under this chapter shall be considered a political subdivision for purposes of section 4905.34 of the Revised Code.

Membership on the board of directors of the district shall not be considered as holding a public office. Directors and their designees shall be entitled to the immunities provided by Chapter 1702. and to the same immunity as an employee under division (A)(6) of section 2744.03 of the Revised Code, except that directors and their designees shall not be entitled to the indemnification provided in section 2744.07 of the Revised Code unless the director or designee is an employee or official of a participating political subdivision of the district and is acting within the scope of the director's or designee's employment or official responsibilities.

District officers and district members and directors and their designees or proxies shall not be required to file a statement with the Ohio ethics commission under section 102.02 of the Revised Code. All records of the district shall be treated as public records under section 149.43 of the Revised Code, except that records of organizations contracting with a district shall not be considered to be public records under section 149.43 or section 149.431 of the Revised Code solely by reason of any contract with a district.

(D) Except as otherwise provided in this section, the nonprofit corporation that governs a district shall be organized in the manner described in Chapter 1702. of the Revised Code. The Except in the case of a district created by an existing qualified nonprofit corporation, the

corporation's articles of incorporation are required to be approved, as provided in division (E) of this section, by resolution of the legislative authority of each participating political subdivision of the district. A copy of that resolution shall be filed along with the articles of incorporation in the secretary of state's office.

In addition to meeting the requirements for articles of incorporation set forth in Chapter 1702. of the Revised Code, the articles of incorporation for the nonprofit corporation governing a district formed under this chapter shall provide all the following:

(1) The name for the district, which shall include the name of each participating political subdivision of the district;

(2) A description of the territory within the district, which may be all or part of each participating political subdivision. The description shall be specific enough to enable real property owners to determine if their property is located within the district.

(3) A description of the procedure by which the articles of incorporation may be amended. The procedure shall include receiving approval of the amendment, by resolution, from the legislative authority of each participating political subdivision and filing the approved amendment and resolution with the secretary of state.

(4) The reasons for creating the district, plus an explanation of how the district will be conducive to the public health, safety, peace, convenience, and welfare of the district.

(E) The articles of incorporation for a nonprofit corporation governing a district created under this chapter and amendments to them shall be submitted to the municipal executive, if any, and the legislative authority of each municipal corporation or township in which the proposed district is to be located;. Except in the case of a district created by an existing qualified nonprofit corporation, the articles or amendments shall be accompanied by a petition signed either by the owners of at least sixty per cent of the front footage of all real property located in the proposed district that abuts upon any street, alley, public road, place, boulevard, parkway, park entrance, easement, or other existing public improvement within the proposed district, excluding church property or property owned by the state, county, township, municipal, or federal government, unless a church, county, township, or municipal corporation has specifically requested in writing that the property be included in the district, or by the owners of at least seventy-five per cent of the area of all real property located within the proposed district, excluding church property or property owned by the state, county, township, municipal, or federal government, unless a church, county, township, or

municipal corporation has specifically requested in writing that the property be included in the district. Pursuant to Section 2o of Article VIII, Ohio Constitution, the petition required under this division may be for the purpose of developing and implementing plans for special energy improvement projects, and, in such case, is determined to be in furtherance of the purposes set forth in Section 2o of Article VIII, Ohio Constitution. If a special improvement district is being created under this chapter for the purpose of developing and implementing plans for special energy improvement projects, the petition required under this division shall be signed by one hundred per cent of the owners of the area of all real property located within the proposed special improvement district, at least one special energy improvement project shall be designated for each parcel of real property within the special improvement district, and the special improvement district may include any number of parcels of real property as determined by the legislative authority of each participating political subdivision in which the proposed special improvement district is to be located. For purposes of determining compliance with these requirements, the area of the district, or the front footage and ownership of property, shall be as shown in the most current records available at the county recorder's office and the county engineer's office sixty days prior to the date on which the petition is filed.

Each municipal corporation or township with which the petition is filed has sixty days to approve or disapprove, by resolution, the petition, including the articles of incorporation. In the case of a district created by an existing qualified nonprofit corporation, each municipal corporation or township has sixty days to approve or disapprove the creation of the district after the corporation submits the articles of incorporation or amendments thereto. This chapter does not prohibit or restrict the rights of municipal corporations under Article XVIII of the Ohio Constitution or the right of the municipal legislative authority to impose reasonable conditions in a resolution of approval. The acquisition, installation, equipping, and improvement of a special energy improvement project under this chapter shall not supersede any local zoning, environmental, or similar law or regulation.

(F) Persons proposing creation and operation of the district may propose an initial plan for public services or public improvements that benefit all or any part of the district. Any initial plan shall be submitted as part of the petition proposing creation of the district or, in the case of a district created by an existing qualified nonprofit corporation, shall be submitted with the articles of incorporation or amendments thereto.

An initial plan may include provisions for the following:

(1) Creation and operation of the district and of the nonprofit corporation to govern the district under this chapter;

(2) Hiring employees and professional services;

(3) Contracting for insurance;

(4) Purchasing or leasing office space and office equipment;

(5) Other actions necessary initially to form, operate, or organize the district and the nonprofit corporation to govern the district;

(6) A plan for public improvements or public services that benefit all or part of the district, which plan shall comply with the requirements of division (A) of section 1710.06 of the Revised Code and may include, but is not limited to, any of the permissive provisions described in the fourth sentence of that division or listed in divisions (A)(1) to ~~(5)~~(6) of that section;

(7) If the special improvement district is being created under this chapter for the purpose of developing and implementing plans for special energy improvement projects, provision for the addition of territory to the special improvement district.

After the initial plan is approved by all municipal corporations and townships to which it is submitted for approval and the district is created, each participating subdivision shall levy a special assessment within its boundaries to pay for the costs of the initial plan. The levy shall be for no more than ten years from the date of the approval of the initial plan; except that if the proceeds of the levy are to be used to pay the costs of a special energy improvement project, the levy of a special assessment shall be for no more than twenty-five years from the date of approval of the initial plan. In the event that additional territory is added to a special improvement district, the special assessment to be levied with respect to such additional territory shall commence not earlier than the date such territory is added and shall be for no more than twenty-five years from such date. For purposes of levying an assessment for this initial plan, the services or improvements included in the initial plan shall be deemed a special benefit to property owners within the district.

(G) Each nonprofit corporation governing a district under this chapter may do the following:

(1) Exercise all powers of nonprofit corporations granted under Chapter 1702. of the Revised Code that do not conflict with this chapter;

(2) Develop, adopt, revise, implement, and repeal plans for public improvements and public services for all or any part of the district;

(3) Contract with any person, political subdivision as defined in section 2744.01 of the Revised Code, or state agency as defined in section 1.60 of

the Revised Code to develop and implement plans for public improvements or public services within the district;

(4) Contract and pay for insurance for the district and for directors, officers, agents, contractors, employees, or members of the district for any consequences of the implementation of any plan adopted by the district or any actions of the district.

The board of directors of a special improvement district may, acting as agent and on behalf of a participating political subdivision, sell, transfer, lease, or convey any special energy improvement project owned by the participating political subdivision upon a determination by the legislative authority thereof that the project is not required to be owned exclusively by the participating political subdivision for its purposes, for uses determined by the legislative authority thereof as those that will promote the welfare of the people of such participating political subdivision; to improve the quality of life and the general and economic well-being of the people of the participating political subdivision; better ensure the public health, safety, and welfare; protect water and other natural resources; provide for the conservation and preservation of natural and open areas and farmlands, including by making urban areas more desirable or suitable for development and revitalization; control, prevent, minimize, clean up, or mediate certain contamination of or pollution from lands in the state and water contamination or pollution; or provide for safe and natural areas and resources. The legislative authority of each participating political subdivision shall specify the consideration for such sale, transfer, lease, or conveyance and any other terms thereof. Any determinations made by a legislative authority of a participating political subdivision under this division shall be conclusive.

Any sale, transfer, lease, or conveyance of a special energy improvement project by a participating political subdivision or the board of directors of the special improvement district may be made without advertising, receipt of bids, or other competitive bidding procedures applicable to the participating political subdivision or the special improvement district under Chapter 153. or 735. or section 1710.11 of the Revised Code or other representative provisions of the Revised Code.

Sec. 1710.03. (A) ~~Each owner, other than a church or the state, county, township, municipal, or federal government, unless a church or county, township, or municipal corporation has specifically requested in writing that the property be included in the district, Except as otherwise provided in this division, each owner~~ of real property within a special improvement district ~~other than the state or federal government~~ is a member of the district, and

the real property of each member of the district is subject to special assessment under division (C) of section 1710.06 of the Revised Code. The A church is not a member of the district unless the church specifically requested in writing that its property be included in the district or unless, in the case of a district created by an existing qualified nonprofit corporation, the church is a member of the corporation at the time the district is created. A county, township, or municipal corporation owning real property in the district is not a member of the district unless such entity specifically requested in writing that its property be included in the district.

The identity and address of the owners shall be determined for any particular action of the nonprofit corporation that governs the district, including notice of meetings of the district, no more than sixty days prior to the date of the action, from the most current records available at the county auditor's office. For purposes of this chapter, the persons shown on such records as having common or joint ownership interests in a parcel of real property collectively shall constitute the owner of the real property.

(B) A member may file a written statement with the district's secretary at least three days prior to any meeting of the entire membership of the district to appoint a proxy to carry out the member's rights and responsibilities under this chapter at that meeting.

(C) A member also may appoint a designee to carry out the member's rights and responsibilities under this chapter by filing a written designation form with the district's secretary. This form shall include the name and address of the member, the name and address of the designee, and the expiration date, if any, of the designation and may authorize the designee to vote at any meeting of the district.

(D) A proxy or designee need not be an elector or resident of any participating political subdivision of the district or a member of the district. The appointment of a proxy or a designee may be changed by filing a new form with the district's secretary. The most current form filed with the secretary is the valid appointment. Service of any notice upon a proxy or designee at the proxy's or designee's address as shown on that form satisfies any requirements for notification of the member.

Sec. 1710.04. (A) A special improvement district created under this chapter shall be governed by the board of directors of the special improvement district. The board shall consist of at least five directors. The board shall include a person appointed by the legislative authority of each participating political subdivision and the municipal executive of each municipal corporation with territory within the boundaries of the special improvement district. The remainder of the board's members shall be

members of the district. Except for the municipal executives and the appointees of the legislative authorities, and except as otherwise provided in this division, members of the board of directors shall be elected at a meeting of the entire membership of the district. The initial election of directors may occur at the first meeting of the entire membership of the district after its creation. All subsequent elections shall be held at a November meeting of the membership.

Each municipal executive may designate one person who is an employee of the municipal corporation involved with its planning or economic development functions to serve in the municipal executive's stead. This designee shall serve at the pleasure of the municipal executive.

In the case of a district created by an existing qualified nonprofit corporation, the corporation's board of trustees or other governing board, however denominated, shall be the board of directors of the special improvement district for the purposes of this chapter. The election of directors otherwise required by this division shall not be required, and the requirement that municipal executives and appointees of the legislative authorities be members of the district's board of directors may be satisfied by the membership on the corporation's governing board of representatives of such participating political subdivisions, or may be waived if approved by resolution of the legislative authorities of the participating political subdivisions.

(B) A director may file a written statement with the district's secretary at least three days prior to any meeting of the board to have a person act as proxy to carry out the director's rights and responsibilities under this chapter at that meeting.

A director may also appoint a designee to carry out the director's rights and responsibilities under this chapter by filing a written designation form with the district's secretary. This form shall include the name and address of the director, the name and address of the designee, and the expiration date, if any, of the designation.

A proxy or designee need not be an elector or resident of a participating political subdivision of the district or a member of the district. The appointment of a proxy or designee may be changed by filing a new form with the district's secretary. The most current form filed with the secretary is the valid appointment. Service of any notice upon a proxy or designee at the proxy's or designee's address as shown on that form satisfies any requirements for notification of the director.

(C) Notice of the time, date, place, and agenda for any meeting of the board of directors shall be by written notice to each director, transmitted by

certified mail, personal service, or electronic device prior to the meeting. If possible, the notice shall be served at least one week prior to the meeting.

The board shall act by a majority vote of those present and authorized to vote at any meeting where proper notice has been served.

(D) The board shall elect a chairperson, vice-chairperson, secretary, and treasurer of the board. These officers shall serve at the board's pleasure. A director may be elected to more than one office, except that the director elected as treasurer shall not be elected to any other office of the board.

By the first day of March of each year, the treasurer shall submit to each member of the district and to the municipal executive, chief fiscal officer, and legislative authority of each municipal corporation with territory within the boundaries of the special improvement district and the board of township trustees of each township with territory within the boundaries of the special improvement district, a report of the district's activities and financial condition for the previous year.

(E) Divisions (B), (C), and (D) of this section do not apply to a district created by an existing qualified nonprofit corporation to the extent those divisions are not consistent with the regulations of the corporation, in which case the regulations of the corporation shall govern.

Sec. 1710.06. (A) The board of directors of a special improvement district may develop and adopt one or more written plans for public improvements or public services that benefit all or any part of the district. Each plan shall set forth the specific public improvements or public services that are to be provided, identify the area in which they will be provided, and specify the method of assessment to be used. Each plan for public improvements or public services shall indicate the period of time the assessments are to be levied for the improvements and services and, if public services are included in the plan, the period of time the services are to remain in effect. Plans for public improvements may include the planning, design, construction, reconstruction, enlargement, or alteration of any public improvements and the acquisition of land for the improvements. Plans for public improvements or public services may also include, but are not limited to, provisions for the following:

(1) Creating and operating the district and the nonprofit corporation under this chapter, including hiring employees and professional services, contracting for insurance, and purchasing or leasing office space and office equipment and other requirements of the district;

(2) Planning, designing, and implementing a public improvements or public services plan, including hiring architectural, engineering, legal, appraisal, insurance, and planning services, and, for public services,

managing, protecting, and maintaining public and private facilities, including public improvements;

(3) Conducting court proceedings to carry out this chapter;

(4) Paying damages resulting from the provision of public improvements or public services and implementing the plans;

(5) Paying the costs of issuing, paying interest on, and redeeming notes and bonds issued for funding public improvements and public services plans; and

(6) Sale, lease, lease with an option to purchase, conveyance of other interests in, or other contracts for the acquisition, construction, maintenance, repair, furnishing, equipping, operation, or improvement of any special energy improvement project by the special improvement district, between a participating political subdivision and the special improvement district, and between the special improvement district and any owner of real property in the special improvement district on which a special energy improvement project has been acquired, installed, equipped, or improved.

(B) Once the board of directors of the special improvement district adopts a plan, it shall submit the plan to the legislative authority of each participating political subdivision and the municipal executive of each municipal corporation in which the district is located, if any. The legislative authorities and municipal executives shall review the plan and, within sixty days after receiving it, may submit their comments and recommendations about it to the district. After reviewing these comments and recommendations, the board of directors may amend the plan. It may then submit the plan, amended or otherwise, in the form of a petition to members of the district whose property may be assessed for the plan. Once the petition is signed by those members who own at least sixty per cent of the front footage of property that is to be assessed and that abuts upon a street, alley, public road, place, boulevard, parkway, park entrance, easement, or other public improvement, or those members who own at least seventy-five per cent of the area to be assessed for the improvement or service, the petition may be submitted to each legislative authority for approval. If the special improvement district was created for the purpose of developing and implementing plans for special energy improvement projects, the petition required under this division shall be signed by one hundred per cent of the owners of the area of all real property located within the area to be assessed for the special energy improvement project.

Each legislative authority shall, by resolution, approve or reject the petition within sixty days after receiving it. If the petition is approved by the legislative authority of each participating political subdivision, the plan

contained in the petition shall be effective at the earliest date on which a nonemergency resolution of the legislative authority with the latest effective date may become effective. A plan may not be resubmitted to the legislative authorities and municipal executives more than three times in any twelve-month period.

(C) Each participating political subdivision shall levy, by special assessment upon specially benefited property located within the district, the costs of any public improvements or public services plan contained in a petition approved by the participating political subdivisions under this section or division (F) of section 1710.02 of the Revised Code. The levy shall be made in accordance with the procedures set forth in Chapter 727. of the Revised Code, except that:

(1) The assessment for each improvements or services plan may be levied by any one or any combination of the methods of assessment listed in section 727.01 of the Revised Code, provided that the assessment is uniformly applied.

(2) For the purpose of levying an assessment, the board of directors may combine one or more improvements or services plans or parts of plans and levy a single assessment against specially benefited property.

(3) For purposes of special assessments levied by a township pursuant to this chapter, references in Chapter 727. of the Revised Code to the municipal corporation shall be deemed to refer to the township, and references to the legislative authority of the municipal corporation shall be deemed to refer to the board of township trustees.

Church property or property owned by a political subdivision, including any participating political subdivision in which a special improvement district is located, shall be included in and be subject to special assessments made pursuant to a plan adopted under this section or division (F) of section 1710.02 of the Revised Code, if the church or political subdivision has specifically requested in writing that its property be included within the special improvement district and the church or political subdivision is a member of the district or, in the case of a district created by an existing qualified nonprofit corporation, if the church is a member of the corporation.

(D) All rights and privileges of property owners who are assessed under Chapter 727. of the Revised Code shall be granted to property owners assessed under this chapter, including those rights and privileges specified in sections 727.15 to 727.17 and 727.18 to 727.22 of the Revised Code and the right to notice of the resolution of necessity and the filing of the estimated assessment under section 727.13 of the Revised Code. Property owners assessed for public services under this chapter shall have the same rights and

privileges as property owners assessed for public improvements under this chapter.

Sec. 1710.07. The cost of any public improvements or public services plan of a special improvement district may include, but is not limited to, the following:

(A) The cost of creating and operating the district under this chapter, including creating and operating a nonprofit organization organized under this chapter, hiring employees and professional services, contracting for insurance, and purchasing or leasing office space or office equipment;

(B) The cost of planning, designing, and implementing the public improvements or public services plan, including payment of architectural, engineering, legal, appraisal, insurance, and planning fees and expenses, and, for public services, the management, protection, and maintenance costs of public or private facilities;

(C) Any court costs incurred by the district in implementing the public improvements or public services plan;

(D) Any damages resulting from implementing the public improvements or public services plan;

(E) The costs of issuing, paying interest on, and redeeming notes and bonds issued for funding the public improvements or public services plan; and

(F) The costs associated with the sale, lease, lease with an option to purchase, conveyance of other interests in, or other contracts for the acquisition, construction, maintenance, repair, furnishing, equipping, operation, or improvement of any special energy improvement project by the district, between a participating political subdivision and the special improvement district, or between the special improvement district and any owner of real property in the special improvement district on which a special energy improvement project has been acquired, installed, equipped, or improved.

Sec. 1710.10. (A) When a participating political subdivision contracts to provide improvements or services to a special improvement district, the participating political subdivision shall charge only its additional cost of providing the improvement or service, without any allocation of overhead costs, fixed costs, or assignment of costs at rates higher than those at which the participating political subdivision assigns costs for similar improvements or services for political subdivision purposes.

(B) Any Except in the case of a district created by an existing qualified nonprofit corporation, any law enforcement or fire protection service to be provided under a district's public service plan shall be provided only by

contract with a participating political subdivision of the district. ~~The~~ In the case of a district created by an existing qualified nonprofit corporation, the corporation may provide law enforcement service as provided under section 1702.80 of the Revised Code.

The district shall reimburse the participating political subdivision for any additional cost incurred in providing that law enforcement or fire protection service. This additional cost shall not include any overhead, fixed costs, or assignment of costs at rates higher than those at which the political subdivision assigns costs for these services for political subdivision purposes.

(C) Any liability for providing fire or police services under this section by a participating political subdivision shall remain with the participating political subdivision and shall not be assumed by the district.

Sec. 1710.13. ~~The~~ This section does not apply to a special improvement district created by an existing qualified nonprofit corporation.

The process for dissolving a special improvement district or repealing an improvements or services plan may be initiated by a petition signed by members of the district who own at least twenty per cent of the appraised value of the real property located in the district, excluding church property or real property owned by the federal government, the state, or a county, township, or municipal corporation, unless the church, county, township, or municipal corporation has specifically requested in writing that the property be included in the district, and filed with the municipal executive, if any, and the legislative authorities of all the participating political subdivisions of the district. As used in this section, "appraised value" means the taxable value established by the county auditor for purposes of real estate taxation.

No later than forty-five days after such a petition is filed, the members of the district shall meet to consider it. Notice of the meeting shall be given as provided in section 1710.05 of the Revised Code. Upon the affirmative vote of members who collectively own more than fifty per cent of the appraised value of the real property in the district that may be subject to assessment under division (C) of section 1710.06 of the Revised Code, the district shall be dissolved, or the plan shall be repealed, as applicable.

No rights or obligations of any person under any contract, or in relation to any bonds, notes, or assessments made under this chapter, shall be affected by the dissolution of the district or the repeal of a plan, except with the consent of that person or by order of a court with jurisdiction over the matter. Upon dissolution of a district, any assets or rights of the district, after payment of all bonds, notes, or other obligations of the district, shall be deposited in a special account in the treasury of each participating political

subdivision, prorated among all participating political subdivisions to reflect the percentage of the district's territory within that political subdivision, to be used for the benefit of the territory that made up the district.

Once the members have approved the repeal of a plan, all bonds, notes, and other obligations of the district associated with the plan shall be paid. Thereafter, the plan shall be repealed. Upon receipt of proof that all bonds, notes, and other obligations have been paid and that the plan has been repealed, the participating political subdivisions shall terminate any levies imposed to pay for costs of the plan.

Sec. 1721.211. (A) As used in this section, "preneed cemetery merchandise and services contract" means a written agreement, contract, or series of contracts to sell or otherwise provide an outer burial container, monument, marker, urn, other type of merchandise customarily sold by cemeteries, or opening and closing services to be used or provided in connection with the final disposition of a dead human body, where payment for the container, monument, marker, urn, other type of merchandise customarily sold by cemeteries, or opening and closing services is made either outright or on an installment basis, prior to the death of the person so purchasing or for whom so purchased. "Preneed cemetery merchandise and services contract" does not include any preneed funeral contract or any agreement, contract, or series of contracts pertaining to the sale of any burial lot, burial or interment right, entombment right, or columbarium right with respect to which an endowment care trust is established or is exempt from establishment pursuant to section 1721.21 of the Revised Code.

(B) Subject to the limitations and restrictions contained in Chapters 1101. to 1127. of the Revised Code, a trust company licensed under Chapter 1111. of the Revised Code or a national bank or federal savings association that pledges securities in accordance with section 1111.04 of the Revised Code or the individuals described in division (C)(2) of this section have the power as trustee to receive and to hold and invest in accordance with sections 2109.37 and 2109.371 of the Revised Code moneys under a preneed cemetery merchandise and services contract.

(C)(1) The greater of one hundred ten per cent of the seller's actual cost or thirty per cent of the seller's retail price of the merchandise and seventy per cent of the seller's retail price of the services to be provided under a preneed cemetery merchandise and services contract shall remain intact as a fund until the death of the person for whose benefit the contract is made or the merchandise is delivered as set forth in division (K) of this section. However, any moneys held pursuant to this section shall be released upon demand of the person for whose benefit the contract was made or upon the

demand of the seller for its share of the moneys held and earned interest if the contract has been canceled as set forth in division (G) of this section.

(2) The trustee of the fund described in division (C)(1) of this section shall be a trust company licensed under Chapter 1111. of the Revised Code or a national bank or federal savings association that pledges securities in accordance with section 1111.04 of the Revised Code or at least three individuals who have been residents of the county in which the seller is located for at least one year, each of whom shall be bonded by a corporate surety in an amount that is at least equal to the amount deposited in the fund of which those persons serve as trustee. Amounts in the fund shall be held and invested in the manner in which trust funds are permitted to be held and invested pursuant to sections 2109.37 and 2109.371 of the Revised Code.

(3) Every preneed cemetery and merchandise contract entered into on or after the effective date of this amendment shall include a provision in substantially the following form:

NOTICE: Under Ohio law, the person holding the right of disposition of the remains of the beneficiary of this contract pursuant to section 2108.70 or 2108.81 of the Revised Code will have the right to purchase cemetery merchandise and services inconsistent with the merchandise and services set forth in this contract. However, the beneficiary is encouraged to state his or her preferences as to the manner of final disposition in a declaration of the right of disposition pursuant to section 2108.72 of the Revised Code, including that the arrangements set forth in this contract shall be followed.

(D) Within thirty days after the last business day of the month in which the seller of cemetery merchandise or services receives final contractual payment under a preneed cemetery merchandise and services contract, the seller shall deliver the greater of one hundred ten per cent of the seller's actual cost or thirty per cent of the seller's retail price of the merchandise and seventy per cent of the seller's current retail price of the services as of the date of the contract to a trustee or to trustees as described in division (C)(2) of this section, and the moneys and accruals or income on the moneys shall be held in a fund and designated for the person for whose benefit the fund was established as a preneed cemetery merchandise and services contract fund.

(E) The moneys received from more than one preneed cemetery merchandise and services contract may, at the option of the persons for whose benefit the contracts are made, be placed in a common or pooled trust fund in this state under a single trust instrument. If three individuals are designated as the trustees as provided in division (C)(2) of this section, they shall be bonded by a corporate surety or fidelity bond in an aggregate

amount of not less than one hundred per cent of the funds held by them as trustees. The trustees or their agent shall, on a continuous basis, keep exact records as to the amount of funds under a single trust instrument being held for the individual beneficiaries showing the amount paid, the amount deposited and invested, and accruals and income.

(F) ~~The (1) Except as provided in division (F)(2) of this section, the~~ seller of merchandise or services under a preneed cemetery merchandise and services contract shall annually submit to the division of real estate of the department of commerce an affidavit in a form prescribed by the division, sworn under oath, specifying each of the following:

~~(1)(a)~~ (a) That, within the time specified in division (D) of this section, the amounts required by that division were deposited in an appropriate fund;

~~(2)(b)~~ (b) That the fund has not been used to collateralize or guarantee loans and has not otherwise been subjected to any consensual lien;

~~(3)(c)~~ (c) That the fund is invested in compliance with the investing standards set forth in sections 2109.37 and 2109.371 of the Revised Code;

~~(4)(d)~~ (d) That no moneys have been removed from the fund, except as provided for in this section.

(2) A licensed funeral director who sells preneed funeral contracts and who also sells merchandise or services under a preneed cemetery merchandise and services contract shall be deemed to have met the requirement in division (F)(1) of this section by submitting the annual preneed cemetery merchandise and services contract affidavit to the board of embalmers and funeral directors along with or as part of the annual preneed funeral contract report required under divisions (I) and (J) of section 4717.31 of the Revised Code.

(G) This division is subject to division (I) of this section.

Any person upon initially entering into a preneed cemetery merchandise and services contract may, within seven days, cancel the contract and request and receive from the seller one hundred per cent of all payments made under the contract. After the expiration of the above period, any person who has entered into a preneed cemetery merchandise and services contract may, on not less than fifteen days' notice, cancel the contract and request and receive from the seller sixty per cent of the payments made under the contract which have been paid up to the time of cancellation; except that, if a preneed cemetery merchandise and services contract stipulates a firm or fixed or guaranteed price for the merchandise or services for future use at a time determined by the death of the person on behalf of whom payments are made, the person who has entered into the contract may, if the merchandise has not been delivered or the services have not been

performed as set forth in division (K) or (L) of this section, on not less than fifteen days' notice, cancel the contract and receive from the seller sixty per cent of the principal paid pursuant to the contract and not less than eighty per cent of any interest paid, up to the time of cancellation, and not less than eighty per cent of any accrual or income earned while the moneys have been held pursuant to divisions (C) and (D) of this section, up to the time of cancellation. Upon cancellation, after the moneys have been distributed to the beneficiary pursuant to this division, all remaining moneys being held pursuant to divisions (C) and (D) of this section shall be paid to the seller. If more than one person enters into the contract, all of those persons must request cancellation for it to be effective under this division. In such a case, the seller shall refund to each person only those moneys that each person has paid under the contract.

(H) Upon receipt of a certified copy of the certificate of death or evidence of delivery of the merchandise or performance of the services pursuant to division (K) or (L) of this section, the trustee described in division (C)(2) of this section or its agent, shall forthwith pay the fund and accumulated interest, if any, to the person entitled to them under the preneed cemetery merchandise and services contract. The payment of the fund and accumulated interest pursuant to this section, either to a seller or person making the payments, shall relieve the trustee of any further liability on the fund or accumulated interest.

(I) Notwithstanding any other provision of this section, any preneed cemetery merchandise and services contract may specify that it is irrevocable. All irrevocable preneed cemetery merchandise and services contracts shall include a clear and conspicuous disclosure of irrevocability in the contract and any person entering into an irrevocable preneed cemetery merchandise and services contract shall sign a separate acknowledgment of the person's waiver of the right to revoke. If a contract satisfies the requirements of this division, division (G) of this section does not apply to that contract.

(J) Any preneed cemetery merchandise and services contract that involves the payment of money shall be in writing and in compliance with the laws and rules of this state.

(K) For purposes of this section, the seller is considered to have delivered merchandise pursuant to a preneed cemetery merchandise and services contract when either of the following occur:

(1) The seller makes actual delivery of the merchandise to the beneficiary, or the seller pays for the merchandise and identifies it as being stored for the benefit of the beneficiary at a manufacturer's warehouse.

(2) The seller receives delivery of the merchandise on behalf of the beneficiary, and all of the following occur:

(a) The merchandise is permanently affixed to or stored upon the real property of a cemetery located in this state.

(b) The seller notifies the beneficiary of receipt of the merchandise and identifies the specific location of the merchandise.

(c) The seller at the time of the beneficiary's final payment provides the beneficiary with evidence of ownership in the beneficiary's name showing the merchandise to be free and clear of any liens or other encumbrances.

(L) For purposes of this section, a seller is considered to have performed services pursuant to a preneed cemetery merchandise and services contract when the beneficiary's next of kin signs a written statement that the services have been performed or, if no next of kin of the beneficiary can be located through reasonable diligence, when the owner or other person responsible for the operation of the cemetery signs a statement of that nature.

(M) Notwithstanding any other provision of this chapter, any trust may be charged a trustee's fee, which is to be deducted from the earned income or accruals on that trust. The fee shall not exceed the amount that is regularly or usually charged for similar services rendered by the trustee described in division (C)(2) of this section when serving as a trustee.

(N) The general assembly intends that this section be construed as a limitation upon the manner in which a person is permitted to accept moneys in prepayment for merchandise and services to be delivered or provided in the future, or merchandise and services to be used or provided in connection with the final disposition of human remains, to the end that at all times members of the public may have an opportunity to arrange and pay for merchandise and services for themselves and their families in advance of need while at the same time providing all possible safeguards whereunder the prepaid moneys cannot be dissipated, whether intentionally or not, so as to be available for the payment for merchandise and services and the providing of merchandise and services used or provided in connection with the final disposition of dead human bodies.

(O) This section does not apply to the seller or provider of merchandise or services under a preneed cemetery merchandise and services contract if the contract pertains to a cemetery that is owned and operated entirely and exclusively by an established and legally cognizable church or denomination that is exempt from federal income taxation under section 501(c)(3) of the "Internal Revenue Code of 1954," 26 U.S.C.A. 501, an established fraternal organization, or a municipal corporation or other political subdivision of the state, to a cemetery that is a national cemetery, or to a cemetery that is a

family cemetery as defined in section 4767.02 of the Revised Code; provided that, on a voluntary basis, rules and other measures are adopted to safeguard and secure all moneys received under a preneed cemetery merchandise and services contract.

(P) This section does not prohibit persons other than cemetery corporations or associations from selling outer burial containers, monuments, markers, urns, or other types of merchandise customarily sold by cemeteries pursuant to a preneed cemetery merchandise and services contract; however all sellers of merchandise pursuant to a preneed cemetery merchandise and services contract shall comply with this section unless the seller is specifically exempt from this section.

(Q) Any contract for preneed services or merchandise entered into with a cemetery not registered under section 4767.03 of the Revised Code is voidable.

Sec. 1724.02. In furtherance of the purposes set forth in section 1724.01 of the Revised Code, a community improvement corporation shall have the following powers:

(A)(1) To borrow money for any of the purposes of the community improvement corporation by means of loans, lines of credit, or any other financial instruments or securities, including the issuance of its bonds, debentures, notes, or other evidences of indebtedness, whether secured or unsecured, and to secure the same by mortgage, pledge, deed of trust, or other lien on its property, franchises, rights, and privileges of every kind and nature or any part thereof or interest therein; and

(2) If the community improvement corporation is a county land reutilization corporation, the corporation may request, by resolution:

(a) That the board of county commissioners of the county served by the corporation pledge a specifically identified source or sources of revenue pursuant to division (C) of section 307.78 of the Revised Code as security for such borrowing by the corporation; and

(b)(i) If the land subject to reutilization is located within an unincorporated area of the county, that the board of county commissioners issue notes under section 307.082 of the Revised Code for the purpose of constructing public infrastructure improvements and take other actions as the board determines are in the interest of the county and are authorized under sections 5709.78 to 5709.81 of the Revised Code or bonds or notes under section 5709.81 of the Revised Code for the refunding purposes set forth in that section; or

(ii) If the land subject to reutilization is located within the corporate boundaries of a municipal corporation, that the municipal corporation issue

bonds for the purpose of constructing public infrastructure improvements and take such other actions as the municipal corporation determines are in its interest and are authorized under sections 5709.40 to 5709.43 of the Revised Code.

(B) To make loans to any person, firm, partnership, corporation, joint stock company, association, or trust, and to establish and regulate the terms and conditions with respect to any such loans; provided that an economic development corporation shall not approve any application for a loan unless and until the person applying for said loan shows that the person has applied for the loan through ordinary banking or commercial channels and that the loan has been refused by at least one bank or other financial institution. Nothing in this division shall preclude a county land reutilization corporation from making revolving loans to community development corporations or groups for the purposes contained in the corporation's plan under section 1724.10 of the Revised Code.

(C) To purchase, receive, hold, manage, lease, lease-purchase, or otherwise acquire and to sell, convey, transfer, lease, sublease, or otherwise dispose of real and personal property, together with such rights and privileges as may be incidental and appurtenant thereto and the use thereof, including but not restricted to, any real or personal property acquired by the community improvement corporation from time to time in the satisfaction of debts or enforcement of obligations, and to enter into contracts with third parties, including the federal government, the state, any political subdivision, or any other entity. A county land reutilization corporation shall not acquire an interest in real property if such acquisition causes the percentage of unoccupied real property held by the corporation to become less than seventy-five per cent of all real property held by the corporation for reutilization, reclamation, or rehabilitation. For the purposes of this division, "unoccupied" has the same meaning as in section 323.65 of the Revised Code. ~~No interest in real property shall be acquired by a county land reutilization corporation after two years following the filing of its articles of incorporation by the secretary of state.~~

(D) To acquire the good will, business, rights, real and personal property, and other assets, or any part thereof, or interest therein, of any persons, firms, partnerships, corporations, joint stock companies, associations, or trusts, and to assume, undertake, or pay the obligations, debts, and liabilities of any such person, firm, partnership, corporation, joint stock company, association, or trust; to acquire, reclaim, manage, or contract for the management of improved or unimproved and underutilized real estate for the purpose of constructing industrial plants, other business

establishments, or housing thereon, or causing the same to occur, for the purpose of assembling and enhancing utilization of the real estate, or for the purpose of disposing of such real estate to others in whole or in part for the construction of industrial plants, other business establishments, or housing; and to acquire, reclaim, manage, contract for the management of, construct or reconstruct, alter, repair, maintain, operate, sell, convey, transfer, lease, sublease, or otherwise dispose of industrial plants, business establishments, or housing. ~~No interest in real property shall be acquired by a county land reutilization corporation after two years following the filing of its articles of incorporation by the secretary of state.~~

(E) To acquire, subscribe for, own, hold, sell, assign, transfer, mortgage, pledge, or otherwise dispose of the stock, shares, bonds, debentures, notes, or other securities and evidences of interest in, or indebtedness of, any person, firm, corporation, joint stock company, association, or trust, and while the owner or holder thereof, to exercise all the rights, powers, and privileges of ownership, including the right to vote therein, provided that no tax revenue, if any, received by a community improvement corporation shall be used for such acquisition or subscription.

(F) To mortgage, pledge, or otherwise encumber any property acquired pursuant to the powers contained in divisions (C), (D), or (E) of this section.

(G) Nothing in this section shall limit the right of a community improvement corporation to become a member of or a stockholder in a corporation formed under Chapter 1726. of the Revised Code.

(H) To serve as an agent for grant applications and for the administration of grants, or to make applications as principal for grants for county land reutilization corporations.

(I) To exercise the powers enumerated under Chapter 5722. of the Revised Code on behalf of a county that organizes or contracts with a county land reutilization corporation.

(J) To engage in code enforcement and nuisance abatement, including, but not limited to, cutting grass and weeds, boarding up vacant or abandoned structures, and demolishing condemned structures on properties that are subject to a delinquent tax or assessment lien, or property for which a municipal corporation or township has contracted with a county land reutilization corporation to provide code enforcement or nuisance abatement assistance.

(K) To charge fees or exchange in-kind goods or services for services rendered to political subdivisions and other persons or entities for whom services are rendered.

(L) To employ and provide compensation for an executive director who

shall manage the operations of a county land reutilization corporation and employ others for the benefit of the corporation as approved and funded by the board of directors. No employee of the corporation is or shall be deemed to be an employee of the political subdivision for whose benefit the corporation is organized solely because the employee is employed by the corporation;

(M) To purchase tax certificates at auction, negotiated sale, or from a third party who purchased and is a holder of one or more tax certificates issued pursuant to sections 5721.30 to 5721.43 of the Revised Code;

(N) To be assigned a mortgage on real property from a mortgagee in lieu of acquiring such real property subject to a mortgage. ~~No mortgage shall be transferred or assigned to a county land reutilization corporation after two years following the filing of its articles of incorporation by the secretary of state.~~

(O) To do all acts and things necessary or convenient to carry out the purposes of section 1724.01 of the Revised Code and the powers especially created for a community improvement corporation in Chapter 1724. of the Revised Code, including, but not limited to, contracting with the federal government, the state or any political subdivision, and any other party, whether nonprofit or for-profit.

The powers enumerated in this chapter shall not be construed to limit the general powers of a community improvement corporation. The powers granted under this chapter are in addition to those powers granted by any other chapter of the Revised Code, but, as to a county land reutilization corporation, shall be used only for the purposes enumerated under division (B)(2) of section 1724.01 of the Revised Code. ~~Notwithstanding any other provision in the Revised Code granting such authority, a county land reutilization corporation may not acquire any interest in real property after two years following the filing of its articles of incorporation by the secretary of state.~~

Sec. 1724.04. A county having a population of more than one million two hundred thousand as of the most recent decennial census that elects under section 5722.02 of the Revised Code to adopt and implement the procedures set forth in sections 5722.02 to 5722.15 of the Revised Code may organize a county land reutilization corporation under this chapter and Chapter 1702. of the Revised Code for the purpose of exercising the powers granted to a county under Chapter 5722. of the Revised Code. The county treasurer of the county for the benefit of which the corporation is being organized shall be the incorporator of the county land reutilization corporation. The form of the articles of incorporation of the corporation

shall be approved by resolution of the board of county commissioners of the county. ~~A county land reutilization corporation may not be organized under this chapter after the day that is one year after the effective date of the amendment of this section by S.B. 353 of the 127th General Assembly.~~

When the articles of incorporation of any community improvement corporation, or any amendment, amended articles, merger, or consolidation which provides for the creation of such a corporation, are deposited for filing and recording in the office of the secretary of state, the secretary of state shall submit them to the attorney general for examination. If such articles, amendment, amended articles, merger, or consolidation, are found by the attorney general to be in accordance with Chapter 1724. of the Revised Code, and not inconsistent with the constitution and laws of the United States and of this state, the attorney general shall endorse thereon the attorney general's approval and deliver them to the secretary of state, who shall file and record them pursuant to section 1702.07 of the Revised Code.

Sec. 1733.252. (A) As used in this section, "nationwide mortgage licensing system and registry" has the same meaning as in section 1322.01 of the Revised Code.

(B) Subject to division (C) of this section, each credit union, the subsidiaries of the credit union, and the loan originators employed by the credit union, shall comply with the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101, and register with the nationwide mortgage licensing system and registry.

(C) Compliance by a credit union insured by a credit union share guaranty corporation established under Chapter 1761. of the Revised Code, the subsidiaries of the credit union, and the loan originators employed by the credit union shall be determined by rules adopted by the superintendent of financial institutions in accordance with Chapter 119. of the Revised Code. At a minimum, the rules shall require loan originators to furnish to the nationwide mortgage licensing system and registry information concerning the loan originator's identity and be consistent with the requirements for federally insured credit unions adopted by the national credit union administration pursuant to the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

Sec. 1733.26. (A) The credit committee may be delegated the authority to appoint one or more loan officers, and delegate to them power to approve loans within limits fixed by the regulations, bylaws, or resolutions of the board of directors. If the regulations so provide, the board may appoint one or more loan officers, and delegate to them the power to approve loans within limits fixed by the regulations, bylaws, or resolutions of the board.

The authority of loan officers may also be further restricted by policies established by the credit committee or the board. Such loan officers also may be loan originators registered with the nationwide mortgage licensing system and registry as provided in section 1733.252 of the Revised Code.

(B) Each loan officer appointed pursuant to division (A) of this section shall, within seven days of the filing of each loan application received by ~~him~~ the loan officer from a member or by referral from another officer, furnish to the credit committee or to the board, whichever is applicable, a record of such application and ~~his~~ the loan officer's disposition or recommendation for disposition of it. No person shall have authority to disburse funds of the credit union for any loan which has been approved by ~~him~~ the loan officer in ~~his~~ the capacity as a loan officer.

(C) If the regulations provide for a credit committee, all applications for loans not approved by a loan officer may be reviewed by the credit committee, and the approval of the majority of the members of the committee who are present at the meeting when the review is undertaken shall be required to reverse the decision of the loan officer, provided that a majority of the full committee is present.

In the absence of a credit committee, the board shall, upon the written request of a member, review a loan application denied by a loan officer.

Sec. 1739.05. (A) A multiple employer welfare arrangement that is created pursuant to sections 1739.01 to 1739.22 of the Revised Code and that operates a group self-insurance program may be established only if any of the following applies:

(1) The arrangement has and maintains a minimum enrollment of three hundred employees of two or more employers.

(2) The arrangement has and maintains a minimum enrollment of three hundred self-employed individuals.

(3) The arrangement has and maintains a minimum enrollment of three hundred employees or self-employed individuals in any combination of divisions (A)(1) and (2) of this section.

(B) A multiple employer welfare arrangement that is created pursuant to sections 1739.01 to 1739.22 of the Revised Code and that operates a group self-insurance program shall comply with all laws applicable to self-funded programs in this state, including sections 3901.04, 3901.041, 3901.19 to 3901.26, 3901.38, 3901.381 to 3901.3814, 3901.40, 3901.45, 3901.46, 3902.01 to 3902.14, 3923.24, 3923.282, 3923.30, 3923.301, 3923.38, 3923.581, 3923.63, 3923.80, 3924.031, 3924.032, and 3924.27 of the Revised Code.

(C) A multiple employer welfare arrangement created pursuant to

sections 1739.01 to 1739.22 of the Revised Code shall solicit enrollments only through agents or solicitors licensed pursuant to Chapter 3905. of the Revised Code to sell or solicit sickness and accident insurance.

(D) A multiple employer welfare arrangement created pursuant to sections 1739.01 to 1739.22 of the Revised Code shall provide benefits only to individuals who are members, employees of members, or the dependents of members or employees, or are eligible for continuation of coverage under section 1751.53 or 3923.38 of the Revised Code or under Title X of the "Consolidated Omnibus Budget Reconciliation Act of 1985," 100 Stat. 227, 29 U.S.C.A. 1161, as amended.

Sec. 1751.03. (A) Each application for a certificate of authority under this chapter shall be verified by an officer or authorized representative of the applicant, shall be in a format prescribed by the superintendent of insurance, and shall set forth or be accompanied by the following:

(1) A certified copy of the applicant's articles of incorporation and all amendments to the articles of incorporation;

(2) A copy of any regulations adopted for the government of the corporation, any bylaws, and any similar documents, and a copy of all amendments to these regulations, bylaws, and documents. The corporate secretary shall certify that these regulations, bylaws, documents, and amendments have been properly adopted or approved.

(3) A list of the names, addresses, and official positions of the persons responsible for the conduct of the applicant, including all members of the board, the principal officers, and the person responsible for completing or filing financial statements with the department of insurance, accompanied by a completed original biographical affidavit and release of information for each of these persons on forms acceptable to the department;

(4) A full and complete disclosure of the extent and nature of any contractual or other financial arrangement between the applicant and any provider or a person listed in division (A)(3) of this section, including, but not limited to, a full and complete disclosure of the financial interest held by any such provider or person in any health care facility, provider, or insurer that has entered into a financial relationship with the health insuring corporation;

(5) A description of the applicant, its facilities, and its personnel, including, but not limited to, the location, hours of operation, and telephone numbers of all contracted facilities;

(6) The applicant's projected annual enrollee population over a three-year period;

(7) A clear and specific description of the health care plan or plans to be

used by the applicant, including a description of the proposed providers, procedures for accessing care, and the form of all proposed and existing contracts relating to the administration, delivery, or financing of health care services;

(8) A copy of each type of evidence of coverage and identification card or similar document to be issued to subscribers;

(9) A copy of each type of individual or group policy, contract, or agreement to be used;

(10) The schedule of the proposed contractual periodic prepayments or premium rates, or both, accompanied by appropriate supporting data;

(11) A financial plan which provides a three-year projection of operating results, including the projected expenses, income, and sources of working capital;

(12) The enrollee complaint procedure to be utilized as required under section 1751.19 of the Revised Code;

(13) A description of the procedures and programs to be implemented on an ongoing basis to assure the quality of health care services delivered to enrollees, including, if applicable, a description of a quality assurance program complying with the requirements of sections 1751.73 to 1751.75 of the Revised Code;

(14) A statement describing the geographic area or areas to be served, by county;

(15) A copy of all solicitation documents;

(16) A balance sheet and other financial statements showing the applicant's assets, liabilities, income, and other sources of financial support;

(17) A description of the nature and extent of any reinsurance program to be implemented, and a demonstration that errors and omission insurance and, if appropriate, fidelity insurance, will be in place upon the applicant's receipt of a certificate of authority;

(18) Copies of all proposed or in force related-party or intercompany agreements with an explanation of the financial impact of these agreements on the applicant. If the applicant intends to enter into a contract for managerial or administrative services, with either an affiliated or an unaffiliated person, the applicant shall provide a copy of the contract and a detailed description of the person to provide these services. The description shall include that person's experience in managing or administering health care plans, a copy of that person's most recent audited financial statement, and a completed biographical affidavit on a form acceptable to the superintendent for each of that person's principal officers and board members and for any additional employee to be directly involved in

providing managerial or administrative services to the health insuring corporation. If the person to provide managerial or administrative services is affiliated with the health insuring corporation, the contract must provide for payment for services based on actual costs.

(19) A statement from the applicant's board that the admitted assets of the applicant have not been and will not be pledged or hypothecated;

(20) A statement from the applicant's board that the applicant will submit monthly financial statements during the first year of operations;

(21) The name and address of the applicant's Ohio statutory agent for service of process, notice, or demand;

(22) Copies of all documents the applicant filed with the secretary of state;

(23) The location of those books and records of the applicant that must be maintained, which books and records shall be maintained in Ohio if the applicant is a domestic corporation, and which may be maintained either in the applicant's state of domicile or in Ohio if the applicant is a foreign corporation;

(24) The applicant's federal identification number, corporate address, and mailing address;

(25) An internal and external organizational chart;

(26) A list of the assets representing the initial net worth of the applicant;

(27) If the applicant has a parent company, the parent company's guaranty, on a form acceptable to the superintendent, that the applicant will maintain Ohio's minimum net worth. If no parent company exists, a statement regarding the availability of future funds if needed.

(28) The names and addresses of the applicant's actuary and external auditors;

(29) If the applicant is a foreign corporation, a copy of the most recent financial statements filed with the insurance regulatory agency in the applicant's state of domicile;

(30) If the applicant is a foreign corporation, a statement from the insurance regulatory agency of the applicant's state of domicile stating that the regulatory agency has no objection to the applicant applying for an Ohio license and that the applicant is in good standing in the applicant's state of domicile;

(31) Any other information that the superintendent may require;

(32) Documentation acceptable to the superintendent of the bond or securities required by section 1751.271 of the Revised Code.

(B)(1) A health insuring corporation, unless otherwise provided for in

this chapter or in section 3901.321 of the Revised Code, shall file a timely notice with the superintendent describing any change to the corporation's articles of incorporation or regulations, or any major modification to its operations as set out in the information required by division (A) of this section that affects any of the following:

- (a) The solvency of the health insuring corporation;
- (b) The health insuring corporation's continued provision of services that it has contracted to provide;
- (c) The manner in which the health insuring corporation conducts its business.

(2) If the change or modification is to be the result of an action to be taken by the health insuring corporation, the notice shall be filed with the superintendent prior to the health insuring corporation taking the action. The action shall be deemed approved if the superintendent does not disapprove it within sixty days of filing.

(3) The filing of a notice pursuant to division (B)(1) or (2) of this section shall also serve as the submission of a notice when required for the superintendent's review for purposes of section 3901.341 of the Revised Code, if the notice contains all of the information that section 3901.341 of the Revised Code requires for such submissions and a copy of any written agreement. The filing of such a notice, for the purpose of satisfying this division and section 3901.341 of the Revised Code, shall be subject to the sixty-day review period of division (B)(2) of this section.

(C)(1) No health insuring corporation shall expand its approved service area until a copy of the request for expansion, accompanied by documentation of the network of providers, forms of all proposed or existing provider contracts relating to the delivery of health care services, a schedule of proposed contractual periodic prepayments and premium rates for group contracts accompanied by appropriate supporting data, enrollment projections, plan of operation, and any other changes have been filed with the superintendent.

~~(2) Within ten calendar days after receipt of a complete filing under division (C)(1) of this section, the superintendent shall refer the appropriate jurisdictional issues to the director of health if required pursuant to section 1751.04 of the Revised Code.~~

~~(3) Within seventy-five days after the superintendent's receipt of a complete filing under division (C)(1) of this section, the superintendent shall determine whether the plan for expansion is lawful, fair, and reasonable. If a referral is required pursuant to section 1751.04 of the Revised Code, the superintendent may not make a determination until the superintendent has~~

~~received the director's certification of compliance, which the director shall furnish within forty five days after the referral under division (C)(2) of this section. The director shall not certify that the requirements of section 1751.04 of the Revised Code are not met, unless the applicant has been given an opportunity for a hearing as provided in division (D) of section 1751.04 of the Revised Code. The forty five day and seventy five day review periods provided for in division (C)(3) of this section shall cease to run as of the date on which the notice of the applicant's right to request a hearing is mailed and shall remain suspended until the director issues a final certification.~~

~~(4)~~ If the superintendent has not approved or disapproved all or a portion of a service area expansion within the seventy-five-day period ~~provided for in division (C)(3) of this section~~, the filing shall be deemed approved.

~~(5)~~(3) Disapproval of all or a portion of the filing shall be effected by written notice, which shall state the grounds for the order of disapproval and shall be given in accordance with Chapter 119. of the Revised Code.

Sec. 1751.04. (A) Except as provided by division ~~(F)~~(D) of this section, upon the receipt by the superintendent of insurance of a complete application for a certificate of authority to establish or operate a health insuring corporation, which application sets forth or is accompanied by the information and documents required by division (A) of section 1751.03 of the Revised Code, the superintendent shall ~~transmit copies of the application and accompanying documents to the director of health.~~

~~(B)~~ The director shall review the application and accompanying documents and make findings as to whether the applicant for a certificate of authority has done all of the following with respect to any basic health care services and supplemental health care services to be furnished:

(1) Demonstrated the willingness and potential ability to ensure that all basic health care services and supplemental health care services described in the evidence of coverage will be provided to all its enrollees as promptly as is appropriate and in a manner that assures continuity;

(2) Made effective arrangements to ensure that its enrollees have reliable access to qualified providers in those specialties that are generally available in the geographic area or areas to be served by the applicant and that are necessary to provide all basic health care services and supplemental health care services described in the evidence of coverage;

(3) Made appropriate arrangements for the availability of short-term health care services in emergencies within the geographic area or areas to be served by the applicant, twenty-four hours per day, seven days per week,

and for the provision of adequate coverage whenever an out-of-area emergency arises;

(4) Made appropriate arrangements for an ongoing evaluation and assurance of the quality of health care services provided to enrollees, including, if applicable, the development of a quality assurance program complying with the requirements of sections 1751.73 to 1751.75 of the Revised Code, and the adequacy of the personnel, facilities, and equipment by or through which the services are rendered;

(5) Developed a procedure to gather and report statistics relating to the cost and effectiveness of its operations, the pattern of utilization of its services, and the quality, availability, and accessibility of its services.

~~(C) Within ninety days of the director's receipt of~~ (B) Based upon the information provided in the application for issuance of a certificate of authority, the ~~director shall certify to the~~ superintendent shall determine whether or not the applicant meets the requirements of division ~~(B)(A)~~ of this section ~~and sections 3702.51 to 3702.62 of the Revised Code~~. If the ~~director certifies~~ superintendent determines that the applicant does not meet these requirements, the ~~director~~ superintendent shall specify in what respects it is deficient. However, the ~~director~~ superintendent shall not ~~certify that~~ deny an application because the requirements of this section are not met unless the applicant has been given an opportunity for a hearing on that issue.

~~(D)(C)~~ If the applicant requests a hearing, the ~~director~~ superintendent shall hold a hearing before ~~certifying that~~ denying an application because the applicant does not meet the requirements of this section. The hearing shall be held in accordance with Chapter 119. of the Revised Code.

~~(E) The ninety-day review period provided for under division (C) of this section shall cease to run as of the date on which the notice of the applicant's right to request a hearing is mailed and shall remain suspended until the director issues a final certification order.~~

~~(F)(D)~~ Nothing in this section requires the ~~director~~ superintendent to review or make findings with regard to an application and accompanying documents to establish or operate any of the following:

- (1) A health insuring corporation to cover solely medicaid recipients;
- (2) A health insuring corporation to cover solely medicare beneficiaries;
- (3) A health insuring corporation to cover solely medicaid recipients and medicare beneficiaries;
- (4) A health insuring corporation to cover solely participants of the children's buy-in program;
- (5) A health insuring corporation to cover solely medicaid recipients

and participants of the children's buy-in program;

(6) A health insuring corporation to cover solely medicaid recipients, medicare beneficiaries, and participants of the children's buy-in program.

Sec. 1751.05. (A) The superintendent of insurance shall issue or deny a certificate of authority to ~~health insuring corporations within the deadlines specified as follows:~~

~~(1) For a health insuring corporation filing an application pursuant to section 1751.03 of the Revised Code, forty five days from the superintendent's receipt of the certification from the director of health under division (C) of section 1751.04 of the Revised Code;~~

~~(2) One one hundred thirty-five days from the superintendent's receipt of a complete application and accompanying documents if the health insuring corporation is to cover solely the following:~~

~~(a) Medicaid recipients;~~

~~(b) Medicare beneficiaries;~~

~~(c) Medicaid recipients and medicare beneficiaries;~~

~~(d) Participants of the children's buy-in program;~~

~~(e) Medicaid recipients and participants of the children's buy-in program;~~

~~(f) Medicaid recipients, medicare beneficiaries, and participants of the children's buy-in program.~~

(B) A certificate of authority shall be issued upon payment of the application fee prescribed in section 1751.44 of the Revised Code if the superintendent is satisfied that the following conditions are met:

(1) The persons responsible for the conduct of the affairs of the applicant are competent, trustworthy, and possess good reputations.

(2) ~~The director certifies~~ superintendent determines, in accordance with division ~~(C)~~(B) of section 1751.04 of the Revised Code, that the organization's proposed plan of operation meets the requirements of division ~~(B)~~(A) of that section ~~and sections 3702.51 to 3702.62 of the Revised Code. If, after the director has certified compliance, the application is amended in a manner that affects its approval under section 1751.04 of the Revised Code, the superintendent shall request the director to review and recertify the amended plan of operation. Within forty five days of receipt of the amended plan from the superintendent, the director shall certify to the superintendent, pursuant to section 1751.04 of the Revised Code, whether or not the amended plan meets the requirements of section 1751.04 of the Revised Code. The superintendent's forty five day review period shall cease to run as of the date on which the amended plan is transmitted to the director and shall remain suspended until the superintendent receives a new~~

~~certification from the director.~~

(3) The applicant constitutes an appropriate mechanism to effectively provide or arrange for the provision of the basic health care services, supplemental health care services, or specialty health care services to be provided to enrollees.

(4) The applicant is financially responsible, complies with section 1751.28 of the Revised Code, and may reasonably be expected to meet its obligations to enrollees and prospective enrollees. In making this determination, the superintendent may consider:

(a) The financial soundness of the applicant's arrangements for health care services, including the applicant's proposed contractual periodic prepayments or premiums and the use of copayments and deductibles;

(b) The adequacy of working capital;

(c) Any agreement with an insurer, a government, or any other person for insuring the payment of the cost of health care services or providing for automatic applicability of an alternative coverage in the event of discontinuance of the health insuring corporation's operations;

(d) Any agreement with providers or health care facilities for the provision of health care services;

(e) Any deposit of securities submitted in accordance with section 1751.27 of the Revised Code as a guarantee that the obligations will be performed.

(5) The applicant has submitted documentation of an arrangement to provide health care services to its enrollees until the expiration of the enrollees' contracts with the applicant if a health care plan or the operations of the health insuring corporation are discontinued prior to the expiration of the enrollees' contracts. An arrangement to provide health care services may be made by using any one, or any combination, of the following methods:

(a) The maintenance of insolvency insurance;

(b) A provision in contracts with providers and health care facilities, but no health insuring corporation shall rely solely on such a provision for more than thirty days;

(c) An agreement with other health insuring corporations or insurers, providing enrollees with automatic conversion rights upon the discontinuation of a health care plan or the health insuring corporation's operations;

(d) Such other methods as approved by the superintendent.

(6) Nothing in the applicant's proposed method of operation, as shown by the information submitted pursuant to section 1751.03 of the Revised Code or by independent investigation, will cause harm to an enrollee or to

the public at large, as determined by the superintendent.

(7) Any deficiencies ~~certified~~ identified by the ~~director~~ superintendent under section 1751.04 of the Revised Code have been corrected.

(8) The applicant has deposited securities as set forth in section 1751.27 of the Revised Code.

(C) If an applicant elects to fulfill the requirements of division ~~(A)~~(B)(5) of this section through an agreement with other health insuring corporations or insurers, the agreement shall require those health insuring corporations or insurers to give thirty days' notice to the superintendent prior to cancellation or discontinuation of the agreement for any reason.

(D) A certificate of authority shall be denied only after compliance with the requirements of section 1751.36 of the Revised Code.

Sec. 1751.14. (A) ~~Any~~ Notwithstanding section 3901.71 of the Revised Code, any policy, contract, or agreement for health care services authorized by this chapter that is issued, delivered, or renewed in this state and that provides that coverage of an unmarried dependent child will terminate upon attainment of the limiting age for dependent children specified in the policy, contract, or agreement, shall also provide in substance ~~that~~ both of the following:

(1) Once an unmarried child has attained the limiting age for dependent children, as provided in the policy, contract, or agreement, upon the request of the subscriber, the health insuring corporation shall offer to cover the unmarried child until the child attains twenty-eight years of age if all of the following are true:

(a) The child is the natural child, stepchild, or adopted child of the subscriber.

(b) The child is a resident of this state or a full-time student at an accredited public or private institution of higher education.

(c) The child is not employed by an employer that offers any health benefit plan under which the child is eligible for coverage.

(d) After having attained the limiting age, the child has been continuously covered under any health benefit plan.

(e) The child is not eligible for coverage under the medicaid program established under Chapter 5111. of the Revised Code or the medicare program established under Title XVIII of the "Social Security Act," 42 U.S.C. 1395.

(2) That attainment of the limiting age for dependent children shall not operate to terminate the coverage of ~~the~~ a dependent child if the child is and continues to be both of the following:

~~(1)~~(a) Incapable of self-sustaining employment by reason of mental

retardation or physical handicap;

~~(2)(b)~~ Primarily dependent upon the subscriber for support and maintenance.

(B) Proof of incapacity and dependence for purposes of division (A)~~(2)~~ of this section shall be furnished to the health insuring corporation within thirty-one days of the child's attainment of the limiting age. Upon request, but not more frequently than annually, the health insuring corporation may require proof satisfactory to it of the continuance of such incapacity and dependency.

(C) Nothing in this section shall do any of the following:

(1) Require that any policy, contract, or agreement offer coverage for dependent children or provide coverage for an unmarried dependent child's children as dependents on the policy, contract, or agreement;

(2) Require an employer to pay for any part of the premium for an unmarried dependent child that has attained the limiting age for dependents, as provided in the policy, contract, or agreement;

(3) Require an employer to offer health insurance coverage to the dependents of any employee.

(D) This section does not apply to any health insuring corporation policy, contract, or agreement offering only supplemental health care services or specialty health care services.

(E) As used in this section, "health benefit plan" has the same meaning as in section 3924.01 of the Revised Code and also includes both of the following:

(1) A public employee benefit plan;

(2) A health benefit plan as regulated under the "Employee Retirement Income Security Act of 1974," 29 U.S.C. 1001, et seq.

~~Sec. 1751.15. (A) After a health insuring corporation has furnished, directly or indirectly, basic health care services for a period of twenty-four months, and if it currently meets the financial requirements set forth in section 1751.28 of the Revised Code and had net income as reported to the superintendent of insurance for at least one of the preceding four calendar quarters, it shall hold an annual open enrollment period of not less than thirty days during its month of licensure for individuals who are not federally eligible individuals at the time they apply for enrollment.~~

~~(B) During the open enrollment period described in division (A) of this section, the health insuring corporation shall accept applicants and their dependents in the order in which they apply for enrollment and in accordance with any of the following:~~

~~(1) Up to its capacity, as determined by the health insuring corporation~~

subject to review by the superintendent;

~~(2) If less than its capacity, one per cent of the health insuring corporation's total number of subscribers residing in this state as of the immediately preceding thirty first day of December.~~

~~(C) Where a health insuring corporation demonstrates to the satisfaction of the superintendent that such open enrollment would jeopardize its economic viability, the superintendent may do any of the following:~~

~~(1) Waive the requirement for open enrollment;~~

~~(2) Impose a limit on the number of applicants and their dependents that must be enrolled;~~

~~(3) Authorize such underwriting restrictions upon open enrollment as are necessary to do any of the following:~~

~~(a) Preserve its financial stability;~~

~~(b) Prevent excessive adverse selection;~~

~~(c) Avoid unreasonably high or unmarketable charges for coverage of health care services.~~

~~(D)(1) A request to the superintendent under division (C) of this section for any restriction, limit, or waiver during an open enrollment period must be accompanied by supporting documentation, including financial data. In reviewing the request, the superintendent may consider various factors, including the size of the health insuring corporation, the health insuring corporation's net worth and profitability, the health insuring corporation's delivery system structure, and the effect on profitability of prior open enrollments.~~

~~(2) Any action taken by the superintendent under division (C) of this section shall be effective for a period of not more than one year. At the expiration of such time, a new demonstration of the health insuring corporation's need for the restriction, limit, or waiver shall be made before a new restriction, limit, or waiver is granted by the superintendent.~~

~~(3) Irrespective of the granting of any restriction, limit, or waiver by the superintendent, a health insuring corporation may reject an applicant or a dependent of the applicant during its open enrollment period if the applicant or dependent:~~

~~(a) Was eligible for and was covered under any employer-sponsored health care coverage, or if employer-sponsored health care coverage was available at the time of open enrollment;~~

~~(b) Is eligible for continuation coverage under state or federal law;~~

~~(c) Is eligible for medicare, and the health insuring corporation does not have an agreement on appropriate payment mechanisms with the governmental agency administering the medicare program.~~

~~(E) A health insuring corporation shall not be required either to enroll applicants or their dependents who are confined to a health care facility because of chronic illness, permanent injury, or other infirmity that would cause economic impairment to the health insuring corporation if such applicants or their dependents were enrolled or to make the effective date of benefits for applicants or their dependents enrolled under this section earlier than ninety days after the date of enrollment.~~

~~(F) A health insuring corporation shall not be required to cover the fees or costs, or both, for any basic health care service related to a transplant of a body organ if the transplant occurs within one year after the effective date of an enrollee's coverage under this section. This limitation on coverage does not apply to a newly born child who meets the requirements for coverage under section 1751.61 of the Revised Code.~~

~~(G) Each health insuring corporation required to hold an open enrollment pursuant to division (A) of this section shall file with the superintendent, not later than sixty days prior to the commencement of the proposed open enrollment period, the following documents:~~

~~(1) The proposed public notice of open enrollment;~~

~~(2) The evidence of coverage approved pursuant to section 1751.11 of the Revised Code that will be used during open enrollment;~~

~~(3) The contractual periodic prepayment and premium rate approved pursuant to section 1751.12 of the Revised Code that will be applicable during open enrollment;~~

~~(4) Any solicitation document approved pursuant to section 1751.31 of the Revised Code to be sent to applicants, including the application form that will be used during open enrollment;~~

~~(5) A list of the proposed dates of publication of the public notice, and the names of the newspapers in which the notice will appear;~~

~~(6) Any request for a restriction, limit, or waiver with respect to the open enrollment period, along with any supporting documentation.~~

~~(H)(1) An open enrollment period shall not satisfy the requirements of this section unless the health insuring corporation provides adequate public notice in accordance with divisions (H)(2) and (3) of this section. No public notice shall be used until the form of the public notice has been filed by the health insuring corporation with the superintendent. If the superintendent does not disapprove the public notice within sixty days after it is filed, it shall be deemed approved, unless the superintendent sooner gives approval for the public notice. If the superintendent determines within this sixty day period that the public notice fails to meet the requirements of this section, the superintendent shall so notify the health insuring corporation and it shall~~

~~be unlawful for the health insuring corporation to use the public notice. Such disapproval shall be effected by a written order, which shall state the grounds for disapproval and shall be issued in accordance with Chapter 119 of the Revised Code.~~

~~(2) A public notice pursuant to division (H)(1) of this section shall be published in at least one newspaper of general circulation in each county in the health insuring corporation's service area, at least once in each of the two weeks immediately preceding the month in which the open enrollment is to occur and in each week of that month, or until the enrollment limitation is reached, whichever occurs first. The notice published during the last week of open enrollment shall appear not less than five days before the end of the open enrollment period. It shall be at least two newspaper columns wide or two and one-half inches wide, whichever is larger. The first two lines of the text shall be published in not less than twelve-point, boldface type. The remainder of the text of the notice shall be published in not less than eight-point type. The entire public notice shall be surrounded by a continuous black line not less than one-eighth of an inch wide.~~

~~(3) The following information shall be included in the public notice provided under division (H)(2) of this section:~~

~~(a) The dates that open enrollment will be held and the date coverage obtained under the open enrollment will become effective;~~

~~(b) Notice that an applicant or the applicant's dependents will not be denied coverage during open enrollment because of a preexisting health condition, but that some limitations and restrictions may apply;~~

~~(c) The address where a person may obtain an application;~~

~~(d) The telephone number that a person may call to request an application or to ask questions;~~

~~(e) The date the first payment will be due;~~

~~(f) The actual rates or range of rates that will be applicable for applicants;~~

~~(g) Any limitation granted by the superintendent on the number of applications that will be accepted by the health insuring corporation.~~

~~(4) Within thirty days after the end of an open enrollment period, the health insuring corporation shall submit to the superintendent proof of publication for the public notices, and shall report the total number of applicants and their dependents enrolled during the open enrollment period.~~

~~(I)(1) No health insuring corporation may employ any scheme, plan, or device that restricts the ability of any person to enroll during open enrollment.~~

~~(2) No health insuring corporation may require enrollment to be made in~~

~~person. Every health insuring corporation shall permit application for coverage by mail. A representative of the health insuring corporation may visit an applicant who has submitted an application by mail, in order to explain the operations of the health insuring corporation and to answer any questions the applicant may have. Every health insuring corporation shall make open enrollment applications and solicitation documents readily available to any potential applicant who requests such material.~~

~~(J) An application postmarked on the last day of an open enrollment period shall qualify as a valid application, regardless of the date on which it is received by the health insuring corporation.~~

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

~~(1) Any health insuring corporation that offers only supplemental health care services or specialty health care services;~~

~~(2) Any health insuring corporation that offers plans only through medicare, medicaid, or the children's buy-in program and that has no other commercial enrollment;~~

~~(3) Any health insuring corporation that offers plans only through other federal health care programs regulated by federal regulatory bodies and that has no other commercial enrollment;~~

~~(4) Any health insuring corporation that offers plans only through contracts covering officers or employees of the state that have been entered into by the department of administrative services and that has no other commercial enrollment.~~

~~(L) Each health insuring corporation shall accept federally eligible individuals for open enrollment coverage as provided in ~~section~~ sections 3923.58 and 3923.581 of the Revised Code. A health insuring corporation may reinsure coverage of any ~~federally eligible~~ individual acquired under ~~that section~~ those sections with the open enrollment reinsurance program in accordance with division (G) of section 3924.11 of the Revised Code. Fixed periodic prepayment rates charged for coverage reinsured by the program shall be established in accordance with section 3924.12 of the Revised Code.~~

~~(M) As used in this section, "federally eligible individual" means an eligible individual as defined in 45 C.F.R. 148.103.~~

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

~~(1) Any health insuring corporation that offers only supplemental health care services or specialty health care services;~~

~~(2) Any health insuring corporation that offers plans only through medicare, medicaid, or the children's buy-in program and that has no other commercial enrollment;~~

(3) Any health insuring corporation that offers plans only through other federal health care programs regulated by federal regulatory bodies and that has no other commercial enrollment;

(4) Any health insuring corporation that offers plans only through contracts covering officers or employees of the state that have been entered into by the department of administrative services and that has no other commercial enrollment.

Sec. 1751.16. (A) Except as provided in division (F) of this section, every group contract issued by a health insuring corporation shall provide an option for conversion to an individual contract issued on a direct-payment basis to any subscriber covered by the group contract who terminates employment or membership in the group, unless:

(1) Termination of the conversion option or contract is based upon nonpayment of premium after reasonable notice in writing has been given by the health insuring corporation to the subscriber.

(2) The subscriber is, or is eligible to be, covered for benefits at least comparable to the group contract under any of the following:

(a) Medicare;

(b) Any act of congress or law under this or any other state of the United States providing coverage at least comparable to the benefits under division (A)(2)(a) of this section;

(c) Any policy of insurance or health care plan providing coverage at least comparable to the benefits under division (A)(2)(a) of this section.

(B)(1) The direct-payment contract offered by the health insuring corporation pursuant to division (A) of this section shall provide the following:

(a) In the case of an individual who is not a federally eligible individual, benefits comparable to benefits in any of the individual contracts then being issued to individual subscribers by the health insuring corporation;

(b) In the case of a federally eligible individual, a basic and standard plan established ~~by the board of directors of the Ohio health reinsurance program under section 3924.10 of the Revised Code~~ or plans substantially similar to the basic and standard plan in benefit design and scope of covered services. For purposes of division (B)(1)(b) of this section, the superintendent of insurance shall determine whether a plan is substantially similar to the basic or standard plan in benefit design and scope of covered services. The contractual periodic prepayments charged for such plans may not exceed ~~an amount that is two times the midpoint of the standard~~ the amounts specified below:

(i) For calendar years 2010 and 2011, an amount that is two times the

base rate charged any other individual of a group to which the organization is currently accepting new business and for which similar copayments and deductibles are applied;

(ii) For calendar year 2012 and every calendar year thereafter, an amount that is one and one-half times the base rate charged any other individual of a group to which the health insuring corporation is currently accepting new business and for which similar copayments and deductibles are applied, unless the superintendent of insurance determines that the amendments by this act to sections 3923.58 and 3923.581 of the Revised Code, have resulted in the market-wide average medical loss ratio for coverage sold to individual insureds and nonemployer group insureds in this state, including open enrollment insureds, to increase by more than five and one quarter percentage points during calendar year 2010. If the superintendent makes that determination, the premium limit established by division (B)(1)(b)(i) of this section shall remain in effect.

(2) The direct payment contract offered pursuant to division (A) of this section may include a coordination of benefits provision as approved by the superintendent.

(3) For purposes of division (B) of this section "~~federally~~;

(a) "Federally eligible individual" means an eligible individual as defined in 45 C.F.R. 148.103.

(b) "Base rate" means, as to any health benefit plan that is issued by a health insuring corporation, the lowest premium rate for new or existing business prescribed by the health insuring corporation for the same or similar coverage under a plan or arrangement covering any individual in a group with similar case characteristics.

(C) The option for conversion shall be available:

(1) Upon the death of the subscriber, to the surviving spouse with respect to such of the spouse and dependents as are then covered by the group contract;

(2) To a child solely with respect to the child upon the child's attaining the limiting age of coverage under the group contract while covered as a dependent under the contract;

(3) Upon the divorce, dissolution, or annulment of the marriage of the subscriber, to the divorced spouse, or, in the event of annulment, to the former spouse of the subscriber.

(D) No health insuring corporation shall use age or health status as the basis for refusing to renew a converted contract.

(E) Written notice of the conversion option provided by this section shall be given to the subscriber by the health insuring corporation by mail.

The notice shall be sent to the subscriber's address in the records of the employer upon receipt of notice from the employer of the event giving rise to the conversion option. If the subscriber has not received notice of the conversion privilege at least fifteen days prior to the expiration of the thirty-day conversion period, then the subscriber shall have an additional period within which to exercise the privilege. This additional period shall expire fifteen days after the subscriber receives notice, but in no event shall the period extend beyond sixty days after the expiration of the thirty-day conversion period.

(F) This section does not apply to any group contract offering only supplemental health care services or specialty health care services.

Sec. 1751.18. (A)(1) No health insuring corporation shall cancel or fail to renew the coverage of a subscriber or enrollee because of any health status-related factor in relation to the subscriber or enrollee, the subscriber's or enrollee's requirements for health care services, or for any other reason designated under rules adopted by the superintendent of insurance.

(2) Unless otherwise required by state or federal law, no health insuring corporation, or health care facility or provider through which the health insuring corporation has made arrangements to provide health care services, shall discriminate against any individual with regard to enrollment, disenrollment, or the quality of health care services rendered, on the basis of the individual's race, color, sex, age, religion, military status as defined in section 4112.01 of the Revised Code, or status as a recipient of medicare or medicaid, or any health status-related factor in relation to the individual. However, a health insuring corporation shall not be required to accept a recipient of medicare or medical assistance, if an agreement has not been reached on appropriate payment mechanisms between the health insuring corporation and the governmental agency administering these programs. Further, except ~~during a period of~~ for open enrollment coverage under section 1751.15 sections 3923.58 and 3923.581 of the Revised Code, a health insuring corporation may reject an applicant for nongroup enrollment on the basis of any health status-related factor in relation to the applicant.

(B) A health insuring corporation may cancel or decide not to renew the coverage of an enrollee if the enrollee has performed an act or practice that constitutes fraud or intentional misrepresentation of material fact under the terms of the coverage and if the cancellation or nonrenewal is not based, either directly or indirectly, on any health status-related factor in relation to the enrollee.

(C) An enrollee may appeal any action or decision of a health insuring corporation taken pursuant to section 2742(b) to (e) of the "Health Insurance

Portability and Accountability Act of 1996," Pub. L. No. 104-191, 110 Stat. 1955, 42 U.S.C.A. 300gg-42, as amended. To appeal, the enrollee may submit a written complaint to the health insuring corporation pursuant to section 1751.19 of the Revised Code. The enrollee may, within thirty days after receiving a written response from the health insuring corporation, appeal the health insuring corporation's action or decision to the superintendent.

(D) As used in this section, "health status-related factor" means any of the following:

- (1) Health status;
- (2) Medical condition, including both physical and mental illnesses;
- (3) Claims experience;
- (4) Receipt of health care;
- (5) Medical history;
- (6) Genetic information;
- (7) Evidence of insurability, including conditions arising out of acts of domestic violence;
- (8) Disability.

Sec. 1751.19. (A) A health insuring corporation shall establish and maintain a complaint system that has been approved by the superintendent of insurance to provide adequate and reasonable procedures for the expeditious resolution of written complaints initiated by subscribers or enrollees concerning any matter relating to services provided, directly or indirectly, by the health insuring corporation, including, but not limited to, complaints regarding cancellations or nonrenewals of coverage. Complaints regarding a health insuring corporation's decision to deny, reduce, or terminate coverage for health care services are subject to section 1751.83 of the Revised Code.

(B) A health insuring corporation shall provide a timely written response to each written complaint it receives.

(C)(1) Copies of complaints and responses, including medical records related to those complaints, shall be available to the superintendent ~~and the director of health~~ for inspection for three years. Any document or information provided to the superintendent pursuant to this division that contains a medical record is confidential, and is not a public record subject to section 149.43 of the Revised Code.

(2) Notwithstanding division (C)(1) of this section, the superintendent may share documents and information that contain a medical record in connection with the investigation or prosecution of any illegal or criminal activity with the chief deputy rehabilitator, the chief deputy liquidator, other

deputy rehabilitators and liquidators, and any other person employed by, or acting on behalf of, the superintendent pursuant to Chapter 3901. or 3903. of the Revised Code, with other local, state, federal, and international regulatory and law enforcement agencies, with local, state, and federal prosecutors, and with the national association of insurance commissioners and its affiliates and subsidiaries, provided that the recipient agrees to maintain the confidential or privileged status of the confidential or privileged document or information and has authority to do so.

(3) Nothing in this section shall prohibit the superintendent from receiving documents and information in accordance with section 3901.045 of the Revised Code.

(4) The superintendent may enter into agreements governing the sharing and use of documents and information consistent with the requirements of this section.

(5) No waiver of any applicable privilege or claim of confidentiality in the documents and information described in division (C)(1) of this section occurs as a result of sharing or receiving documents and information as authorized in divisions (C)(2) and (3) of this section.

(D) A health insuring corporation shall establish and maintain a procedure to accept complaints over the telephone or in person. These complaints are not subject to the reporting requirement under division (C) of section 1751.32 of the Revised Code.

(E) A health insuring corporation may comply with this section and section 1751.83 of the Revised Code by establishing one system for receiving and reviewing complaints and requests for internal review from enrollees and subscribers if the system meets the requirements of both sections.

Sec. 1751.32. Each health insuring corporation, annually, on or before the first day of March, shall file a report with the superintendent of insurance ~~and the director of health~~, covering the preceding calendar year.

The report shall be verified by an officer of the health insuring corporation, shall be in the form the superintendent prescribes, and shall include:

(A) A financial statement of the health insuring corporation, including its balance sheet and receipts and disbursements for the preceding year, which reflect, at a minimum:

(1) All premium rate and other payments received for health care services rendered;

(2) Expenditures with respect to all categories of providers, facilities, insurance companies, and other persons engaged to fulfill obligations of the

health insuring corporation arising out of its health care policies, contracts, certificates, and agreements;

(3) Expenditures for capital improvements or additions thereto, including, but not limited to, construction, renovation, or purchase of facilities and equipment.

(B) A description of the enrollee population and composition, group and nongroup;

(C) A summary of enrollee written complaints and their disposition;

(D) A statement of the number of subscriber policies, contracts, certificates, and agreements that have been terminated by action of the health insuring corporation, including the number of enrollees affected;

(E) A summary of the information compiled pursuant to division (B)(5) of section 1751.04 of the Revised Code;

(F) A current report of the names and addresses of the persons responsible for the conduct of the affairs of the health insuring corporation as required by section 1751.03 of the Revised Code. Additionally, the report shall include the amount of wages, expense reimbursements, and other payments to these persons for services to the health insuring corporation, and shall include a full disclosure of the financial interests related to the operations of the health insuring corporation acquired by these persons during the preceding year.

(G) An actuarial opinion in the form prescribed by the superintendent by rule;

(H) Any other information relating to the performance of the health insuring corporation that is necessary to enable the superintendent to carry out the superintendent's duties under this chapter.

Sec. 1751.321. Each health insuring corporation, annually, on or before the first day of June, shall file with the superintendent of insurance ~~and the director of health~~ an audit report certified by an independent certified public accountant covering the preceding calendar year. The report shall be verified by an officer of the health insuring corporation and shall be in the form prescribed by the superintendent by rule.

Sec. 1751.34. (A) Each health insuring corporation and each applicant for a certificate of authority under this chapter shall be subject to examination by the superintendent of insurance in accordance with section 3901.07 of the Revised Code. Section 3901.07 of the Revised Code shall govern every aspect of the examination, including the circumstances under and frequency with which it is conducted, the authority of the superintendent and any examiner or other person appointed by the superintendent, the liability for the assessment of expenses incurred in

conducting the examination, and the remittance of the assessment to the superintendent's examination fund.

(B) The ~~director of health~~ superintendent shall make an examination concerning the matters subject to the ~~director's~~ superintendent's consideration in section 1751.04 of the Revised Code as often as the ~~director~~ superintendent considers it necessary for the protection of the interests of the people of this state, ~~but not less frequently than once every three years~~. The expenses of such examinations shall be assessed against the health insuring corporation being examined in the manner in which expenses of examinations are assessed against an insurance company under section 3901.07 of the Revised Code. Nothing in this division requires the ~~director~~ superintendent to make an examination of any of the following:

- (1) A health insuring corporation that covers solely medicaid recipients;
- (2) A health insuring corporation that covers solely medicare beneficiaries;
- (3) A health insuring corporation that covers solely medicaid recipients and medicare beneficiaries;
- (4) A health insuring corporation that covers solely participants of the children's buy-in program;
- (5) A health insuring corporation that covers solely medicaid recipients and participants of the children's buy-in program;
- (6) A health insuring corporation that covers solely medicaid recipients, medicare beneficiaries, and participants of the children's buy-in program.

(C) An examination, pursuant to section 3901.07 of the Revised Code, of an insurance company holding a certificate of authority under this chapter to organize and operate a health insuring corporation shall include an examination of the health insuring corporation pursuant to this section and the examination shall satisfy the requirements of divisions (A) and (B) of this section.

(D) The superintendent may conduct market conduct examinations pursuant to section 3901.011 of the Revised Code of any health insuring corporation as often as the superintendent considers it necessary for the protection of the interests of subscribers and enrollees. The expenses of such market conduct examinations shall be assessed against the health insuring corporation being examined. All costs, assessments, or fines collected under this division shall be paid into the state treasury to the credit of the department of insurance operating fund.

Sec. 1751.35. (A) The superintendent of insurance may suspend or revoke any certificate of authority issued to a health insuring corporation under this chapter if the superintendent finds that:

(1) The health insuring corporation is operating in contravention of its articles of incorporation, its health care plan or plans, or in a manner contrary to that described in and reasonably inferred from any other information submitted under section 1751.03 of the Revised Code, unless amendments to such submissions have been filed and have taken effect in compliance with this chapter.

(2) The health insuring corporation fails to issue evidences of coverage in compliance with the requirements of section 1751.11 of the Revised Code.

(3) The contractual periodic prepayments or premium rates used do not comply with the requirements of section 1751.12 of the Revised Code.

(4) The health insuring corporation enters into a contract, agreement, or other arrangement with any health care facility or provider, that does not comply with the requirements of section 1751.13 of the Revised Code, or the corporation fails to provide an annual certificate as required by section 1751.13 of the Revised Code.

(5) ~~The director of health has certified~~ superintendent determines, after a hearing conducted in accordance with Chapter 119. of the Revised Code, that the health insuring corporation no longer meets the requirements of section 1751.04 of the Revised Code.

(6) The health insuring corporation is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees.

(7) The health insuring corporation has failed to implement the complaint system that complies with the requirements of section 1751.19 of the Revised Code.

(8) The health insuring corporation, or any agent or representative of the corporation, has advertised, merchandised, or solicited on its behalf in contravention of the requirements of section 1751.31 of the Revised Code.

(9) The health insuring corporation has unlawfully discriminated against any enrollee or prospective enrollee with respect to enrollment, disenrollment, or price or quality of health care services.

(10) The continued operation of the health insuring corporation would be hazardous or otherwise detrimental to its enrollees.

(11) The health insuring corporation has submitted false information in any filing or submission required under this chapter or any rule adopted under this chapter.

(12) The health insuring corporation has otherwise failed to substantially comply with this chapter or any rule adopted under this chapter.

(13) The health insuring corporation is not operating a health care plan.

(14) The health insuring corporation has failed to comply with any of the requirements of sections 1751.77 to 1751.88 of the Revised Code.

(B) A certificate of authority shall be suspended or revoked only after compliance with the requirements of Chapter 119. of the Revised Code.

(C) When the certificate of authority of a health insuring corporation is suspended, the health insuring corporation, during the period of suspension, shall not enroll any additional subscribers or enrollees except newborn children or other newly acquired dependents of existing subscribers or enrollees, and shall not engage in any advertising or solicitation whatsoever.

(D) When the certificate of authority of a health insuring corporation is revoked, the health insuring corporation, following the effective date of the order of revocation, shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the health insuring corporation. The health insuring corporation shall engage in no further advertising or solicitation whatsoever. The superintendent, by written order, may permit such further operation of the health insuring corporation as the superintendent may find to be in the best interest of enrollees, to the end that enrollees will be afforded the greatest practical opportunity to obtain continuing health care coverage.

Sec. 1751.36. (A) When the superintendent of insurance has cause to believe that grounds for the denial of an application for a certificate of authority exist, or that grounds for the suspension or revocation of a certificate of authority exist, the superintendent shall notify the applicant or health insuring corporation ~~and the director of health~~ in writing, specifically stating the grounds for the denial, suspension, or revocation and setting a date of at least thirty days after the notification for a hearing on the matter.

(B) ~~The recommendations and findings of the director of health with respect to matters subject to the director's consideration under section 1751.04 of the Revised Code, provided in connection with any decision regarding the denial, suspension, or revocation of a certificate of authority, shall be reviewed and considered by the superintendent.~~ After the hearing authorized by division (A) of this section, or upon the failure of the applicant or health insuring corporation to appear at the hearing, the superintendent shall take such action as in accordance with law and the evidence. The action shall be set out in written findings which shall be mailed to the applicant or health insuring corporation ~~with a copy to the director of health~~. The action of the superintendent is subject to review in accordance with Chapter 119. of the Revised Code, ~~except that a certification by the director under division (D) of section 1751.04 or~~

~~division (A)(5) of section 1751.35 of the Revised Code that was made in accordance with Chapter 119. of the Revised Code shall be final as to the matters certified.~~

(C) Chapter 119. of the Revised Code applies to proceedings under this section to the extent that it is not in conflict with divisions (A) and (B) of this section.

Sec. 1751.45. (A) In lieu of the suspension or revocation of a certificate of authority under section 1751.35 of the Revised Code, the superintendent of insurance, pursuant to an adjudication hearing initiated and conducted in accordance with Chapter 119. of the Revised Code, or by consent of the health insuring corporation without an adjudication hearing, may levy an administrative penalty. The administrative penalty shall be in an amount determined by the superintendent, but the administrative penalty shall not exceed one hundred thousand dollars per violation. Additionally, the superintendent may require the health insuring corporation to correct any deficiency that may be the basis for the suspension or revocation of the health insuring corporation's certificate of authority. All penalties collected shall be paid into the state treasury to the credit of the department of insurance operating fund.

(B) If the superintendent ~~or the director of health~~ for any reason has cause to believe that any violation of this chapter has occurred or is threatened, the superintendent ~~or the director~~ may give notice to the health insuring corporation and to the representatives or other persons who appear to be involved in the suspected violation to arrange a conference with the suspected violators or their authorized representatives for the purpose of attempting to ascertain the facts relating to the suspected violation, and, if it appears that any violation has occurred or is threatened, to arrive at an adequate and effective means of correcting or preventing the violation.

Proceedings under this division shall not be covered by any formal procedural requirements, and may be conducted in the manner the superintendent ~~or the director of health~~ may consider appropriate under the circumstances.

(C)(1) The superintendent may issue an order directing a health insuring corporation or a representative of the health insuring corporation to cease and desist from engaging in any act or practice in violation of this chapter. Within thirty days after service of the order to cease and desist, the respondent may request a hearing on the question of whether acts or practices in violation of this chapter have occurred. Such hearings shall be conducted in accordance with Chapter 119. of the Revised Code and judicial review shall be available as provided by that chapter.

(2) If the superintendent has reasonable cause to believe that an order issued pursuant to this division has been violated in whole or in part, the superintendent may request the attorney general to commence and prosecute any appropriate action or proceeding in the name of the state against the violators in the court of common pleas of Franklin county. The court in any such action or proceeding may levy civil penalties, not to exceed one hundred thousand dollars per violation, in addition to any other appropriate relief, including requiring a violator to pay the expenses reasonably incurred by the superintendent in enforcing the order. The penalties and fees collected under this division shall be paid into the state treasury to the credit of the department of insurance operating fund.

Sec. 1751.46. (A) The superintendent of insurance ~~and the director of health~~ may contract with qualified persons to make recommendations concerning the determinations required to be made by the superintendent ~~or the director~~ relative to an expansion of a service area pursuant to division (C) of section 1751.03 of the Revised Code, an application for a certificate of authority pursuant to sections 1751.04 and 1751.05 of the Revised Code, a contractual periodic prepayment or premium rate pursuant to section 1751.12 of the Revised Code, and an examination pursuant to division (B) of section 1751.34 of the Revised Code. The recommendations may be accepted in full or in part, or may be rejected, by the superintendent ~~or director~~.

The total cost of a contract with a qualified person pursuant to this division shall represent the fair market value of the services provided and shall be borne by the health insuring corporation that is the subject of the determination required to be made by the superintendent ~~or the director~~.

(B) No qualified person placed on contract by the superintendent ~~or the director~~ pursuant to division (A) of this section shall have a conflict of interest with the department of insurance, ~~the department of health~~, or the health insuring corporation.

Sec. 1751.48. ~~(A)~~ The superintendent of insurance may adopt rules as are necessary to carry out the provisions of this chapter. These rules shall be adopted in accordance with Chapter 119. of the Revised Code.

~~(B) The director of health may make recommendations to the superintendent for rules that are necessary to enable the director to carry out the director's responsibilities under this chapter, including rules that prescribe standards relating to the requirements set forth in division (B) of section 1751.04 of the Revised Code. In adopting any rules pertaining to the director's responsibilities, the superintendent shall consider the recommendations of the director.~~

Sec. 1751.831. The superintendent of insurance shall establish and maintain a system for receiving and reviewing requests for review from or on behalf of enrollees who, under section 1751.83 of the Revised Code, have been denied coverage of a health care service or had coverage reduced or terminated when the grounds for the denial, reduction, or termination is that the service is not a service covered under the terms of the enrollee's policy, contract, or agreement.

On receipt of a written request from an enrollee or authorized person, the superintendent shall consider whether the health care service is a service covered under the terms of the enrollee's policy, contract, or agreement, except that the superintendent shall not conduct a review under this section unless the enrollee has exhausted the health insuring corporation's internal review process established pursuant to section 1751.83 of the Revised Code. The health insuring corporation and the enrollee or authorized person shall provide the superintendent with any information required by the superintendent that is in their possession and is germane to the review.

Unless the superintendent is not able to do so because making the determination requires resolution of a medical issue, the superintendent shall determine whether the health care service at issue is a service covered under the terms of the enrollee's contract, policy, or agreement. The superintendent shall notify the enrollee, or authorized person, and the health insuring corporation of the superintendent's determination or that the superintendent is not able to make a determination.

If the superintendent notifies the health insuring corporation that making the determination requires the resolution of a medical issue, the health insuring corporation shall ~~afford the enrollee an opportunity for~~ initiate an external review under section 1751.84 or 1751.85 of the Revised Code. If the superintendent notifies the health insuring corporation that the health service is a covered service, the health insuring corporation shall ~~either cover the service or afford the enrollee an opportunity for an external review under section 1751.84 or 1751.85 of the Revised Code~~. If the superintendent notifies the health insuring corporation that the health care service is not a covered service, the health insuring corporation is not required to cover the service or afford the enrollee an external review.

Sec. 1751.84. (A) Except as provided in divisions (B) and (C) of this section, a health insuring corporation shall afford an enrollee an opportunity for an external review if both of the following are the case:

(1) The health insuring corporation has denied, reduced, or terminated coverage for what would be a covered health care service except for the fact that the health insuring corporation has determined that the health care

service is not medically necessary;

(2) Except in the case of an expedited review, the service, plus any ancillary services and follow-up care, will cost the enrollee more than five hundred dollars if the proposed service is not covered by the health insuring corporation.

External review shall be conducted in accordance with this section, except that if an enrollee with a terminal condition meets all of the criteria of division (A) of section 1751.85 of the Revised Code, an external review shall be conducted under that section.

(B) An enrollee need not be afforded a review under this section in any of the following circumstances:

(1) The superintendent of insurance has determined under section 1751.831 of the Revised Code that the health care service is not a service covered under the terms of the enrollee's policy, contract, or agreement.

(2) Except as provided in section 1751.811 of the Revised Code, the enrollee has failed to exhaust the health insuring corporation's internal review process established pursuant to section 1751.83 of the Revised Code.

(3) The enrollee has previously been afforded an external review for the same adverse determination and no new clinical information has been submitted to the health insuring corporation.

(C)(1) A health insuring corporation may deny a request for an external review of an adverse determination if it is requested later than sixty one hundred eighty days after the enrollee's receipt of notice of the result of an internal review brought under section 1751.83 of the Revised Code. An external review may be requested by the enrollee, an authorized person, the enrollee's provider, or a health care facility rendering health care service to the enrollee. The enrollee may request a review without the approval of the provider or the health care facility rendering the health care service. The provider or health care facility may not request a review without the prior consent of the enrollee.

(2) An external review must be requested in writing, except that if the enrollee has a condition that requires expedited review, the review may be requested orally or by electronic means. When an oral or electronic request for review is made, written confirmation of the request shall be submitted to the health insuring corporation not later than five days after the oral or written request is submitted.

Except in the case of an expedited review, a request for an external review must be accompanied by written certification from the enrollee's provider or the health care facility rendering the health care service to the enrollee that the proposed service, plus any ancillary services and follow-up

care, will cost the enrollee more than five hundred dollars if the proposed service is not covered by the health insuring corporation.

(3) For an expedited review, the enrollee's provider must certify that the enrollee's condition could, in the absence of immediate medical attention, result in any of the following:

(a) Placing the health of the enrollee or, with respect to a pregnant woman, the health of the enrollee or the unborn child, in serious jeopardy;

(b) Serious impairment to bodily functions;

(c) Serious dysfunction of any bodily organ or part.

(D) The procedures used in conducting an external review of an adverse determination shall include all of the following:

(1) The review shall be conducted by an independent review organization assigned by the superintendent of insurance under section 3901.80 of the Revised Code.

(2) Except as provided in division (D)(3) and (4) of this section, neither the clinical peer nor any health care facility with which the clinical peer is affiliated shall have any professional, familial, or financial affiliation with any of the following:

(a) The health insuring corporation or any officer, director, or managerial employee of the health insuring corporation;

(b) The enrollee, the enrollee's provider, or the practice group of the enrollee's provider;

(c) The health care facility at which the health care service requested by the enrollee would be provided;

(d) The development or manufacture of the principal drug, device, procedure, or therapy proposed for the enrollee.

(3) Division (D)(2) of this section does not prohibit a clinical peer from conducting a review under any of the following circumstances:

(a) The clinical peer is affiliated with an academic medical center that provides health care services to enrollees of the health insuring corporation.

(b) The clinical peer has staff privileges at a health care facility that provides health care services to enrollees of the health insuring corporation.

(c) The clinical peer is a participating provider but was not involved with the health insuring corporation's adverse determination.

(4) Division (D)(2) of this section does not prohibit the health insuring corporation from paying the independent review organization for the conduct of the review.

(5) An enrollee shall not be required to pay for any part of the cost of the review. The cost of the review shall be borne by the health insuring corporation.

(6)(a) The health insuring corporation shall provide to the independent review organization conducting the review a copy of those records in its possession that are relevant to the enrollee's medical condition and the review. The records shall be used solely for the purpose of this division.

At the request of the independent review organization, the health insuring corporation, enrollee, or the provider or health care facility rendering health care services to the enrollee shall provide any additional information the independent review organization requests to complete the review. A request for additional information may be made in writing, orally, or by electronic means. The independent review organization shall submit the request to the enrollee and health insuring corporation. If a request is submitted orally or by electronic means to an enrollee or health insuring corporation, not later than five days after the request is submitted, the independent review organization shall provide written confirmation of the request. If the review was initiated by a provider or health care facility, a copy of the request shall be submitted to the provider or health care facility.

(b) An independent review organization is not required to make a decision if it has not received any requested information that it considers necessary to complete a review. An independent review organization that does not make a decision for this reason shall notify the enrollee and the health insuring corporation that a decision is not being made. The notice may be made in writing, orally, or by electronic means. An oral or electronic notice shall be confirmed in writing not later than five days after the oral or electronic notice is made. If the review was initiated by a provider or health care facility, a copy of the notice shall be submitted to the provider or health care facility.

(7) The health insuring corporation may elect to cover the service requested and terminate the review. The health insuring corporation shall notify the enrollee and all other parties involved with the decision by mail or, with the consent or approval of the enrollee, by electronic means.

(8) In making its decision, an independent review organization conducting the review shall take into account all of the following:

(a) Information submitted by the health insuring corporation, the enrollee, the enrollee's provider, and the health care facility rendering the health care service, including the following:

(i) The enrollee's medical records;

(ii) The standards, criteria, and clinical rationale used by the health insuring corporation to make its decision.

(b) Findings, studies, research, and other relevant documents of government agencies and nationally recognized organizations, including the

national institutes of health or any board recognized by the national institutes of health, the national cancer institute, the national academy of sciences, the United States food and drug administration, the health care financing administration of the United States department of health and human services, and the agency for health care policy and research;

(c) Relevant findings in peer-reviewed medical or scientific literature, published opinions of nationally recognized medical experts, and clinical guidelines adopted by relevant national medical societies.

(9)(a) In the case of an expedited review, the independent review organization shall issue a written decision not later than seven days after the filing of the request for review. In all other cases, the independent review organization shall issue a written decision not later than thirty days after the filing of the request. The independent review organization shall send a copy of its decision to the health insuring corporation and the enrollee. If the enrollee's provider or the health care facility rendering health care services to the enrollee requested the review, the independent review organization shall also send a copy of its decision to the enrollee's provider or the health care facility.

(b) The independent review organization's decision shall include a description of the enrollee's condition and the principal reasons for the decision and an explanation of the clinical rationale for the decision.

(E) The independent review organization shall base its decision on the information submitted under division (D)(8) of this section. In making its decision, the independent review organization shall consider safety, efficacy, appropriateness, and cost effectiveness.

(F) The health insuring corporation shall provide any coverage determined by the independent review organization's decision to be medically necessary, subject to the other terms, limitations, and conditions of the enrollee's contract. The decision shall apply only to the individual enrollee's external review.

Sec. 1751.85. (A) Each health insuring corporation shall establish a reasonable external, independent review process to examine the health insuring corporation's coverage decisions for enrollees who meet all of the following criteria:

(1) The enrollee has a terminal condition that, according to the current diagnosis of the enrollee's physician, has a high probability of causing death within two years.

(2) The enrollee requests a review not later than ~~sixty~~ one hundred eighty days after receipt by the enrollee of notice of the result of an internal review under section 1751.83 of the Revised Code.

(3) The enrollee's physician certifies that the enrollee has the condition described in division (A)(1) of this section and any of the following situations are applicable:

(a) Standard therapies have not been effective in improving the condition of the enrollee;

(b) Standard therapies are not medically appropriate for the enrollee;

(c) There is no standard therapy covered by the health insuring corporation that is more beneficial than therapy described in division (A)(4) of this section.

(4) The enrollee's physician has recommended a drug, device, procedure, or other therapy that the physician certifies, in writing, is likely to be more beneficial to the enrollee, in the physician's opinion, than standard therapies, or, the enrollee has requested a therapy that has been found in a preponderance of peer-reviewed published studies to be associated with effective clinical outcomes for the same condition.

(5) The enrollee has been denied coverage by the health insuring corporation for a drug, device, procedure, or other therapy recommended or requested pursuant to division (A)(4) of this section, and has exhausted the health insuring corporation's internal review process established pursuant to section 1751.83 of the Revised Code.

(6) The drug, device, procedure, or other therapy, for which coverage has been denied would be a covered health care service except for the health insuring corporation's determination that the drug, device, procedure, or other therapy is experimental or investigational.

(B) A review shall be requested in writing, except that if the enrollee's physician determines that a therapy would be significantly less effective if not promptly initiated, the review may be requested orally or by electronic means. When an oral or electronic request for review is made, written confirmation of the request shall be submitted to the health insuring corporation not later than five days after the oral or written request is submitted.

(C) The external, independent review process established by a health insuring corporation shall meet all of the following criteria:

(1) Except as provided in division (E) of this section, the process shall afford all enrollees who meet the criteria set forth in division (A) of this section the opportunity to have the health insuring corporation's decision to deny coverage of the recommended or requested therapy reviewed under the process.

(2) The review shall be conducted by an independent review organization assigned by the superintendent of insurance under section

3901.80 of the Revised Code.

The independent review organization shall select a panel to conduct the review, which panel shall be composed of at least three physicians or other providers who, through clinical experience in the past three years, are experts in the treatment of the enrollee's medical condition and knowledgeable about the recommended or requested therapy.

In either of the following circumstances, an exception may be made to the requirement that the review be conducted by an expert panel composed of a minimum of three physicians or other providers:

(a) A review may be conducted by an expert panel composed of only two physicians or other providers if an enrollee has consented in writing to a review by the smaller panel;

(b) A review may be conducted by a single expert physician or other provider if only one expert physician or other provider is available for the review.

(3) Neither the health insuring corporation nor the enrollee shall choose, or control the choice of, the physician or other provider experts.

(4) The selected experts, any health care facility with which an expert is affiliated, and the independent review organization arranging for the experts' review, shall not have any professional, familial, or financial affiliation with any of the following:

(a) The health insuring corporation or any officer, director, or managerial employee of the health insuring corporation;

(b) The enrollee, the enrollee's physician, or the practice group of the enrollee's physician;

(c) The health care facility at which the recommended or requested therapy would be provided;

(d) The development or manufacture of the principal drug, device, procedure, or therapy involved in the recommended or requested therapy.

However, experts affiliated with academic medical centers who provide health care services to enrollees of the health insuring corporation may serve as experts on the review panel. Further, experts with staff privileges at a health care facility that provides health care services to enrollees of the health insuring corporation, as well as experts who are participating providers, but who were not involved with the health insuring corporation's denial of coverage for the therapy under review, may serve as experts on the review panel. These nonaffiliation provisions do not preclude a health insuring corporation from paying for the experts' review, as specified in division (C)(5) of this section.

(5) Enrollees shall not be required to pay for any part of the cost of the

review. The cost of the review shall be borne by the health insuring corporation.

(6) The health insuring corporation shall provide to the independent review organization arranging for the experts' review a copy of those records in the health insuring corporation's possession that are relevant to the enrollee's medical condition and the review. The records shall be disclosed solely to the expert reviewers and shall be used solely for the purpose of this section. At the request of the expert reviewers, the health insuring corporation or the physician recommending the therapy shall provide any additional information that the expert reviewers request to complete the review. An expert reviewer is not required to render an opinion if the reviewer has not received any requested information that the reviewer considers necessary to complete the review.

(7)(a) The opinions of the experts on the panel shall be rendered within thirty days after the enrollee's request for review. If the enrollee's physician determines that a therapy would be significantly less effective if not promptly initiated, the opinions shall be rendered within seven days after the enrollee's request for review.

(b) In conducting the review, the experts on the panel shall take into account all of the following:

(i) Information submitted by the health insuring corporation, the enrollee, and the enrollee's physician, including the enrollee's medical records and the standards, criteria, and clinical rationale used by the health insuring corporation to reach its coverage decision;

(ii) Findings, studies, research, and other relevant documents of government agencies and nationally recognized organizations;

(iii) Relevant findings in peer-reviewed medical or scientific literature and published opinions of nationally recognized medical experts;

(iv) Clinical guidelines adopted by relevant national medical societies;

(v) Safety, efficacy, appropriateness, and cost effectiveness.

(8) Each expert on the panel shall provide the independent review organization with a professional opinion as to whether there is sufficient evidence to demonstrate that the recommended or requested therapy is likely to be more beneficial to the enrollee than standard therapies.

(9) Each expert's opinion shall be presented in written form and shall include the following information:

(a) A description of the enrollee's condition;

(b) A description of the indicators relevant to determining whether there is sufficient evidence to demonstrate that the recommended or requested therapy is more likely than not to be more beneficial to the enrollee than

standard therapies;

(c) A description and analysis of any relevant findings published in peer-reviewed medical or scientific literature or the published opinions of medical experts or specialty societies;

(d) A description of the enrollee's suitability to receive the recommended or requested therapy according to a treatment protocol in a clinical trial, if applicable.

(10) The independent review organization shall provide the health insuring corporation with the opinions of the experts. The health insuring corporation shall make the experts' opinions available to the enrollee and the enrollee's physician, upon request.

(11) The opinion of the majority of the experts on the panel, rendered pursuant to division (C)(8) of this section, is binding on the health insuring corporation with respect to that enrollee. If the opinions of the experts on the panel are evenly divided as to whether the therapy should be covered, then the health insuring corporation's final decision shall be in favor of coverage. If less than a majority of the experts on the panel recommend coverage of the therapy, the health insuring corporation may, in its discretion, cover the therapy. However, any coverage provided pursuant to division (C)(11) of this section is subject to the terms, limitations, and conditions of the enrollee's contract with the health insuring corporation.

(12) The health insuring corporation shall have written policies describing the external, independent review process.

(D) At any time during the external, independent review process, the health insuring corporation may elect to cover the recommended or requested health care service and terminate the review. The health insuring corporation shall notify the enrollee and all other parties involved by mail or, with the consent or approval of the enrollee, by electronic means.

(E) If a health insuring corporation's initial denial of coverage for a therapy recommended or requested pursuant to division (A)(4) of this section is based upon an external, independent review of that therapy meeting the requirements of division (C) of this section, this section shall not be a basis for requiring a second external, independent review of the recommended or requested therapy.

(F) The health insuring corporation shall annually file a certificate with the superintendent of insurance certifying its compliance with the requirements of this section.

Sec. 1753.09. (A) Except as provided in division (D) of this section, prior to terminating the participation of a provider on the basis of the participating provider's failure to meet the health insuring corporation's

standards for quality or utilization in the delivery of health care services, a health insuring corporation shall give the participating provider notice of the reason or reasons for its decision to terminate the provider's participation and an opportunity to take corrective action. The health insuring corporation shall develop a performance improvement plan in conjunction with the participating provider. If after being afforded the opportunity to comply with the performance improvement plan, the participating provider fails to do so, the health insuring corporation may terminate the participation of the provider.

(B)(1) A participating provider whose participation has been terminated under division (A) of this section may appeal the termination to the appropriate medical director of the health insuring corporation. The medical director shall give the participating provider an opportunity to discuss with the medical director the reason or reasons for the termination.

(2) If a satisfactory resolution of a participating provider's appeal cannot be reached under division (B)(1) of this section, the participating provider may appeal the termination to a panel composed of participating providers who have comparable or higher levels of education and training than the participating provider making the appeal. A representative of the participating provider's specialty shall be a member of the panel, if possible. This panel shall hold a hearing, and shall render its recommendation in the appeal within thirty days after holding the hearing. The recommendation shall be presented to the medical director and to the participating provider.

(3) The medical director shall review and consider the panel's recommendation before making a decision. The decision rendered by the medical director shall be final.

(C) A provider's status as a participating provider shall remain in effect during the appeal process set forth in division (B) of this section unless the termination was based on any of the reasons listed in division (D) of this section.

(D) Notwithstanding division (A) of this section, a provider's participation may be immediately terminated if the participating provider's conduct presents an imminent risk of harm to an enrollee or enrollees; or if there has occurred unacceptable quality of care, fraud, patient abuse, loss of clinical privileges, loss of professional liability coverage, incompetence, or loss of authority to practice in the participating provider's field; or if a governmental action has impaired the participating provider's ability to practice.

(E) Divisions (A) to (D) of this section apply only to providers who are natural persons.

(F)(1) Nothing in this section prohibits a health insuring corporation from rejecting a provider's application for participation, or from terminating a participating provider's contract, if the health insuring corporation determines that the health care needs of its enrollees are being met and no need exists for the provider's or participating provider's services.

(2) Nothing in this section shall be construed as prohibiting a health insuring corporation from terminating a participating provider who does not meet the terms and conditions of the participating provider's contract.

(3) Nothing in this section shall be construed as prohibiting a health insuring corporation from terminating a participating provider's contract pursuant to any provision of the contract described in division (E)(2) of section 3963.02 of the Revised Code, except that, notwithstanding any provision of a contract described in that division, this section applies to the termination of a participating provider's contract for any of the causes described in divisions (A), (D), and (F)(1) and (2) of this section.

(G) The superintendent of insurance may adopt rules as necessary to implement and enforce sections 1753.06, 1753.07, and 1753.09 of the Revised Code. Such rules shall be adopted in accordance with Chapter 119. of the Revised Code. ~~The director of health may make recommendations to the superintendent for rules necessary to implement and enforce sections 1753.06, 1753.07, and 1753.09 of the Revised Code. In adopting any rules pursuant to this division, the superintendent shall consider the recommendations of the director.~~

Sec. 1901.121. (A)(1)(a) Subject to division (A)(2) of this section and in accordance with the payment procedures specified in division (B) of this section, a judge specified in division (A)(1)(b) of this section is entitled, on a per diem basis, to the compensation paid to the incumbent judge of the municipal court in which the judge is appointed or designated to serve. If the incumbent judge is compensated as described in division (A)(5) of section 141.04 of the Revised Code, the appointed or designated judge is entitled to compensation at that rate. If the incumbent judge is compensated as described in division (A)(6) of section 141.04 of the Revised Code, the appointed or designated judge is entitled to compensation at that rate.

(b) The following judges shall receive compensation as described in division (A)(1)(a) of this section:

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(i) An acting judge appointed pursuant to division (B) of section 1901.10 of the Revised Code as a substitute judge because of the volume of cases pending in the municipal court and the report of the chief justice of the supreme court that no judge of another municipal court or county court is

available to serve by designation;

(ii) A judge of another municipal court or county court designated by the chief justice of the supreme court pursuant to division (B) of section 1901.10 of the Revised Code because of the volume of cases pending in the municipal court;

(iii) An acting judge authorized by division (B) of section 1901.12 of the Revised Code and appointed pursuant to division (A)(2) of section 1901.10 of the Revised Code as a substitute for the judge of a municipal court that has only one judge; who is on vacation;

(iv) An acting judge authorized by division (B) of section 1901.12 of the Revised Code and appointed by the presiding judge of the municipal court pursuant to that division as a substitute judge because an incumbent judge is on vacation or not in attendance;

(v) A retired judge who has been assigned to active duty on the municipal court.

(c) An acting judge appointed pursuant to division (A)(2) of section 1901.10 of the Revised Code as a substitute for a judge who is the judge of a municipal court that has only one judge and who is temporarily absent, incapacitated, or otherwise unavailable is entitled to compensation in an amount established by the incumbent judge pursuant to division (A)(2) of section 1901.10 of the Revised Code.

(2) Division (A)(1) of this section does not include any acting judge, judge, or retired judge who, at the time of the judge's appointment, designation, or assignment, is receiving compensation under division (A)(5) or (6) of section 141.04 of the Revised Code, except that division (A)(1) of this section includes a judge who is receiving compensation under division (A)(6) of section 141.04 of the Revised Code and who is appointed or designated to serve in a municipal court in which the incumbent judge receives compensation as described in division (A)(5) of that section.

(B) Subject to reimbursement under division (C) of this section, the treasury of the county in which a county-operated municipal court or other municipal court is located shall pay, on a per diem basis, the compensation to which an acting judge, judge, or retired judge as described in division (A)(1) of this section is entitled.

(C) The treasurer of a county that, pursuant to division (B) of this section, is required to pay any compensation to which ~~the an~~ an acting judge, judge, or retired judge described in division (A)(1) of this section ~~are and appointed or designated by the chief justice~~ is entitled under division (A)(5) or (6) of section 141.04 of the Revised Code, shall submit to the administrative director of the supreme court quarterly requests

for reimbursements of the per diem amounts so paid. The reports shall include verifications of the payment of those amounts. The administrative director shall cause reimbursements of those amounts to be issued to the county if the administrative director verifies that those amounts were, in fact, so paid.

Sec. 1901.26. (A) Subject to division (E) of this section, costs in a municipal court shall be fixed and taxed as follows:

(1)(a) The municipal court shall require an advance deposit for the filing of any new civil action or proceeding when required by division (C) of this section, and in all other cases, by rule, shall establish a schedule of fees and costs to be taxed in any civil or criminal action or proceeding.

(b)(i) The legislative authority of a municipal corporation may by ordinance establish a schedule of fees to be taxed as costs in any civil, criminal, or traffic action or proceeding in a municipal court for the performance by officers or other employees of the municipal corporation's police department or marshal's office of any of the services specified in sections 311.17 and 509.15 of the Revised Code. No fee in the schedule shall be higher than the fee specified in section 311.17 of the Revised Code for the performance of the same service by the sheriff. If a fee established in the schedule conflicts with a fee for the same service established in another section of the Revised Code or a rule of court, the fee established in the other section of the Revised Code or the rule of court shall apply.

(ii) When an officer or employee of a municipal police department or marshal's office performs in a civil, criminal, or traffic action or proceeding in a municipal court a service specified in section 311.17 or 509.15 of the Revised Code for which a taxable fee has been established under this or any other section of the Revised Code, the applicable legal fees and any other extraordinary expenses, including overtime, provided for the service shall be taxed as costs in the case. The clerk of the court shall pay those legal fees and other expenses, when collected, into the general fund of the municipal corporation that employs the officer or employee.

(iii) If a bailiff of a municipal court performs in a civil, criminal, or traffic action or proceeding in that court a service specified in section 311.17 or 509.15 of the Revised Code for which a taxable fee has been established under this section or any other section of the Revised Code, the fee for the service is the same and is taxable to the same extent as if the service had been performed by an officer or employee of the police department or marshal's office of the municipal corporation in which the court is located. The clerk of that court shall pay the fee, when collected, into the general fund of the entity or entities that fund the bailiff's salary, in the same

prorated amount as the salary is funded.

(iv) Division (A)(1)(b) of this section does not authorize or require any officer or employee of a police department or marshal's office of a municipal corporation or any bailiff of a municipal court to perform any service not otherwise authorized by law.

(2) The municipal court, by rule, may require an advance deposit for the filing of any civil action or proceeding and publication fees as provided in section 2701.09 of the Revised Code. The court may waive the requirement for advance deposit upon affidavit or other evidence that a party is unable to make the required deposit.

(3) When a jury trial is demanded in any civil action or proceeding, the party making the demand may be required to make an advance deposit as fixed by rule of court, unless, upon affidavit or other evidence, the court concludes that the party is unable to make the required deposit. If a jury is called, the fees of a jury shall be taxed as costs.

(4) In any civil or criminal action or proceeding, each witness shall receive twelve dollars for each full day's attendance and six dollars for each half day's attendance. Each witness in a municipal court that is not a county-operated municipal court also shall receive fifty and one-half cents for each mile necessarily traveled to and from the witness's place of residence to the action or proceeding.

(5) A reasonable charge for driving, towing, carting, storing, keeping, and preserving motor vehicles and other personal property recovered or seized in any proceeding may be taxed as part of the costs in a trial of the cause, in an amount that shall be fixed by rule of court.

(6) Chattel property seized under any writ or process issued by the court shall be preserved pending final disposition for the benefit of all persons interested and may be placed in storage when necessary or proper for that preservation. The custodian of any chattel property so stored shall not be required to part with the possession of the property until a reasonable charge, to be fixed by the court, is paid.

(7) The municipal court, as it determines, may refund all deposits and advance payments of fees and costs, including those for jurors and summoning jurors, when they have been paid by the losing party.

(8) Charges for the publication of legal notices required by statute or order of court may be taxed as part of the costs, as provided by section 7.13 of the Revised Code.

(B)(1) The municipal court may determine that, for the efficient operation of the court, additional funds are necessary to acquire and pay for special projects of the court including, but not limited to, the acquisition of

additional facilities or the rehabilitation of existing facilities, the acquisition of equipment, the hiring and training of staff, community service programs, mediation or dispute resolution services, the employment of magistrates, the training and education of judges, acting judges, and magistrates, and other related services. Upon that determination, the court by rule may charge a fee, in addition to all other court costs, on the filing of each criminal cause, civil action or proceeding, or judgment by confession.

If the municipal court offers a special program or service in cases of a specific type, the municipal court by rule may assess an additional charge in a case of that type, over and above court costs, to cover the special program or service. The municipal court shall adjust the special assessment periodically, but not retroactively, so that the amount assessed in those cases does not exceed the actual cost of providing the service or program.

All moneys collected under division (B) of this section shall be paid to the county treasurer if the court is a county-operated municipal court or to the city treasurer if the court is not a county-operated municipal court for deposit into either a general special projects fund or a fund established for a specific special project. Moneys from a fund of that nature shall be disbursed upon an order of the court in an amount no greater than the actual cost to the court of a project. If a specific fund is terminated because of the discontinuance of a program or service established under division (B) of this section, the municipal court may order that moneys remaining in the fund be transferred to an account established under this division for a similar purpose.

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

(a) "Criminal cause" means a charge alleging the violation of a statute or ordinance, or subsection of a statute or ordinance, that requires a separate finding of fact or a separate plea before disposition and of which the defendant may be found guilty, whether filed as part of a multiple charge on a single summons, citation, or complaint or as a separate charge on a single summons, citation, or complaint. "Criminal cause" does not include separate violations of the same statute or ordinance, or subsection of the same statute or ordinance, unless each charge is filed on a separate summons, citation, or complaint.

(b) "Civil action or proceeding" means any civil litigation that must be determined by judgment entry.

(C) The municipal court shall collect in all its divisions except the small claims division the sum of twenty-six dollars as additional filing fees in each new civil action or proceeding for the charitable public purpose of providing financial assistance to legal aid societies that operate within the state and to

support the office of the state public defender. The municipal court shall collect in its small claims division the sum of eleven dollars as additional filing fees in each new civil action or proceeding for the charitable public purpose of providing financial assistance to legal aid societies that operate within the state and to support the office of the state public defender. This division does not apply to any execution on a judgment, proceeding in aid of execution, or other post-judgment proceeding arising out of a civil action. The filing fees required to be collected under this division shall be in addition to any other court costs imposed in the action or proceeding and shall be collected at the time of the filing of the action or proceeding. The court shall not waive the payment of the additional filing fees in a new civil action or proceeding unless the court waives the advanced payment of all filing fees in the action or proceeding. All such moneys collected during a month except for an amount equal to up to one per cent of those moneys retained to cover administrative costs shall be transmitted on or before the twentieth day of the following month by the clerk of the court to the treasurer of state in a manner prescribed by the treasurer of state or by the Ohio legal assistance foundation. The treasurer of state shall deposit four per cent of the funds collected under this division to the credit of the civil case filing fee fund established under section 120.07 of the Revised Code and ninety-six per cent of the funds collected under this division to the credit of the legal aid fund established under section 120.52 of the Revised Code.

The court may retain up to one per cent of the moneys it collects under this division to cover administrative costs, including the hiring of any additional personnel necessary to implement this division. If the court fails to transmit to the treasurer of state the moneys the court collects under this division in a manner prescribed by the treasurer of state or by the Ohio legal assistance foundation, the court shall forfeit the moneys the court retains under this division to cover administrative costs, including the hiring of any additional personnel necessary to implement this division, and shall transmit to the treasurer of state all moneys collected under this division, including the forfeited amount retained for administrative costs, for deposit in the legal aid fund.

(D) In the Cleveland municipal court, reasonable charges for investigating titles of real estate to be sold or disposed of under any writ or process of the court may be taxed as part of the costs.

(E) Under the circumstances described in sections 2969.21 to 2969.27 of the Revised Code, the clerk of the municipal court shall charge the fees and perform the other duties specified in those sections.

(F) As used in this section:

(1) "Full day's attendance" means a day on which a witness is required or requested to be present at an action or proceeding before and after twelve noon, regardless of whether the witness actually testifies.

(2) "Half day's attendance" means a day on which a witness is required or requested to be present at an action or proceeding either before or after twelve noon, but not both, regardless of whether the witness actually testifies.

Sec. 1901.31. The clerk and deputy clerks of a municipal court shall be selected, be compensated, give bond, and have powers and duties as follows:

(A) There shall be a clerk of the court who is appointed or elected as follows:

(1)(a) Except in the Akron, Barberton, Toledo, Hamilton county, Portage county, and Wayne county municipal courts and through December 31, 2008, the Cuyahoga Falls municipal court, if the population of the territory equals or exceeds one hundred thousand at the regular municipal election immediately preceding the expiration of the term of the present clerk, the clerk shall be nominated and elected by the qualified electors of the territory in the manner that is provided for the nomination and election of judges in section 1901.07 of the Revised Code.

The clerk so elected shall hold office for a term of six years, which term shall commence on the first day of January following the clerk's election and continue until the clerk's successor is elected and qualified.

(b) In the Hamilton county municipal court, the clerk of courts of Hamilton county shall be the clerk of the municipal court and may appoint an assistant clerk who shall receive the compensation, payable out of the treasury of Hamilton county in semimonthly installments, that the board of county commissioners prescribes. The clerk of courts of Hamilton county, acting as the clerk of the Hamilton county municipal court and assuming the duties of that office, shall receive compensation at one-fourth the rate that is prescribed for the clerks of courts of common pleas as determined in accordance with the population of the county and the rates set forth in sections 325.08 and 325.18 of the Revised Code. This compensation shall be paid from the county treasury in semimonthly installments and is in addition to the annual compensation that is received for the performance of the duties of the clerk of courts of Hamilton county, as provided in sections 325.08 and 325.18 of the Revised Code.

(c) In the Portage county and Wayne county municipal courts, the clerks of courts of Portage county and Wayne county shall be the clerks, respectively, of the Portage county and Wayne county municipal courts and

may appoint a chief deputy clerk for each branch that is established pursuant to section 1901.311 of the Revised Code and assistant clerks as the judges of the municipal court determine are necessary, all of whom shall receive the compensation that the legislative authority prescribes. The clerks of courts of Portage county and Wayne county, acting as the clerks of the Portage county and Wayne county municipal courts and assuming the duties of these offices, shall receive compensation payable from the county treasury in semimonthly installments at one-fourth the rate that is prescribed for the clerks of courts of common pleas as determined in accordance with the population of the county and the rates set forth in sections 325.08 and 325.18 of the Revised Code.

(d) Except as otherwise provided in division (A)(1)(d) of this section, in the Akron municipal court, candidates for election to the office of clerk of the court shall be nominated by primary election. The primary election shall be held on the day specified in the charter of the city of Akron for the nomination of municipal officers. Notwithstanding any contrary provision of section 3513.05 or 3513.257 of the Revised Code, the declarations of candidacy and petitions of partisan candidates and the nominating petitions of independent candidates for the office of clerk of the Akron municipal court shall be signed by at least fifty qualified electors of the territory of the court.

The candidates shall file a declaration of candidacy and petition, or a nominating petition, whichever is applicable, not later than four p.m. of the seventy-fifth day before the day of the primary election, in the form prescribed by section 3513.07 or 3513.261 of the Revised Code. The declaration of candidacy and petition, or the nominating petition, shall conform to the applicable requirements of section 3513.05 or 3513.257 of the Revised Code.

If no valid declaration of candidacy and petition is filed by any person for nomination as a candidate of a particular political party for election to the office of clerk of the Akron municipal court, a primary election shall not be held for the purpose of nominating a candidate of that party for election to that office. If only one person files a valid declaration of candidacy and petition for nomination as a candidate of a particular political party for election to that office, a primary election shall not be held for the purpose of nominating a candidate of that party for election to that office, and the candidate shall be issued a certificate of nomination in the manner set forth in section 3513.02 of the Revised Code.

Declarations of candidacy and petitions, nominating petitions, and certificates of nomination for the office of clerk of the Akron municipal

court shall contain a designation of the term for which the candidate seeks election. At the following regular municipal election, all candidates for the office shall be submitted to the qualified electors of the territory of the court in the manner that is provided in section 1901.07 of the Revised Code for the election of the judges of the court. The clerk so elected shall hold office for a term of six years, which term shall commence on the first day of January following the clerk's election and continue until the clerk's successor is elected and qualified.

(e) Except as otherwise provided in division (A)(1)(e) of this section, in the Barberton municipal court, candidates for election to the office of clerk of the court shall be nominated by primary election. The primary election shall be held on the day specified in the charter of the city of Barberton for the nomination of municipal officers. Notwithstanding any contrary provision of section 3513.05 or 3513.257 of the Revised Code, the declarations of candidacy and petitions of partisan candidates and the nominating petitions of independent candidates for the office of clerk of the Barberton municipal court shall be signed by at least fifty qualified electors of the territory of the court.

The candidates shall file a declaration of candidacy and petition, or a nominating petition, whichever is applicable, not later than four p.m. of the seventy-fifth day before the day of the primary election, in the form prescribed by section 3513.07 or 3513.261 of the Revised Code. The declaration of candidacy and petition, or the nominating petition, shall conform to the applicable requirements of section 3513.05 or 3513.257 of the Revised Code.

If no valid declaration of candidacy and petition is filed by any person for nomination as a candidate of a particular political party for election to the office of clerk of the Barberton municipal court, a primary election shall not be held for the purpose of nominating a candidate of that party for election to that office. If only one person files a valid declaration of candidacy and petition for nomination as a candidate of a particular political party for election to that office, a primary election shall not be held for the purpose of nominating a candidate of that party for election to that office, and the candidate shall be issued a certificate of nomination in the manner set forth in section 3513.02 of the Revised Code.

Declarations of candidacy and petitions, nominating petitions, and certificates of nomination for the office of clerk of the Barberton municipal court shall contain a designation of the term for which the candidate seeks election. At the following regular municipal election, all candidates for the office shall be submitted to the qualified electors of the territory of the court

in the manner that is provided in section 1901.07 of the Revised Code for the election of the judges of the court. The clerk so elected shall hold office for a term of six years, which term shall commence on the first day of January following the clerk's election and continue until the clerk's successor is elected and qualified.

(f)(i) Through December 31, 2008, except as otherwise provided in division (A)(1)(f)(i) of this section, in the Cuyahoga Falls municipal court, candidates for election to the office of clerk of the court shall be nominated by primary election. The primary election shall be held on the day specified in the charter of the city of Cuyahoga Falls for the nomination of municipal officers. Notwithstanding any contrary provision of section 3513.05 or 3513.257 of the Revised Code, the declarations of candidacy and petitions of partisan candidates and the nominating petitions of independent candidates for the office of clerk of the Cuyahoga Falls municipal court shall be signed by at least fifty qualified electors of the territory of the court.

The candidates shall file a declaration of candidacy and petition, or a nominating petition, whichever is applicable, not later than four p.m. of the seventy-fifth day before the day of the primary election, in the form prescribed by section 3513.07 or 3513.261 of the Revised Code. The declaration of candidacy and petition, or the nominating petition, shall conform to the applicable requirements of section 3513.05 or 3513.257 of the Revised Code.

If no valid declaration of candidacy and petition is filed by any person for nomination as a candidate of a particular political party for election to the office of clerk of the Cuyahoga Falls municipal court, a primary election shall not be held for the purpose of nominating a candidate of that party for election to that office. If only one person files a valid declaration of candidacy and petition for nomination as a candidate of a particular political party for election to that office, a primary election shall not be held for the purpose of nominating a candidate of that party for election to that office, and the candidate shall be issued a certificate of nomination in the manner set forth in section 3513.02 of the Revised Code.

Declarations of candidacy and petitions, nominating petitions, and certificates of nomination for the office of clerk of the Cuyahoga Falls municipal court shall contain a designation of the term for which the candidate seeks election. At the following regular municipal election, all candidates for the office shall be submitted to the qualified electors of the territory of the court in the manner that is provided in section 1901.07 of the Revised Code for the election of the judges of the court. The clerk so elected shall hold office for a term of six years, which term shall commence on the

first day of January following the clerk's election and continue until the clerk's successor is elected and qualified.

(ii) Division (A)(1)(f)(i) of this section shall have no effect after December 31, 2008.

(g) Except as otherwise provided in division (A)(1)(g) of this section, in the Toledo municipal court, candidates for election to the office of clerk of the court shall be nominated by primary election. The primary election shall be held on the day specified in the charter of the city of Toledo for the nomination of municipal officers. Notwithstanding any contrary provision of section 3513.05 or 3513.257 of the Revised Code, the declarations of candidacy and petitions of partisan candidates and the nominating petitions of independent candidates for the office of clerk of the Toledo municipal court shall be signed by at least fifty qualified electors of the territory of the court.

The candidates shall file a declaration of candidacy and petition, or a nominating petition, whichever is applicable, not later than four p.m. of the seventy-fifth day before the day of the primary election, in the form prescribed by section 3513.07 or 3513.261 of the Revised Code. The declaration of candidacy and petition, or the nominating petition, shall conform to the applicable requirements of section 3513.05 or 3513.257 of the Revised Code.

If no valid declaration of candidacy and petition is filed by any person for nomination as a candidate of a particular political party for election to the office of clerk of the Toledo municipal court, a primary election shall not be held for the purpose of nominating a candidate of that party for election to that office. If only one person files a valid declaration of candidacy and petition for nomination as a candidate of a particular political party for election to that office, a primary election shall not be held for the purpose of nominating a candidate of that party for election to that office, and the candidate shall be issued a certificate of nomination in the manner set forth in section 3513.02 of the Revised Code.

Declarations of candidacy and petitions, nominating petitions, and certificates of nomination for the office of clerk of the Toledo municipal court shall contain a designation of the term for which the candidate seeks election. At the following regular municipal election, all candidates for the office shall be submitted to the qualified electors of the territory of the court in the manner that is provided in section 1901.07 of the Revised Code for the election of the judges of the court. The clerk so elected shall hold office for a term of six years, which term shall commence on the first day of January following the clerk's election and continue until the clerk's

successor is elected and qualified.

(2)(a) Except for the Alliance, Auglaize county, Brown county, Columbiana county, Holmes county, Lorain, Massillon, and Youngstown municipal courts, in a municipal court for which the population of the territory is less than one hundred thousand, the clerk shall be appointed by the court, and the clerk shall hold office until the clerk's successor is appointed and qualified.

(b) In the Alliance, Lorain, Massillon, and Youngstown municipal courts, the clerk shall be elected for a term of office as described in division (A)(1)(a) of this section.

(c) In the Auglaize county, Brown county, and Holmes county municipal courts, the clerks of courts of Auglaize county, Brown county, and Holmes county shall be the clerks, respectively, of the Auglaize county, Brown county, and Holmes county municipal courts and may appoint a chief deputy clerk for each branch office that is established pursuant to section 1901.311 of the Revised Code, and assistant clerks as the judge of the court determines are necessary, all of whom shall receive the compensation that the legislative authority prescribes. The clerks of courts of Auglaize county, Brown county, and Holmes county, acting as the clerks of the Auglaize county, Brown county, and Holmes county municipal courts and assuming the duties of these offices, shall receive compensation payable from the county treasury in semimonthly installments at one-fourth the rate that is prescribed for the clerks of courts of common pleas as determined in accordance with the population of the county and the rates set forth in sections 325.08 and 325.18 of the Revised Code.

(d) In the Columbiana county municipal court, the clerk of courts of Columbiana county shall be the clerk of the municipal court, may appoint a chief deputy clerk for each branch office that is established pursuant to section 1901.311 of the Revised Code, and may appoint any assistant clerks that the judges of the court determine are necessary. All of the chief deputy clerks and assistant clerks shall receive the compensation that the legislative authority prescribes. The clerk of courts of Columbiana county, acting as the clerk of the Columbiana county municipal court and assuming the duties of that office, shall receive in either biweekly installments or semimonthly installments, as determined by the payroll administrator, compensation payable from the county treasury at one-fourth the rate that is prescribed for the clerks of courts of common pleas as determined in accordance with the population of the county and the rates set forth in sections 325.08 and 325.18 of the Revised Code.

(3) During the temporary absence of the clerk due to illness, vacation, or

other proper cause, the court may appoint a temporary clerk, who shall be paid the same compensation, have the same authority, and perform the same duties as the clerk.

(B) Except in the Hamilton county, Portage county, and Wayne county municipal courts, if a vacancy occurs in the office of the clerk of the Alliance, Lorain, Massillon, or Youngstown municipal court or occurs in the office of the clerk of a municipal court for which the population of the territory equals or exceeds one hundred thousand because the clerk ceases to hold the office before the end of the clerk's term or because a clerk-elect fails to take office, the vacancy shall be filled, until a successor is elected and qualified, by a person chosen by the residents of the territory of the court who are members of the county central committee of the political party by which the last occupant of that office or the clerk-elect was nominated. Not less than five nor more than fifteen days after a vacancy occurs, those members of that county central committee shall meet to make an appointment to fill the vacancy. At least four days before the date of the meeting, the chairperson or a secretary of the county central committee shall notify each such member of that county central committee by first class mail of the date, time, and place of the meeting and its purpose. A majority of all such members of that county central committee constitutes a quorum, and a majority of the quorum is required to make the appointment. If the office so vacated was occupied or was to be occupied by a person not nominated at a primary election, or if the appointment was not made by the committee members in accordance with this division, the court shall make an appointment to fill the vacancy. A successor shall be elected to fill the office for the unexpired term at the first municipal election that is held more than one hundred twenty days after the vacancy occurred.

(C)(1) In a municipal court, other than the Auglaize county, the Brown county, the Columbiana county, the Holmes county, and the Lorain municipal courts, for which the population of the territory is less than one hundred thousand, the clerk of the municipal court shall receive the annual compensation that the presiding judge of the court prescribes, if the revenue of the court for the preceding calendar year, as certified by the auditor or chief fiscal officer of the municipal corporation in which the court is located or, in the case of a county-operated municipal court, the county auditor, is equal to or greater than the expenditures, including any debt charges, for the operation of the court payable under this chapter from the city treasury or, in the case of a county-operated municipal court, the county treasury for that calendar year, as also certified by the auditor or chief fiscal officer. If the revenue of a municipal court, other than the Auglaize county, the Brown

county, the Columbiana county, and the Lorain municipal courts, for which the population of the territory is less than one hundred thousand for the preceding calendar year as so certified is not equal to or greater than those expenditures for the operation of the court for that calendar year as so certified, the clerk of a municipal court shall receive the annual compensation that the legislative authority prescribes. As used in this division, "revenue" means the total of all costs and fees that are collected and paid to the city treasury or, in a county-operated municipal court, the county treasury by the clerk of the municipal court under division (F) of this section and all interest received and paid to the city treasury or, in a county-operated municipal court, the county treasury in relation to the costs and fees under division (G) of this section.

(2) In a municipal court, other than the Hamilton county, Portage county, and Wayne county municipal courts, for which the population of the territory is one hundred thousand or more, and in the Lorain municipal court, the clerk of the municipal court shall receive annual compensation in a sum equal to eighty-five per cent of the salary of a judge of the court.

(3) The compensation of a clerk described in division (C)(1) or (2) of this section and of the clerk of the Columbiana county municipal court is payable in either semimonthly installments or biweekly installments, as determined by the payroll administrator, from the same sources and in the same manner as provided in section 1901.11 of the Revised Code, except that the compensation of the clerk of the Carroll county municipal court is payable in biweekly installments.

(D) Before entering upon the duties of the clerk's office, the clerk of a municipal court shall give bond of not less than six thousand dollars to be determined by the judges of the court, conditioned upon the faithful performance of the clerk's duties.

(E) The clerk of a municipal court may do all of the following: administer oaths, take affidavits, and issue executions upon any judgment rendered in the court, including a judgment for unpaid costs; issue, sign, and attach the seal of the court to all writs, process, subpoenas, and papers issuing out of the court; and approve all bonds, sureties, recognizances, and undertakings fixed by any judge of the court or by law. The clerk may refuse to accept for filing any pleading or paper submitted for filing by a person who has been found to be a vexatious litigator under section 2323.52 of the Revised Code and who has failed to obtain leave to proceed under that section. The clerk shall do all of the following: file and safely keep all journals, records, books, and papers belonging or appertaining to the court; record the proceedings of the court; perform all other duties that the judges

of the court may prescribe; and keep a book showing all receipts and disbursements, which book shall be open for public inspection at all times.

The clerk shall prepare and maintain a general index, a docket, and other records that the court, by rule, requires, all of which shall be the public records of the court. In the docket, the clerk shall enter, at the time of the commencement of an action, the names of the parties in full, the names of the counsel, and the nature of the proceedings. Under proper dates, the clerk shall note the filing of the complaint, issuing of summons or other process, returns, and any subsequent pleadings. The clerk also shall enter all reports, verdicts, orders, judgments, and proceedings of the court, clearly specifying the relief granted or orders made in each action. The court may order an extended record of any of the above to be made and entered, under the proper action heading, upon the docket at the request of any party to the case, the expense of which record may be taxed as costs in the case or may be required to be prepaid by the party demanding the record, upon order of the court.

(F) The clerk of a municipal court shall receive, collect, and issue receipts for all costs, fees, fines, bail, and other moneys payable to the office or to any officer of the court. The clerk shall each month disburse to the proper persons or officers, and take receipts for, all costs, fees, fines, bail, and other moneys that the clerk collects. Subject to sections 3375.50 and 4511.193 of the Revised Code and to any other section of the Revised Code that requires a specific manner of disbursement of any moneys received by a municipal court and except for the Hamilton county, Lawrence county, and Ottawa county municipal courts, the clerk shall pay all fines received for violation of municipal ordinances into the treasury of the municipal corporation the ordinance of which was violated and shall pay all fines received for violation of township resolutions adopted pursuant to section 503.52 or 503.53 or Chapter 504. of the Revised Code into the treasury of the township the resolution of which was violated. Subject to sections 1901.024 and 4511.193 of the Revised Code, in the Hamilton county, Lawrence county, and Ottawa county municipal courts, the clerk shall pay fifty per cent of the fines received for violation of municipal ordinances and fifty per cent of the fines received for violation of township resolutions adopted pursuant to section 503.52 or 503.53 or Chapter 504. of the Revised Code into the treasury of the county. Subject to sections 3375.50, 3375.53, 4511.19, and 5503.04 of the Revised Code and to any other section of the Revised Code that requires a specific manner of disbursement of any moneys received by a municipal court, the clerk shall pay all fines collected for the violation of state laws into the county treasury. Except in a

county-operated municipal court, the clerk shall pay all costs and fees the disbursement of which is not otherwise provided for in the Revised Code into the city treasury. The clerk of a county-operated municipal court shall pay the costs and fees the disbursement of which is not otherwise provided for in the Revised Code into the county treasury. Moneys deposited as security for costs shall be retained pending the litigation. The clerk shall keep a separate account of all receipts and disbursements in civil and criminal cases, which shall be a permanent public record of the office. On the expiration of the term of the clerk, the clerk shall deliver the records to the clerk's successor. The clerk shall have other powers and duties as are prescribed by rule or order of the court.

(G) All moneys paid into a municipal court shall be noted on the record of the case in which they are paid and shall be deposited in a state or national bank, or a domestic savings and loan association, as defined in section 1151.01 of the Revised Code, that is selected by the clerk. Any interest received upon the deposits shall be paid into the city treasury, except that, in a county-operated municipal court, the interest shall be paid into the treasury of the county in which the court is located.

On the first Monday in January of each year, the clerk shall make a list of the titles of all cases in the court that were finally determined more than one year past in which there remains unclaimed in the possession of the clerk any funds, or any part of a deposit for security of costs not consumed by the costs in the case. The clerk shall give notice of the moneys to the parties who are entitled to the moneys or to their attorneys of record. All the moneys remaining unclaimed on the first day of April of each year shall be paid by the clerk to the city treasurer, except that, in a county-operated municipal court, the moneys shall be paid to the treasurer of the county in which the court is located. The treasurer shall pay any part of the moneys at any time to the person who has the right to the moneys upon proper certification of the clerk.

(H) Deputy clerks of a municipal court other than the Carroll county municipal court may be appointed by the clerk and shall receive the compensation, payable in either biweekly installments or semimonthly installments, as determined by the payroll administrator, out of the city treasury, that the clerk may prescribe, except that the compensation of any deputy clerk of a county-operated municipal court shall be paid out of the treasury of the county in which the court is located. The judge of the Carroll county municipal court may appoint deputy clerks for the court, and the deputy clerks shall receive the compensation, payable in biweekly installments out of the county treasury, that the judge may prescribe. Each

deputy clerk shall take an oath of office before entering upon the duties of the deputy clerk's office and, when so qualified, may perform the duties appertaining to the office of the clerk. The clerk may require any of the deputy clerks to give bond of not less than three thousand dollars, conditioned for the faithful performance of the deputy clerk's duties.

(I) For the purposes of this section, whenever the population of the territory of a municipal court falls below one hundred thousand but not below ninety thousand, and the population of the territory prior to the most recent regular federal census exceeded one hundred thousand, the legislative authority of the municipal corporation may declare, by resolution, that the territory shall be considered to have a population of at least one hundred thousand.

(J) The clerk or a deputy clerk shall be in attendance at all sessions of the municipal court, although not necessarily in the courtroom, and may administer oaths to witnesses and jurors and receive verdicts.

Sec. 1907.14. ~~(A)~~ A judge of a county court shall take an oath of office as provided in section 3.23 of the Revised Code, the office of judge of a county court is subject to forfeiture, and a judge may be removed from office, for the causes and by the procedure provided in sections 3.07 to 3.10 of the Revised Code.

When a judge of a county court is temporarily absent, incapacitated, or otherwise unavailable, the judge may appoint a substitute having the qualifications required by section 1907.13 of the Revised Code or may appoint a retired judge of a court of record in the state who is a qualified elector and a resident of the county court district. If the judge is unable to make the appointment, the administrative judge of the county court district or the administrative judge of the court of common pleas of the county shall appoint the substitute. The appointee shall serve during the absence, incapacity, or unavailability of the incumbent, shall have the jurisdiction and powers conferred upon the judge of the county court, and shall be styled "acting judge." During that term of service, the acting judge shall sign all process and records and perform all acts pertaining to the office except that of removal and appointment of officers of the court. All courts shall take judicial notice of the selection and powers of the acting judge. The incumbent judge shall establish the amount of the compensation of an acting judge on a per diem, hourly, or other basis, and the compensation shall not exceed the per diem compensation paid to the incumbent judge based upon a work year of one hundred thirty days. The compensation shall be payable in the same manner as the compensation paid to the incumbent judge during the same period.

~~(B) The treasurer of a county that, pursuant to division (A) of this section, is required to pay any compensation to which the acting judges, judges, or retired judges described in that division are entitled under division (A)(6) of section 141.04 of the Revised Code, shall submit to the administrative director of the supreme court quarterly requests for reimbursements of the per diem amounts so paid. The reports shall include verifications of the payment of those amounts. The administrative director shall cause reimbursements of those amounts to be issued to the county if the administrative director verifies that those amounts were, in fact, so paid.~~

Sec. 1907.24. (A) Subject to division (C) of this section, a county court shall fix and tax fees and costs as follows:

(1) The county court shall require an advance deposit for the filing of any new civil action or proceeding when required by division (C) of this section and, in all other cases, shall establish a schedule of fees and costs to be taxed in any civil or criminal action or proceeding.

(2) The county court by rule may require an advance deposit for the filing of a civil action or proceeding and publication fees as provided in section 2701.09 of the Revised Code. The court may waive an advance deposit requirement upon the presentation of an affidavit or other evidence that establishes that a party is unable to make the requisite deposit.

(3) When a party demands a jury trial in a civil action or proceeding, the county court may require the party to make an advance deposit as fixed by rule of court, unless the court concludes, on the basis of an affidavit or other evidence presented by the party, that the party is unable to make the requisite deposit. If a jury is called, the county court shall tax the fees of a jury as costs.

(4) In a civil or criminal action or proceeding, the county court shall fix the fees of witnesses in accordance with sections 2335.06 and 2335.08 of the Revised Code.

(5) A county court may tax as part of the costs in a trial of the cause, in an amount fixed by rule of court, a reasonable charge for driving, towing, carting, storing, keeping, and preserving motor vehicles and other personal property recovered or seized in a proceeding.

(6) The court shall preserve chattel property seized under a writ or process issued by the court pending final disposition for the benefit of all interested persons. The court may place the chattel property in storage when necessary or proper for its preservation. The custodian of chattel property so stored shall not be required to part with the possession of the property until a reasonable charge, to be fixed by the court, is paid.

(7) The county court, as it determines, may refund all deposits and

advance payments of fees and costs, including those for jurors and summoning jurors, when they have been paid by the losing party.

(8) The court may tax as part of costs charges for the publication of legal notices required by statute or order of court, as provided by section 7.13 of the Revised Code.

(B)(1) The county court may determine that, for the efficient operation of the court, additional funds are necessary to acquire and pay for special projects of the court including, but not limited to, the acquisition of additional facilities or the rehabilitation of existing facilities, the acquisition of equipment, the hiring and training of staff, community service programs, mediation or dispute resolution services, the employment of magistrates, the training and education of judges, acting judges, and magistrates, and other related services. Upon that determination, the court by rule may charge a fee, in addition to all other court costs, on the filing of each criminal cause, civil action or proceeding, or judgment by confession.

If the county court offers a special program or service in cases of a specific type, the county court by rule may assess an additional charge in a case of that type, over and above court costs, to cover the special program or service. The county court shall adjust the special assessment periodically, but not retroactively, so that the amount assessed in those cases does not exceed the actual cost of providing the service or program.

All moneys collected under division (B) of this section shall be paid to the county treasurer for deposit into either a general special projects fund or a fund established for a specific special project. Moneys from a fund of that nature shall be disbursed upon an order of the court in an amount no greater than the actual cost to the court of a project. If a specific fund is terminated because of the discontinuance of a program or service established under division (B) of this section, the county court may order that moneys remaining in the fund be transferred to an account established under this division for a similar purpose.

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

(a) "Criminal cause" means a charge alleging the violation of a statute or ordinance, or subsection of a statute or ordinance, that requires a separate finding of fact or a separate plea before disposition and of which the defendant may be found guilty, whether filed as part of a multiple charge on a single summons, citation, or complaint or as a separate charge on a single summons, citation, or complaint. "Criminal cause" does not include separate violations of the same statute or ordinance, or subsection of the same statute or ordinance, unless each charge is filed on a separate summons, citation, or complaint.

(b) "Civil action or proceeding" means any civil litigation that must be determined by judgment entry.

(C) Subject to division (E) of this section, the county court shall collect in all its divisions except the small claims division the sum of twenty-six dollars as additional filing fees in each new civil action or proceeding for the charitable public purpose of providing financial assistance to legal aid societies that operate within the state and to support the office of the state public defender. Subject to division (E) of this section, the county court shall collect in its small claims division the sum of eleven dollars as additional filing fees in each new civil action or proceeding for the charitable public purpose of providing financial assistance to legal aid societies that operate within the state and to support the office of the state public defender. This division does not apply to any execution on a judgment, proceeding in aid of execution, or other post-judgment proceeding arising out of a civil action. The filing fees required to be collected under this division shall be in addition to any other court costs imposed in the action or proceeding and shall be collected at the time of the filing of the action or proceeding. The court shall not waive the payment of the additional filing fees in a new civil action or proceeding unless the court waives the advanced payment of all filing fees in the action or proceeding. All such moneys collected during a month except for an amount equal to up to one per cent of those moneys retained to cover administrative costs shall be transmitted on or before the twentieth day of the following month by the clerk of the court to the treasurer of state in a manner prescribed by the treasurer of state or by the Ohio legal assistance foundation. The treasurer of state shall deposit four per cent of the funds collected under this division to the credit of the civil case filing fee fund established under section 120.07 of the Revised Code and ninety-six per cent of the funds collected under this division to the credit of the legal aid fund established under section 120.52 of the Revised Code.

The court may retain up to one per cent of the moneys it collects under this division to cover administrative costs, including the hiring of any additional personnel necessary to implement this division. If the court fails to transmit to the treasurer of state the moneys the court collects under this division in a manner prescribed by the treasurer of state or by the Ohio legal assistance foundation, the court shall forfeit the moneys the court retains under this division to cover administrative costs, including the hiring of any additional personnel necessary to implement this division, and shall transmit to the treasurer of state all moneys collected under this division, including the forfeited amount retained for administrative costs, for deposit in the

legal aid fund.

(D) The county court shall establish by rule a schedule of fees for miscellaneous services performed by the county court or any of its judges in accordance with law. If judges of the court of common pleas perform similar services, the fees prescribed in the schedule shall not exceed the fees for those services prescribed by the court of common pleas.

(E) Under the circumstances described in sections 2969.21 to 2969.27 of the Revised Code, the clerk of the county court shall charge the fees and perform the other duties specified in those sections.

Sec. 2101.01. (A) A probate division of the court of common pleas shall be held at the county seat in each county in an office furnished by the board of county commissioners, in which the books, records, and papers pertaining to the probate division shall be deposited and safely kept by the probate judge. The board shall provide suitable cases or other necessary items for the safekeeping and preservation of the books, records, and papers of the court and shall furnish any blankbooks, blanks, and stationery, and any machines, equipment, and materials for the keeping or examining of records, that the probate judge requires in the discharge of official duties. The board also shall authorize expenditures for accountants, financial consultants, and other agents required for auditing or financial consulting by the probate division whenever the probate judge considers these services and expenditures necessary for the efficient performance of the division's duties. The probate judge shall employ and supervise all clerks, deputies, magistrates, and other employees of the probate division. The probate judge shall supervise all probate court investigators and assessors in the performance of their duties as investigators and assessors and shall employ, appoint, or designate all probate court investigators and assessors in the manner described in divisions (A)(2) and (3) of section 2101.11 of the Revised Code.

(B) As used in the Revised Code:

(1) Except as provided in division (B)(2) of this section, "probate court" means the probate division of the court of common pleas, and "probate judge" means the judge of the court of common pleas who is judge of the probate division.

(2) With respect to Lorain county:

(a) From ~~January 1, 2006, through February 8, 2009,~~ "probate court" ~~means both the probate division and the domestic relations division of the court of common pleas, and "probate judge" means both the judge of the court of common pleas who is judge of the probate division and each of the judges of the court of common pleas who are judges of the domestic~~

~~relations division.~~

~~(b) On and after February 9, 2009, through September 28, 2009,~~ "probate court" means the domestic relations division of the court of common pleas, and "probate judge" means each of the judges of the court of common pleas who are judges of the domestic relations division.

~~(b) The judge of the court of common pleas, division of domestic relations, whose term begins on February 9, 2009, and successors, shall be the probate judge beginning September 29, 2009, and shall be elected and designated as judge of the court of common pleas, probate division.~~

(C) Except as otherwise provided in this division, all pleadings, forms, journals, and other records filed or used in the probate division shall be entitled "In the Court of Common Pleas, Probate Division," but are not defective if entitled "In the Probate Court." In Lorain county, ~~on and after from February 9, 2009, through September 28, 2009,~~ all pleadings, forms, journals, and other records filed or used in probate matters shall be entitled "In the Court of Common Pleas, Domestic Relations Division," but are not defective if entitled "In the Probate Division" or "In the Probate Court."

Sec. 2301.02. The number of judges of the court of common pleas for each county, the time for the next election of the judges in the several counties, and the beginning of their terms shall be as follows:

(A) In Adams, Ashland, Fayette, and Pike counties, one judge, elected in 1956, term to begin February 9, 1957;

In Brown, Crawford, Defiance, Highland, Holmes, Morgan, Ottawa, and Union counties, one judge, to be elected in 1954, term to begin February 9, 1955;

In Auglaize county, one judge, to be elected in 1956, term to begin January 9, 1957;

In Coshocton, Darke, Fulton, Gallia, Guernsey, Hardin, Jackson, Knox, Madison, Mercer, Monroe, Paulding, Vinton, and Wyandot counties, one judge, to be elected in 1956, term to begin January 1, 1957;

In Morrow county, two judges, one to be elected in 1956, term to begin January 1, 1957, and one to be elected in 2006, term to begin January 1, 2007;

In Logan county, two judges, one to be elected in 1956, term to begin January 1, 1957, and one to be elected in 2004, term to begin January 2, 2005;

In Carroll, Clinton, Hocking, Meigs, Pickaway, Preble, Shelby, Van Wert, and Williams counties, one judge, to be elected in 1952, term to begin January 1, 1953;

In Champaign county, two judges, one to be elected in 1952, term to

begin January 1, 1953, and one to be elected in 2008, term to begin February 10, 2009.

In Harrison and Noble counties, one judge, to be elected in 1954, term to begin April 18, 1955;

In Henry county, two judges, one to be elected in 1956, term to begin May 9, 1957, and one to be elected in 2004, term to begin January 1, 2005;

In Putnam county, one judge, to be elected in 1956, term to begin May 9, 1957;

In Huron county, one judge, to be elected in 1952, term to begin May 14, 1953;

In Perry county, one judge, to be elected in 1954, term to begin July 6, 1956;

In Sandusky county, two judges, one to be elected in 1954, term to begin February 10, 1955, and one to be elected in 1978, term to begin January 1, 1979;

(B) In Allen county, three judges, one to be elected in 1956, term to begin February 9, 1957, the second to be elected in 1958, term to begin January 1, 1959, and the third to be elected in 1992, term to begin January 1, 1993;

In Ashtabula county, three judges, one to be elected in 1954, term to begin February 9, 1955, one to be elected in 1960, term to begin January 1, 1961, and one to be elected in 1978, term to begin January 2, 1979;

In Athens county, two judges, one to be elected in 1954, term to begin February 9, 1955, and one to be elected in 1990, term to begin July 1, 1991;

In Erie county, four judges, one to be elected in 1956, term to begin January 1, 1957, the second to be elected in 1970, term to begin January 2, 1971, the third to be elected in 2004, term to begin January 2, 2005, and the fourth to be elected in 2008, term to begin February 9, 2009;

In Fairfield county, three judges, one to be elected in 1954, term to begin February 9, 1955, the second to be elected in 1970, term to begin January 1, 1971, and the third to be elected in 1994, term to begin January 2, 1995;

In Geauga county, two judges, one to be elected in 1956, term to begin January 1, 1957, and the second to be elected in 1976, term to begin January 6, 1977;

In Greene county, four judges, one to be elected in 1956, term to begin February 9, 1957, the second to be elected in 1960, term to begin January 1, 1961, the third to be elected in 1978, term to begin January 2, 1979, and the fourth to be elected in 1994, term to begin January 1, 1995;

In Hancock county, two judges, one to be elected in 1952, term to begin

January 1, 1953, and the second to be elected in 1978, term to begin January 1, 1979;

In Lawrence county, two judges, one to be elected in 1954, term to begin February 9, 1955, and the second to be elected in 1976, term to begin January 1, 1977;

In Marion county, three judges, one to be elected in 1952, term to begin January 1, 1953, the second to be elected in 1976, term to begin January 2, 1977, and the third to be elected in 1998, term to begin February 9, 1999;

In Medina county, three judges, one to be elected in 1956, term to begin January 1, 1957, the second to be elected in 1966, term to begin January 1, 1967, and the third to be elected in 1994, term to begin January 1, 1995;

In Miami county, two judges, one to be elected in 1954, term to begin February 9, 1955, and one to be elected in 1970, term to begin on January 1, 1971;

In Muskingum county, three judges, one to be elected in 1968, term to begin August 9, 1969, one to be elected in 1978, term to begin January 1, 1979, and one to be elected in 2002, term to begin January 2, 2003;

In Portage county, three judges, one to be elected in 1956, term to begin January 1, 1957, the second to be elected in 1960, term to begin January 1, 1961, and the third to be elected in 1986, term to begin January 2, 1987;

In Ross county, two judges, one to be elected in 1956, term to begin February 9, 1957, and the second to be elected in 1976, term to begin January 1, 1977;

In Scioto county, three judges, one to be elected in 1954, term to begin February 10, 1955, the second to be elected in 1960, term to begin January 1, 1961, and the third to be elected in 1994, term to begin January 2, 1995;

In Seneca county, two judges, one to be elected in 1956, term to begin January 1, 1957, and the second to be elected in 1986, term to begin January 2, 1987;

In Warren county, four judges, one to be elected in 1954, term to begin February 9, 1955, the second to be elected in 1970, term to begin January 1, 1971, the third to be elected in 1986, term to begin January 1, 1987, and the fourth to be elected in 2004, term to begin January 2, 2005;

In Washington county, two judges, one to be elected in 1952, term to begin January 1, 1953, and one to be elected in 1986, term to begin January 1, 1987;

In Wood county, three judges, one to be elected in 1968, term beginning January 1, 1969, the second to be elected in 1970, term to begin January 2, 1971, and the third to be elected in 1990, term to begin January 1, 1991;

In Belmont and Jefferson counties, two judges, to be elected in 1954,

terms to begin January 1, 1955, and February 9, 1955, respectively;

In Clark county, four judges, one to be elected in 1952, term to begin January 1, 1953, the second to be elected in 1956, term to begin January 2, 1957, the third to be elected in 1986, term to begin January 3, 1987, and the fourth to be elected in 1994, term to begin January 2, 1995.

In Clermont county, five judges, one to be elected in 1956, term to begin January 1, 1957, the second to be elected in 1964, term to begin January 1, 1965, the third to be elected in 1982, term to begin January 2, 1983, the fourth to be elected in 1986, term to begin January 2, 1987; and the fifth to be elected in 2006, term to begin January 3, 2007;

In Columbiana county, two judges, one to be elected in 1952, term to begin January 1, 1953, and the second to be elected in 1956, term to begin January 1, 1957;

In Delaware county, two judges, one to be elected in 1990, term to begin February 9, 1991, the second to be elected in 1994, term to begin January 1, 1995;

In Lake county, six judges, one to be elected in 1958, term to begin January 1, 1959, the second to be elected in 1960, term to begin January 2, 1961, the third to be elected in 1964, term to begin January 3, 1965, the fourth and fifth to be elected in 1978, terms to begin January 4, 1979, and January 5, 1979, respectively, and the sixth to be elected in 2000, term to begin January 6, 2001;

In Licking county, four judges, one to be elected in 1954, term to begin February 9, 1955, one to be elected in 1964, term to begin January 1, 1965, one to be elected in 1990, term to begin January 1, 1991, and one to be elected in 2004, term to begin January 1, 2005;

In Lorain county, ~~ten~~ nine judges, two to be elected in 1952, terms to begin January 1, 1953, and January 2, 1953, respectively, one to be elected in 1958, term to begin January 3, 1959, one to be elected in 1968, term to begin January 1, 1969, two to be elected in 1988, terms to begin January 4, 1989, and January 5, 1989, respectively, two to be elected in 1998, terms to begin January 2, 1999, and January 3, 1999, respectively; and one to be elected in 2006, term to begin January 6, 2007; ~~and one to be elected in 2008, term to begin February 9, 2009, as described in division (C)(1)(e) of section 2301.03 of the Revised Code;~~

In Butler county, eleven judges, one to be elected in 1956, term to begin January 1, 1957; two to be elected in 1954, terms to begin January 1, 1955, and February 9, 1955, respectively; one to be elected in 1968, term to begin January 2, 1969; one to be elected in 1986, term to begin January 3, 1987; two to be elected in 1988, terms to begin January 1, 1989, and January 2,

1989, respectively; one to be elected in 1992, term to begin January 4, 1993; two to be elected in 2002, terms to begin January 2, 2003, and January 3, 2003, respectively; and one to be elected in 2006, term to begin January 3, 2007;

In Richland county, four judges, one to be elected in 1956, term to begin January 1, 1957, the second to be elected in 1960, term to begin February 9, 1961, the third to be elected in 1968, term to begin January 2, 1969, and the fourth to be elected in 2004, term to begin January 3, 2005;

In Tuscarawas county, two judges, one to be elected in 1956, term to begin January 1, 1957, and the second to be elected in 1960, term to begin January 2, 1961;

In Wayne county, two judges, one to be elected in 1956, term beginning January 1, 1957, and one to be elected in 1968, term to begin January 2, 1969;

In Trumbull county, six judges, one to be elected in 1952, term to begin January 1, 1953, the second to be elected in 1954, term to begin January 1, 1955, the third to be elected in 1956, term to begin January 1, 1957, the fourth to be elected in 1964, term to begin January 1, 1965, the fifth to be elected in 1976, term to begin January 2, 1977, and the sixth to be elected in 1994, term to begin January 3, 1995;

(C) In Cuyahoga county, thirty-nine judges; eight to be elected in 1954, terms to begin on successive days beginning from January 1, 1955, to January 7, 1955, and February 9, 1955, respectively; eight to be elected in 1956, terms to begin on successive days beginning from January 1, 1957, to January 8, 1957; three to be elected in 1952, terms to begin from January 1, 1953, to January 3, 1953; two to be elected in 1960, terms to begin on January 8, 1961, and January 9, 1961, respectively; two to be elected in 1964, terms to begin January 4, 1965, and January 5, 1965, respectively; one to be elected in 1966, term to begin on January 10, 1967; four to be elected in 1968, terms to begin on successive days beginning from January 9, 1969, to January 12, 1969; two to be elected in 1974, terms to begin on January 18, 1975, and January 19, 1975, respectively; five to be elected in 1976, terms to begin on successive days beginning January 6, 1977, to January 10, 1977; two to be elected in 1982, terms to begin January 11, 1983, and January 12, 1983, respectively; and two to be elected in 1986, terms to begin January 13, 1987, and January 14, 1987, respectively;

In Franklin county, twenty-two judges; two to be elected in 1954, terms to begin January 1, 1955, and February 9, 1955, respectively; four to be elected in 1956, terms to begin January 1, 1957, to January 4, 1957; four to be elected in 1958, terms to begin January 1, 1959, to January 4, 1959; three

to be elected in 1968, terms to begin January 5, 1969, to January 7, 1969; three to be elected in 1976, terms to begin on successive days beginning January 5, 1977, to January 7, 1977; one to be elected in 1982, term to begin January 8, 1983; one to be elected in 1986, term to begin January 9, 1987; two to be elected in 1990, terms to begin July 1, 1991, and July 2, 1991, respectively; one to be elected in 1996, term to begin January 2, 1997; and one to be elected in 2004, term to begin July 1, 2005;

In Hamilton county, twenty-one judges; eight to be elected in 1966, terms to begin January 1, 1967, January 2, 1967, and from February 9, 1967, to February 14, 1967, respectively; five to be elected in 1956, terms to begin from January 1, 1957, to January 5, 1957; one to be elected in 1964, term to begin January 1, 1965; one to be elected in 1974, term to begin January 15, 1975; one to be elected in 1980, term to begin January 16, 1981; two to be elected at large in the general election in 1982, terms to begin April 1, 1983; one to be elected in 1990, term to begin July 1, 1991; and two to be elected in 1996, terms to begin January 3, 1997, and January 4, 1997, respectively;

In Lucas county, fourteen judges; two to be elected in 1954, terms to begin January 1, 1955, and February 9, 1955, respectively; two to be elected in 1956, terms to begin January 1, 1957, and October 29, 1957, respectively; two to be elected in 1952, terms to begin January 1, 1953, and January 2, 1953, respectively; one to be elected in 1964, term to begin January 3, 1965; one to be elected in 1968, term to begin January 4, 1969; two to be elected in 1976, terms to begin January 4, 1977, and January 5, 1977, respectively; one to be elected in 1982, term to begin January 6, 1983; one to be elected in 1988, term to begin January 7, 1989; one to be elected in 1990, term to begin January 2, 1991; and one to be elected in 1992, term to begin January 2, 1993;

In Mahoning county, seven judges; three to be elected in 1954, terms to begin January 1, 1955, January 2, 1955, and February 9, 1955, respectively; one to be elected in 1956, term to begin January 1, 1957; one to be elected in 1952, term to begin January 1, 1953; one to be elected in 1968, term to begin January 2, 1969; and one to be elected in 1990, term to begin July 1, 1991;

In Montgomery county, fifteen judges; three to be elected in 1954, terms to begin January 1, 1955, January 2, 1955, and January 3, 1955, respectively; four to be elected in 1952, terms to begin January 1, 1953, January 2, 1953, July 1, 1953, and July 2, 1953, respectively; one to be elected in 1964, term to begin January 3, 1965; one to be elected in 1968, term to begin January 3, 1969; three to be elected in 1976, terms to begin on successive days beginning January 4, 1977, to January 6, 1977; two to be

elected in 1990, terms to begin July 1, 1991, and July 2, 1991, respectively; and one to be elected in 1992, term to begin January 1, 1993.

In Stark county, eight judges; one to be elected in 1958, term to begin on January 2, 1959; two to be elected in 1954, terms to begin on January 1, 1955, and February 9, 1955, respectively; two to be elected in 1952, terms to begin January 1, 1953, and April 16, 1953, respectively; one to be elected in 1966, term to begin on January 4, 1967; and two to be elected in 1992, terms to begin January 1, 1993, and January 2, 1993, respectively;

In Summit county, thirteen judges; four to be elected in 1954, terms to begin January 1, 1955, January 2, 1955, January 3, 1955, and February 9, 1955, respectively; three to be elected in 1958, terms to begin January 1, 1959, January 2, 1959, and May 17, 1959, respectively; one to be elected in 1966, term to begin January 4, 1967; one to be elected in 1968, term to begin January 5, 1969; one to be elected in 1990, term to begin May 1, 1991; one to be elected in 1992, term to begin January 6, 1993; and two to be elected in 2008, terms to begin January 5, 2009, and January 6, 2009, respectively.

Notwithstanding the foregoing provisions, in any county having two or more judges of the court of common pleas, in which more than one-third of the judges plus one were previously elected at the same election, if the office of one of those judges so elected becomes vacant more than forty days prior to the second general election preceding the expiration of that judge's term, the office that that judge had filled shall be abolished as of the date of the next general election, and a new office of judge of the court of common pleas shall be created. The judge who is to fill that new office shall be elected for a six-year term at the next general election, and the term of that judge shall commence on the first day of the year following that general election, on which day no other judge's term begins, so that the number of judges that the county shall elect shall not be reduced.

Judges of the probate division of the court of common pleas are judges of the court of common pleas but shall be elected pursuant to sections 2101.02 and 2101.021 of the Revised Code, except in Adams, Harrison, Henry, Morgan, Noble, and Wyandot counties in which the judge of the court of common pleas elected pursuant to this section also shall serve as judge of the probate division, except in Lorain county in which the judges of the domestic relations division of the Lorain county court of common pleas elected pursuant to this section also shall perform the duties and functions of the judge of the probate division from February 9, 2009, through September 28, 2009, and except in Morrow county in which the judges of the court of common pleas elected pursuant to this section also shall perform the duties

and functions of the judge of the probate division.

Sec. 2301.03. (A) In Franklin county, the judges of the court of common pleas whose terms begin on January 1, 1953, January 2, 1953, January 5, 1969, January 5, 1977, and January 2, 1997, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Franklin county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. They shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all parentage proceedings under Chapter 3111. of the Revised Code over which the juvenile court has jurisdiction, and all divorce, dissolution of marriage, legal separation, and annulment cases shall be assigned to them. In addition to the judge's regular duties, the judge who is senior in point of service shall serve on the children services board and the county advisory board and shall be the administrator of the domestic relations division and its subdivisions and departments.

(B) In Hamilton county:

(1) The judge of the court of common pleas, whose term begins on January 1, 1957, and successors, and the judge of the court of common pleas, whose term begins on February 14, 1967, and successors, shall be the juvenile judges as provided in Chapters 2151. and 2152. of the Revised Code, with the powers and jurisdiction conferred by those chapters.

(2) The judges of the court of common pleas whose terms begin on January 5, 1957, January 16, 1981, and July 1, 1991, and successors, shall be elected and designated as judges of the court of common pleas, division of domestic relations, and shall have assigned to them all divorce, dissolution of marriage, legal separation, and annulment cases coming before the court. On or after the first day of July and before the first day of August of 1991 and each year thereafter, a majority of the judges of the division of domestic relations shall elect one of the judges of the division as administrative judge of that division. If a majority of the judges of the division of domestic relations are unable for any reason to elect an administrative judge for the division before the first day of August, a majority of the judges of the Hamilton county court of common pleas, as soon as possible after that date, shall elect one of the judges of the division of domestic relations as administrative judge of that division. The term of the administrative judge shall begin on the earlier of the first day of August of the year in which the administrative judge is elected or the date on which the administrative judge is elected by a majority of the judges of the Hamilton county court of common pleas and shall terminate on the date on

which the administrative judge's successor is elected in the following year.

In addition to the judge's regular duties, the administrative judge of the division of domestic relations shall be the administrator of the domestic relations division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the division engaged in handling, servicing, or investigating divorce, dissolution of marriage, legal separation, and annulment cases, including any referees considered necessary by the judges in the discharge of their various duties.

The administrative judge of the division of domestic relations also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division, and shall fix the duties of its personnel. The duties of the personnel, in addition to those provided for in other sections of the Revised Code, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and counseling and conciliation services that may be made available to persons requesting them, whether or not the persons are parties to an action pending in the division.

The board of county commissioners shall appropriate the sum of money each year as will meet all the administrative expenses of the division of domestic relations, including reasonable expenses of the domestic relations judges and the division counselors and other employees designated to conduct the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases, conciliation and counseling, and all matters relating to those cases and counseling, and the expenses involved in the attendance of division personnel at domestic relations and welfare conferences designated by the division, and the further sum each year as will provide for the adequate operation of the division of domestic relations.

The compensation and expenses of all employees and the salary and expenses of the judges shall be paid by the county treasurer from the money appropriated for the operation of the division, upon the warrant of the county auditor, certified to by the administrative judge of the division of domestic relations.

The summonses, warrants, citations, subpoenas, and other writs of the division may issue to a bailiff, constable, or staff investigator of the division or to the sheriff of any county or any marshal, constable, or police officer, and the provisions of law relating to the subpoenaing of witnesses in other cases shall apply insofar as they are applicable. When a summons, warrant, citation, subpoena, or other writ is issued to an officer, other than a bailiff,

constable, or staff investigator of the division, the expense of serving it shall be assessed as a part of the costs in the case involved.

(3) The judge of the court of common pleas of Hamilton county whose term begins on January 3, 1997, and the successors to that judge shall each be elected and designated as the drug court judge of the court of common pleas of Hamilton county. The drug court judge may accept or reject any case referred to the drug court judge under division (B)(3) of this section. After the drug court judge accepts a referred case, the drug court judge has full authority over the case, including the authority to conduct arraignment, accept pleas, enter findings and dispositions, conduct trials, order treatment, and if treatment is not successfully completed pronounce and enter sentence.

A judge of the general division of the court of common pleas of Hamilton county and a judge of the Hamilton county municipal court may refer to the drug court judge any case, and any companion cases, the judge determines meet the criteria described under divisions (B)(3)(a) and (b) of this section. If the drug court judge accepts referral of a referred case, the case, and any companion cases, shall be transferred to the drug court judge. A judge may refer a case meeting the criteria described in divisions (B)(3)(a) and (b) of this section that involves a violation of a condition of a community control sanction to the drug court judge, and, if the drug court judge accepts the referral, the referring judge and the drug court judge have concurrent jurisdiction over the case.

A judge of the general division of the court of common pleas of Hamilton county and a judge of the Hamilton county municipal court may refer a case to the drug court judge under division (B)(3) of this section if the judge determines that both of the following apply:

(a) One of the following applies:

(i) The case involves a drug abuse offense, as defined in section 2925.01 of the Revised Code, that is a felony of the third or fourth degree if the offense is committed prior to July 1, 1996, a felony of the third, fourth, or fifth degree if the offense is committed on or after July 1, 1996, or a misdemeanor.

(ii) The case involves a theft offense, as defined in section 2913.01 of the Revised Code, that is a felony of the third or fourth degree if the offense is committed prior to July 1, 1996, a felony of the third, fourth, or fifth degree if the offense is committed on or after July 1, 1996, or a misdemeanor, and the defendant is drug or alcohol dependent or in danger of becoming drug or alcohol dependent and would benefit from treatment.

(b) All of the following apply:

(i) The case involves an offense for which a community control sanction

may be imposed or is a case in which a mandatory prison term or a mandatory jail term is not required to be imposed.

(ii) The defendant has no history of violent behavior.

(iii) The defendant has no history of mental illness.

(iv) The defendant's current or past behavior, or both, is drug or alcohol driven.

(v) The defendant demonstrates a sincere willingness to participate in a fifteen-month treatment process.

(vi) The defendant has no acute health condition.

(vii) If the defendant is incarcerated, the county prosecutor approves of the referral.

(4) If the administrative judge of the court of common pleas of Hamilton county determines that the volume of cases pending before the drug court judge does not constitute a sufficient caseload for the drug court judge, the administrative judge, in accordance with the Rules of Superintendence for Courts of Common Pleas, shall assign individual cases to the drug court judge from the general docket of the court. If the assignments so occur, the administrative judge shall cease the assignments when the administrative judge determines that the volume of cases pending before the drug court judge constitutes a sufficient caseload for the drug court judge.

(5) As used in division (B) of this section, "community control sanction," "mandatory prison term," and "mandatory jail term" have the same meanings as in section 2929.01 of the Revised Code.

(C)(1) In Lorain county:

(a) The judges of the court of common pleas whose terms begin on January 3, 1959, January 4, 1989, and January 2, 1999, and February 9, 2009, and successors, and the judge of the court of common pleas whose term begins on February 9, 2009, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Lorain county and shall be elected and designated as the judges of the court of common pleas, division of domestic relations. ~~They~~ The judges of the court of common pleas whose terms begin on January 3, 1959, January 4, 1989, and January 2, 1999, and successors, shall have all of the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all parentage proceedings over which the juvenile court has jurisdiction, and all divorce, dissolution of marriage, legal separation, and annulment cases shall be assigned to them, except cases that for some special reason are assigned to some other judge of the court of common

pleas. From February 9, 2009, through September 28, 2009, the judge of the court of common pleas whose term begins on February 9, 2009, shall have all the powers relating to juvenile courts, and cases under Chapters 2151. and 2152. of the Revised Code, parentage proceedings over which the juvenile court has jurisdiction, and divorce, dissolution of marriage, legal separation, and annulment cases shall be assigned to that judge, except cases that for some special reason are assigned to some other judge of the court of common pleas.

(b) ~~On and after~~ From January 1, 2006, through September 28, 2009, the judges of the court of common pleas, division of domestic relations, in addition to the powers and jurisdiction set forth in division (C)(1)(a) of this section, shall have jurisdiction over matters that are within the jurisdiction of the probate court under Chapter 2101. and other provisions of the Revised Code. ~~From January 1, 2006, through February 8, 2009, the judges of the court of common pleas, division of domestic relations, shall exercise probate jurisdiction concurrently with the probate judge.~~

(c) The judge of the court of common pleas, division of domestic relations, whose term begins on February 9, 2009, is the successor to the probate judge who was elected in 2002 for a term that began on February 9, 2003. After September 28, 2009, the judge of the court of common pleas, division of domestic relations, whose term begins on February 9, 2009, shall be the probate judge.

(2)(a) ~~From January 1, 2006, through February 8, 2009, with respect to Lorain county, all references in law to the probate court shall be construed as references to both the probate court and the court of common pleas, division of domestic relations, and all references in law to the probate judge shall be construed as references to both the probate judge and the judges of the court of common pleas, division of domestic relations. On and after~~ From February 9, 2009, through September 28, 2009, with respect to Lorain county, all references in law to the probate court shall be construed as references to the court of common pleas, division of domestic relations, and all references to the probate judge shall be construed as references to the judges of the court of common pleas, division of domestic relations.

(b) ~~On and after~~ From February 9, 2009, through September 28, 2009, with respect to Lorain county, all references in law to the clerk of the probate court shall be construed as references to the judge who is serving pursuant to Rule 4 of the Rules of Superintendence for the Courts of Ohio as the administrative judge of the court of common pleas, division of domestic relations.

(D) In Lucas county:

(1) The judges of the court of common pleas whose terms begin on January 1, 1955, and January 3, 1965, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Lucas county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. All divorce, dissolution of marriage, legal separation, and annulment cases shall be assigned to them.

The judge of the division of domestic relations, senior in point of service, shall be considered as the presiding judge of the court of common pleas, division of domestic relations, and shall be charged exclusively with the assignment and division of the work of the division and the employment and supervision of all other personnel of the domestic relations division.

(2) The judges of the court of common pleas whose terms begin on January 5, 1977, and January 2, 1991, and successors shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Lucas county, shall be elected and designated as judges of the court of common pleas, juvenile division, and shall be the juvenile judges as provided in Chapters 2151. and 2152. of the Revised Code with the powers and jurisdictions conferred by those chapters. In addition to the judge's regular duties, the judge of the court of common pleas, juvenile division, senior in point of service, shall be the administrator of the juvenile division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the division engaged in handling, servicing, or investigating juvenile cases, including any referees considered necessary by the judges of the division in the discharge of their various duties.

The judge of the court of common pleas, juvenile division, senior in point of service, also shall designate the title, compensation, expense allowance, hours, leaves of absence, and vacation of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel, in addition to other statutory duties include the handling, servicing, and investigation of juvenile cases and counseling and conciliation services that may be made available to persons requesting them, whether or not the persons are parties to an action pending in the division.

(3) If one of the judges of the court of common pleas, division of domestic relations, or one of the judges of the juvenile division is sick, absent, or unable to perform that judge's judicial duties or the volume of cases pending in that judge's division necessitates it, the duties shall be performed by the judges of the other of those divisions.

(E) In Mahoning county:

(1) The judge of the court of common pleas whose term began on January 1, 1955, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Mahoning county, shall be elected and designated as judge of the court of common pleas, division of domestic relations, and shall be assigned all the divorce, dissolution of marriage, legal separation, and annulment cases coming before the court. In addition to the judge's regular duties, the judge of the court of common pleas, division of domestic relations, shall be the administrator of the domestic relations division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the division engaged in handling, servicing, or investigating divorce, dissolution of marriage, legal separation, and annulment cases, including any referees considered necessary in the discharge of the various duties of the judge's office.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and counseling and conciliation services that may be made available to persons requesting them, whether or not the persons are parties to an action pending in the division.

(2) The judge of the court of common pleas whose term began on January 2, 1969, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Mahoning county, shall be elected and designated as judge of the court of common pleas, juvenile division, and shall be the juvenile judge as provided in Chapters 2151. and 2152. of the Revised Code, with the powers and jurisdictions conferred by those chapters. In addition to the judge's regular duties, the judge of the court of common pleas, juvenile division, shall be the administrator of the juvenile division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the division engaged in handling, servicing, or investigating juvenile cases, including any referees considered necessary by the judge in the discharge of the judge's various duties.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the

division and shall fix the duties of the personnel of the division. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of juvenile cases and counseling and conciliation services that may be made available to persons requesting them, whether or not the persons are parties to an action pending in the division.

(3) If a judge of the court of common pleas, division of domestic relations or juvenile division, is sick, absent, or unable to perform that judge's judicial duties, or the volume of cases pending in that judge's division necessitates it, that judge's duties shall be performed by another judge of the court of common pleas.

(F) In Montgomery county:

(1) The judges of the court of common pleas whose terms begin on January 2, 1953, and January 4, 1977, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Montgomery county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. These judges shall have assigned to them all divorce, dissolution of marriage, legal separation, and annulment cases.

The judge of the division of domestic relations, senior in point of service, shall be charged exclusively with the assignment and division of the work of the division and shall have charge of the employment and supervision of the personnel of the division engaged in handling, servicing, or investigating divorce, dissolution of marriage, legal separation, and annulment cases, including any necessary referees, except those employees who may be appointed by the judge, junior in point of service, under this section and sections 2301.12, 2301.18, and 2301.19 of the Revised Code. The judge of the division of domestic relations, senior in point of service, also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties.

(2) The judges of the court of common pleas whose terms begin on January 1, 1953, and January 1, 1993, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Montgomery county, shall be elected and designated as judges of the court of common pleas, juvenile division, and shall be, and have the powers and jurisdiction of, the juvenile judge as provided in Chapters 2151. and 2152. of the Revised Code.

In addition to the judge's regular duties, the judge of the court of

common pleas, juvenile division, senior in point of service, shall be the administrator of the juvenile division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the juvenile division, including any necessary referees, who are engaged in handling, servicing, or investigating juvenile cases. The judge, senior in point of service, also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of juvenile cases and of any counseling and conciliation services that are available upon request to persons, whether or not they are parties to an action pending in the division.

If one of the judges of the court of common pleas, division of domestic relations, or one of the judges of the court of common pleas, juvenile division, is sick, absent, or unable to perform that judge's duties or the volume of cases pending in that judge's division necessitates it, the duties of that judge may be performed by the judge or judges of the other of those divisions.

(G) In Richland county:

(1) The judge of the court of common pleas whose term begins on January 1, 1957, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Richland county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. That judge shall be assigned and hear all divorce, dissolution of marriage, legal separation, and annulment cases, all domestic violence cases arising under section 3113.31 of the Revised Code, and all post-decree proceedings arising from any case pertaining to any of those matters. The division of domestic relations has concurrent jurisdiction with the juvenile division of the court of common pleas of Richland county to determine the care, custody, or control of any child not a ward of another court of this state, and to hear and determine a request for an order for the support of any child if the request is not ancillary to an action for divorce, dissolution of marriage, annulment, or legal separation, a criminal or civil action involving an allegation of domestic violence, or an action for support brought under Chapter 3115. of the Revised Code. Except in cases that are subject to the exclusive original jurisdiction of the juvenile court, the judge of the division of domestic relations shall be assigned and hear all cases pertaining to paternity or parentage, the care, custody, or control of children, parenting time or visitation, child support, or the allocation of parental rights

and responsibilities for the care of children, all proceedings arising under Chapter 3111. of the Revised Code, all proceedings arising under the uniform interstate family support act contained in Chapter 3115. of the Revised Code, and all post-decree proceedings arising from any case pertaining to any of those matters.

In addition to the judge's regular duties, the judge of the court of common pleas, division of domestic relations, shall be the administrator of the domestic relations division and its subdivisions and departments. The judge shall have charge of the employment, assignment, and supervision of the personnel of the domestic relations division, including any magistrates the judge considers necessary for the discharge of the judge's duties. The judge shall also designate the title, compensation, expense allowances, hours, leaves of absence, vacation, and other employment-related matters of the personnel of the division and shall fix their duties.

(2) The judge of the court of common pleas whose term begins on January 3, 2005, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Richland county, shall be elected and designated as judge of the court of common pleas, juvenile division, and shall be, and have the powers and jurisdiction of, the juvenile judge as provided in Chapters 2151. and 2152. of the Revised Code. Except in cases that are subject to the exclusive original jurisdiction of the juvenile court, the judge of the juvenile division shall not have jurisdiction or the power to hear, and shall not be assigned, any case pertaining to paternity or parentage, the care, custody, or control of children, parenting time or visitation, child support, or the allocation of parental rights and responsibilities for the care of children or any post-decree proceeding arising from any case pertaining to any of those matters. The judge of the juvenile division shall not have jurisdiction or the power to hear, and shall not be assigned, any proceeding under the uniform interstate family support act contained in Chapter 3115. of the Revised Code.

In addition to the judge's regular duties, the judge of the juvenile division shall be the administrator of the juvenile division and its subdivisions and departments. The judge shall have charge of the employment, assignment, and supervision of the personnel of the juvenile division who are engaged in handling, servicing, or investigating juvenile cases, including any magistrates whom the judge considers necessary for the discharge of the judge's various duties.

The judge of the juvenile division also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation

of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of juvenile cases and providing any counseling, conciliation, and mediation services that the court makes available to persons, whether or not the persons are parties to an action pending in the court, who request the services.

(H) In Stark county, the judges of the court of common pleas whose terms begin on January 1, 1953, January 2, 1959, and January 1, 1993, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Stark county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. They shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all parentage proceedings over which the juvenile court has jurisdiction, and all divorce, dissolution of marriage, legal separation, and annulment cases, except cases that are assigned to some other judge of the court of common pleas for some special reason, shall be assigned to the judges.

The judge of the division of domestic relations, second most senior in point of service, shall have charge of the employment and supervision of the personnel of the division engaged in handling, servicing, or investigating divorce, dissolution of marriage, legal separation, and annulment cases, and necessary referees required for the judge's respective court.

The judge of the division of domestic relations, senior in point of service, shall be charged exclusively with the administration of sections 2151.13, 2151.16, 2151.17, and 2152.71 of the Revised Code and with the assignment and division of the work of the division and the employment and supervision of all other personnel of the division, including, but not limited to, that judge's necessary referees, but excepting those employees who may be appointed by the judge second most senior in point of service. The senior judge further shall serve in every other position in which the statutes permit or require a juvenile judge to serve.

(I) In Summit county:

(1) The judges of the court of common pleas whose terms begin on January 4, 1967, and January 6, 1993, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Summit county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. The judges of the division of domestic relations shall have assigned to them and hear all divorce, dissolution of

marriage, legal separation, and annulment cases that come before the court. Except in cases that are subject to the exclusive original jurisdiction of the juvenile court, the judges of the division of domestic relations shall have assigned to them and hear all cases pertaining to paternity, custody, visitation, child support, or the allocation of parental rights and responsibilities for the care of children and all post-decree proceedings arising from any case pertaining to any of those matters. The judges of the division of domestic relations shall have assigned to them and hear all proceedings under the uniform interstate family support act contained in Chapter 3115. of the Revised Code.

The judge of the division of domestic relations, senior in point of service, shall be the administrator of the domestic relations division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the division, including any necessary referees, who are engaged in handling, servicing, or investigating divorce, dissolution of marriage, legal separation, and annulment cases. That judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and of any counseling and conciliation services that are available upon request to all persons, whether or not they are parties to an action pending in the division.

(2) The judge of the court of common pleas whose term begins on January 1, 1955, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Summit county, shall be elected and designated as judge of the court of common pleas, juvenile division, and shall be, and have the powers and jurisdiction of, the juvenile judge as provided in Chapters 2151. and 2152. of the Revised Code. Except in cases that are subject to the exclusive original jurisdiction of the juvenile court, the judge of the juvenile division shall not have jurisdiction or the power to hear, and shall not be assigned, any case pertaining to paternity, custody, visitation, child support, or the allocation of parental rights and responsibilities for the care of children or any post-decree proceeding arising from any case pertaining to any of those matters. The judge of the juvenile division shall not have jurisdiction or the power to hear, and shall not be assigned, any proceeding under the uniform interstate family support act contained in Chapter 3115. of the Revised Code.

The juvenile judge shall be the administrator of the juvenile division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the juvenile division, including any necessary referees, who are engaged in handling, servicing, or investigating juvenile cases. The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of juvenile cases and of any counseling and conciliation services that are available upon request to persons, whether or not they are parties to an action pending in the division.

(J) In Trumbull county, the judges of the court of common pleas whose terms begin on January 1, 1953, and January 2, 1977, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Trumbull county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. They shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all parentage proceedings over which the juvenile court has jurisdiction, and all divorce, dissolution of marriage, legal separation, and annulment cases shall be assigned to them, except cases that for some special reason are assigned to some other judge of the court of common pleas.

(K) In Butler county:

(1) The judges of the court of common pleas whose terms begin on January 1, 1957, and January 4, 1993, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Butler county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. The judges of the division of domestic relations shall have assigned to them all divorce, dissolution of marriage, legal separation, and annulment cases coming before the court, except in cases that for some special reason are assigned to some other judge of the court of common pleas. The judge senior in point of service shall be charged with the assignment and division of the work of the division and with the employment and supervision of all other personnel of the domestic relations division.

The judge senior in point of service also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the

personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(2) The judges of the court of common pleas whose terms begin on January 3, 1987, and January 2, 2003, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Butler county, shall be elected and designated as judges of the court of common pleas, juvenile division, and shall be the juvenile judges as provided in Chapters 2151. and 2152. of the Revised Code, with the powers and jurisdictions conferred by those chapters. The judge of the court of common pleas, juvenile division, who is senior in point of service, shall be the administrator of the juvenile division and its subdivisions and departments. The judge, senior in point of service, shall have charge of the employment, assignment, and supervision of the personnel of the juvenile division who are engaged in handling, servicing, or investigating juvenile cases, including any referees whom the judge considers necessary for the discharge of the judge's various duties.

The judge, senior in point of service, also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of juvenile cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(3) If a judge of the court of common pleas, division of domestic relations or juvenile division, is sick, absent, or unable to perform that judge's judicial duties or the volume of cases pending in the judge's division necessitates it, the duties of that judge shall be performed by the other judges of the domestic relations and juvenile divisions.

(L)(1) In Cuyahoga county, the judges of the court of common pleas whose terms begin on January 8, 1961, January 9, 1961, January 18, 1975, January 19, 1975, and January 13, 1987, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Cuyahoga county and shall be elected and designated as judges of the court

of common pleas, division of domestic relations. They shall have all the powers relating to all divorce, dissolution of marriage, legal separation, and annulment cases, except in cases that are assigned to some other judge of the court of common pleas for some special reason.

(2) The administrative judge is administrator of the domestic relations division and its subdivisions and departments and has the following powers concerning division personnel:

(a) Full charge of the employment, assignment, and supervision;

(b) Sole determination of compensation, duties, expenses, allowances, hours, leaves, and vacations.

(3) "Division personnel" include persons employed or referees engaged in hearing, servicing, investigating, counseling, or conciliating divorce, dissolution of marriage, legal separation and annulment matters.

(M) In Lake county:

(1) The judge of the court of common pleas whose term begins on January 2, 1961, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Lake county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all the divorce, dissolution of marriage, legal separation, and annulment cases coming before the court, except in cases that for some special reason are assigned to some other judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of all other personnel of the domestic relations division.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(2) The judge of the court of common pleas whose term begins on January 4, 1979, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Lake county, shall be elected and designated as judge of the court of common pleas, juvenile division, and shall be the juvenile judge as provided in Chapters 2151. and 2152. of the

Revised Code, with the powers and jurisdictions conferred by those chapters. The judge of the court of common pleas, juvenile division, shall be the administrator of the juvenile division and its subdivisions and departments. The judge shall have charge of the employment, assignment, and supervision of the personnel of the juvenile division who are engaged in handling, servicing, or investigating juvenile cases, including any referees whom the judge considers necessary for the discharge of the judge's various duties.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of juvenile cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(3) If a judge of the court of common pleas, division of domestic relations or juvenile division, is sick, absent, or unable to perform that judge's judicial duties or the volume of cases pending in the judge's division necessitates it, the duties of that judge shall be performed by the other judges of the domestic relations and juvenile divisions.

(N) In Erie county:

(1) The judge of the court of common pleas whose term begins on January 2, 1971, and the successors to that judge whose terms begin before January 2, 2007, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judge of the court of common pleas of Erie county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall have all the powers relating to juvenile courts, and shall be assigned all cases under Chapters 2151. and 2152. of the Revised Code, parentage proceedings over which the juvenile court has jurisdiction, and divorce, dissolution of marriage, legal separation, and annulment cases, except cases that for some special reason are assigned to some other judge.

On or after January 2, 2007, the judge of the court of common pleas who is elected in 2006 shall be the successor to the judge of the domestic relations division whose term expires on January 1, 2007, shall be designated as judge of the court of common pleas, juvenile division, and shall be the juvenile judge as provided in Chapters 2151. and 2152. of the Revised Code with the powers and jurisdictions conferred by those chapters.

(2) The judge of the court of common pleas, general division, whose term begins on January 1, 2005, and successors, the judge of the court of

common pleas, general division whose term begins on January 2, 2005, and successors, and the judge of the court of common pleas, general division, whose term begins February 9, 2009, and successors, shall have assigned to them, in addition to all matters that are within the jurisdiction of the general division of the court of common pleas, all divorce, dissolution of marriage, legal separation, and annulment cases coming before the court, and all matters that are within the jurisdiction of the probate court under Chapter 2101., and other provisions, of the Revised Code.

(O) In Greene county:

(1) The judge of the court of common pleas whose term begins on January 1, 1961, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Greene county and shall be elected and designated as the judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, annulment, uniform reciprocal support enforcement, and domestic violence cases and all other cases related to domestic relations, except cases that for some special reason are assigned to some other judge of the court of common pleas.

The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of all other personnel of the division. The judge also shall designate the title, compensation, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel of the division, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and the provision of counseling and conciliation services that the division considers necessary and makes available to persons who request the services, whether or not the persons are parties in an action pending in the division. The compensation for the personnel shall be paid from the overall court budget and shall be included in the appropriations for the existing judges of the general division of the court of common pleas.

(2) The judge of the court of common pleas whose term begins on January 1, 1995, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Greene county, shall be elected and designated as judge of the court of common pleas, juvenile division, and, on or after January 1, 1995, shall be the juvenile judge as provided in Chapters 2151. and 2152. of the Revised Code with the powers

and jurisdiction conferred by those chapters. The judge of the court of common pleas, juvenile division, shall be the administrator of the juvenile division and its subdivisions and departments. The judge shall have charge of the employment, assignment, and supervision of the personnel of the juvenile division who are engaged in handling, servicing, or investigating juvenile cases, including any referees whom the judge considers necessary for the discharge of the judge's various duties.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of juvenile cases and providing any counseling and conciliation services that the court makes available to persons, whether or not the persons are parties to an action pending in the court, who request the services.

(3) If one of the judges of the court of common pleas, general division, is sick, absent, or unable to perform that judge's judicial duties or the volume of cases pending in the general division necessitates it, the duties of that judge of the general division shall be performed by the judge of the division of domestic relations and the judge of the juvenile division.

(P) In Portage county, the judge of the court of common pleas, whose term begins January 2, 1987, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Portage county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases coming before the court, except in cases that for some special reason are assigned to some other judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of all other personnel of the domestic relations division.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(Q) In Clermont county, the judge of the court of common pleas, whose

term begins January 2, 1987, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Clermont county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases coming before the court, except in cases that for some special reason are assigned to some other judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of all other personnel of the domestic relations division.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(R) In Warren county, the judge of the court of common pleas, whose term begins January 1, 1987, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Warren county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases coming before the court, except in cases that for some special reason are assigned to some other judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of all other personnel of the domestic relations division.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(S) In Licking county, the judges of the court of common pleas, whose

terms begin on January 1, 1991, and January 1, 2005, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Licking county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. The judges shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases, all cases arising under Chapter 3111. of the Revised Code, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings, except in cases that for some special reason are assigned to another judge of the court of common pleas. The administrative judge of the division of domestic relations shall be charged with the assignment and division of the work of the division and with the employment and supervision of the personnel of the division.

The administrative judge of the division of domestic relations shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel of the division, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases, cases arising under Chapter 3111. of the Revised Code, and proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(T) In Allen county, the judge of the court of common pleas, whose term begins January 1, 1993, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Allen county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases, all cases arising under Chapter 3111. of the Revised Code, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of

residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings, except in cases that for some special reason are assigned to another judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of the personnel of the division.

The judge shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel of the division, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases, cases arising under Chapter 3111. of the Revised Code, and proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(U) In Medina county, the judge of the court of common pleas whose term begins January 1, 1995, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Medina county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases, all cases arising under Chapter 3111. of the Revised Code, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings, except in cases that for some special reason are assigned to another judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of the personnel of the division.

The judge shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of divorce, dissolution of marriage, legal

separation, and annulment cases, cases arising under Chapter 3111. of the Revised Code, and proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and providing counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(V) In Fairfield county, the judge of the court of common pleas whose term begins January 2, 1995, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Fairfield county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases, all cases arising under Chapter 3111. of the Revised Code, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings, except in cases that for some special reason are assigned to another judge of the court of common pleas. The judge also has concurrent jurisdiction with the probate-juvenile division of the court of common pleas of Fairfield county with respect to and may hear cases to determine the custody of a child, as defined in section 2151.011 of the Revised Code, who is not the ward of another court of this state, cases that are commenced by a parent, guardian, or custodian of a child, as defined in section 2151.011 of the Revised Code, to obtain an order requiring a parent of the child to pay child support for that child when the request for that order is not ancillary to an action for divorce, dissolution of marriage, annulment, or legal separation, a criminal or civil action involving an allegation of domestic violence, an action for support under Chapter 3115. of the Revised Code, or an action that is within the exclusive original jurisdiction of the probate-juvenile division of the court of common pleas of Fairfield county and that involves an allegation that the child is an abused, neglected, or dependent child, and post-decree proceedings and matters arising from those types of cases.

The judge of the domestic relations division shall be charged with the assignment and division of the work of the division and with the employment and supervision of the personnel of the division.

The judge shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel of the division, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases, cases arising under Chapter 3111. of the Revised Code, and proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and providing any counseling and conciliation services that the division makes available to persons, regardless of whether the persons are parties to an action pending in the division, who request the services. When the judge hears a case to determine the custody of a child, as defined in section 2151.011 of the Revised Code, who is not the ward of another court of this state or a case that is commenced by a parent, guardian, or custodian of a child, as defined in section 2151.011 of the Revised Code, to obtain an order requiring a parent of the child to pay child support for that child when the request for that order is not ancillary to an action for divorce, dissolution of marriage, annulment, or legal separation, a criminal or civil action involving an allegation of domestic violence, an action for support under Chapter 3115. of the Revised Code, or an action that is within the exclusive original jurisdiction of the probate-juvenile division of the court of common pleas of Fairfield county and that involves an allegation that the child is an abused, neglected, or dependent child, the duties of the personnel of the domestic relations division also include the handling, servicing, and investigation of those types of cases.

(W)(1) In Clark county, the judge of the court of common pleas whose term begins on January 2, 1995, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Clark county and shall be elected and designated as judge of the court of common pleas, domestic relations division. The judge shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code and all parentage proceedings under Chapter 3111. of the Revised Code over which the juvenile court has jurisdiction shall be assigned to the judge of the division of domestic relations. All divorce, dissolution of marriage, legal separation, annulment, uniform reciprocal support enforcement, and other cases related to domestic relations shall be assigned to the domestic relations division, and the presiding judge of the court of common pleas shall assign the cases to the judge of the domestic

relations division and the judges of the general division.

(2) In addition to the judge's regular duties, the judge of the division of domestic relations shall serve on the children services board and the county advisory board.

(3) If the judge of the court of common pleas of Clark county, division of domestic relations, is sick, absent, or unable to perform that judge's judicial duties or if the presiding judge of the court of common pleas of Clark county determines that the volume of cases pending in the division of domestic relations necessitates it, the duties of the judge of the division of domestic relations shall be performed by the judges of the general division or probate division of the court of common pleas of Clark county, as assigned for that purpose by the presiding judge of that court, and the judges so assigned shall act in conjunction with the judge of the division of domestic relations of that court.

(X) In Scioto county, the judge of the court of common pleas whose term begins January 2, 1995, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Scioto county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases, all cases arising under Chapter 3111. of the Revised Code, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, visitation, and all post-decree proceedings and matters arising from those cases and proceedings, except in cases that for some special reason are assigned to another judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of the personnel of the division.

The judge shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases, cases arising under Chapter 3111. of the Revised Code, and proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and providing counseling and conciliation

services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(Y) In Auglaize county, the judge of the probate and juvenile divisions of the Auglaize county court of common pleas also shall be the administrative judge of the domestic relations division of the court and shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases coming before the court. The judge shall have all powers as administrator of the domestic relations division and shall have charge of the personnel engaged in handling, servicing, or investigating divorce, dissolution of marriage, legal separation, and annulment cases, including any referees considered necessary for the discharge of the judge's various duties.

(Z)(1) In Marion county, the judge of the court of common pleas whose term begins on February 9, 1999, and the successors to that judge, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Marion county and shall be elected and designated as judge of the court of common pleas, domestic relations-juvenile-probate division. Except as otherwise specified in this division, that judge, and the successors to that judge, shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all cases arising under Chapter 3111. of the Revised Code, all divorce, dissolution of marriage, legal separation, and annulment cases, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings shall be assigned to that judge and the successors to that judge. Except as provided in division (Z)(2) of this section and notwithstanding any other provision of any section of the Revised Code, on and after February 9, 2003, the judge of the court of common pleas of Marion county whose term begins on February 9, 1999, and the successors to that judge, shall have all the powers relating to the probate division of the court of common pleas of Marion county in addition to the powers previously specified in this division, and shall exercise concurrent jurisdiction with the judge of the probate division of that court over all matters that are within the jurisdiction of the probate division of that court under Chapter 2101., and other provisions, of the Revised Code in addition to the jurisdiction of the domestic relations-juvenile-probate division of that court otherwise specified in

division (Z)(1) of this section.

(2) The judge of the domestic relations-juvenile-probate division of the court of common pleas of Marion county or the judge of the probate division of the court of common pleas of Marion county, whichever of those judges is senior in total length of service on the court of common pleas of Marion county, regardless of the division or divisions of service, shall serve as the clerk of the probate division of the court of common pleas of Marion county.

(3) On and after February 9, 2003, all references in law to "the probate court," "the probate judge," "the juvenile court," or "the judge of the juvenile court" shall be construed, with respect to Marion county, as being references to both "the probate division" and "the domestic relations-juvenile-probate division" and as being references to both "the judge of the probate division" and "the judge of the domestic relations- juvenile-probate division." On and after February 9, 2003, all references in law to "the clerk of the probate court" shall be construed, with respect to Marion county, as being references to the judge who is serving pursuant to division (Z)(2) of this section as the clerk of the probate division of the court of common pleas of Marion county.

(AA) In Muskingum county, the judge of the court of common pleas whose term begins on January 2, 2003, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Muskingum county and shall be elected and designated as the judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases, all cases arising under Chapter 3111. of the Revised Code, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings, except in cases that for some special reason are assigned to another judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of the personnel of the division.

The judge shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel of the division, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of

marriage, legal separation, and annulment cases, cases arising under Chapter 3111. of the Revised Code, and proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(BB) In Henry county, the judge of the court of common pleas whose term begins on January 1, 2005, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judge of the court of common pleas of Henry county and shall be elected and designated as the judge of the court of common pleas, division of domestic relations. The judge shall have all of the powers relating to juvenile courts, and all cases under Chapter 2151. or 2152. of the Revised Code, all parentage proceedings arising under Chapter 3111. of the Revised Code over which the juvenile court has jurisdiction, all divorce, dissolution of marriage, legal separation, and annulment cases, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings shall be assigned to that judge, except in cases that for some special reason are assigned to the other judge of the court of common pleas.

(CC)(1) In Logan county, the judge of the court of common pleas whose term begins January 2, 2005, and the successors to that judge, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Logan county and shall be elected and designated as judge of the court of common pleas, domestic relations-juvenile-probate division. Except as otherwise specified in this division, that judge, and the successors to that judge, shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all cases arising under Chapter 3111. of the Revised Code, all divorce, dissolution of marriage, legal separation, and annulment cases, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings shall be assigned to that judge and the successors to that judge. Notwithstanding any other

provision of any section of the Revised Code, on and after January 2, 2005, the judge of the court of common pleas of Logan county whose term begins on January 2, 2005, and the successors to that judge, shall have all the powers relating to the probate division of the court of common pleas of Logan county in addition to the powers previously specified in this division and shall exercise concurrent jurisdiction with the judge of the probate division of that court over all matters that are within the jurisdiction of the probate division of that court under Chapter 2101., and other provisions, of the Revised Code in addition to the jurisdiction of the domestic relations-juvenile-probate division of that court otherwise specified in division (CC)(1) of this section.

(2) The judge of the domestic relations-juvenile-probate division of the court of common pleas of Logan county or the probate judge of the court of common pleas of Logan county who is elected as the administrative judge of the probate division of the court of common pleas of Logan county pursuant to Rule 4 of the Rules of Superintendence shall be the clerk of the probate division and juvenile division of the court of common pleas of Logan county. The clerk of the court of common pleas who is elected pursuant to section 2303.01 of the Revised Code shall keep all of the journals, records, books, papers, and files pertaining to the domestic relations cases.

(3) On and after January 2, 2005, all references in law to "the probate court," "the probate judge," "the juvenile court," or "the judge of the juvenile court" shall be construed, with respect to Logan county, as being references to both "the probate division" and the "domestic relations-juvenile-probate division" and as being references to both "the judge of the probate division" and the "judge of the domestic relations-juvenile-probate division." On and after January 2, 2005, all references in law to "the clerk of the probate court" shall be construed, with respect to Logan county, as being references to the judge who is serving pursuant to division (CC)(2) of this section as the clerk of the probate division of the court of common pleas of Logan county.

(DD)(1) In Champaign county, the judge of the court of common pleas whose term begins February 9, 2003, and the judge of the court of common pleas whose term begins February 10, 2009, and the successors to those judges, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Champaign county and shall be elected and designated as judges of the court of common pleas, domestic relations-juvenile-probate division. Except as otherwise specified in this division, those judges, and the successors to those judges, shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and

2152. of the Revised Code, all cases arising under Chapter 3111. of the Revised Code, all divorce, dissolution of marriage, legal separation, and annulment cases, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings shall be assigned to those judges and the successors to those judges. Notwithstanding any other provision of any section of the Revised Code, on and after February 9, 2009, the judges designated by this division as judges of the court of common pleas of Champaign county, domestic relations-juvenile-probate division, and the successors to those judges, shall have all the powers relating to probate courts in addition to the powers previously specified in this division and shall exercise jurisdiction over all matters that are within the jurisdiction of probate courts under Chapter 2101., and other provisions, of the Revised Code in addition to the jurisdiction of the domestic relations-juvenile-probate division otherwise specified in division (DD)(1) of this section.

(2) On and after February 9, 2009, all references in law to "the probate court," "the probate judge," "the juvenile court," or "the judge of the juvenile court" shall be construed with respect to Champaign county as being references to the "domestic relations-juvenile-probate division" and as being references to the "judge of the domestic relations-juvenile-probate division." On and after February 9, 2009, all references in law to "the clerk of the probate court" shall be construed with respect to Champaign county as being references to the judge who is serving pursuant to Rule 4 of the Rules of Superintendence for the Courts of Ohio as the administrative judge of the court of common pleas, domestic relations-juvenile-probate division.

(EE) If a judge of the court of common pleas, division of domestic relations, or juvenile judge, of any of the counties mentioned in this section is sick, absent, or unable to perform that judge's judicial duties or the volume of cases pending in the judge's division necessitates it, the duties of that judge shall be performed by another judge of the court of common pleas of that county, assigned for that purpose by the presiding judge of the court of common pleas of that county to act in place of or in conjunction with that judge, as the case may require.

Sec. 2303.201. (A)(1) The court of common pleas of any county may determine that for the efficient operation of the court additional funds are required to computerize the court, to make available computerized legal research services, or to do both. Upon making a determination that

additional funds are required for either or both of those purposes, the court shall authorize and direct the clerk of the court of common pleas to charge one additional fee, not to exceed three dollars, on the filing of each cause of action or appeal under divisions (A), (Q), and (U) of section 2303.20 of the Revised Code.

(2) All fees collected under division (A)(1) of this section shall be paid to the county treasurer. The treasurer shall place the funds from the fees in a separate fund to be disbursed, upon an order of the court, in an amount not greater than the actual cost to the court of procuring and maintaining computerization of the court, computerized legal research services, or both.

(3) If the court determines that the funds in the fund described in division (A)(2) of this section are more than sufficient to satisfy the purpose for which the additional fee described in division (A)(1) of this section was imposed, the court may declare a surplus in the fund and expend those surplus funds for other appropriate technological expenses of the court.

(B)(1) The court of common pleas of any county may determine that, for the efficient operation of the court, additional funds are required to computerize the office of the clerk of the court of common pleas and, upon that determination, authorize and direct the clerk of the court of common pleas to charge an additional fee, not to exceed ten dollars, on the filing of each cause of action or appeal, on the filing, docketing, and endorsing of each certificate of judgment, or on the docketing and indexing of each aid in execution or petition to vacate, revive, or modify a judgment under divisions (A), (P), (Q), (T), and (U) of section 2303.20 of the Revised Code. Subject to division (B)(2) of this section, all moneys collected under division (B)(1) of this section shall be paid to the county treasurer to be disbursed, upon an order of the court of common pleas and subject to appropriation by the board of county commissioners, in an amount no greater than the actual cost to the court of procuring and maintaining computer systems for the office of the clerk of the court of common pleas.

(2) If the court of common pleas of a county makes the determination described in division (B)(1) of this section, the board of county commissioners of that county may issue one or more general obligation bonds for the purpose of procuring and maintaining the computer systems for the office of the clerk of the court of common pleas. In addition to the purposes stated in division (B)(1) of this section for which the moneys collected under that division may be expended, the moneys additionally may be expended to pay debt charges on and financing costs related to any general obligation bonds issued pursuant to division (B)(2) of this section as they become due. General obligation bonds issued pursuant to division

(B)(2) of this section are Chapter 133. securities.

(C) The court of common pleas shall collect the sum of twenty-six dollars as additional filing fees in each new civil action or proceeding for the charitable public purpose of providing financial assistance to legal aid societies that operate within the state and to support the office of the state public defender. This division does not apply to proceedings concerning annulments, dissolutions of marriage, divorces, legal separation, spousal support, marital property or separate property distribution, support, or other domestic relations matters; to a juvenile division of a court of common pleas; to a probate division of a court of common pleas, except that the additional filing fees shall apply to name change, guardianship, adoption, and decedents' estate proceedings; or to an execution on a judgment, proceeding in aid of execution, or other post-judgment proceeding arising out of a civil action. The filing fees required to be collected under this division shall be in addition to any other filing fees imposed in the action or proceeding and shall be collected at the time of the filing of the action or proceeding. The court shall not waive the payment of the additional filing fees in a new civil action or proceeding unless the court waives the advanced payment of all filing fees in the action or proceeding. All such moneys collected during a month except for an amount equal to up to one per cent of those moneys retained to cover administrative costs shall be transmitted on or before the twentieth day of the following month by the clerk of the court to the treasurer of state in a manner prescribed by the treasurer of state or by the Ohio legal assistance foundation. The treasurer of state shall deposit four per cent of the funds collected under this division to the credit of the civil case filing fee fund established under section 120.07 of the Revised Code and ninety-six per cent of the funds collected under this division to the credit of the legal aid fund established under section 120.52 of the Revised Code.

The court may retain up to one per cent of the moneys it collects under this division to cover administrative costs, including the hiring of any additional personnel necessary to implement this division. If the court fails to transmit to the treasurer of state the moneys the court collects under this division in a manner prescribed by the treasurer of state or by the Ohio legal assistance foundation, the court shall forfeit the moneys the court retains under this division to cover administrative costs, including the hiring of any additional personnel necessary to implement this division, and shall transmit to the treasurer of state all moneys collected under this division, including the forfeited amount retained for administrative costs, for deposit in the legal aid fund.

(D) On and after the thirtieth day after December 9, 1994, the court of common pleas shall collect the sum of thirty-two dollars as additional filing fees in each new action or proceeding for annulment, divorce, or dissolution of marriage for the purpose of funding shelters for victims of domestic violence pursuant to sections 3113.35 to 3113.39 of the Revised Code. The filing fees required to be collected under this division shall be in addition to any other filing fees imposed in the action or proceeding and shall be collected at the time of the filing of the action or proceeding. The court shall not waive the payment of the additional filing fees in a new action or proceeding for annulment, divorce, or dissolution of marriage unless the court waives the advanced payment of all filing fees in the action or proceeding. On or before the twentieth day of each month, all moneys collected during the immediately preceding month pursuant to this division shall be deposited by the clerk of the court into the county treasury in the special fund used for deposit of additional marriage license fees as described in section 3113.34 of the Revised Code. Upon their deposit into the fund, the moneys shall be retained in the fund and expended only as described in section 3113.34 of the Revised Code.

(E)(1) The court of common pleas may determine that, for the efficient operation of the court, additional funds are necessary to acquire and pay for special projects of the court, including, but not limited to, the acquisition of additional facilities or the rehabilitation of existing facilities, the acquisition of equipment, the hiring and training of staff, community service programs, mediation or dispute resolution services, the employment of magistrates, the training and education of judges, acting judges, and magistrates, and other related services. Upon that determination, the court by rule may charge a fee, in addition to all other court costs, on the filing of each criminal cause, civil action or proceeding, or judgment by confession.

If the court of common pleas offers a special program or service in cases of a specific type, the court by rule may assess an additional charge in a case of that type, over and above court costs, to cover the special program or service. The court shall adjust the special assessment periodically, but not retroactively, so that the amount assessed in those cases does not exceed the actual cost of providing the service or program.

All moneys collected under division (E) of this section shall be paid to the county treasurer for deposit into either a general special projects fund or a fund established for a specific special project. Moneys from a fund of that nature shall be disbursed upon an order of the court in an amount no greater than the actual cost to the court of a project. If a specific fund is terminated because of the discontinuance of a program or service established under

division (E) of this section, the court may order that moneys remaining in the fund be transferred to an account established under this division for a similar purpose.

(2) As used in division (E) of this section:

(a) "Criminal cause" means a charge alleging the violation of a statute or ordinance, or subsection of a statute or ordinance, that requires a separate finding of fact or a separate plea before disposition and of which the defendant may be found guilty, whether filed as part of a multiple charge on a single summons, citation, or complaint or as a separate charge on a single summons, citation, or complaint. "Criminal cause" does not include separate violations of the same statute or ordinance, or subsection of the same statute or ordinance, unless each charge is filed on a separate summons, citation, or complaint.

(b) "Civil action or proceeding" means any civil litigation that must be determined by judgment entry.

Sec. 2305.234. (A) As used in this section:

(1) "Chiropractic claim," "medical claim," and "optometric claim" have the same meanings as in section 2305.113 of the Revised Code.

(2) "Dental claim" has the same meaning as in section 2305.113 of the Revised Code, except that it does not include any claim arising out of a dental operation or any derivative claim for relief that arises out of a dental operation.

(3) "Governmental health care program" has the same meaning as in section 4731.65 of the Revised Code.

(4) "Health care facility or location" means a hospital, clinic, ambulatory surgical facility, office of a health care professional or associated group of health care professionals, training institution for health care professionals, or any other place where medical, dental, or other health-related diagnosis, care, or treatment is provided to a person.

(5) "Health care professional" means any of the following who provide medical, dental, or other health-related diagnosis, care, or treatment:

(a) Physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(b) Registered nurses and licensed practical nurses licensed under Chapter 4723. of the Revised Code and individuals who hold a certificate of authority issued under that chapter that authorizes the practice of nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;

(c) Physician assistants authorized to practice under Chapter 4730. of the Revised Code;

(d) Dentists and dental hygienists licensed under Chapter 4715. of the Revised Code;

(e) Physical therapists, physical therapist assistants, occupational therapists, and occupational therapy assistants licensed under Chapter 4755. of the Revised Code;

(f) Chiropractors licensed under Chapter 4734. of the Revised Code;

(g) Optometrists licensed under Chapter 4725. of the Revised Code;

(h) Podiatrists authorized under Chapter 4731. of the Revised Code to practice podiatry;

(i) Dietitians licensed under Chapter 4759. of the Revised Code;

(j) Pharmacists licensed under Chapter 4729. of the Revised Code;

(k) Emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, certified under Chapter 4765. of the Revised Code;

(l) Respiratory care professionals licensed under Chapter 4761. of the Revised Code;

(m) Speech-language pathologists and audiologists licensed under Chapter 4753. of the Revised Code.

(6) "Health care worker" means a person other than a health care professional who provides medical, dental, or other health-related care or treatment under the direction of a health care professional with the authority to direct that individual's activities, including medical technicians, medical assistants, dental assistants, orderlies, aides, and individuals acting in similar capacities.

(7) "Indigent and uninsured person" means a person who meets all of the following requirements:

(a) The person's income is not greater than two hundred per cent of the current poverty line as defined by the United States office of management and budget and revised in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended.

(b) The person is not eligible to receive medical assistance under Chapter 5111. ~~disability medical assistance under Chapter 5115.~~ of the Revised Code or assistance under any other governmental health care program.

(c) Either of the following applies:

(i) The person is not a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan.

(ii) The person is a policyholder, certificate holder, insured, contract

holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan, but the insurer, policy, contract, or plan denies coverage or is the subject of insolvency or bankruptcy proceedings in any jurisdiction.

(8) "Nonprofit health care referral organization" means an entity that is not operated for profit and refers patients to, or arranges for the provision of, health-related diagnosis, care, or treatment by a health care professional or health care worker.

(9) "Operation" means any procedure that involves cutting or otherwise infiltrating human tissue by mechanical means, including surgery, laser surgery, ionizing radiation, therapeutic ultrasound, or the removal of intraocular foreign bodies. "Operation" does not include the administration of medication by injection, unless the injection is administered in conjunction with a procedure infiltrating human tissue by mechanical means other than the administration of medicine by injection. "Operation" does not include routine dental restorative procedures, the scaling of teeth, or extractions of teeth that are not impacted.

(10) "Tort action" means a civil action for damages for injury, death, or loss to person or property other than a civil action for damages for a breach of contract or another agreement between persons or government entities.

(11) "Volunteer" means an individual who provides any medical, dental, or other health-care related diagnosis, care, or treatment without the expectation of receiving and without receipt of any compensation or other form of remuneration from an indigent and uninsured person, another person on behalf of an indigent and uninsured person, any health care facility or location, any nonprofit health care referral organization, or any other person or government entity.

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

(13) "Deep sedation" means a drug-induced depression of consciousness during which a patient cannot be easily aroused but responds purposefully following repeated or painful stimulation, a patient's ability to independently maintain ventilatory function may be impaired, a patient may require assistance in maintaining a patent airway and spontaneous ventilation may be inadequate, and cardiovascular function is usually maintained.

(14) "General anesthesia" means a drug-induced loss of consciousness during which a patient is not arousable, even by painful stimulation, the ability to independently maintain ventilatory function is often impaired, a patient often requires assistance in maintaining a patent airway, positive pressure ventilation may be required because of depressed spontaneous

ventilation or drug-induced depression of neuromuscular function, and cardiovascular function may be impaired.

(B)(1) Subject to divisions (F) and (G)(3) of this section, a health care professional who is a volunteer and complies with division (B)(2) of this section is not liable in damages to any person or government entity in a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the volunteer in the provision to an indigent and uninsured person of medical, dental, or other health-related diagnosis, care, or treatment, including the provision of samples of medicine and other medical products, unless the action or omission constitutes willful or wanton misconduct.

(2) To qualify for the immunity described in division (B)(1) of this section, a health care professional shall do all of the following prior to providing diagnosis, care, or treatment:

(a) Determine, in good faith, that the indigent and uninsured person is mentally capable of giving informed consent to the provision of the diagnosis, care, or treatment and is not subject to duress or under undue influence;

(b) Inform the person of the provisions of this section, including notifying the person that, by giving informed consent to the provision of the diagnosis, care, or treatment, the person cannot hold the health care professional liable for damages in a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, unless the action or omission of the health care professional constitutes willful or wanton misconduct;

(c) Obtain the informed consent of the person and a written waiver, signed by the person or by another individual on behalf of and in the presence of the person, that states that the person is mentally competent to give informed consent and, without being subject to duress or under undue influence, gives informed consent to the provision of the diagnosis, care, or treatment subject to the provisions of this section. A written waiver under division (B)(2)(c) of this section shall state clearly and in conspicuous type that the person or other individual who signs the waiver is signing it with full knowledge that, by giving informed consent to the provision of the diagnosis, care, or treatment, the person cannot bring a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, against the health care professional unless the action or omission of the health care professional constitutes willful or wanton misconduct.

(3) A physician or podiatrist who is not covered by medical malpractice insurance, but complies with division (B)(2) of this section, is not required to comply with division (A) of section 4731.143 of the Revised Code.

(C) Subject to divisions (F) and (G)(3) of this section, health care workers who are volunteers are not liable in damages to any person or government entity in a tort or other civil action, including an action upon a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the health care worker in the provision to an indigent and uninsured person of medical, dental, or other health-related diagnosis, care, or treatment, unless the action or omission constitutes willful or wanton misconduct.

(D) Subject to divisions (F) and (G)(3) of this section, a nonprofit health care referral organization is not liable in damages to any person or government entity in a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the nonprofit health care referral organization in referring indigent and uninsured persons to, or arranging for the provision of, medical, dental, or other health-related diagnosis, care, or treatment by a health care professional described in division (B)(1) of this section or a health care worker described in division (C) of this section, unless the action or omission constitutes willful or wanton misconduct.

(E) Subject to divisions (F) and (G)(3) of this section and to the extent that the registration requirements of section 3701.071 of the Revised Code apply, a health care facility or location associated with a health care professional described in division (B)(1) of this section, a health care worker described in division (C) of this section, or a nonprofit health care referral organization described in division (D) of this section is not liable in damages to any person or government entity in a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the health care professional or worker or nonprofit health care referral organization relative to the medical, dental, or other health-related diagnosis, care, or treatment provided to an indigent and uninsured person on behalf of or at the health care facility or location, unless the action or omission constitutes willful or wanton misconduct.

(F)(1) Except as provided in division (F)(2) of this section, the immunities provided by divisions (B), (C), (D), and (E) of this section are

not available to a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location if, at the time of an alleged injury, death, or loss to person or property, the health care professionals or health care workers involved are providing one of the following:

(a) Any medical, dental, or other health-related diagnosis, care, or treatment pursuant to a community service work order entered by a court under division (B) of section 2951.02 of the Revised Code or imposed by a court as a community control sanction;

(b) Performance of an operation to which any one of the following applies:

(i) The operation requires the administration of deep sedation or general anesthesia.

(ii) The operation is a procedure that is not typically performed in an office.

(iii) The individual involved is a health care professional, and the operation is beyond the scope of practice or the education, training, and competence, as applicable, of the health care professional.

(c) Delivery of a baby or any other purposeful termination of a human pregnancy.

(2) Division (F)(1) of this section does not apply when a health care professional or health care worker provides medical, dental, or other health-related diagnosis, care, or treatment that is necessary to preserve the life of a person in a medical emergency.

(G)(1) This section does not create a new cause of action or substantive legal right against a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location.

(2) This section does not affect any immunities from civil liability or defenses established by another section of the Revised Code or available at common law to which a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location may be entitled in connection with the provision of emergency or other medical, dental, or other health-related diagnosis, care, or treatment.

(3) This section does not grant an immunity from tort or other civil liability to a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location for actions that are outside the scope of authority of health care professionals or health care workers.

(4) This section does not affect any legal responsibility of a health care professional, health care worker, or nonprofit health care referral

organization to comply with any applicable law of this state or rule of an agency of this state.

(5) This section does not affect any legal responsibility of a health care facility or location to comply with any applicable law of this state, rule of an agency of this state, or local code, ordinance, or regulation that pertains to or regulates building, housing, air pollution, water pollution, sanitation, health, fire, zoning, or safety.

Sec. 2317.422. (A) Notwithstanding sections 2317.40 and 2317.41 of the Revised Code but subject to division (B) of this section, the records, or copies or photographs of the records, of a hospital, homes required to be licensed pursuant to section 3721.01 of the Revised Code, and of adult care facilities required to be licensed pursuant to Chapter 3722. of the Revised Code, and ~~community alternative homes licensed pursuant to section 3724.03 of the Revised Code,~~ in lieu of the testimony in open court of their custodian, person who made them, or person under whose supervision they were made, may be qualified as authentic evidence if any such person endorses thereon the person's verified certification identifying such records, giving the mode and time of their preparation, and stating that they were prepared in the usual course of the business of the institution. Such records, copies, or photographs may not be qualified by certification as provided in this section unless the party intending to offer them delivers a copy of them, or of their relevant portions, to the attorney of record for each adverse party not less than five days before trial. Nothing in this section shall be construed to limit the right of any party to call the custodian, person who made such records, or person under whose supervision they were made, as a witness.

(B) Division (A) of this section does not apply to any certified copy of the results of any test given to determine the presence or concentration of alcohol, a drug of abuse, a combination of them, a controlled substance, or a metabolite of a controlled substance in a patient's whole blood, blood serum or plasma, breath, or urine at any time relevant to a criminal offense that is submitted in a criminal action or proceeding in accordance with division (B)(2)(b) or (B)(3)(b) of section 2317.02 of the Revised Code.

Sec. 2503.17. ~~(A) Except as provided in division (B) and subject to division (C) of this section, the~~ The clerk of the supreme court shall charge and collect ~~forty~~ one hundred dollars, as a filing fee, for each case entered upon the ~~minute book, including, but not limited to, original actions in the court, appeals filed as of right, and cases certified by the courts of appeals for review on the ground of conflict of decisions; and for each motion to certify the record of a court of appeals or for leave to file a notice of appeal in criminal cases~~ docket. The filing fees so charged and collected shall be in

~~full for docketing the cases or motions, making dockets from term to term, indexing and entering appearances, issuing process, filing papers, entering rules, motions, orders, continuances, decrees, and judgments, making lists of causes on the regular docket for publication each year, making and certifying orders, decrees, and judgments of the court to other tribunals, and the issuing of mandates. Except as provided in division (B) of this section, the each case filed in the supreme court under the Rules of Practice of the Supreme Court. The party invoking the action of the court shall pay the filing fee to the clerk before the case or motion is docketed, and it shall be taxed as costs and recovered from the other party if the party invoking the action of the court succeeds, unless the court otherwise directs.~~

~~(B)(1) As used in this division, "prosecutor" has the same meaning as in section 2935.01 of the Revised Code.~~

~~(2) The clerk of the supreme court shall not charge to and collect from a prosecutor the forty dollar filing fee prescribed by division (A) of this section when all of the following circumstances apply:~~

~~(a) In accordance with the Rules of Practice of the Supreme Court of Ohio, an indigent defendant in a criminal action or proceeding files in the appropriate court of appeals a notice of appeal within thirty days from the date of the entry of the judgment or final order that is the subject of the appeal.~~

~~(b) The indigent defendant fails to file or offer for filing in the supreme court within thirty days from the date of the filing of the notice of appeal in the court of appeals, a copy of the notice of appeal supported by a memorandum in support of jurisdiction and other documentation and information as required by the Rules of Practice of the Supreme Court of Ohio.~~

~~(c) The prosecutor or a representative of the prosecutor associated with the criminal action or proceeding files a motion to docket and dismiss the appeal of the indigent defendant for lack of prosecution as authorized by the Rules of Practice of the Supreme Court of Ohio.~~

~~(d) The prosecutor states in the motion that the forty dollar filing fee does not accompany the motion because of the applicability of this division, and the clerk of the supreme court determines that this division applies. No filing fee or security deposit shall be charged to an indigent party upon determination of indigency by the supreme court pursuant to the Rules of Practice of the Supreme Court.~~

~~Sec. 2505.09. Except as provided in section 2505.11 or 2505.12 or another section of the Revised Code or in applicable rules governing courts, the perfection of an appeal, including an administrative-related appeal, does~~

not operate as a stay of execution until a stay of execution has been obtained pursuant to the Rules of Appellate Procedure or in another applicable manner, and a supersedeas bond is executed by the appellant to the appellee, with sufficient sureties and, subject to section 2505.122 of the Revised Code, in a sum that is not less than, if applicable, the cumulative total for all claims covered by the final order, judgment, or decree and interest involved, except that the bond shall not exceed fifty million dollars excluding interest and costs, as directed by the court that rendered the final order, judgment, or decree that is sought to be superseded or by the court to which the appeal is taken. That bond shall be conditioned as provided in section 2505.14 of the Revised Code.

Sec. 2505.12. An appellant is not required to give a supersedeas bond in connection with any of the following:

(A) ~~An~~ Perfection of an appeal by any of the following:

(1) An executor, administrator, guardian, receiver, trustee, or trustee in bankruptcy who is acting in that person's trust capacity and who has given bond in this state, with surety according to law;

(2) The state or any political subdivision of the state;

(3) Any public officer of the state or of any of its political subdivisions who is suing or is sued solely in the public officer's representative capacity as that officer.

(B) ~~An~~ Perfection of an administrative-related appeal of a final order that is not for the payment of money.

Sec. 2505.122. An appellant who obtains a stay of execution pending the appeal of a final order, adjudication, or decision pursuant to section 2506.01 of the Revised Code shall simultaneously execute a supersedeas bond to the appellee, with sufficient sureties and in a sum that is equal to the cost of delay, increased cost of construction, legal expenses, loss of anticipated revenues, or the reasonable value of the matter at issue in the final order, adjudication, or decision, including any reasonable investment-backed expectations of the appellee. That bond shall be conditioned as provided in section 2505.14 of the Revised Code.

Sec. 2743.51. As used in sections 2743.51 to 2743.72 of the Revised Code:

(A) "Claimant" means both of the following categories of persons:

(1) Any of the following persons who claim an award of reparations under sections 2743.51 to 2743.72 of the Revised Code:

(a) A victim who was one of the following at the time of the criminally injurious conduct:

(i) A resident of the United States;

(ii) A resident of a foreign country the laws of which permit residents of this state to recover compensation as victims of offenses committed in that country.

(b) A dependent of a deceased victim who is described in division (A)(1)(a) of this section;

(c) A third person, other than a collateral source, who legally assumes or voluntarily pays the obligations of a victim, or of a dependent of a victim, who is described in division (A)(1)(a) of this section, which obligations are incurred as a result of the criminally injurious conduct that is the subject of the claim and may include, but are not limited to, medical or burial expenses;

(d) A person who is authorized to act on behalf of any person who is described in division (A)(1)(a), (b), or (c) of this section;

(e) The estate of a deceased victim who is described in division (A)(1)(a) of this section.

(2) Any of the following persons who claim an award of reparations under sections 2743.51 to 2743.72 of the Revised Code:

(a) A victim who had a permanent place of residence within this state at the time of the criminally injurious conduct and who, at the time of the criminally injurious conduct, complied with any one of the following:

(i) Had a permanent place of employment in this state;

(ii) Was a member of the regular armed forces of the United States or of the United States coast guard or was a full-time member of the Ohio organized militia or of the United States army reserve, naval reserve, or air force reserve;

(iii) Was retired and receiving social security or any other retirement income;

(iv) Was sixty years of age or older;

(v) Was temporarily in another state for the purpose of receiving medical treatment;

(vi) Was temporarily in another state for the purpose of performing employment-related duties required by an employer located within this state as an express condition of employment or employee benefits;

(vii) Was temporarily in another state for the purpose of receiving occupational, vocational, or other job-related training or instruction required by an employer located within this state as an express condition of employment or employee benefits;

(viii) Was a full-time student at an academic institution, college, or university located in another state;

(ix) Had not departed the geographical boundaries of this state for a

period exceeding thirty days or with the intention of becoming a citizen of another state or establishing a permanent place of residence in another state.

(b) A dependent of a deceased victim who is described in division (A)(2)(a) of this section;

(c) A third person, other than a collateral source, who legally assumes or voluntarily pays the obligations of a victim, or of a dependent of a victim, who is described in division (A)(2)(a) of this section, which obligations are incurred as a result of the criminally injurious conduct that is the subject of the claim and may include, but are not limited to, medical or burial expenses;

(d) A person who is authorized to act on behalf of any person who is described in division (A)(2)(a), (b), or (c) of this section;

(e) The estate of a deceased victim who is described in division (A)(2)(a) of this section.

(B) "Collateral source" means a source of benefits or advantages for economic loss otherwise reparable that the victim or claimant has received, or that is readily available to the victim or claimant, from any of the following sources:

(1) The offender;

(2) The government of the United States or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, unless the law providing for the benefits or advantages makes them excess or secondary to benefits under sections 2743.51 to 2743.72 of the Revised Code;

(3) Social security, medicare, and medicaid;

(4) State-required, temporary, nonoccupational disability insurance;

(5) Workers' compensation;

(6) Wage continuation programs of any employer;

(7) Proceeds of a contract of insurance payable to the victim for loss that the victim sustained because of the criminally injurious conduct;

(8) A contract providing prepaid hospital and other health care services, or benefits for disability;

(9) That portion of the proceeds of all contracts of insurance payable to the claimant on account of the death of the victim that exceeds fifty thousand dollars;

(10) Any compensation recovered or recoverable under the laws of another state, district, territory, or foreign country because the victim was the victim of an offense committed in that state, district, territory, or country.

"Collateral source" does not include any money, or the monetary value

of any property, that is subject to sections 2969.01 to 2969.06 of the Revised Code or that is received as a benefit from the Ohio public safety officers death benefit fund created by section 742.62 of the Revised Code.

(C) "Criminally injurious conduct" means one of the following:

(1) For the purposes of any person described in division (A)(1) of this section, any conduct that occurs or is attempted in this state; poses a substantial threat of personal injury or death; and is punishable by fine, imprisonment, or death, or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of this state. Criminally injurious conduct does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle, except when any of the following applies:

(a) The person engaging in the conduct intended to cause personal injury or death;

(b) The person engaging in the conduct was using the vehicle to flee immediately after committing a felony or an act that would constitute a felony but for the fact that the person engaging in the conduct lacked the capacity to commit the felony under the laws of this state;

(c) The person engaging in the conduct was using the vehicle in a manner that constitutes an OVI violation;

(d) The conduct occurred on or after July 25, 1990, and the person engaging in the conduct was using the vehicle in a manner that constitutes a violation of section 2903.08 of the Revised Code;

(e) The person engaging in the conduct acted in a manner that caused serious physical harm to a person and that constituted a violation of section 4549.02 or 4549.021 of the Revised Code.

(2) For the purposes of any person described in division (A)(2) of this section, any conduct that occurs or is attempted in another state, district, territory, or foreign country; poses a substantial threat of personal injury or death; and is punishable by fine, imprisonment, or death, or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of the state, district, territory, or foreign country in which the conduct occurred or was attempted. Criminally injurious conduct does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle, except when any of the following applies:

(a) The person engaging in the conduct intended to cause personal injury or death;

(b) The person engaging in the conduct was using the vehicle to flee immediately after committing a felony or an act that would constitute a

felony but for the fact that the person engaging in the conduct lacked the capacity to commit the felony under the laws of the state, district, territory, or foreign country in which the conduct occurred or was attempted;

(c) The person engaging in the conduct was using the vehicle in a manner that constitutes an OVI violation;

(d) The conduct occurred on or after July 25, 1990, the person engaging in the conduct was using the vehicle in a manner that constitutes a violation of any law of the state, district, territory, or foreign country in which the conduct occurred, and that law is substantially similar to a violation of section 2903.08 of the Revised Code;

(e) The person engaging in the conduct acted in a manner that caused serious physical harm to a person and that constituted a violation of any law of the state, district, territory, or foreign country in which the conduct occurred, and that law is substantially similar to section 4549.02 or 4549.021 of the Revised Code.

(3) For the purposes of any person described in division (A)(1) or (2) of this section, terrorism that occurs within or outside the territorial jurisdiction of the United States.

(D) "Dependent" means an individual wholly or partially dependent upon the victim for care and support, and includes a child of the victim born after the victim's death.

(E) "Economic loss" means economic detriment consisting only of allowable expense, work loss, funeral expense, unemployment benefits loss, replacement services loss, cost of crime scene cleanup, and cost of evidence replacement. If criminally injurious conduct causes death, economic loss includes a dependent's economic loss and a dependent's replacement services loss. Noneconomic detriment is not economic loss; however, economic loss may be caused by pain and suffering or physical impairment.

(F)(1) "Allowable expense" means reasonable charges incurred for reasonably needed products, services, and accommodations, including those for medical care, rehabilitation, rehabilitative occupational training, and other remedial treatment and care and including replacement costs for eyeglasses and other corrective lenses. It does not include that portion of a charge for a room in a hospital, clinic, convalescent home, nursing home, or any other institution engaged in providing nursing care and related services in excess of a reasonable and customary charge for semiprivate accommodations, unless accommodations other than semiprivate accommodations are medically required.

(2) An immediate family member of a victim of criminally injurious conduct that consists of a homicide, a sexual assault, domestic violence, or a

severe and permanent incapacitating injury resulting in paraplegia or a similar life-altering condition, who requires psychiatric care or counseling as a result of the criminally injurious conduct, may be reimbursed for that care or counseling as an allowable expense through the victim's application. The cumulative allowable expense for care or counseling of that nature shall not exceed two thousand five hundred dollars for each immediate family member of a victim of that type and seven thousand five hundred dollars in the aggregate for all immediate family members of a victim of that type.

(3) A family member of a victim who died as a proximate result of criminally injurious conduct may be reimbursed as an allowable expense through the victim's application for wages lost and travel expenses incurred in order to attend criminal justice proceedings arising from the criminally injurious conduct. The cumulative allowable expense for wages lost and travel expenses incurred by a family member to attend criminal justice proceedings shall not exceed five hundred dollars for each family member of the victim and two thousand dollars in the aggregate for all family members of the victim.

(4) "Allowable expense" includes attorney's fees not exceeding ~~two~~ one thousand ~~five~~ three hundred ~~twenty~~ sixty dollars, at a rate not exceeding ~~one~~ one hundred ~~fifty~~ sixty dollars per hour, incurred to successfully obtain a restraining order, custody order, or other order to physically separate a victim from an offender, if the attorney has not received payment under section 2743.65 of the Revised Code for assisting a claimant with an application for an award of reparations under sections 2743.51 to 2743.72 of the Revised Code and provided that, except as otherwise provided in this division, the attorney or the attorney's law firm may only receive attorney's fees as an allowable expense for the services described in this division in an amount that does not exceed a cumulative total of thirty thousand dollars in any calendar year. The thirty thousand-dollar maximum specified in this division does not apply to an attorney who is an employee of a legal aid society regarding the services described in this division that the attorney performs while so employed and does not apply to a legal aid society. Attorney's fees for the services described in this division may include an amount for reasonable travel time incurred while performing those services, assessed at a rate not exceeding thirty dollars per hour.

(G) "Work loss" means loss of income from work that the injured person would have performed if the person had not been injured and expenses reasonably incurred by the person to obtain services in lieu of those the person would have performed for income, reduced by any income from substitute work actually performed by the person, or by income the

person would have earned in available appropriate substitute work that the person was capable of performing but unreasonably failed to undertake.

(H) "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income, but for the benefit of the person's self or family, if the person had not been injured.

(I) "Dependent's economic loss" means loss after a victim's death of contributions of things of economic value to the victim's dependents, not including services they would have received from the victim if the victim had not suffered the fatal injury, less expenses of the dependents avoided by reason of the victim's death. If a minor child of a victim is adopted after the victim's death, the minor child continues after the adoption to incur a dependent's economic loss as a result of the victim's death. If the surviving spouse of a victim remarries, the surviving spouse continues after the remarriage to incur a dependent's economic loss as a result of the victim's death.

(J) "Dependent's replacement services loss" means loss reasonably incurred by dependents after a victim's death in obtaining ordinary and necessary services in lieu of those the victim would have performed for their benefit if the victim had not suffered the fatal injury, less expenses of the dependents avoided by reason of the victim's death and not subtracted in calculating the dependent's economic loss. If a minor child of a victim is adopted after the victim's death, the minor child continues after the adoption to incur a dependent's replacement services loss as a result of the victim's death. If the surviving spouse of a victim remarries, the surviving spouse continues after the remarriage to incur a dependent's replacement services loss as a result of the victim's death.

(K) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, or other nonpecuniary damage.

(L) "Victim" means a person who suffers personal injury or death as a result of any of the following:

- (1) Criminally injurious conduct;
- (2) The good faith effort of any person to prevent criminally injurious conduct;
- (3) The good faith effort of any person to apprehend a person suspected of engaging in criminally injurious conduct.

(M) "Contributory misconduct" means any conduct of the claimant or of the victim through whom the claimant claims an award of reparations that is unlawful or intentionally tortious and that, without regard to the conduct's proximity in time or space to the criminally injurious conduct, has a causal

relationship to the criminally injurious conduct that is the basis of the claim.

(N)(1) "Funeral expense" means any reasonable charges that are not in excess of seven thousand five hundred dollars per funeral and that are incurred for expenses directly related to a victim's funeral, cremation, or burial and any wages lost or travel expenses incurred by a family member of a victim in order to attend the victim's funeral, cremation, or burial.

(2) An award for funeral expenses shall be applied first to expenses directly related to the victim's funeral, cremation, or burial. An award for wages lost or travel expenses incurred by a family member of the victim shall not exceed five hundred dollars for each family member and shall not exceed in the aggregate the difference between seven thousand five hundred dollars and expenses that are reimbursed by the program and that are directly related to the victim's funeral, cremation, or burial.

(O) "Unemployment benefits loss" means a loss of unemployment benefits pursuant to Chapter 4141. of the Revised Code when the loss arises solely from the inability of a victim to meet the able to work, available for suitable work, or the actively seeking suitable work requirements of division (A)(4)(a) of section 4141.29 of the Revised Code.

(P) "OVI violation" means any of the following:

(1) A violation of section 4511.19 of the Revised Code, of any municipal ordinance prohibiting the operation of a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them, or of any municipal ordinance prohibiting the operation of a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine;

(2) A violation of division (A)(1) of section 2903.06 of the Revised Code;

(3) A violation of division (A)(2), (3), or (4) of section 2903.06 of the Revised Code or of a municipal ordinance substantially similar to any of those divisions, if the offender was under the influence of alcohol, a drug of abuse, or a combination of them, at the time of the commission of the offense;

(4) For purposes of any person described in division (A)(2) of this section, a violation of any law of the state, district, territory, or foreign country in which the criminally injurious conduct occurred, if that law is substantially similar to a violation described in division (P)(1) or (2) of this section or if that law is substantially similar to a violation described in division (P)(3) of this section and the offender was under the influence of alcohol, a drug of abuse, or a combination of them, at the time of the

commission of the offense.

(Q) "Pendency of the claim" for an original reparations application or supplemental reparations application means the period of time from the date the criminally injurious conduct upon which the application is based occurred until the date a final decision, order, or judgment concerning that original reparations application or supplemental reparations application is issued.

(R) "Terrorism" means any activity to which all of the following apply:

(1) The activity involves a violent act or an act that is dangerous to human life.

(2) The act described in division (R)(1) of this section is committed within the territorial jurisdiction of the United States and is a violation of the criminal laws of the United States, this state, or any other state or the act described in division (R)(1) of this section is committed outside the territorial jurisdiction of the United States and would be a violation of the criminal laws of the United States, this state, or any other state if committed within the territorial jurisdiction of the United States.

(3) The activity appears to be intended to do any of the following:

(a) Intimidate or coerce a civilian population;

(b) Influence the policy of any government by intimidation or coercion;

(c) Affect the conduct of any government by assassination or kidnapping.

(4) The activity occurs primarily outside the territorial jurisdiction of the United States or transcends the national boundaries of the United States in terms of the means by which the activity is accomplished, the person or persons that the activity appears intended to intimidate or coerce, or the area or locale in which the perpetrator or perpetrators of the activity operate or seek asylum.

(S) "Transcends the national boundaries of the United States" means occurring outside the territorial jurisdiction of the United States in addition to occurring within the territorial jurisdiction of the United States.

(T) "Cost of crime scene cleanup" means reasonable and necessary costs of cleaning the scene and repairing, for the purpose of personal security, property damaged at the scene where the criminally injurious conduct occurred, not to exceed seven hundred fifty dollars in the aggregate per claim.

(U) "Cost of evidence replacement" means costs for replacement of property confiscated for evidentiary purposes related to the criminally injurious conduct, not to exceed seven hundred fifty dollars in the aggregate per claim.

(V) "Provider" means any person who provides a victim or claimant with a product, service, or accommodations that are an allowable expense or a funeral expense.

(W) "Immediate family member" means an individual who resided in the same permanent household as a victim at the time of the criminally injurious conduct and who is related to the victim by affinity or consanguinity.

(X) "Family member" means an individual who is related to a victim by affinity or consanguinity.

Sec. 2744.05. Notwithstanding any other provisions of the Revised Code or rules of a court to the contrary, in an action against a political subdivision to recover damages for injury, death, or loss to person or property caused by an act or omission in connection with a governmental or proprietary function:

(A) Punitive or exemplary damages shall not be awarded.

(B)(1) If a claimant receives or is entitled to receive benefits for injuries or loss allegedly incurred from a policy or policies of insurance or any other source, the benefits shall be disclosed to the court, and the amount of the benefits shall be deducted from any award against a political subdivision recovered by that claimant. No insurer or other person is entitled to bring an action under a subrogation provision in an insurance or other contract against a political subdivision with respect to those benefits.

The amount of the benefits shall be deducted from an award against a political subdivision under division (B)(1) of this section regardless of whether the claimant may be under an obligation to pay back the benefits upon recovery, in whole or in part, for the claim. A claimant whose benefits have been deducted from an award under division (B)(1) of this section is not considered fully compensated and shall not be required to reimburse a subrogated claim for benefits deducted from an award pursuant to division (B)(1) of this section.

(2) Nothing in division (B)(1) of this section shall be construed to do either of the following:

(a) Limit the rights of a beneficiary under a life insurance policy or the rights of sureties under fidelity or surety bonds;

(b) Prohibit the department of job and family services from recovering from the political subdivision, pursuant to section 5101.58 of the Revised Code, the cost of medical assistance benefits provided under sections 5101.5211 to 5101.5216 or Chapter 5107., or 5111., ~~or 5115.~~ of the Revised Code.

(C)(1) There shall not be any limitation on compensatory damages that

represent the actual loss of the person who is awarded the damages. However, except in wrongful death actions brought pursuant to Chapter 2125. of the Revised Code, damages that arise from the same cause of action, transaction or occurrence, or series of transactions or occurrences and that do not represent the actual loss of the person who is awarded the damages shall not exceed two hundred fifty thousand dollars in favor of any one person. The limitation on damages that do not represent the actual loss of the person who is awarded the damages provided in this division does not apply to court costs that are awarded to a plaintiff, or to interest on a judgment rendered in favor of a plaintiff, in an action against a political subdivision.

(2) As used in this division, "the actual loss of the person who is awarded the damages" includes all of the following:

(a) All wages, salaries, or other compensation lost by the person injured as a result of the injury, including wages, salaries, or other compensation lost as of the date of a judgment and future expected lost earnings of the person injured;

(b) All expenditures of the person injured or another person on behalf of the person injured for medical care or treatment, for rehabilitation services, or for other care, treatment, services, products, or accommodations that were necessary because of the injury;

(c) All expenditures to be incurred in the future, as determined by the court, by the person injured or another person on behalf of the person injured for medical care or treatment, for rehabilitation services, or for other care, treatment, services, products, or accommodations that will be necessary because of the injury;

(d) All expenditures of a person whose property was injured or destroyed or of another person on behalf of the person whose property was injured or destroyed in order to repair or replace the property that was injured or destroyed;

(e) All expenditures of the person injured or of the person whose property was injured or destroyed or of another person on behalf of the person injured or of the person whose property was injured or destroyed in relation to the actual preparation or presentation of the claim involved;

(f) Any other expenditures of the person injured or of the person whose property was injured or destroyed or of another person on behalf of the person injured or of the person whose property was injured or destroyed that the court determines represent an actual loss experienced because of the personal or property injury or property loss.

"The actual loss of the person who is awarded the damages" does not

include any fees paid or owed to an attorney for any services rendered in relation to a personal or property injury or property loss, and does not include any damages awarded for pain and suffering, for the loss of society, consortium, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, or education of the person injured, for mental anguish, or for any other intangible loss.

Sec. 2903.214. (A) As used in this section:

(1) "Court" means the court of common pleas of the county in which the person to be protected by the protection order resides.

(2) "Victim advocate" means a person who provides support and assistance for a person who files a petition under this section.

(3) "Family or household member" has the same meaning as in section 3113.31 of the Revised Code.

(4) "Protection order issued by a court of another state" has the same meaning as in section 2919.27 of the Revised Code.

(5) "Sexually oriented offense" has the same meaning as in section 2950.01 of the Revised Code.

(6) "Electronic monitoring" has the same meaning as in section 2929.01 of the Revised Code.

(B) The court has jurisdiction over all proceedings under this section.

(C) A person may seek relief under this section for the person, or any parent or adult household member may seek relief under this section on behalf of any other family or household member, by filing a petition with the court. The petition shall contain or state all of the following:

(1) An allegation that the respondent engaged in a violation of section 2903.211 of the Revised Code against the person to be protected by the protection order or committed a sexually oriented offense against the person to be protected by the protection order, including a description of the nature and extent of the violation;

(2) If the petitioner seeks relief in the form of electronic monitoring of the respondent, an allegation that at any time preceding the filing of the petition the respondent engaged in conduct that would cause a reasonable person to believe that the health, welfare, or safety of the person to be protected was at risk, a description of the nature and extent of that conduct, and an allegation that the respondent presents a continuing danger to the person to be protected;

(3) A request for relief under this section.

(D)(1) If a person who files a petition pursuant to this section requests an ex parte order, the court shall hold an ex parte hearing as soon as possible after the petition is filed, but not later than the next day that the court is in

session after the petition is filed. The court, for good cause shown at the ex parte hearing, may enter any temporary orders, with or without bond, that the court finds necessary for the safety and protection of the person to be protected by the order. Immediate and present danger to the person to be protected by the protection order constitutes good cause for purposes of this section. Immediate and present danger includes, but is not limited to, situations in which the respondent has threatened the person to be protected by the protection order with bodily harm or in which the respondent previously has been convicted of or pleaded guilty to a violation of section 2903.211 of the Revised Code or a sexually oriented offense against the person to be protected by the protection order.

(2)(a) If the court, after an ex parte hearing, issues a protection order described in division (E) of this section, the court shall schedule a full hearing for a date that is within ten court days after the ex parte hearing. The court shall give the respondent notice of, and an opportunity to be heard at, the full hearing. The court shall hold the full hearing on the date scheduled under this division unless the court grants a continuance of the hearing in accordance with this division. Under any of the following circumstances or for any of the following reasons, the court may grant a continuance of the full hearing to a reasonable time determined by the court:

(i) Prior to the date scheduled for the full hearing under this division, the respondent has not been served with the petition filed pursuant to this section and notice of the full hearing.

(ii) The parties consent to the continuance.

(iii) The continuance is needed to allow a party to obtain counsel.

(iv) The continuance is needed for other good cause.

(b) An ex parte order issued under this section does not expire because of a failure to serve notice of the full hearing upon the respondent before the date set for the full hearing under division (D)(2)(a) of this section or because the court grants a continuance under that division.

(3) If a person who files a petition pursuant to this section does not request an ex parte order, or if a person requests an ex parte order but the court does not issue an ex parte order after an ex parte hearing, the court shall proceed as in a normal civil action and grant a full hearing on the matter.

(E)(1)(a) After an ex parte or full hearing, the court may issue any protection order, with or without bond, that contains terms designed to ensure the safety and protection of the person to be protected by the protection order, including, but not limited to, a requirement that the respondent refrain from entering the residence, school, business, or place of

employment of the petitioner or family or household member. If the court includes a requirement that the respondent refrain from entering the residence, school, business, or place of employment of the petitioner or family or household member in the order, it also shall include in the order provisions of the type described in division (E)(5) of this section.

(b) After a full hearing, if the court considering a petition that includes an allegation of the type described in division (C)(2) of this section, or the court upon its own motion, finds upon clear and convincing evidence that the petitioner reasonably believed that the respondent's conduct at any time preceding the filing of the petition endangered the health, welfare, or safety of the person to be protected and that the respondent presents a continuing danger to the person to be protected, the court may order that the respondent be electronically monitored for a period of time and under the terms and conditions that the court determines are appropriate. Electronic monitoring shall be in addition to any other relief granted to the petitioner.

(2)(a) Any protection order issued pursuant to this section shall be valid until a date certain but not later than five years from the date of its issuance.

(b) Any protection order issued pursuant to this section may be renewed in the same manner as the original order was issued.

(3) A court may not issue a protection order that requires a petitioner to do or to refrain from doing an act that the court may require a respondent to do or to refrain from doing under division (E)(1) of this section unless all of the following apply:

(a) The respondent files a separate petition for a protection order in accordance with this section.

(b) The petitioner is served with notice of the respondent's petition at least forty-eight hours before the court holds a hearing with respect to the respondent's petition, or the petitioner waives the right to receive this notice.

(c) If the petitioner has requested an ex parte order pursuant to division (D) of this section, the court does not delay any hearing required by that division beyond the time specified in that division in order to consolidate the hearing with a hearing on the petition filed by the respondent.

(d) After a full hearing at which the respondent presents evidence in support of the request for a protection order and the petitioner is afforded an opportunity to defend against that evidence, the court determines that the petitioner has committed a violation of section 2903.211 of the Revised Code against the person to be protected by the protection order issued pursuant to this section, has committed a sexually oriented offense against the person to be protected by the protection order, or has violated a protection order issued pursuant to section 2903.213 of the Revised Code

relative to the person to be protected by the protection order issued pursuant to this section.

(4) No protection order issued pursuant to this section shall in any manner affect title to any real property.

(5)(a) If the court issues a protection order under this section that includes a requirement that the alleged offender refrain from entering the residence, school, business, or place of employment of the petitioner or a family or household member, the order shall clearly state that the order cannot be waived or nullified by an invitation to the alleged offender from the complainant to enter the residence, school, business, or place of employment or by the alleged offender's entry into one of those places otherwise upon the consent of the petitioner or family or household member.

(b) Division (E)(5)(a) of this section does not limit any discretion of a court to determine that an alleged offender charged with a violation of section 2919.27 of the Revised Code, with a violation of a municipal ordinance substantially equivalent to that section, or with contempt of court, which charge is based on an alleged violation of a protection order issued under this section, did not commit the violation or was not in contempt of court.

(F)(1) The court shall cause the delivery of a copy of any protection order that is issued under this section to the petitioner, to the respondent, and to all law enforcement agencies that have jurisdiction to enforce the order. The court shall direct that a copy of the order be delivered to the respondent on the same day that the order is entered.

(2) Upon the issuance of a protection order under this section, the court shall provide the parties to the order with the following notice orally or by form:

"NOTICE

As a result of this order, it may be unlawful for you to possess or purchase a firearm, including a rifle, pistol, or revolver, or ammunition pursuant to federal law under 18 U.S.C. 922(g)(8). If you have any questions whether this law makes it illegal for you to possess or purchase a firearm or ammunition, you should consult an attorney."

(3) All law enforcement agencies shall establish and maintain an index for the protection orders delivered to the agencies pursuant to division (F)(1) of this section. With respect to each order delivered, each agency shall note on the index the date and time that it received the order.

(4) Regardless of whether the petitioner has registered the protection order in the county in which the officer's agency has jurisdiction pursuant to division (M) of this section, any officer of a law enforcement agency shall

enforce a protection order issued pursuant to this section by any court in this state in accordance with the provisions of the order, including removing the respondent from the premises, if appropriate.

(G) Any proceeding under this section shall be conducted in accordance with the Rules of Civil Procedure, except that a protection order may be obtained under this section with or without bond. An order issued under this section, other than an ex parte order, that grants a protection order, or that refuses to grant a protection order, is a final, appealable order. The remedies and procedures provided in this section are in addition to, and not in lieu of, any other available civil or criminal remedies.

(H) The filing of proceedings under this section does not excuse a person from filing any report or giving any notice required by section 2151.421 of the Revised Code or by any other law.

(I) Any law enforcement agency that investigates an alleged violation of section 2903.211 of the Revised Code or an alleged commission of a sexually oriented offense shall provide information to the victim and the family or household members of the victim regarding the relief available under this section and section 2903.213 of the Revised Code.

(J) Notwithstanding any provision of law to the contrary and regardless of whether a protection order is issued or a consent agreement is approved by a court of another county or by a court of another state, no court or unit of state or local government shall charge any fee, cost, deposit, or money in connection with the filing of a petition pursuant to this section, in connection with the filing, issuance, registration, or service of a protection order or consent agreement, or for obtaining a certified copy of a protection order or consent agreement.

(K)(1) A person who violates a protection order issued under this section is subject to the following sanctions:

(a) Criminal prosecution for a violation of section 2919.27 of the Revised Code, if the violation of the protection order constitutes a violation of that section;

(b) Punishment for contempt of court.

(2) The punishment of a person for contempt of court for violation of a protection order issued under this section does not bar criminal prosecution of the person for a violation of section 2919.27 of the Revised Code. However, a person punished for contempt of court is entitled to credit for the punishment imposed upon conviction of a violation of that section, and a person convicted of a violation of that section shall not subsequently be punished for contempt of court arising out of the same activity.

(L) In all stages of a proceeding under this section, a petitioner may be

accompanied by a victim advocate.

(M)(1) A petitioner who obtains a protection order under this section or a protection order under section 2903.213 of the Revised Code may provide notice of the issuance or approval of the order to the judicial and law enforcement officials in any county other than the county in which the order is issued by registering that order in the other county pursuant to division (M)(2) of this section and filing a copy of the registered order with a law enforcement agency in the other county in accordance with that division. A person who obtains a protection order issued by a court of another state may provide notice of the issuance of the order to the judicial and law enforcement officials in any county of this state by registering the order in that county pursuant to section 2919.272 of the Revised Code and filing a copy of the registered order with a law enforcement agency in that county.

(2) A petitioner may register a protection order issued pursuant to this section or section 2903.213 of the Revised Code in a county other than the county in which the court that issued the order is located in the following manner:

(a) The petitioner shall obtain a certified copy of the order from the clerk of the court that issued the order and present that certified copy to the clerk of the court of common pleas or the clerk of a municipal court or county court in the county in which the order is to be registered.

(b) Upon accepting the certified copy of the order for registration, the clerk of the court of common pleas, municipal court, or county court shall place an endorsement of registration on the order and give the petitioner a copy of the order that bears that proof of registration.

(3) The clerk of each court of common pleas, municipal court, or county court shall maintain a registry of certified copies of protection orders that have been issued by courts in other counties pursuant to this section or section 2903.213 of the Revised Code and that have been registered with the clerk.

(N) If the court orders electronic monitoring of the respondent under this section, the court shall direct the sheriff's office or any other appropriate law enforcement agency to install the electronic monitoring device and to monitor the respondent. Unless the court determines that the respondent is indigent, the court shall order the respondent to pay the cost of the installation and monitoring of the electronic monitoring device. If the court determines that the respondent is indigent, the cost of the installation and monitoring of the electronic monitoring device ~~shall~~ may be paid out of funds from the reparations fund created pursuant to section 2743.191 of the Revised Code. The total amount of costs for the installation and monitoring

of electronic monitoring devices paid pursuant to this division from the reparations fund shall not exceed three hundred thousand dollars per year. The attorney general may promulgate rules pursuant to section 111.15 of the Revised Code to govern payments made from the reparations fund pursuant to this division. The rules may include reasonable limits on the total cost paid pursuant to this division per respondent, the amount of the three hundred thousand dollars allocated to each county, and how invoices may be submitted by a county, court, or other entity.

Sec. 2903.33. As used in sections 2903.33 to 2903.36 of the Revised Code:

(A) "Care facility" means any of the following:

(1) Any "home" as defined in section 3721.10 or 5111.20 of the Revised Code;

(2) Any "residential facility" as defined in section 5123.19 of the Revised Code;

(3) Any institution or facility operated or provided by the department of mental health or by the department of mental retardation and developmental disabilities pursuant to sections 5119.02 and 5123.03 of the Revised Code;

(4) Any "residential facility" as defined in section 5119.22 of the Revised Code;

(5) Any unit of any hospital, as defined in section 3701.01 of the Revised Code, that provides the same services as a nursing home, as defined in section 3721.01 of the Revised Code;

(6) Any institution, residence, or facility that provides, for a period of more than twenty-four hours, whether for a consideration or not, accommodations to one individual or two unrelated individuals who are dependent upon the services of others;

(7) Any "adult care facility" as defined in section 3722.01 of the Revised Code;

(8) Any adult foster home certified by the department of aging or its designee under section 173.36 of the Revised Code;

~~(9) Any "community alternative home" as defined in section 3724.01 of the Revised Code.~~

(B) "Abuse" means knowingly causing physical harm or recklessly causing serious physical harm to a person by physical contact with the person or by the inappropriate use of a physical or chemical restraint, medication, or isolation on the person.

(C)(1) "Gross neglect" means knowingly failing to provide a person with any treatment, care, goods, or service that is necessary to maintain the health or safety of the person when the failure results in physical harm or

serious physical harm to the person.

(2) "Neglect" means recklessly failing to provide a person with any treatment, care, goods, or service that is necessary to maintain the health or safety of the person when the failure results in serious physical harm to the person.

(D) "Inappropriate use of a physical or chemical restraint, medication, or isolation" means the use of physical or chemical restraint, medication, or isolation as punishment, for staff convenience, excessively, as a substitute for treatment, or in quantities that preclude habilitation and treatment.

Sec. 2907.27. (A)(1) If a person is charged with a violation of section 2907.02, 2907.03, 2907.04, 2907.24, 2907.241, or 2907.25 of the Revised Code or with a violation of a municipal ordinance that is substantially equivalent to any of those sections, the arresting authorities or a court, upon the request of the prosecutor in the case or upon the request of the victim, shall cause the accused to submit to one or more appropriate tests to determine if the accused is suffering from a venereal disease.

(2) If the accused is found to be suffering from a venereal disease in an infectious stage, the accused shall be required to submit to medical treatment for that disease. The cost of the medical treatment shall be charged to and paid by the accused who undergoes the treatment. If the accused is indigent, the court shall order the accused to report to a facility operated by a city health district or a general health district for treatment. If the accused is convicted of or pleads guilty to the offense with which the accused is charged and is placed under a community control sanction, a condition of community control shall be that the offender submit to and faithfully follow a course of medical treatment for the venereal disease. If the offender does not seek the required medical treatment, the court may revoke the offender's community control and order the offender to undergo medical treatment during the period of the offender's incarceration and to pay the cost of that treatment.

(B)(1)(a) ~~Notwithstanding the requirements for informed consent in section 3701.242 of the Revised Code, if~~ If a person is charged with a violation of division (B) of section 2903.11 or of section 2907.02, 2907.03, 2907.04, 2907.05, 2907.12, 2907.24, 2907.241, or 2907.25 of the Revised Code or with a violation of a municipal ordinance that is substantially equivalent to that division or any of those sections, the court, upon the request of the prosecutor in the case, upon the request of the victim, or upon the request of any other person whom the court reasonably believes had contact with the accused in circumstances related to the violation that could have resulted in the transmission to that person ~~of a virus that causes~~

~~acquired immunodeficiency syndrome~~ the human immunodeficiency virus, shall cause the accused to submit to one or more tests designated by the director of health under section 3701.241 of the Revised Code to determine if the accused is ~~a carrier of a virus that causes acquired immunodeficiency syndrome~~ infected with HIV. The court, upon the request of the prosecutor in the case, upon the request of the victim with the agreement of the prosecutor, or upon the request of any other person with the agreement of the prosecutor, may cause an accused who is charged with a violation of any other section of the Revised Code or with a violation of any other municipal ordinance to submit to one or more tests so designated by the director of health if the circumstances of the violation indicate probable cause to believe that the accused, if the accused is infected with ~~the virus that causes acquired immunodeficiency syndrome~~ HIV, might have transmitted ~~the virus~~ HIV to any of the following persons in committing the violation:

(i) In relation to a request made by the prosecuting attorney, to the victim or to any other person;

(ii) In relation to a request made by the victim, to the victim making the request;

(iii) In relation to a request made by any other person, to the person making the request.

(b) The results of a test performed under division (B)(1)(a) of this section shall be communicated in confidence to the court, and the court shall inform the accused of the result. The court shall inform the victim that the test was performed and that the victim has a right to receive the results on request. If the test was performed upon the request of a person other than the prosecutor in the case and other than the victim, the court shall inform the person who made the request that the test was performed and that the person has a right to receive the results upon request. Additionally, regardless of who made the request that was the basis of the test being performed, if the court reasonably believes that, in circumstances related to the violation, a person other than the victim had contact with the accused that could have resulted in the transmission of ~~the virus~~ HIV to that person, the court may inform that person that the test was performed and that the person has a right to receive the results of the test on request. If the accused tests positive for ~~a virus that causes acquired immunodeficiency syndrome~~ HIV, the test results shall be reported to the department of health in accordance with section 3701.24 of the Revised Code and to the sheriff, head of the state correctional institution, or other person in charge of any jail or prison in which the accused is incarcerated. If the accused tests positive for ~~a virus that causes acquired immunodeficiency syndrome~~ HIV and the accused was charged

with, and was convicted of or pleaded guilty to, a violation of section 2907.24, 2907.241, or 2907.25 of the Revised Code or a violation of a municipal ordinance that is substantially equivalent to any of those sections, the test results also shall be reported to the law enforcement agency that arrested the accused, and the law enforcement agency may use the test results as the basis for any future charge of a violation of division (B) of any of those sections or a violation of a municipal ordinance that is substantially equivalent to division (B) of any of those sections. No other disclosure of the test results or the fact that a test was performed shall be made, other than as evidence in a grand jury proceeding or as evidence in a judicial proceeding in accordance with the Rules of Evidence. If the test result is negative, and the charge has not been dismissed or if the accused has been convicted of the charge or a different offense arising out of the same circumstances as the offense charged, the court shall order that the test be repeated not earlier than three months nor later than six months after the original test.

(2) If an accused who is free on bond refuses to submit to a test ordered by the court pursuant to division (B)(1) of this section, the court may order that the accused's bond be revoked and that the accused be incarcerated until the test is performed. If an accused who is incarcerated refuses to submit to a test ordered by the court pursuant to division (B)(1) of this section, the court shall order the person in charge of the jail or prison in which the accused is incarcerated to take any action necessary to facilitate the performance of the test, including the forcible restraint of the accused for the purpose of drawing blood to be used in the test.

(3) A state agency, a political subdivision of the state, or an employee of a state agency or of a political subdivision of the state is immune from liability in a civil action to recover damages for injury, death, or loss to person or property allegedly caused by any act or omission in connection with the performance of the duties required under division (B)(2) of this section unless the acts or omissions are with malicious purpose, in bad faith, or in a wanton or reckless manner.

(C) As used in this section, "~~community~~":

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

(2) "HIV" means the human immunodeficiency virus.

Sec. 2911.21. (A) No person, without privilege to do so, shall do any of the following:

(1) Knowingly enter or remain on the land or premises of another;

(2) Knowingly enter or remain on the land or premises of another, the

use of which is lawfully restricted to certain persons, purposes, modes, or hours, when the offender knows the offender is in violation of any such restriction or is reckless in that regard;

(3) Recklessly enter or remain on the land or premises of another, as to which notice against unauthorized access or presence is given by actual communication to the offender, or in a manner prescribed by law, or by posting in a manner reasonably calculated to come to the attention of potential intruders, or by fencing or other enclosure manifestly designed to restrict access;

(4) Being on the land or premises of another, negligently fail or refuse to leave upon being notified by signage posted in a conspicuous place or otherwise being notified to do so by the owner or occupant, or the agent or servant of either.

(B) It is no defense to a charge under this section that the land or premises involved was owned, controlled, or in custody of a public agency.

(C) It is no defense to a charge under this section that the offender was authorized to enter or remain on the land or premises involved, when such authorization was secured by deception.

(D)(1) Whoever violates this section is guilty of criminal trespass, a misdemeanor of the fourth degree.

(2) Notwithstanding section 2929.28 of the Revised Code, if the person, in committing the violation of this section, used ~~an~~ a snowmobile, off-highway motorcycle, or all-purpose vehicle, the court shall impose a fine of two times the usual amount imposed for the violation.

(3) If an offender previously has been convicted of or pleaded guilty to two or more violations of this section or a substantially equivalent municipal ordinance, and the offender, in committing each violation, used ~~an~~ a snowmobile, off-highway motorcycle, or all-purpose vehicle, the court, in addition to or independent of all other penalties imposed for the violation, may impound the certificate of registration of that snowmobile or off-highway motorcycle or the certificate of registration and license plate of that all-purpose vehicle for not less than sixty days. In such a case, section 4519.47 of the Revised Code applies.

(E) Notwithstanding any provision of the Revised Code, if the offender, in committing the violation of this section, used an all-purpose vehicle, the clerk of the court shall pay the fine imposed pursuant to this section to the state recreational vehicle fund created by section 4519.11 of the Revised Code.

(F) As used in this section:

(1) "All-purpose vehicle," has "off-highway motorcycle," and

"snowmobile" have the same ~~meaning~~ meanings as in section 4519.01 of the Revised Code.

(2) "Land or premises" includes any land, building, structure, or place belonging to, controlled by, or in custody of another, and any separate enclosure or room, or portion thereof.

Sec. 2913.46. (A)(1) As used in this section:

(a) "Electronically transferred benefit" means the transfer of ~~food-stamp~~ supplemental nutrition assistance program benefits or WIC program benefits through the use of an access device.

(b) "WIC program benefits" includes money, coupons, delivery verification receipts, other documents, food, or other property received directly or indirectly pursuant to section 17 of the "Child Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C.A. 1786, as amended.

(c) "Access device" means any card, plate, code, account number, or other means of access that can be used, alone or in conjunction with another access device, to obtain payments, allotments, benefits, money, goods, or other things of value or that can be used to initiate a transfer of funds pursuant to section 5101.33 of the Revised Code and the "~~Food Stamp and Nutrition~~ Act of 1977," ~~91 Stat. 958, 2008~~ (7 U.S.C.A. 2011 et seq.), or any supplemental food program administered by any department of this state or any county or local agency pursuant to section 17 of the "Child Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C.A. 1786, as amended. An "access device" may include any electronic debit card or other means authorized by section 5101.33 of the Revised Code.

~~(e)~~(d) "Aggregate value of the ~~food-stamp coupons~~ supplemental nutrition assistance program benefits, WIC program benefits, and electronically transferred benefits involved in the violation" means the total face value of any ~~food-stamps~~ supplemental nutrition assistance program benefits, plus the total face value of WIC program coupons or delivery verification receipts, plus the total value of other WIC program benefits, plus the total value of any electronically transferred benefit or other access device, involved in the violation.

~~(d)~~(e) "Total value of any electronically transferred benefit or other access device" means the total value of the payments, allotments, benefits, money, goods, or other things of value that may be obtained, or the total value of funds that may be transferred, by use of any electronically transferred benefit or other access device at the time of violation.

(2) If ~~food-stamp coupons~~ supplemental nutrition assistance program benefits, WIC program benefits, or electronically transferred benefits or other access devices of various values are used, transferred, bought,

acquired, altered, purchased, possessed, presented for redemption, or transported in violation of this section over a period of twelve months, the course of conduct may be charged as one offense and the values of ~~food stamp coupons~~ supplemental nutrition assistance program benefits, WIC program benefits, or any electronically transferred benefits or other access devices may be aggregated in determining the degree of the offense.

(B) No individual shall knowingly possess, buy, sell, use, alter, accept, or transfer ~~food stamp coupons~~ supplemental nutrition assistance program benefits, WIC program benefits, or any electronically transferred benefit in any manner not authorized by the "Food Stamp and Nutrition Act of 1977," 91 Stat. 958, 2008 (7 U.S.C.A. 2011, ~~as amended, et seq.~~) or section 17 of the "Child Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C.A. 1786, as amended.

(C) No organization, as defined in division (D) of section 2901.23 of the Revised Code, shall do either of the following:

(1) Knowingly allow an employee or agent to sell, transfer, or trade items or services, the purchase of which is prohibited by the "Food Stamp and Nutrition Act of 1977," 91 Stat. 958, 2008 (7 U.S.C.A. 2011, ~~as amended, et seq.~~) or section 17 of the "Child Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C.A. 1786, as amended, in exchange for ~~food stamp coupons~~ supplemental nutrition assistance program benefits, WIC program benefits, or any electronically transferred benefit;

(2) Negligently allow an employee or agent to sell, transfer, or exchange ~~food stamp coupons~~ supplemental nutrition assistance program benefits, WIC program benefits, or any electronically transferred benefit for anything of value.

(D) Whoever violates this section is guilty of illegal use of ~~food stamps~~ supplemental nutrition assistance program benefits or WIC program benefits. Except as otherwise provided in this division, illegal use of ~~food stamps~~ supplemental nutrition assistance program benefits or WIC program benefits is a felony of the fifth degree. If the aggregate value of the ~~food stamp coupons~~ supplemental nutrition assistance program benefits, WIC program benefits, and electronically transferred benefits involved in the violation is five hundred dollars or more and is less than five thousand dollars, illegal use of ~~food stamps~~ supplemental nutrition assistance program benefits or WIC program benefits is a felony of the fourth degree. If the aggregate value of the ~~food stamp coupons~~ supplemental nutrition assistance program benefits, WIC program benefits, and electronically transferred benefits involved in the violation is five thousand dollars or more and is less than one hundred thousand dollars, illegal use of ~~food stamps~~ supplemental

nutrition assistance program benefits or WIC program benefits is a felony of the third degree. If the aggregate value of the ~~food stamp coupons~~ supplemental nutrition assistance program benefits, WIC program benefits, and electronically transferred benefits involved in the violation is one hundred thousand dollars or more, illegal use of ~~food stamps~~ supplemental nutrition assistance program benefits or WIC program benefits is a felony of the second degree.

Sec. 2915.01. As used in this chapter:

(A) "Bookmaking" means the business of receiving or paying off bets.

(B) "Bet" means the hazarding of anything of value upon the result of an event, undertaking, or contingency, but does not include a bona fide business risk.

(C) "Scheme of chance" means a slot machine, lottery, numbers game, pool conducted for profit, or other scheme in which a participant gives a valuable consideration for a chance to win a prize, but does not include bingo, a skill-based amusement machine, or a pool not conducted for profit.

(D) "Game of chance" means poker, craps, roulette, or other game in which a player gives anything of value in the hope of gain, the outcome of which is determined largely by chance, but does not include bingo.

(E) "Game of chance conducted for profit" means any game of chance designed to produce income for the person who conducts or operates the game of chance, but does not include bingo.

(F) "Gambling device" means any of the following:

(1) A book, totalizer, or other equipment for recording bets;

(2) A ticket, token, or other device representing a chance, share, or interest in a scheme of chance or evidencing a bet;

(3) A deck of cards, dice, gaming table, roulette wheel, slot machine, or other apparatus designed for use in connection with a game of chance;

(4) Any equipment, device, apparatus, or paraphernalia specially designed for gambling purposes;

(5) Bingo supplies sold or otherwise provided, or used, in violation of this chapter.

(G) "Gambling offense" means any of the following:

(1) A violation of section 2915.02, 2915.03, 2915.04, 2915.05, 2915.06, 2915.07, 2915.08, 2915.081, 2915.082, 2915.09, 2915.091, 2915.092, 2915.10, or 2915.11 of the Revised Code;

(2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States substantially equivalent to any section listed in division (G)(1) of this section or a violation of section 2915.06 of the Revised Code as it existed prior to July 1, 1996;

(3) An offense under an existing or former municipal ordinance or law of this or any other state or the United States, of which gambling is an element;

(4) A conspiracy or attempt to commit, or complicity in committing, any offense under division (G)(1), (2), or (3) of this section.

(H) Except as otherwise provided in this chapter, "charitable organization" means any tax exempt religious, educational, veteran's, fraternal, sporting, service, nonprofit medical, volunteer rescue service, volunteer firefighter's, senior citizen's, historic railroad educational, youth athletic, amateur athletic, or youth athletic park organization. An organization is tax exempt if the organization is, and has received from the internal revenue service a determination letter that currently is in effect stating that the organization is, exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code, or if the organization is a sporting organization that is exempt from federal income taxation under subsection 501(a) and is described in subsection 501(c)(7) of the Internal Revenue Code. To qualify as a charitable organization, an organization, except a volunteer rescue service or volunteer firefighter's organization, shall have been in continuous existence as such in this state for a period of two years immediately preceding either the making of an application for a bingo license under section 2915.08 of the Revised Code or the conducting of any game of chance as provided in division (D) of section 2915.02 of the Revised Code. A charitable organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code and that is created by a veteran's organization, a fraternal organization, or a sporting organization does not have to have been in continuous existence as such in this state for a period of two years immediately preceding either the making of an application for a bingo license under section 2915.08 of the Revised Code or the conducting of any game of chance as provided in division (D) of section 2915.02 of the Revised Code.

(I) "Religious organization" means any church, body of communicants, or group that is not organized or operated for profit and that gathers in common membership for regular worship and religious observances.

(J) "Educational organization" means any organization within this state that is not organized for profit, the primary purpose of which is to educate and develop the capabilities of individuals through instruction by means of operating or contributing to the support of a school, academy, college, or university.

(K) "Veteran's organization" means any individual post or state headquarters of a national veteran's association or an auxiliary unit of any individual post of a national veteran's association, which post, state headquarters, or auxiliary unit has been in continuous existence in this state for at least two years and incorporated as a nonprofit corporation and either has received a letter from the state headquarters of the national veteran's association indicating that the individual post or auxiliary unit is in good standing with the national veteran's association or has received a letter from the national veteran's association indicating that the state headquarters is in good standing with the national veteran's association. As used in this division, "national veteran's association" means any veteran's association that has been in continuous existence as such for a period of at least five years and either is incorporated by an act of the United States congress or has a national dues-paying membership of at least five thousand persons.

(L) "Volunteer firefighter's organization" means any organization of volunteer firefighters, as defined in section 146.01 of the Revised Code, that is organized and operated exclusively to provide financial support for a volunteer fire department or a volunteer fire company and that is recognized or ratified by a county, municipal corporation, or township.

(M) "Fraternal organization" means any society, order, state headquarters, or association within this state, except a college or high school fraternity, that is not organized for profit, that is a branch, lodge, or chapter of a national or state organization, that exists exclusively for the common business or sodality of its members, and that has been in continuous existence in this state for a period of five years.

(N) "Volunteer rescue service organization" means any organization of volunteers organized to function as an emergency medical service organization, as defined in section 4765.01 of the Revised Code.

(O) "Service organization" means either of the following:

(1) Any organization, not organized for profit, that is organized and operated exclusively to provide, or to contribute to the support of organizations or institutions organized and operated exclusively to provide, medical and therapeutic services for persons who are crippled, born with birth defects, or have any other mental or physical defect or those organized and operated exclusively to protect, or to contribute to the support of organizations or institutions organized and operated exclusively to protect, animals from inhumane treatment or provide immediate shelter to victims of domestic violence;

(2) Any organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a

governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code and that is an organization, not organized for profit, that is organized and operated primarily to provide, or to contribute to the support of organizations or institutions organized and operated primarily to provide, medical and therapeutic services for persons who are crippled, born with birth defects, or have any other mental or physical defect.

(P) "Nonprofit medical organization" means either of the following:

(1) Any organization that has been incorporated as a nonprofit corporation for at least five years and that has continuously operated and will be operated exclusively to provide, or to contribute to the support of organizations or institutions organized and operated exclusively to provide, hospital, medical, research, or therapeutic services for the public;

(2) Any organization that is described and qualified under subsection 501(c)(3) of the Internal Revenue Code, that has been incorporated as a nonprofit corporation for at least five years, and that has continuously operated and will be operated primarily to provide, or to contribute to the support of organizations or institutions organized and operated primarily to provide, hospital, medical, research, or therapeutic services for the public.

(Q) "Senior citizen's organization" means any private organization, not organized for profit, that is organized and operated exclusively to provide recreational or social services for persons who are fifty-five years of age or older and that is described and qualified under subsection 501(c)(3) of the Internal Revenue Code.

(R) "Charitable bingo game" means any bingo game described in division (S)(1) or (2) of this section that is conducted by a charitable organization that has obtained a license pursuant to section 2915.08 of the Revised Code and the proceeds of which are used for a charitable purpose.

(S) "Bingo" means either of the following:

(1) A game with all of the following characteristics:

(a) The participants use bingo cards or sheets, including paper formats and electronic representation or image formats, that are divided into twenty-five spaces arranged in five horizontal and five vertical rows of spaces, with each space, except the central space, being designated by a combination of a letter and a number and with the central space being designated as a free space.

(b) The participants cover the spaces on the bingo cards or sheets that correspond to combinations of letters and numbers that are announced by a bingo game operator.

(c) A bingo game operator announces combinations of letters and

numbers that appear on objects that a bingo game operator selects by chance, either manually or mechanically, from a receptacle that contains seventy-five objects at the beginning of each game, each object marked by a different combination of a letter and a number that corresponds to one of the seventy-five possible combinations of a letter and a number that can appear on the bingo cards or sheets.

(d) The winner of the bingo game includes any participant who properly announces during the interval between the announcements of letters and numbers as described in division (S)(1)(c) of this section, that a predetermined and preannounced pattern of spaces has been covered on a bingo card or sheet being used by the participant.

(2) Instant bingo, punch boards, and raffles.

(T) "Conduct" means to back, promote, organize, manage, carry on, sponsor, or prepare for the operation of bingo or a game of chance.

(U) "Bingo game operator" means any person, except security personnel, who performs work or labor at the site of bingo, including, but not limited to, collecting money from participants, handing out bingo cards or sheets or objects to cover spaces on bingo cards or sheets, selecting from a receptacle the objects that contain the combination of letters and numbers that appear on bingo cards or sheets, calling out the combinations of letters and numbers, distributing prizes, selling or redeeming instant bingo tickets or cards, supervising the operation of a punch board, selling raffle tickets, selecting raffle tickets from a receptacle and announcing the winning numbers in a raffle, and preparing, selling, and serving food or beverages.

(V) "Participant" means any person who plays bingo.

(W) "Bingo session" means a period that includes both of the following:

(1) Not to exceed five continuous hours for the conduct of one or more games described in division (S)(1) of this section, instant bingo, and seal cards;

(2) A period for the conduct of instant bingo and seal cards for not more than two hours before and not more than two hours after the period described in division (W)(1) of this section.

(X) "Gross receipts" means all money or assets, including admission fees, that a person receives from bingo without the deduction of any amounts for prizes paid out or for the expenses of conducting bingo. "Gross receipts" does not include any money directly taken in from the sale of food or beverages by a charitable organization conducting bingo, or by a bona fide auxiliary unit or society of a charitable organization conducting bingo, provided all of the following apply:

(1) The auxiliary unit or society has been in existence as a bona fide

auxiliary unit or society of the charitable organization for at least two years prior to conducting bingo.

(2) The person who purchases the food or beverage receives nothing of value except the food or beverage and items customarily received with the purchase of that food or beverage.

(3) The food and beverages are sold at customary and reasonable prices.

(Y) "Security personnel" includes any person who either is a sheriff, deputy sheriff, marshal, deputy marshal, township constable, or member of an organized police department of a municipal corporation or has successfully completed a peace officer's training course pursuant to sections 109.71 to 109.79 of the Revised Code and who is hired to provide security for the premises on which bingo is conducted.

(Z) "Charitable purpose" means that the net profit of bingo, other than instant bingo, is used by, or is given, donated, or otherwise transferred to, any of the following:

(1) Any organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;

(2) A veteran's organization that is a post, chapter, or organization of veterans, or an auxiliary unit or society of, or a trust or foundation for, any such post, chapter, or organization organized in the United States or any of its possessions, at least seventy-five per cent of the members of which are veterans and substantially all of the other members of which are individuals who are spouses, widows, or widowers of veterans, or such individuals, provided that no part of the net earnings of such post, chapter, or organization inures to the benefit of any private shareholder or individual, and further provided that the net profit is used by the post, chapter, or organization for the charitable purposes set forth in division (B)(12) of section 5739.02 of the Revised Code, is used for awarding scholarships to or for attendance at an institution mentioned in division (B)(12) of section 5739.02 of the Revised Code, is donated to a governmental agency, or is used for nonprofit youth activities, the purchase of United States or Ohio flags that are donated to schools, youth groups, or other bona fide nonprofit organizations, promotion of patriotism, or disaster relief;

(3) A fraternal organization that has been in continuous existence in this state for fifteen years and that uses the net profit exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, if contributions for such use would qualify as a deductible charitable contribution under subsection 170 of the Internal

Revenue Code;

(4) A volunteer firefighter's organization that uses the net profit for the purposes set forth in division (L) of this section.

(AA) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as now or hereafter amended.

(BB) "Youth athletic organization" means any organization, not organized for profit, that is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are twenty-one years of age or younger by means of sponsoring, organizing, operating, or contributing to the support of an athletic team, club, league, or association.

(CC) "Youth athletic park organization" means any organization, not organized for profit, that satisfies both of the following:

(1) It owns, operates, and maintains playing fields that satisfy both of the following:

(a) The playing fields are used at least one hundred days per year for athletic activities by one or more organizations, not organized for profit, each of which is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are eighteen years of age or younger by means of sponsoring, organizing, operating, or contributing to the support of an athletic team, club, league, or association.

(b) The playing fields are not used for any profit-making activity at any time during the year.

(2) It uses the proceeds of bingo it conducts exclusively for the operation, maintenance, and improvement of its playing fields of the type described in division (CC)(1) of this section.

(DD) "Amateur athletic organization" means any organization, not organized for profit, that is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are training for amateur athletic competition that is sanctioned by a national governing body as defined in the "Amateur Sports Act of 1978," 90 Stat. 3045, 36 U.S.C.A. 373.

(EE) "Bingo supplies" means bingo cards or sheets; instant bingo tickets or cards; electronic bingo aids; raffle tickets; punch boards; seal cards; instant bingo ticket dispensers; and devices for selecting or displaying the combination of bingo letters and numbers or raffle tickets. Items that are "bingo supplies" are not gambling devices if sold or otherwise provided, and used, in accordance with this chapter. For purposes of this chapter, "bingo supplies" are not to be considered equipment used to conduct a bingo game.

(FF) "Instant bingo" means a form of bingo that uses folded or banded

tickets or paper cards with perforated break-open tabs, a face of which is covered or otherwise hidden from view to conceal a number, letter, or symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners. "Instant bingo" includes seal cards. "Instant bingo" does not include any device that is activated by the insertion of a coin, currency, token, or an equivalent, and that contains as one of its components a video display monitor that is capable of displaying numbers, letters, symbols, or characters in winning or losing combinations.

(GG) "Seal card" means a form of instant bingo that uses instant bingo tickets in conjunction with a board or placard that contains one or more seals that, when removed or opened, reveal predesignated winning numbers, letters, or symbols.

(HH) "Raffle" means a form of bingo in which the one or more prizes are won by one or more persons who have purchased a raffle ticket. The one or more winners of the raffle are determined by drawing a ticket stub or other detachable section from a receptacle containing ticket stubs or detachable sections corresponding to all tickets sold for the raffle.

(II) "Punch board" means a board containing a number of holes or receptacles of uniform size in which are placed, mechanically and randomly, serially numbered slips of paper that may be punched or drawn from the hole or receptacle when used in conjunction with instant bingo. A player may punch or draw the numbered slips of paper from the holes or receptacles and obtain the prize established for the game if the number drawn corresponds to a winning number or, if the punch board includes the use of a seal card, a potential winning number.

(JJ) "Gross profit" means gross receipts minus the amount actually expended for the payment of prize awards.

(KK) "Net profit" means gross profit minus expenses.

(LL) "Expenses" means the reasonable amount of gross profit actually expended for all of the following:

- (1) The purchase or lease of bingo supplies;
- (2) The annual license fee required under section 2915.08 of the Revised Code;
- (3) Bank fees and service charges for a bingo session or game account described in section 2915.10 of the Revised Code;
- (4) Audits and accounting services;
- (5) Safes;
- (6) Cash registers;
- (7) Hiring security personnel;
- (8) Advertising bingo;

(9) Renting premises in which to conduct a bingo session;

(10) Tables and chairs;

(11) Expenses for maintaining and operating a charitable organization's facilities, including, but not limited to, a post home, club house, lounge, tavern, or canteen and any grounds attached to the post home, club house, lounge, tavern, or canteen;

(12) Any other product or service directly related to the conduct of bingo that is authorized in rules adopted by the attorney general under division (B)(1) of section 2915.08 of the Revised Code.

(MM) "Person" has the same meaning as in section 1.59 of the Revised Code and includes any firm or any other legal entity, however organized.

(NN) "Revoke" means to void permanently all rights and privileges of the holder of a license issued under section 2915.08, 2915.081, or 2915.082 of the Revised Code or a charitable gaming license issued by another jurisdiction.

(OO) "Suspend" means to interrupt temporarily all rights and privileges of the holder of a license issued under section 2915.08, 2915.081, or 2915.082 of the Revised Code or a charitable gaming license issued by another jurisdiction.

(PP) "Distributor" means any person who purchases or obtains bingo supplies and who does either of the following:

(1) Sells, offers for sale, or otherwise provides or offers to provide the bingo supplies to another person for use in this state;

(2) Modifies, converts, adds to, or removes parts from the bingo supplies to further their promotion or sale for use in this state.

(QQ) "Manufacturer" means any person who assembles completed bingo supplies from raw materials, other items, or subparts or who modifies, converts, adds to, or removes parts from bingo supplies to further their promotion or sale.

(RR) "Gross annual revenues" means the annual gross receipts derived from the conduct of bingo described in division (S)(1) of this section plus the annual net profit derived from the conduct of bingo described in division (S)(2) of this section.

(SS) "Instant bingo ticket dispenser" means a mechanical device that dispenses an instant bingo ticket or card as the sole item of value dispensed and that has the following characteristics:

(1) It is activated upon the insertion of United States currency.

(2) It performs no gaming functions.

(3) It does not contain a video display monitor or generate noise.

(4) It is not capable of displaying any numbers, letters, symbols, or

characters in winning or losing combinations.

(5) It does not simulate or display rolling or spinning reels.

(6) It is incapable of determining whether a dispensed bingo ticket or card is a winning or nonwinning ticket or card and requires a winning ticket or card to be paid by a bingo game operator.

(7) It may provide accounting and security features to aid in accounting for the instant bingo tickets or cards it dispenses.

(8) It is not part of an electronic network and is not interactive.

(TT)(1) "Electronic bingo aid" means an electronic device used by a participant to monitor bingo cards or sheets purchased at the time and place of a bingo session and that does all of the following:

(a) It provides a means for a participant to input numbers and letters announced by a bingo caller.

(b) It compares the numbers and letters entered by the participant to the bingo faces previously stored in the memory of the device.

(c) It identifies a winning bingo pattern.

(2) "Electronic bingo aid" does not include any device into which a coin, currency, token, or an equivalent is inserted to activate play.

(UU) "Deal of instant bingo tickets" means a single game of instant bingo tickets all with the same serial number.

(VV)(1) "Slot machine" means either of the following:

(a) Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player who gives the thing of value in the hope of gain;

(b) Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player to conduct or dispense bingo or a scheme or game of chance.

(2) "Slot machine" does not include a skill-based amusement machine.

(WW) "Net profit from the proceeds of the sale of instant bingo" means gross profit minus the ordinary, necessary, and reasonable expense expended for the purchase of instant bingo supplies.

(XX) "Charitable instant bingo organization" means an organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code and is a charitable organization as defined in this section. A "charitable instant bingo organization" does not include a charitable organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code and that is created by a veteran's organization, a fraternal organization, or a sporting organization in regards to bingo conducted or assisted by a veteran's organization, a fraternal

organization, or a sporting organization pursuant to section 2915.13 of the Revised Code.

(YY) "Game flare" means the board or placard that accompanies each deal of instant bingo tickets and that has printed on or affixed to it the following information for the game:

- (1) The name of the game;
- (2) The manufacturer's name or distinctive logo;
- (3) The form number;
- (4) The ticket count;
- (5) The prize structure, including the number of winning instant bingo tickets by denomination and the respective winning symbol or number combinations for the winning instant bingo tickets;
- (6) The cost per play;
- (7) The serial number of the game.

(ZZ) "Historic railroad educational organization" means an organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, that owns in fee simple the tracks and the right of way of a historic railroad that the organization restores or maintains and on which the organization provides excursions as part of a program to promote tourism and educate visitors regarding the role of railroad transportation in Ohio history, and that received as donations from a charitable organization that holds a license to conduct bingo under this chapter an amount equal to at least fifty per cent of that licensed charitable organization's net proceeds from the conduct of bingo during each of the five years preceding June 30, 2003. "Historic railroad" means all or a portion of the tracks and right-of-way of a railroad that was owned and operated by a for-profit common carrier in this state at any time prior to January 1, 1950.

(AAA)(1) "Skill-based amusement machine" means a mechanical, video, digital, or electronic device that rewards the player or players, if at all, only with merchandise prizes or with redeemable vouchers redeemable only for merchandise prizes, provided that with respect to rewards for playing the game all of the following apply:

(a) The wholesale value of a merchandise prize awarded as a result of the single play of a machine does not exceed ten dollars;

(b) Redeemable vouchers awarded for any single play of a machine are not redeemable for a merchandise prize with a wholesale value of more than ten dollars;

(c) Redeemable vouchers are not redeemable for a merchandise prize that has a wholesale value of more than ten dollars times the fewest number

of single plays necessary to accrue the redeemable vouchers required to obtain that prize; and

(d) Any redeemable vouchers or merchandise prizes are distributed at the site of the skill-based amusement machine at the time of play.

A card for the purchase of gasoline is a redeemable voucher for purposes of division (AAA)(1) of this section even if the skill-based amusement machine for the play of which the card is awarded is located at a place where gasoline may not be legally distributed to the public or the card is not redeemable at the location of, or at the time of playing, the skill-based amusement machine.

(2) A device shall not be considered a skill-based amusement machine and shall be considered a slot machine if it pays cash or one or more of the following apply:

(a) The ability of a player to succeed at the game is impacted by the number or ratio of prior wins to prior losses of players playing the game.

(b) Any reward of redeemable vouchers is not based solely on the player achieving the object of the game or the ~~players~~ player's score;

(c) The outcome of the game, or the value of the redeemable voucher or merchandise prize awarded for winning the game, can be controlled by a source other than any player playing the game.

(d) The success of any player is or may be determined by a chance event that cannot be altered by player actions.

(e) The ability of any player to succeed at the game is determined by game features not visible or known to the player.

(f) The ability of the player to succeed at the game is impacted by the exercise of a skill that no reasonable player could exercise.

(3) All of the following apply to any machine that is operated as described in division (AAA)(1) of this section:

(a) As used in this section, "game" and "play" mean one event from the initial activation of the machine until the results of play are determined without payment of additional consideration. An individual utilizing a machine that involves a single game, play, contest, competition, or tournament may be awarded redeemable vouchers or merchandise prizes based on the results of play.

(b) Advance play for a single game, play, contest, competition, or tournament participation may be purchased. The cost of the contest, competition, or tournament participation may be greater than a single noncontest, competition, or tournament play.

(c) To the extent that the machine is used in a contest, competition, or tournament, that contest, competition, or tournament has a defined starting

and ending date and is open to participants in competition for scoring and ranking results toward the awarding of redeemable vouchers or merchandise prizes that are stated prior to the start of the contest, competition, or tournament.

(4) For purposes of division (AAA)(1) of this section, the mere presence of a device, such as a pin-setting, ball-releasing, or scoring mechanism, that does not contribute to or affect the outcome of the play of the game does not make the device a skill-based amusement machine.

(BBB) "Merchandise prize" means any item of value, but shall not include any of the following:

- (1) Cash, gift cards, or any equivalent thereof;
- (2) Plays on games of chance, state lottery tickets, bingo, or instant bingo;
- (3) Firearms, tobacco, or alcoholic beverages; or
- (4) A redeemable voucher that is redeemable for any of the items listed in division (BBB)(1), (2), or (3) of this section.

(CCC) "Redeemable voucher" means any ticket, token, coupon, receipt, or other noncash representation of value.

(DDD) "Pool not conducted for profit" means a scheme in which a participant gives a valuable consideration for a chance to win a prize and the total amount of consideration wagered is distributed to a participant or participants.

(EEE) "Sporting organization" means a hunting, fishing, or trapping organization, other than a college or high school fraternity or sorority, that is not organized for profit, that is affiliated with a state or national sporting organization, including but not limited to, the Ohio league of sportsmen, and that has been in continuous existence in this state for a period of three years.

(FFF) "Community action agency" has the same meaning as in section 122.66 of the Revised Code.

Sec. 2921.13. (A) No person shall knowingly make a false statement, or knowingly swear or affirm the truth of a false statement previously made, when any of the following applies:

- (1) The statement is made in any official proceeding.
- (2) The statement is made with purpose to incriminate another.
- (3) The statement is made with purpose to mislead a public official in performing the public official's official function.
- (4) The statement is made with purpose to secure the payment of unemployment compensation; Ohio works first; prevention, retention, and contingency benefits and services; disability financial assistance; retirement benefits; economic development assistance, as defined in section 9.66 of the

Revised Code; or other benefits administered by a governmental agency or paid out of a public treasury.

(5) The statement is made with purpose to secure the issuance by a governmental agency of a license, permit, authorization, certificate, registration, release, or provider agreement.

(6) The statement is sworn or affirmed before a notary public or another person empowered to administer oaths.

(7) The statement is in writing on or in connection with a report or return that is required or authorized by law.

(8) The statement is in writing and is made with purpose to induce another to extend credit to or employ the offender, to confer any degree, diploma, certificate of attainment, award of excellence, or honor on the offender, or to extend to or bestow upon the offender any other valuable benefit or distinction, when the person to whom the statement is directed relies upon it to that person's detriment.

(9) The statement is made with purpose to commit or facilitate the commission of a theft offense.

(10) The statement is knowingly made to a probate court in connection with any action, proceeding, or other matter within its jurisdiction, either orally or in a written document, including, but not limited to, an application, petition, complaint, or other pleading, or an inventory, account, or report.

(11) The statement is made on an account, form, record, stamp, label, or other writing that is required by law.

(12) The statement is made in connection with the purchase of a firearm, as defined in section 2923.11 of the Revised Code, and in conjunction with the furnishing to the seller of the firearm of a fictitious or altered driver's or commercial driver's license or permit, a fictitious or altered identification card, or any other document that contains false information about the purchaser's identity.

(13) The statement is made in a document or instrument of writing that purports to be a judgment, lien, or claim of indebtedness and is filed or recorded with the secretary of state, a county recorder, or the clerk of a court of record.

~~(14) The statement is made with purpose to obtain an Ohio's best Rx program enrollment card under section 173.773 of the Revised Code or a payment under section 173.801 of the Revised Code.~~

~~(15) The statement is made in an application filed with a county sheriff pursuant to section 2923.125 of the Revised Code in order to obtain or renew a license to carry a concealed handgun or is made in an affidavit submitted to a county sheriff to obtain a temporary emergency license to~~

carry a concealed handgun under section 2923.1213 of the Revised Code.

~~(16)~~(15) The statement is required under section 5743.71 of the Revised Code in connection with the person's purchase of cigarettes or tobacco products in a delivery sale.

(B) No person, in connection with the purchase of a firearm, as defined in section 2923.11 of the Revised Code, shall knowingly furnish to the seller of the firearm a fictitious or altered driver's or commercial driver's license or permit, a fictitious or altered identification card, or any other document that contains false information about the purchaser's identity.

(C) No person, in an attempt to obtain a license to carry a concealed handgun under section 2923.125 of the Revised Code, shall knowingly present to a sheriff a fictitious or altered document that purports to be certification of the person's competence in handling a handgun as described in division (B)(3) of section 2923.125 of the Revised Code.

(D) It is no defense to a charge under division (A)(6) of this section that the oath or affirmation was administered or taken in an irregular manner.

(E) If contradictory statements relating to the same fact are made by the offender within the period of the statute of limitations for falsification, it is not necessary for the prosecution to prove which statement was false but only that one or the other was false.

(F)(1) Whoever violates division (A)(1), (2), (3), (4), (5), (6), (7), (8), (10), (11), (13), ~~(14)~~, or ~~(16)~~(15) of this section is guilty of falsification, a misdemeanor of the first degree.

(2) Whoever violates division (A)(9) of this section is guilty of falsification in a theft offense. Except as otherwise provided in this division, falsification in a theft offense is a misdemeanor of the first degree. If the value of the property or services stolen is five hundred dollars or more and is less than five thousand dollars, falsification in a theft offense is a felony of the fifth degree. If the value of the property or services stolen is five thousand dollars or more and is less than one hundred thousand dollars, falsification in a theft offense is a felony of the fourth degree. If the value of the property or services stolen is one hundred thousand dollars or more, falsification in a theft offense is a felony of the third degree.

(3) Whoever violates division (A)(12) or (B) of this section is guilty of falsification to purchase a firearm, a felony of the fifth degree.

(4) Whoever violates division (A)~~(15)~~(14) or (C) of this section is guilty of falsification to obtain a concealed handgun license, a felony of the fourth degree.

(G) A person who violates this section is liable in a civil action to any person harmed by the violation for injury, death, or loss to person or

property incurred as a result of the commission of the offense and for reasonable attorney's fees, court costs, and other expenses incurred as a result of prosecuting the civil action commenced under this division. A civil action under this division is not the exclusive remedy of a person who incurs injury, death, or loss to person or property as a result of a violation of this section.

Sec. 2921.51. (A) As used in this section:

(1) "Peace officer" means a sheriff, deputy sheriff, marshal, deputy marshal, member of the organized police department of a municipal corporation, or township constable, who is employed by a political subdivision of this state; a member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code; a member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code; a state university law enforcement officer appointed under section 3345.04 of the Revised Code; a veterans' home police officer appointed under section 5907.02 of the Revised Code; a special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code; an officer, agent, or employee of the state or any of its agencies, instrumentalities, or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within limits of that statutory duty and authority; or a state highway patrol trooper ~~and~~ whose primary duties are to preserve the peace, to protect life and property, and to enforce the laws, ordinances, or rules of the state or any of its political subdivisions.

(2) "Private police officer" means any security guard, special police officer, private detective, or other person who is privately employed in a police capacity.

(3) "Federal law enforcement officer" means an employee of the United States who serves in a position the duties of which are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses under the criminal laws of the United States.

(4) "Impersonate" means to act the part of, assume the identity of, wear the uniform or any part of the uniform of, or display the identification of a particular person or of a member of a class of persons with purpose to make another person believe that the actor is that particular person or is a member of that class of persons.

(5) "Investigator of the bureau of criminal identification and investigation" has the same meaning as in section 2903.11 of the Revised Code.

(B) No person shall impersonate a peace officer, private police officer, ~~or a~~ federal law enforcement officer, or investigator of the bureau of criminal identification and investigation.

(C) No person, by impersonating a peace officer, private police officer, ~~or a~~ federal law enforcement officer, or investigator of the bureau of criminal identification and investigation, shall arrest or detain any person, search any person, or search the property of any person.

(D) No person, with purpose to commit or facilitate the commission of an offense, shall impersonate a peace officer, private police officer, a federal law enforcement officer, officer, agent, or employee of the state, or investigator of the bureau of criminal identification and investigation.

(E) No person shall commit a felony while impersonating a peace officer, private police officer, a federal law enforcement officer, officer, agent, or employee of the state, or investigator of the bureau of criminal identification and investigation.

(F) It is an affirmative defense to a charge under division (B) of this section that the impersonation of the peace officer, private police officer, or investigator of the bureau of criminal identification and investigation was for a lawful purpose.

(G) Whoever violates division (B) of this section is guilty of a misdemeanor of the fourth degree. Whoever violates division (C) or (D) of this section is guilty of a misdemeanor of the first degree. If the purpose of a violation of division (D) of this section is to commit or facilitate the commission of a felony, a violation of division (D) is a felony of the fourth degree. Whoever violates division (E) of this section is guilty of a felony of the third degree.

Sec. 2923.125. (A) Upon the request of a person who wishes to obtain a license to carry a concealed handgun or to renew a license to carry a concealed handgun, a sheriff, as provided in division (I) of this section, shall provide to the person free of charge an application form and ~~a copy of the~~ web site address at which the pamphlet described in division (B) of section 109.731 of the Revised Code may be found. A sheriff shall accept a completed application form and the fee, items, materials, and information specified in divisions (B)(1) to (5) of this section at the times and in the manners described in division (I) of this section.

(B) An applicant for a license to carry a concealed handgun shall submit a completed application form and all of the following to the sheriff of the county in which the applicant resides or to the sheriff of any county adjacent to the county in which the applicant resides:

(1)(a) A nonrefundable license fee ~~prescribed by the Ohio peace officer~~

~~training commission pursuant to division (C) of section 109.731 of the Revised Code, except that the sheriff shall waive the payment of the license fee in connection with an initial or renewal application for a license that is submitted by an applicant who is a retired peace officer, a retired person described in division (B)(1)(b) of section 109.77 of the Revised Code, or a retired federal law enforcement officer who, prior to retirement, was authorized under federal law to carry a firearm in the course of duty, unless the retired peace officer, person, or federal law enforcement officer retired as the result of a mental disability; as described in either of the following:~~

~~(i) For an applicant who has been a resident of this state for five or more years, a fee of sixty-seven dollars;~~

~~(ii) For an applicant who has been a resident of this state for less than five years, a fee of sixty-seven dollars plus the actual cost of having a background check performed by the federal bureau of investigation.~~

~~(b) No sheriff shall require an applicant to pay for the cost of a background check performed by the bureau of criminal identification and investigation.~~

~~(c) A sheriff shall waive the payment of the license fee described in division (B)(1)(a) of this section in connection with an initial or renewal application for a license that is submitted by an applicant who is a retired peace officer, a retired person described in division (B)(1)(b) of section 109.77 of the Revised Code, or a retired federal law enforcement officer who, prior to retirement, was authorized under federal law to carry a firearm in the course of duty, unless the retired peace officer, person, or federal law enforcement officer retired as the result of a mental disability.~~

~~(d) The sheriff shall deposit all fees paid by an applicant under division (B)(1)(a) of this section into the sheriff's concealed handgun license issuance fund established pursuant to section 311.42 of the Revised Code. The county shall distribute the fees in accordance with section 311.42 of the Revised Code.~~

(2) A color photograph of the applicant that was taken within thirty days prior to the date of the application;

(3) One or more of the following competency certifications, each of which shall reflect that, regarding a certification described in division (B)(3)(a), (b), (c), (e), or (f) of this section, within the three years immediately preceding the application the applicant has performed that to which the competency certification relates and that, regarding a certification described in division (B)(3)(d) of this section, the applicant currently is an active or reserve member of the armed forces of the United States or within the six years immediately preceding the application the honorable discharge

or retirement to which the competency certification relates occurred:

(a) An original or photocopy of a certificate of completion of a firearms safety, training, or requalification or firearms safety instructor course, class, or program that was offered by or under the auspices of the national rifle association and that complies with the requirements set forth in division (G) of this section;

(b) An original or photocopy of a certificate of completion of a firearms safety, training, or requalification or firearms safety instructor course, class, or program that satisfies all of the following criteria:

(i) It was open to members of the general public.

(ii) It utilized qualified instructors who were certified by the national rifle association, the executive director of the Ohio peace officer training commission pursuant to section 109.75 or 109.78 of the Revised Code, or a governmental official or entity of another state.

(iii) It was offered by or under the auspices of a law enforcement agency of this or another state or the United States, a public or private college, university, or other similar postsecondary educational institution located in this or another state, a firearms training school located in this or another state, or another type of public or private entity or organization located in this or another state.

(iv) It complies with the requirements set forth in division (G) of this section.

(c) An original or photocopy of a certificate of completion of a state, county, municipal, or department of natural resources peace officer training school that is approved by the executive director of the Ohio peace officer training commission pursuant to section 109.75 of the Revised Code and that complies with the requirements set forth in division (G) of this section, or the applicant has satisfactorily completed and been issued a certificate of completion of a basic firearms training program, a firearms requalification training program, or another basic training program described in section 109.78 or 109.801 of the Revised Code that complies with the requirements set forth in division (G) of this section;

(d) A document that evidences both of the following:

(i) That the applicant is an active or reserve member of the armed forces of the United States, was honorably discharged from military service in the active or reserve armed forces of the United States, is a retired trooper of the state highway patrol, or is a retired peace officer or federal law enforcement officer described in division (B)(1) of this section or a retired person described in division (B)(1)(b) of section 109.77 of the Revised Code and division (B)(1) of this section;

(ii) That, through participation in the military service or through the former employment described in division (B)(3)(d)(i) of this section, the applicant acquired experience with handling handguns or other firearms, and the experience so acquired was equivalent to training that the applicant could have acquired in a course, class, or program described in division (B)(3)(a), (b), or (c) of this section.

(e) A certificate or another similar document that evidences satisfactory completion of a firearms training, safety, or requalification or firearms safety instructor course, class, or program that is not otherwise described in division (B)(3)(a), (b), (c), or (d) of this section, that was conducted by an instructor who was certified by an official or entity of the government of this or another state or the United States or by the national rifle association, and that complies with the requirements set forth in division (G) of this section;

(f) An affidavit that attests to the applicant's satisfactory completion of a course, class, or program described in division (B)(3)(a), (b), (c), or (e) of this section and that is subscribed by the applicant's instructor or an authorized representative of the entity that offered the course, class, or program or under whose auspices the course, class, or program was offered.

(4) A certification by the applicant that the applicant has read the pamphlet prepared by the Ohio peace officer training commission pursuant to section 109.731 of the Revised Code that reviews firearms, dispute resolution, and use of deadly force matters.

(5) A set of fingerprints of the applicant provided as described in section 311.41 of the Revised Code through use of an electronic fingerprint reading device or, if the sheriff to whom the application is submitted does not possess and does not have ready access to the use of such a reading device, on a standard impression sheet prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code.

(C) Upon receipt of an applicant's completed application form, supporting documentation, and, if not waived, license fee, a sheriff, in the manner specified in section 311.41 of the Revised Code, shall conduct or cause to be conducted the criminal records check and the incompetency records check described in section 311.41 of the Revised Code.

(D)(1) Except as provided in division (D)(3) or (4) of this section, within forty-five days after a sheriff's receipt of an applicant's completed application form for a license to carry a concealed handgun, the supporting documentation, and, if not waived, the license fee, the sheriff shall make available through the law enforcement automated data system in accordance with division (H) of this section the information described in that division and, upon making the information available through the system, shall issue

to the applicant a license to carry a concealed handgun that shall expire as described in division (D)(2)(a) of this section if all of the following apply:

(a) The applicant is legally living in the United States, has been a resident of this state for at least forty-five days, and has been a resident of the county in which the person seeks the license or a county adjacent to the county in which the person seeks the license for at least thirty days. For purposes of division (D)(1)(a) of this section:

(i) If a person is absent from the United States, from this state, or from a particular county in this state in compliance with military or naval orders as an active or reserve member of the armed forces of the United States and if prior to leaving this state in compliance with those orders the person was legally living in the United States and was a resident of this state, the person, solely by reason of that absence, shall not be considered to have lost the person's status as living in the United States or the person's residence in this state or in the county in which the person was a resident prior to leaving this state in compliance with those orders, without regard to whether or not the person intends to return to this state or to that county, shall not be considered to have acquired a residence in any other state, and shall not be considered to have become a resident of any other state.

(ii) If a person is present in this state in compliance with military or naval orders as an active or reserve member of the armed forces of the United States for at least forty-five days, the person shall be considered to have been a resident of this state for that period of at least forty-five days, and, if a person is present in a county of this state in compliance with military or naval orders as an active or reserve member of the armed forces of the United States for at least thirty days, the person shall be considered to have been a resident of that county for that period of at least thirty days.

(b) The applicant is at least twenty-one years of age.

(c) The applicant is not a fugitive from justice.

(d) The applicant is not under indictment for or otherwise charged with a felony; an offense under Chapter 2925., 3719., or 4729. of the Revised Code that involves the illegal possession, use, sale, administration, or distribution of or trafficking in a drug of abuse; a misdemeanor offense of violence; or a violation of section 2903.14 or 2923.1211 of the Revised Code.

(e) Except as otherwise provided in division (D)(5) of this section, the applicant has not been convicted of or pleaded guilty to a felony or an offense under Chapter 2925., 3719., or 4729. of the Revised Code that involves the illegal possession, use, sale, administration, or distribution of or trafficking in a drug of abuse; has not been adjudicated a delinquent child

for committing an act that if committed by an adult would be a felony or would be an offense under Chapter 2925., 3719., or 4729. of the Revised Code that involves the illegal possession, use, sale, administration, or distribution of or trafficking in a drug of abuse; and has not been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing a violation of section 2903.13 of the Revised Code when the victim of the violation is a peace officer, regardless of whether the applicant was sentenced under division (C)(3) of that section.

(f) Except as otherwise provided in division (D)(5) of this section, the applicant, within three years of the date of the application, has not been convicted of or pleaded guilty to a misdemeanor offense of violence other than a misdemeanor violation of section 2921.33 of the Revised Code or a violation of section 2903.13 of the Revised Code when the victim of the violation is a peace officer, or a misdemeanor violation of section 2923.1211 of the Revised Code; and has not been adjudicated a delinquent child for committing an act that if committed by an adult would be a misdemeanor offense of violence other than a misdemeanor violation of section 2921.33 of the Revised Code or a violation of section 2903.13 of the Revised Code when the victim of the violation is a peace officer or for committing an act that if committed by an adult would be a misdemeanor violation of section 2923.1211 of the Revised Code.

(g) Except as otherwise provided in division (D)(1)(e) of this section, the applicant, within five years of the date of the application, has not been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing two or more violations of section 2903.13 or 2903.14 of the Revised Code.

(h) Except as otherwise provided in division (D)(5) of this section, the applicant, within ten years of the date of the application, has not been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing a violation of section 2921.33 of the Revised Code.

(i) The applicant has not been adjudicated as a mental defective, has not been committed to any mental institution, is not under adjudication of mental incompetence, has not been found by a court to be a mentally ill person subject to hospitalization by court order, and is not an involuntary patient other than one who is a patient only for purposes of observation. As used in this division, "mentally ill person subject to hospitalization by court order" and "patient" have the same meanings as in section 5122.01 of the Revised Code.

(j) The applicant is not currently subject to a civil protection order, a temporary protection order, or a protection order issued by a court of

another state.

(k) The applicant certifies that the applicant desires a legal means to carry a concealed handgun for defense of the applicant or a member of the applicant's family while engaged in lawful activity.

(l) The applicant submits a competency certification of the type described in division (B)(3) of this section and submits a certification of the type described in division (B)(4) of this section regarding the applicant's reading of the pamphlet prepared by the Ohio peace officer training commission pursuant to section 109.731 of the Revised Code.

(m) The applicant currently is not subject to a suspension imposed under division (A)(2) of section 2923.128 of the Revised Code of a license to carry a concealed handgun, or a temporary emergency license to carry a concealed handgun, that previously was issued to the applicant under this section or section 2923.1213 of the Revised Code.

(2)(a) A license to carry a concealed handgun that a sheriff issues under division (D)(1) of this section on or after March 14, 2007, shall expire five years after the date of issuance. A license to carry a concealed handgun that a sheriff issued under division (D)(1) of this section prior to March 14, 2007, shall expire four years after the date of issuance.

If a sheriff issues a license under this section, the sheriff shall place on the license a unique combination of letters and numbers identifying the license in accordance with the procedure prescribed by the Ohio peace officer training commission pursuant to section 109.731 of the Revised Code.

(b) If a sheriff denies an application under this section because the applicant does not satisfy the criteria described in division (D)(1) of this section, the sheriff shall specify the grounds for the denial in a written notice to the applicant. The applicant may appeal the denial pursuant to section 119.12 of the Revised Code in the county served by the sheriff who denied the application. If the denial was as a result of the criminal records check conducted pursuant to section 311.41 of the Revised Code and if, pursuant to section 2923.127 of the Revised Code, the applicant challenges the criminal records check results using the appropriate challenge and review procedure specified in that section, the time for filing the appeal pursuant to section 119.12 of the Revised Code and this division is tolled during the pendency of the request or the challenge and review. If the court in an appeal under section 119.12 of the Revised Code and this division enters a judgment sustaining the sheriff's refusal to grant to the applicant a license to carry a concealed handgun, the applicant may file a new application beginning one year after the judgment is entered. If the court enters a

judgment in favor of the applicant, that judgment shall not restrict the authority of a sheriff to suspend or revoke the license pursuant to section 2923.128 or 2923.1213 of the Revised Code or to refuse to renew the license for any proper cause that may occur after the date the judgment is entered. In the appeal, the court shall have full power to dispose of all costs.

(3) If the sheriff with whom an application for a license to carry a concealed handgun was filed under this section becomes aware that the applicant has been arrested for or otherwise charged with an offense that would disqualify the applicant from holding the license, the sheriff shall suspend the processing of the application until the disposition of the case arising from the arrest or charge.

(4) If the sheriff determines that the applicant is legally living in the United States and is a resident of the county in which the applicant seeks the license or of an adjacent county but does not yet meet the residency requirements described in division (D)(1)(a) of this section, the sheriff shall not deny the license because of the residency requirements but shall not issue the license until the applicant meets those residency requirements.

(5) If an applicant has been convicted of or pleaded guilty to an offense identified in division (D)(1)(e), (f), or (h) of this section or has been adjudicated a delinquent child for committing an act or violation identified in any of those divisions, and if a court has ordered the sealing or expungement of the records of that conviction, guilty plea, or adjudication pursuant to sections 2151.355 to 2151.358 or sections 2953.31 to 2953.36 of the Revised Code or a court has granted the applicant relief pursuant to section 2923.14 of the Revised Code from the disability imposed pursuant to section 2923.13 of the Revised Code relative to that conviction, guilty plea, or adjudication, the sheriff with whom the application was submitted shall not consider the conviction, guilty plea, or adjudication in making a determination under division (D)(1) or (F) of this section or, in relation to an application for a temporary emergency license to carry a concealed handgun submitted under section 2923.1213 of the Revised Code, in making a determination under division (B)(2) of that section.

(E) If a license to carry a concealed handgun issued under this section is lost or is destroyed, the licensee may obtain from the sheriff who issued that license a duplicate license upon the payment of a fee of fifteen dollars and the submission of an affidavit attesting to the loss or destruction of the license. The sheriff, in accordance with the procedures prescribed in section 109.731 of the Revised Code, shall place on the replacement license a combination of identifying numbers different from the combination on the license that is being replaced.

(F)(1) A licensee who wishes to renew a license to carry a concealed handgun issued under this section shall do so not earlier than ninety days before the expiration date of the license or at any time after the expiration date of the license by filing with the sheriff of the county in which the applicant resides or with the sheriff of an adjacent county an application for renewal of the license obtained pursuant to division (D) of this section, a certification by the applicant that, subsequent to the issuance of the license, the applicant has reread the pamphlet prepared by the Ohio peace officer training commission pursuant to section 109.731 of the Revised Code that reviews firearms, dispute resolution, and use of deadly force matters, a nonrefundable license renewal fee in an amount determined pursuant to division (F)(4) of this section unless the fee is waived, and one of the following:

(a) If the licensee previously has not renewed a license to carry a concealed handgun issued under this section, proof that the licensee at one time had a competency certification of the type described in division (B)(3) of this section. A valid license, expired license, or any other previously issued license that has not been revoked is prima-facie evidence that the licensee at one time had a competency certification of the type described in division (B)(3) of this section.

(b) If the licensee previously has renewed a license to carry a concealed handgun issued under this section, a renewed competency certification of the type described in division (G)(4) of this section.

(2) A sheriff shall accept a completed renewal application, the license renewal fee, and information specified in division (F)(1) of this section at the times and in the manners described in division (I) of this section. Upon receipt of a completed renewal application, of certification that the applicant has reread the specified pamphlet prepared by the Ohio peace officer training commission, of proof of a prior competency certification for an initial renewal or of a renewed competency certification for a second or subsequent renewal, and of a license renewal fee unless the fee is waived, a sheriff, in the manner specified in section 311.41 of the Revised Code shall conduct or cause to be conducted the criminal records check and the incompetency records check described in section 311.41 of the Revised Code. The sheriff shall renew the license if the sheriff determines that the applicant continues to satisfy the requirements described in division (D)(1) of this section, except that the applicant is not required to meet the requirements of division (D)(1)(l) of this section. A renewed license that is renewed on or after March 14, 2007, shall expire five years after the date of issuance, and a renewed license that is renewed prior to March 14, 2007,

shall expire four years after the date of issuance. A renewed license is subject to division (E) of this section and sections 2923.126 and 2923.128 of the Revised Code. A sheriff shall comply with divisions (D)(2) to (4) of this section when the circumstances described in those divisions apply to a requested license renewal. If a sheriff denies the renewal of a license to carry a concealed handgun, the applicant may appeal the denial, or challenge the criminal record check results that were the basis of the denial if applicable, in the same manner as specified in division (D)(2)(b) of this section and in section 2923.127 of the Revised Code, regarding the denial of a license under this section.

(3) A renewal application submitted pursuant to division (F) of this section shall only require the licensee to list on the application form information and matters occurring since the date of the licensee's last application for a license pursuant to division (B) or (F) of this section. A sheriff conducting the criminal records check and the incompetency records check described in section 311.41 of the Revised Code shall conduct the check only from the date of the licensee's last application for a license pursuant to division (B) or (F) of this section through the date of the renewal application submitted pursuant to division (F) of this section.

(4) An applicant for a renewal license to carry a concealed handgun shall submit to the sheriff of the county in which the applicant resides or to the sheriff of any county adjacent to the county in which the applicant resides a nonrefundable license fee as described in either of the following:

(a) For an applicant who has been a resident of this state for five or more years, a fee of fifty dollars;

(b) For an applicant who has been a resident of this state for less than five years, a fee of fifty dollars plus the actual cost of having a background check performed by the federal bureau of investigation.

(G)(1) Each course, class, or program described in division (B)(3)(a), (b), (c), or (e) of this section shall provide to each person who takes the course, class, or program ~~a copy of~~ the web site address at which the pamphlet prepared by the Ohio peace officer training commission pursuant to section 109.731 of the Revised Code that reviews firearms, dispute resolution, and use of deadly force matters may be found. Each such course, class, or program described in one of those divisions shall include at least twelve hours of training in the safe handling and use of a firearm that shall include all of the following:

(a) At least ten hours of training on the following matters:

(i) The ability to name, explain, and demonstrate the rules for safe handling of a handgun and proper storage practices for handguns and

ammunition;

(ii) The ability to demonstrate and explain how to handle ammunition in a safe manner;

(iii) The ability to demonstrate the knowledge, skills, and attitude necessary to shoot a handgun in a safe manner;

(iv) Gun handling training.

(b) At least two hours of training that consists of range time and live-fire training.

(2) To satisfactorily complete the course, class, or program described in division (B)(3)(a), (b), (c), or (e) of this section, the applicant shall pass a competency examination that shall include both of the following:

(a) A written section on the ability to name and explain the rules for the safe handling of a handgun and proper storage practices for handguns and ammunition;

(b) A physical demonstration of competence in the use of a handgun and in the rules for safe handling and storage of a handgun and a physical demonstration of the attitude necessary to shoot a handgun in a safe manner.

(3) The competency certification described in division (B)(3)(a), (b), (c), or (e) of this section shall be dated and shall attest that the course, class, or program the applicant successfully completed met the requirements described in division (G)(1) of this section and that the applicant passed the competency examination described in division (G)(2) of this section.

(4) A person who previously has received a competency certification as described in division (B)(3) of this section, or who previously has received a renewed competency certification as described in this division, may obtain a renewed competency certification pursuant to this division. If the person previously has received a competency certification or previously has received a renewed competency certification, the person may obtain a renewed competency certification from an entity that offers a course, class, or program described in division (B)(3)(a), (b), (c), or (e) of this section by passing a test that demonstrates that the person is range competent. In these circumstances, the person is not required to attend the course, class, or program or to take the competency examination described in division (G)(2) of this section for the renewed competency certification in order to be eligible to receive a renewed competency certification. A renewed competency certification issued under this division shall be dated and shall attest that the person has demonstrated range competency.

(H) Upon deciding to issue a license, deciding to issue a replacement license, or deciding to renew a license to carry a concealed handgun pursuant to this section, and before actually issuing or renewing the license,

the sheriff shall make available through the law enforcement automated data system all information contained on the license. If the license subsequently is suspended under division (A)(1) or (2) of section 2923.128 of the Revised Code, revoked pursuant to division (B)(1) of section 2923.128 of the Revised Code, or lost or destroyed, the sheriff also shall make available through the law enforcement automated data system a notation of that fact. The superintendent of the state highway patrol shall ensure that the law enforcement automated data system is so configured as to permit the transmission through the system of the information specified in this division.

(I) A sheriff shall accept a completed application form or renewal application, and the fee, items, materials, and information specified in divisions (B)(1) to (5) or division (F) of this section, whichever is applicable, and shall provide an application form or renewal application ~~and a copy of the pamphlet described in division (B) of section 109.731 of the Revised Code~~ to any person during at least fifteen hours a week and shall provide the web site address at which the pamphlet described in division (B) of section 109.731 of the Revised Code may be found at any time, upon request. The sheriff shall post notice of the hours during which the sheriff is available to accept or provide the information described in this division.

Sec. 2923.1210. The application for a license to carry a concealed handgun or for the renewal of a license of that nature that is to be used under section 2923.125 of the Revised Code shall conform substantially to the following ~~form~~ forms:

"Ohio Peace Officer Training Commission APPLICATION FOR A LICENSE TO CARRY A CONCEALED HANDGUN

Please Type or Print in Ink

SECTION I.

This application will not be processed unless all applicable questions have been answered and until all required supporting documents as described in division (B) or (F) of section 2923.125 of the Ohio Revised Code and, unless waived, a cashier's check, certified check, or money order in the amount of the applicable license fee or license renewal fee have been submitted. FEES ARE NONREFUNDABLE.

SECTION II.

Name:

Last First Middle

 Social Security Number:
 Current Residence:
 Street City State County Zip

 Mailing Address (If Different From Above):
 Street City State Zip

 Date of Birth Place of Birth Sex Race Residence Telephone

/..../.... (.....).....

SECTION III. THE FOLLOWING QUESTIONS ARE TO BE ANSWERED YES OR NO

- (1)(a) Are you legally living in the United States? YES NO
- (b) Have you been a resident of Ohio for at least forty-five days and have you been a resident for thirty days of the county with whose sheriff you are filing this application or of a county adjacent to that county? YES NO
- (2) Are you at least twenty-one years of age? YES NO
- (3) Are you a fugitive from justice? YES NO
- (4) Are you under indictment for a felony, or, except for a conviction or guilty plea the records of which a court has ordered sealed or expunged or relative to which a court has granted relief from disability pursuant to section 2923.14 of the Revised Code, have you ever been convicted of or pleaded guilty to a felony, or, except for a delinquent child adjudication the records of which a court has ordered sealed or expunged or relative to which a court has granted relief from disability pursuant to section 2923.14 of the Revised Code, have you ever been adjudicated a delinquent child for committing an act that would be a felony if committed by an adult? YES NO
- (5) Are you under indictment for or otherwise charged with, or, except for a conviction or

guilty plea the records of which a court has ordered sealed or expunged or relative to which a court has granted relief from disability pursuant to section 2923.14 of the Revised Code, have you ever been convicted of or pleaded guilty to, an offense under Chapter 2925., 3719., or 4729. of the Ohio Revised Code that involves the illegal possession, use, sale, administration, or distribution of or trafficking in a drug of abuse, or, except for a delinquent child adjudication the records of which a court has ordered sealed or expunged or relative to which a court has granted relief from disability pursuant to section 2923.14 of the Revised Code, have you ever been adjudicated a delinquent child for committing an act that would be an offense of that nature if committed by an adult?

(6) Are you under indictment for or otherwise charged with, or, except for a conviction or guilty plea the records of which a court has ordered sealed or expunged or relative to which a court has granted relief from disability pursuant to section 2923.14 of the Revised Code, have you been convicted of or pleaded guilty to within three years of the date of this application, a misdemeanor that is an offense of violence or the offense of possessing a revoked or suspended concealed handgun license, or, except for a delinquent child adjudication the records of which a court has ordered sealed or expunged or relative to which a court has granted relief from disability pursuant to section 2923.14 of the Revised Code, have you been adjudicated a delinquent child within three years of the date of this application for committing an act that would be a misdemeanor of that nature if committed by an adult? YES NO

.... YES NO

(7) Are you under indictment for or otherwise charged with, or, except for a conviction or guilty plea the records of which a court has ordered sealed or expunged or relative to which a court has granted relief from disability pursuant to section 2923.14 of the Revised Code, have you been convicted of or pleaded guilty to within three years of the date of this application, a misdemeanor that is an offense of violence or the offense of possessing a revoked or suspended concealed handgun license, or, except for a delinquent child adjudication the records of which a court has ordered sealed or expunged or relative to which a court has granted relief from disability pursuant to section 2923.14 of the Revised Code, have you been adjudicated a delinquent child within three years of the date of this application for committing an act that would be a misdemeanor of that nature if committed by an adult? YES NO

charged with, or, except for a conviction or guilty plea the records of which a court has ordered sealed or expunged or relative to which a court has granted relief from disability pursuant to section 2923.14 of the Revised Code, have you been convicted of or pleaded guilty to within ten years of the date of this application, resisting arrest, or, except for a delinquent child adjudication the records of which a court has ordered sealed or expunged or relative to which a court has granted relief from disability pursuant to section 2923.14 of the Revised Code, have you been adjudicated a delinquent child for committing, within ten years of the date of this application an act that if committed by an adult would be the offense of resisting arrest?

(8)(a) Are you under indictment for or otherwise charged with assault or negligent assault? YES NO

(b) Have you been convicted of, pleaded guilty to, or adjudicated a delinquent child two or more times for committing assault or negligent assault within five years of the date of this application? YES NO

(c) Except for a conviction, guilty plea, or delinquent child adjudication the records of which a court has ordered sealed or expunged or relative to which a court has granted relief from disability pursuant to section 2923.14 of the Revised Code, have you ever been convicted of, pleaded guilty to, or adjudicated a delinquent child for assaulting a peace officer? YES NO

(9)(a) Have you ever been adjudicated as a mental defective? YES NO

(b) Have you ever been committed to a mental institution? YES NO

(10) Are you currently subject to a civil protection order, a temporary protection order, or a protection order issued by a court of

another state?

(11) Are you currently subject to a suspension YES NO

imposed under division (A)(2) of section 2923.128 of the Revised Code of a license to carry a concealed handgun, or a temporary emergency license to carry a concealed handgun, that previously was issued to you?

SECTION IV. YOU MUST COMPLETE THIS SECTION OF THE APPLICATION BY PROVIDING, TO THE BEST OF YOUR KNOWLEDGE, THE ADDRESS OF EACH PLACE OF RESIDENCE AT WHICH YOU RESIDED AT ANY TIME AFTER YOU ATTAINED EIGHTEEN YEARS OF AGE AND UNTIL YOU COMMENCED YOUR RESIDENCE AT THE LOCATION IDENTIFIED IN SECTION II OF THIS FORM, AND THE DATES OF RESIDENCE AT EACH OF THOSE ADDRESSES. IF YOU NEED MORE SPACE, COMPLETE AN ADDITIONAL SHEET WITH THE RELEVANT INFORMATION, ATTACH IT TO THE APPLICATION, AND NOTE THE ATTACHMENT AT THE END OF THIS SECTION.

Residence 1:

Street	City	State	County	Zip
.....
Dates of residence at this address			

Residence 2:

Street	City	State	County	Zip
.....
Dates of residence at this address			

Residence 3:

Street	City	State	County	Zip
.....
Dates of residence at this address			

Residence 4:

Street	City	State	County	Zip
.....
Dates of residence at this address			

SECTION V.

YOU MUST COMPLETE THIS SECTION OF THE APPLICATION BY ANSWERING THE QUESTION POSED IN PART (1) AND, IF THE ANSWER TO THE QUESTION IS "YES," BY PROVIDING IN PART (2) THE INFORMATION SPECIFIED. IF YOU NEED MORE SPACE, COMPLETE AN ADDITIONAL SHEET WITH THE RELEVANT

INFORMATION, ATTACH IT TO THE APPLICATION, AND NOTE THE ATTACHMENT AT THE END OF THIS SECTION.

(1) Have you previously applied in any county YES NO in Ohio or in any other state for a license to carry a concealed handgun or a temporary emergency license to carry a concealed handgun?

(2) If your answer to the question in part (1) of this section of the application is "yes," you must complete this part by listing each county in Ohio, and each other state, in which you previously applied for either type of license and, to the best of your knowledge, the date on which you made the application.

Previous application made in (insert name of Ohio county or other state) on (insert date of application.)

Previous application made in (insert name of Ohio county or other state) on (insert date of application.)

Previous application made in (insert name of Ohio county or other state) on (insert date of application.)

Previous application made in (insert name of Ohio county or other state) on (insert date of application.)

SECTION VI.

AN APPLICANT WHO KNOWINGLY GIVES A FALSE ANSWER TO ANY QUESTION OR SUBMITS FALSE INFORMATION ON, OR A FALSE DOCUMENT WITH THE APPLICATION MAY BE PROSECUTED FOR FALSIFICATION TO OBTAIN A CONCEALED HANDGUN LICENSE, A FELONY OF THE FOURTH DEGREE, IN VIOLATION OF SECTION 2921.13 OF THE OHIO REVISED CODE.

(1) I have ~~been furnished, and have~~ read; the pamphlet that explains the Ohio firearms laws, that provides instruction in dispute resolution and explains the Ohio laws related to that matter, and that provides information regarding all aspects of the use of deadly force with a firearm, and I am knowledgeable of the provisions of those laws and of the information on those matters.

(2) I desire a legal means to carry a concealed handgun for defense of myself or a member of my family while engaged in lawful activity.

(3) I have never been convicted of or pleaded guilty to a crime of violence in the state of Ohio or elsewhere (if you have been convicted of or pleaded guilty to such a crime, but the records of that conviction or guilty plea have been sealed or expunged by court order or a court has granted relief pursuant to section 2923.14 of the Revised Code from the

Telephone
(...)

SECTION III. THE FOLLOWING QUESTIONS ARE TO BE ANSWERED YES OR NO

(1)(a) Are you legally living in the United States? YES NO

(b) Have you been a resident of Ohio for at least forty-five days and have you been a resident for thirty days of the county with whose sheriff you are filing this application or of a county adjacent to that county? YES NO

(2) Are you at least twenty-one years of age? YES NO

(3) Are you a fugitive from justice? YES NO

(4) Are you under indictment for a felony, or, except for a conviction or guilty plea the records of which a court has ordered sealed or expunged or relative to which a court has granted relief from disability pursuant to section 2923.14 of the Revised Code, have you ever been convicted of or pleaded guilty to a felony, or, except for a delinquent child adjudication the records of which a court has ordered sealed or expunged or relative to which a court has granted relief from disability pursuant to section 2923.14 of the Revised Code, have you ever been adjudicated a delinquent child for committing an act that would be a felony if committed by an adult? YES NO

(5) Are you under indictment for or otherwise charged with, or, except for a conviction or guilty plea the records of which a court has ordered sealed or expunged or relative to which a court has granted relief from disability pursuant to section 2923.14 of the Revised Code, have you ever been convicted of or pleaded guilty to, an offense under Chapter 2925., 3719., or 4729. of the Ohio Revised Code that involves the illegal possession, use, sale, administration, or distribution of or trafficking in a drug of abuse, or, except for a

delinquent child adjudication the records of which a court has ordered sealed or expunged or relative to which a court has granted relief from disability pursuant to section 2923.14 of the Revised Code, have you ever been adjudicated a delinquent child for committing an act that would be an offense of that nature if committed by an adult?

(6) Are you under indictment for or otherwise charged with, or, except for a conviction or guilty plea the records of which a court has ordered sealed or expunged or relative to which a court has granted relief from disability pursuant to section 2923.14 of the Revised Code, have you been convicted of or pleaded guilty to within three years of the date of this application, a misdemeanor that is an offense of violence or the offense of possessing a revoked or suspended concealed handgun license, or, except for a delinquent child adjudication the records of which a court has ordered sealed or expunged or relative to which a court has granted relief from disability pursuant to section 2923.14 of the Revised Code, have you been adjudicated a delinquent child within three years of the date of this application for committing an act that would be a misdemeanor of that nature if committed by an adult? YES NO

charged with, or, except for a conviction or guilty plea the records of which a court has ordered sealed or expunged or relative to which a court has granted relief from disability pursuant to section 2923.14 of the Revised Code, have you been convicted of or pleaded guilty to within three years of the date of this application, a misdemeanor that is an offense of violence or the offense of possessing a revoked or suspended concealed handgun license, or, except for a delinquent child adjudication the records of which a court has ordered sealed or expunged or relative to which a court has granted relief from disability pursuant to section 2923.14 of the Revised Code, have you been adjudicated a delinquent child within three years of the date of this application for committing an act that would be a misdemeanor of that nature if committed by an adult?

(7) Are you under indictment for or otherwise charged with, or, except for a conviction or guilty plea the records of which a court has ordered sealed or expunged or relative to which a court has granted relief from disability pursuant to section 2923.14 of the Revised Code, have you been convicted of or pleaded guilty to within ten years of the date of this application, resisting arrest, or, except for a delinquent child adjudication the records of which a court has ordered sealed or expunged

charged with, or, except for a conviction or guilty plea the records of which a court has ordered sealed or expunged or relative to which a court has granted relief from disability pursuant to section 2923.14 of the Revised Code, have you been convicted of or pleaded guilty to within ten years of the date of this application, resisting arrest, or, except for a delinquent child adjudication the records of which a court has ordered sealed or expunged

or relative to which a court has granted relief from disability pursuant to section 2923.14 of the Revised Code, have you been adjudicated a delinquent child for committing, within ten years of the date of this application an act that if committed by an adult would be the offense of resisting arrest?

(8)(a) Are you under indictment for or otherwise charged with assault or negligent assault? YES NO

(b) Have you been convicted of, pleaded guilty to, or adjudicated a delinquent child two or more times for committing assault or negligent assault within five years of the date of this application? YES NO

(c) Except for a conviction, guilty plea, or delinquent child adjudication the records of which a court has ordered sealed or expunged or relative to which a court has granted relief from disability pursuant to section 2923.14 of the Revised Code, have you ever been convicted of, pleaded guilty to, or adjudicated a delinquent child for assaulting a peace officer? YES NO

(9)(a) Have you ever been adjudicated as a mental defective? YES NO

(b) Have you ever been committed to a mental institution? YES NO

(10) Are you currently subject to a civil protection order, a temporary protection order, or a protection order issued by a court of another state? YES NO

(11) Are you currently subject to a suspension imposed under division (A)(2) of section 2923.128 of the Revised Code of a license to carry a concealed handgun, or a temporary emergency license to carry a concealed handgun, that previously was issued to you? YES NO

SECTION IV. YOU MUST COMPLETE THIS SECTION OF THE APPLICATION BY PROVIDING, TO THE BEST OF YOUR KNOWLEDGE, THE ADDRESS OF EACH PLACE OF RESIDENCE AT

WHICH YOU RESIDED AT ANY TIME AFTER YOU LAST APPLIED FOR AN OHIO CONCEALED HANDGUN LICENSE THROUGH THE TIME YOU COMMENCED YOUR RESIDENCE AT THE LOCATION IDENTIFIED IN SECTION II OF THIS FORM, AND THE DATES OF RESIDENCE AT EACH OF THOSE ADDRESSES. IF YOU NEED MORE SPACE, COMPLETE AN ADDITIONAL SHEET WITH THE RELEVANT INFORMATION, ATTACH IT TO THE APPLICATION, AND NOTE THE ATTACHMENT AT THE END OF THIS SECTION.

Residence 1:

Street City State County Zip
.....
Dates of residence at this address

Residence 2:

Street City State County Zip
.....
Dates of residence at this address

Residence 3:

Street City State County Zip
.....
Dates of residence at this address

Residence 4:

Street City State County Zip
.....
Dates of residence at this address

SECTION V.

YOU MUST COMPLETE THIS SECTION OF THE APPLICATION BY ANSWERING THE QUESTION POSED IN PART (1) AND, IF THE ANSWER TO THE QUESTION IS "YES," BY PROVIDING IN PART (2) THE INFORMATION SPECIFIED. IF YOU NEED MORE SPACE, COMPLETE AN ADDITIONAL SHEET WITH THE RELEVANT INFORMATION, ATTACH IT TO THE APPLICATION, AND NOTE THE ATTACHMENT AT THE END OF THIS SECTION.

(1) Have you previously applied in any county YES NO in Ohio or in any other state for a license to carry a concealed handgun or a temporary emergency license to carry a concealed handgun?

(2) If your answer to the question in part (1) of this section of the application is "yes," you must complete this part by listing each county in Ohio, and each other state, in which you previously applied for either type of license

and, to the best of your knowledge, the date on which you made the application.

Previous application made in (insert name of Ohio county or other state) on (insert date of application.)

Previous application made in (insert name of Ohio county or other state) on (insert date of application.)

Previous application made in (insert name of Ohio county or other state) on (insert date of application.)

Previous application made in (insert name of Ohio county or other state) on (insert date of application.)

SECTION VI.

AN APPLICANT WHO KNOWINGLY GIVES A FALSE ANSWER TO ANY QUESTION OR SUBMITS FALSE INFORMATION ON, OR A FALSE DOCUMENT WITH THE APPLICATION MAY BE PROSECUTED FOR FALSIFICATION TO OBTAIN A CONCEALED HANDGUN LICENSE, A FELONY OF THE FOURTH DEGREE, IN VIOLATION OF SECTION 2921.13 OF THE OHIO REVISED CODE.

(1) I have read the pamphlet that explains the Ohio firearms laws, that provides instruction in dispute resolution and explains the Ohio laws related to that matter, and that provides information regarding all aspects of the use of deadly force with a firearm, and I am knowledgeable of the provisions of those laws and of the information on those matters.

(2) I desire a legal means to carry a concealed handgun for defense of myself or a member of my family while engaged in lawful activity.

(3) I have never been convicted of or pleaded guilty to a crime of violence in the state of Ohio or elsewhere (if you have been convicted of or pleaded guilty to such a crime, but the records of that conviction or guilty plea have been sealed or expunged by court order or a court has granted relief pursuant to section 2923.14 of the Revised Code from the disability imposed pursuant to section 2923.13 of the Revised Code relative to that conviction or guilty plea, you may treat the conviction or guilty plea for purposes of this paragraph as if it never had occurred). I am of sound mind. I hereby certify that the statements contained herein are true and correct to the best of my knowledge and belief. I understand that if I knowingly make any false statements herein I am subject to penalties prescribed by law. I authorize the sheriff or the sheriff's designee to inspect only those records or documents relevant to information required for this application.

(4) The information contained in this application and all attached

documents are true and correct to the best of my knowledge.

.....
Signature of Applicant"

Sec. 2923.1213. (A) As used in this section:

(1) "Evidence of imminent danger" means any of the following:

(a) A statement sworn by the person seeking to carry a concealed handgun that is made under threat of perjury and that states that the person has reasonable cause to fear a criminal attack upon the person or a member of the person's family, such as would justify a prudent person in going armed;

(b) A written document prepared by a governmental entity or public official describing the facts that give the person seeking to carry a concealed handgun reasonable cause to fear a criminal attack upon the person or a member of the person's family, such as would justify a prudent person in going armed. Written documents of this nature include, but are not limited to, any temporary protection order, civil protection order, protection order issued by another state, or other court order, any court report, and any report filed with or made by a law enforcement agency or prosecutor.

(2) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code.

(B)(1) A person seeking a temporary emergency license to carry a concealed handgun shall submit to the sheriff of the county in which the person resides all of the following:

(a) Evidence of imminent danger to the person or a member of the person's family;

(b) A sworn affidavit that contains all of the information required to be on the license and attesting that the person is legally living in the United States; is at least twenty-one years of age; is not a fugitive from justice; is not under indictment for or otherwise charged with an offense identified in division (D)(1)(d) of section 2923.125 of the Revised Code; has not been convicted of or pleaded guilty to an offense, and has not been adjudicated a delinquent child for committing an act, identified in division (D)(1)(e) of that section and to which division (B)(3) of this section does not apply; within three years of the date of the submission, has not been convicted of or pleaded guilty to an offense, and has not been adjudicated a delinquent child for committing an act, identified in division (D)(1)(f) of that section and to which division (B)(3) of this section does not apply; within five years of the date of the submission, has not been convicted of, pleaded guilty, or adjudicated a delinquent child for committing two or more violations identified in division (D)(1)(g) of that section; within ten years of the date of

the submission, has not been convicted of, pleaded guilty, or adjudicated a delinquent child for committing a violation identified in division (D)(1)(h) of that section and to which division (B)(3) of this section does not apply; has not been adjudicated as a mental defective, has not been committed to any mental institution, is not under adjudication of mental incompetence, has not been found by a court to be a mentally ill person subject to hospitalization by court order, and is not an involuntary patient other than one who is a patient only for purposes of observation, as described in division (D)(1)(i) of that section; is not currently subject to a civil protection order, a temporary protection order, or a protection order issued by a court of another state, as described in division (D)(1)(j) of that section; and is not currently subject to a suspension imposed under division (A)(2) of section 2923.128 of the Revised Code of a license to carry a concealed handgun, or a temporary emergency license to carry a concealed handgun, that previously was issued to the person;

(c) A nonrefundable temporary emergency license fee ~~established by the Ohio peace officer training commission for an amount that does not exceed the actual cost of conducting the criminal background check or thirty dollars;~~ as described in either of the following:

(i) For an applicant who has been a resident of this state for five or more years, a fee of fifteen dollars plus the actual cost of having a background check performed by the bureau of criminal identification and investigation pursuant to section 311.41 of the Revised Code;

(ii) For an applicant who has been a resident of this state for less than five years, a fee of fifteen dollars plus the actual cost of having background checks performed by the federal bureau of investigation and the bureau of criminal identification and investigation pursuant to section 311.41 of the Revised Code.

(d) A set of fingerprints of the applicant provided as described in section 311.41 of the Revised Code through use of an electronic fingerprint reading device or, if the sheriff to whom the application is submitted does not possess and does not have ready access to the use of an electronic fingerprint reading device, on a standard impression sheet prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code. If the fingerprints are provided on a standard impression sheet, the person also shall provide the person's social security number to the sheriff.

(2) A sheriff shall accept the evidence of imminent danger, the sworn affidavit, the fee, and the set of fingerprints required under division (B)(1) of this section at the times and in the manners described in division (I) of this section. Upon receipt of the evidence of imminent danger, the sworn

affidavit, the fee, and the set of fingerprints required under division (B)(1) of this section, the sheriff, in the manner specified in section 311.41 of the Revised Code, immediately shall conduct or cause to be conducted the criminal records check and the incompetency records check described in section 311.41 of the Revised Code. Immediately upon receipt of the results of the records checks, the sheriff shall review the information and shall determine whether the criteria set forth in divisions (D)(1)(a) to (j) and (m) of section 2923.125 of the Revised Code apply regarding the person. If the sheriff determines that all of criteria set forth in divisions (D)(1)(a) to (j) and (m) of section 2923.125 of the Revised Code apply regarding the person, the sheriff shall immediately make available through the law enforcement automated data system all information that will be contained on the temporary emergency license for the person if one is issued, and the superintendent of the state highway patrol shall ensure that the system is so configured as to permit the transmission through the system of that information. Upon making that information available through the law enforcement automated data system, the sheriff shall immediately issue to the person a temporary emergency license to carry a concealed handgun.

If the sheriff denies the issuance of a temporary emergency license to the person, the sheriff shall specify the grounds for the denial in a written notice to the person. The person may appeal the denial, or challenge criminal records check results that were the basis of the denial if applicable, in the same manners specified in division (D)(2) of section 2923.125 and in section 2923.127 of the Revised Code, regarding the denial of an application for a license to carry a concealed handgun under that section.

The temporary emergency license under this division shall be in the form, and shall include all of the information, described in divisions (A)(2) and (5) of section 109.731 of the Revised Code, and also shall include a unique combination of identifying letters and numbers in accordance with division (A)(4) of that section.

The temporary emergency license issued under this division is valid for ninety days and may not be renewed. A person who has been issued a temporary emergency license under this division shall not be issued another temporary emergency license unless at least four years has expired since the issuance of the prior temporary emergency license.

(3) If a person seeking a temporary emergency license to carry a concealed handgun has been convicted of or pleaded guilty to an offense identified in division (D)(1)(e), (f), or (h) of section 2923.125 of the Revised Code or has been adjudicated a delinquent child for committing an act or violation identified in any of those divisions, and if a court has ordered the

sealing or expungement of the records of that conviction, guilty plea, or adjudication pursuant to sections 2151.355 to 2151.358 or sections 2953.31 to 2953.36 of the Revised Code or a court has granted the applicant relief pursuant to section 2923.14 of the Revised Code from the disability imposed pursuant to section 2923.13 of the Revised Code relative to that conviction, guilty plea, or adjudication, the conviction, guilty plea, or adjudication shall not be relevant for purposes of the sworn affidavit described in division (B)(1)(b) of this section, and the person may complete, and swear to the truth of, the affidavit as if the conviction, guilty plea, or adjudication never had occurred.

(4) The sheriff shall waive the payment pursuant to division (B)(1)(c) of this section of the license fee in connection with an application that is submitted by an applicant who is a retired peace officer, a retired person described in division (B)(1)(b) of section 109.77 of the Revised Code, or a retired federal law enforcement officer who, prior to retirement, was authorized under federal law to carry a firearm in the course of duty, unless the retired peace officer, person, or federal law enforcement officer retired as the result of a mental disability.

The sheriff shall deposit all fees paid by an applicant under division (B)(1)(c) of this section into the sheriff's concealed handgun license issuance fund established pursuant to section 311.42 of the Revised Code.

(C) A person who holds a temporary emergency license to carry a concealed handgun has the same right to carry a concealed handgun as a person who was issued a license to carry a concealed handgun under section 2923.125 of the Revised Code, and any exceptions to the prohibitions contained in section 1547.69 and sections 2923.12 to 2923.16 of the Revised Code for a licensee under section 2923.125 of the Revised Code apply to a licensee under this section. The person is subject to the same restrictions, and to all other procedures, duties, and sanctions, that apply to a person who carries a license issued under section 2923.125 of the Revised Code, other than the license renewal procedures set forth in that section.

(D) A sheriff who issues a temporary emergency license to carry a concealed handgun under this section shall not require a person seeking to carry a concealed handgun in accordance with this section to submit a competency certificate as a prerequisite for issuing the license and shall comply with division (H) of section 2923.125 of the Revised Code in regards to the license. The sheriff shall suspend or revoke the license in accordance with section 2923.128 of the Revised Code. In addition to the suspension or revocation procedures set forth in section 2923.128 of the Revised Code, the sheriff may revoke the license upon receiving

information, verifiable by public documents, that the person is not eligible to possess a firearm under either the laws of this state or of the United States or that the person committed perjury in obtaining the license; if the sheriff revokes a license under this additional authority, the sheriff shall notify the person, by certified mail, return receipt requested, at the person's last known residence address that the license has been revoked and that the person is required to surrender the license at the sheriff's office within ten days of the date on which the notice was mailed. Division (H) of section 2923.125 of the Revised Code applies regarding any suspension or revocation of a temporary emergency license to carry a concealed handgun.

(E) A sheriff who issues a temporary emergency license to carry a concealed handgun under this section shall retain, for the entire period during which the temporary emergency license is in effect, the evidence of imminent danger that the person submitted to the sheriff and that was the basis for the license, or a copy of that evidence, as appropriate.

(F) If a temporary emergency license to carry a concealed handgun issued under this section is lost or is destroyed, the licensee may obtain from the sheriff who issued that license a duplicate license upon the payment of a fee of fifteen dollars and the submission of an affidavit attesting to the loss or destruction of the license. The sheriff, in accordance with the procedures prescribed in section 109.731 of the Revised Code, shall place on the replacement license a combination of identifying numbers different from the combination on the license that is being replaced.

(G) The Ohio peace officer training commission shall prescribe, and shall make available to sheriffs, a standard form to be used under division (B) of this section by a person who applies for a temporary emergency license to carry a concealed handgun on the basis of imminent danger of a type described in division (A)(1)(a) of this section.

(H) A sheriff who receives any fees paid by a person under this section shall deposit all fees so paid into the sheriff's concealed handgun license issuance expense fund established under section 311.42 of the Revised Code.

(I) A sheriff shall accept evidence of imminent danger, a sworn affidavit, the fee, and the set of fingerprints specified in division (B)(1) of this section at any time during normal business hours. In no case shall a sheriff require an appointment, or designate a specific period of time, for the submission or acceptance of evidence of imminent danger, a sworn affidavit, the fee, and the set of fingerprints specified in division (B)(1) of this section, or for the provision to any person of a standard form to be used for a person to apply for a temporary emergency license to carry a concealed

handgun.

Sec. 2923.16. (A) No person shall knowingly discharge a firearm while in or on a motor vehicle.

(B) No person shall knowingly transport or have a loaded firearm in a motor vehicle in such a manner that the firearm is accessible to the operator or any passenger without leaving the vehicle.

(C) No person shall knowingly transport or have a firearm in a motor vehicle, unless the person may lawfully possess that firearm under applicable law of this state or the United States, the firearm is unloaded, and the firearm is carried in one of the following ways:

- (1) In a closed package, box, or case;
- (2) In a compartment that can be reached only by leaving the vehicle;
- (3) In plain sight and secured in a rack or holder made for the purpose;
- (4) If the firearm is at least twenty-four inches in overall length as measured from the muzzle to the part of the stock furthest from the muzzle and if the barrel is at least eighteen inches in length, either in plain sight with the action open or the weapon stripped, or, if the firearm is of a type on which the action will not stay open or which cannot easily be stripped, in plain sight.

(D) No person shall knowingly transport or have a loaded handgun in a motor vehicle if, at the time of that transportation or possession, any of the following applies:

(1) The person is under the influence of alcohol, a drug of abuse, or a combination of them.

(2) The person's whole blood, blood serum or plasma, breath, or urine contains a concentration of alcohol, a listed controlled substance, or a listed metabolite of a controlled substance prohibited for persons operating a vehicle, as specified in division (A) of section 4511.19 of the Revised Code, regardless of whether the person at the time of the transportation or possession as described in this division is the operator of or a passenger in the motor vehicle.

(E) No person who has been issued a license or temporary emergency license to carry a concealed handgun under section 2923.125 or 2923.1213 of the Revised Code shall do any of the following:

(1) Knowingly transport or have a loaded handgun in a motor vehicle unless one of the following applies:

- (a) The loaded handgun is in a holster on the person's person.
- (b) The loaded handgun is in a closed case, bag, box, or other container that is in plain sight and that has a lid, a cover, or a closing mechanism with a zipper, snap, or buckle, which lid, cover, or closing mechanism must be

opened for a person to gain access to the handgun.

(c) The loaded handgun is securely encased by being stored in a closed glove compartment or vehicle console or in a case that is locked.

(2) If the person is transporting or has a loaded handgun in a motor vehicle in a manner authorized under division (E)(1) of this section, knowingly remove or attempt to remove the loaded handgun from the holster, case, bag, box, container, or glove compartment, knowingly grasp or hold the loaded handgun, or knowingly have contact with the loaded handgun by touching it with the person's hands or fingers while the motor vehicle is being operated on a street, highway, or public property unless the person removes, attempts to remove, grasps, holds, or has the contact with the loaded handgun pursuant to and in accordance with directions given by a law enforcement officer;

(3) If the person is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose or is the driver or an occupant of a commercial motor vehicle that is stopped by an employee of the motor carrier enforcement unit for the purposes defined in section 5503.34 of the Revised Code, and if the person is transporting or has a loaded handgun in the motor vehicle or commercial motor vehicle in any manner, fail to do any of the following that is applicable:

(a) If the person is the driver or an occupant of a motor vehicle stopped as a result of a traffic stop or a stop for another law enforcement purpose, fail to promptly inform any law enforcement officer who approaches the vehicle while stopped that the person has been issued a license or temporary emergency license to carry a concealed handgun and that the person then possesses or has a loaded handgun in the motor vehicle;

(b) If the person is the driver or an occupant of a commercial motor vehicle stopped by an employee of the motor carrier enforcement unit for any of the defined purposes, fail to promptly inform the employee of the unit who approaches the vehicle while stopped that the person has been issued a license or temporary emergency license to carry a concealed handgun and that the person then possesses or has a loaded handgun in the commercial motor vehicle.

(4) If the person is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose and if the person is transporting or has a loaded handgun in the motor vehicle in any manner, knowingly fail to remain in the motor vehicle while stopped or knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person

while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer;

(5) If the person is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose, if the person is transporting or has a loaded handgun in the motor vehicle in a manner authorized under division (E)(1) of this section, and if the person is approached by any law enforcement officer while stopped, knowingly remove or attempt to remove the loaded handgun from the holster, case, bag, box, container, or glove compartment, knowingly grasp or hold the loaded handgun, or knowingly have contact with the loaded handgun by touching it with the person's hands or fingers in the motor vehicle at any time after the law enforcement officer begins approaching and before the law enforcement officer leaves, unless the person removes, attempts to remove, grasps, holds, or has contact with the loaded handgun pursuant to and in accordance with directions given by the law enforcement officer;

(6) If the person is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose and if the person is transporting or has a loaded handgun in the motor vehicle in any manner, knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the motor vehicle is stopped, including, but not limited to, a specific order to the person to keep the person's hands in plain sight.

(F)(1) Divisions (A), (B), (C), and (E) of this section do not apply to any of the following:

(a) An officer, agent, or employee of this or any other state or the United States, or a law enforcement officer, when authorized to carry or have loaded or accessible firearms in motor vehicles and acting within the scope of the officer's, agent's, or employee's duties;

(b) Any person who is employed in this state, who is authorized to carry or have loaded or accessible firearms in motor vehicles, and who is subject to and in compliance with the requirements of section 109.801 of the Revised Code, unless the appointing authority of the person has expressly specified that the exemption provided in division (F)(1)(b) of this section does not apply to the person.

(2) Division (A) of this section does not apply to a person if all of the following circumstances apply:

(a) The person discharges a firearm from a motor vehicle at a coyote or groundhog, the discharge is not during the deer gun hunting season as set by

the chief of the division of wildlife of the department of natural resources, and the discharge at the coyote or groundhog, but for the operation of this section, is lawful.

(b) The motor vehicle from which the person discharges the firearm is on real property that is located in an unincorporated area of a township and that either is zoned for agriculture or is used for agriculture.

(c) The person owns the real property described in division (F)(2)(b) of this section, is the spouse or a child of another person who owns that real property, is a tenant of another person who owns that real property, or is the spouse or a child of a tenant of another person who owns that real property.

(d) The person does not discharge the firearm in any of the following manners:

(i) While under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;

(ii) In the direction of a street, highway, or other public or private property used by the public for vehicular traffic or parking;

(iii) At or into an occupied structure that is a permanent or temporary habitation;

(iv) In the commission of any violation of law, including, but not limited to, a felony that includes, as an essential element, purposely or knowingly causing or attempting to cause the death of or physical harm to another and that was committed by discharging a firearm from a motor vehicle.

(3) Division (A) of this section does not apply to a person if all of the following apply:

(a) The person possesses a valid electric-powered all-purpose vehicle permit issued under section 1533.103 of the Revised Code by the chief of the division of wildlife.

(b) The person discharges a firearm at a wild quadruped or game bird as defined in section 1531.01 of the Revised Code during the open hunting season for the applicable wild quadruped or game bird.

(c) The person discharges a firearm from a stationary electric-powered all-purpose vehicle as defined in section 1531.01 of the Revised Code or a motor vehicle that is parked on a road that is owned or administered by the division of wildlife, provided that the road is identified by an electric-powered all-purpose vehicle sign.

(d) The person does not discharge the firearm in any of the following manners:

(i) While under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;

(ii) In the direction of a street, a highway, or other public or private property that is used by the public for vehicular traffic or parking;

(iii) At or into an occupied structure that is a permanent or temporary habitation;

(iv) In the commission of any violation of law, including, but not limited to, a felony that includes, as an essential element, purposely or knowingly causing or attempting to cause the death of or physical harm to another and that was committed by discharging a firearm from a motor vehicle.

(4) Divisions (B) and (C) of this section do not apply to a person if all of the following circumstances apply:

(a) At the time of the alleged violation of either of those divisions, the person is the operator of or a passenger in a motor vehicle.

(b) The motor vehicle is on real property that is located in an unincorporated area of a township and that either is zoned for agriculture or is used for agriculture.

(c) The person owns the real property described in division (D)(4)(b) of this section, is the spouse or a child of another person who owns that real property, is a tenant of another person who owns that real property, or is the spouse or a child of a tenant of another person who owns that real property.

(d) The person, prior to arriving at the real property described in division (D)(4)(b) of this section, did not transport or possess a firearm in the motor vehicle in a manner prohibited by division (B) or (C) of this section while the motor vehicle was being operated on a street, highway, or other public or private property used by the public for vehicular traffic or parking.

(5) Divisions (B) and (C) of this section do not apply to a person who transports or possesses a handgun in a motor vehicle if, at the time of that transportation or possession, all of the following apply:

(a) The person transporting or possessing the handgun is carrying a valid license or temporary emergency license to carry a concealed handgun issued to the person under section 2923.125 or 2923.1213 of the Revised Code or a license to carry a concealed handgun that was issued by another state with which the attorney general has entered into a reciprocity agreement under section 109.69 of the Revised Code.

(b) The person transporting or possessing the handgun is not knowingly in a place described in division (B) of section 2923.126 of the Revised Code.

(c) One of the following applies:

(i) The handgun is in a holster on the person's person.

(ii) The handgun is in a closed case, bag, box, or other container that is in plain sight and that has a lid, a cover, or a closing mechanism with a zipper, snap, or buckle, which lid, cover, or closing mechanism must be opened for a person to gain access to the handgun.

(iii) The handgun is securely encased by being stored in a closed glove compartment or vehicle console or in a case that is locked.

(6) Divisions (B) and (C) of this section do not apply to a person if all of the following apply:

(a) The person possesses a valid electric-powered all-purpose vehicle permit issued under section 1533.103 of the Revised Code by the chief of the division of wildlife.

(b) The person is on or in an electric-powered all-purpose vehicle as defined in section 1531.01 of the Revised Code or a motor vehicle during the open hunting season for a wild quadruped or game bird.

(c) The person is on or in an electric-powered all-purpose vehicle as defined in section 1531.01 of the Revised Code or a motor vehicle that is parked on a road that is owned or administered by the division of wildlife, provided that the road is identified by an electric-powered all-purpose vehicle sign.

(G)(1) The affirmative defenses authorized in divisions (D)(1) and (2) of section 2923.12 of the Revised Code are affirmative defenses to a charge under division (B) or (C) of this section that involves a firearm other than a handgun.

(2) It is an affirmative defense to a charge under division (B) or (C) of this section of improperly handling firearms in a motor vehicle that the actor transported or had the firearm in the motor vehicle for any lawful purpose and while the motor vehicle was on the actor's own property, provided that this affirmative defense is not available unless the person, immediately prior to arriving at the actor's own property, did not transport or possess the firearm in a motor vehicle in a manner prohibited by division (B) or (C) of this section while the motor vehicle was being operated on a street, highway, or other public or private property used by the public for vehicular traffic.

(H) No person who is charged with a violation of division (B), (C), or (D) of this section shall be required to obtain a license or temporary emergency license to carry a concealed handgun under section 2923.125 or 2923.1213 of the Revised Code as a condition for the dismissal of the charge.

(I) Whoever violates this section is guilty of improperly handling firearms in a motor vehicle. Violation of division (A) of this section is a

felony of the fourth degree. Violation of division (C) of this section is a misdemeanor of the fourth degree. A violation of division (D) of this section is a felony of the fifth degree or, if the loaded handgun is concealed on the person's person, a felony of the fourth degree. Except as otherwise provided in this division, a violation of division (E)(3) of this section is a misdemeanor of the first degree, and, in addition to any other penalty or sanction imposed for the violation, the offender's license or temporary emergency license to carry a concealed handgun shall be suspended pursuant to division (A)(2) of section 2923.128 of the Revised Code. If at the time of the stop of the offender for a traffic stop, for another law enforcement purpose, or for a purpose defined in section 5503.34 of the Revised Code that was the basis of the violation any law enforcement officer involved with the stop or the employee of the motor carrier enforcement unit who made the stop had actual knowledge of the offender's status as a licensee, a violation of division (E)(3) of this section is a minor misdemeanor, and the offender's license or temporary emergency license to carry a concealed handgun shall not be suspended pursuant to division (A)(2) of section 2923.128 of the Revised Code. A violation of division (E)(1), (2), or (5) of this section is a felony of the fifth degree. A violation of division (E)(4) or (6) of this section is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of division (E)(4) or (6) of this section, a felony of the fifth degree. In addition to any other penalty or sanction imposed for a misdemeanor violation of division (E)(4) or (6) of this section, the offender's license or temporary emergency license to carry a concealed handgun shall be suspended pursuant to division (A)(2) of section 2923.128 of the Revised Code. A violation of division (B) of this section is whichever of the following is applicable:

(1) If, at the time of the transportation or possession in violation of division (B) of this section, the offender was carrying a valid license or temporary emergency license to carry a concealed handgun issued to the offender under section 2923.125 or 2923.1213 of the Revised Code or a license to carry a concealed handgun that was issued by another state with which the attorney general has entered into a reciprocity agreement under section 109.69 of the Revised Code and the offender was not knowingly in a place described in division (B) of section 2923.126 of the Revised Code, the violation is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of division (B) of this section, a felony of the fourth degree.

(2) If division (I)(1) of this section does not apply, a felony of the fourth

degree.

(J) If a law enforcement officer stops a motor vehicle for a traffic stop or any other purpose, if any person in the motor vehicle surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this division, division (B) of section 2923.163 of the Revised Code applies.

(K) As used in this section:

(1) "Motor vehicle," "street," and "highway" have the same meanings as in section 4511.01 of the Revised Code.

(2) "Occupied structure" has the same meaning as in section 2909.01 of the Revised Code.

(3) "Agriculture" has the same meaning as in section 519.01 of the Revised Code.

(4) "Tenant" has the same meaning as in section 1531.01 of the Revised Code.

(5) "Unloaded" means any of the following:

(a) No ammunition is in the firearm in question, and no ammunition is loaded into a magazine or speed loader that may be used with the firearm in question and that is located anywhere within the vehicle in question, without regard to where ammunition otherwise is located within the vehicle in question. For the purposes of division (K)(5)(a) of this section, ammunition held in stripper-clips or in en-bloc clips is not considered ammunition that is loaded into a magazine or speed loader.

(b) With respect to a firearm employing a percussion cap, flintlock, or other obsolete ignition system, when the weapon is uncapped or when the priming charge is removed from the pan.

(6) "Commercial motor vehicle" has the same meaning as in division (A) of section 4506.25 of the Revised Code.

(7) "Motor carrier enforcement unit" means the motor carrier enforcement unit in the department of public safety, division of state highway patrol, that is created by section 5503.34 of the Revised Code.

Sec. 2937.22. (A) Bail is security for the appearance of an accused to appear and answer to a specific criminal or quasi-criminal charge in any court or before any magistrate at a specific time or at any time to which a case may be continued, and not depart without leave. It may take any of the

following forms:

~~(A)~~(1) The deposit of cash by the accused or by some other person for ~~him~~ the accused;

~~(B)~~(2) The deposit by the accused or by some other person for ~~him~~ the accused in form of bonds of the United States, this state, or any political subdivision thereof in a face amount equal to the sum set by the court or magistrate. In case of bonds not negotiable by delivery such bonds shall be properly endorsed for transfer.

~~(C)~~(3) The written undertaking by one or more persons to forfeit the sum of money set by the court or magistrate, if the accused is in default for appearance, which shall be known as a recognizance.

(B) Whenever a person is charged with any offense other than a traffic offense that is not a moving violation and posts bail, the person shall pay a surcharge of twenty-five dollars. The clerk of the court shall retain the twenty-five dollars until the person is convicted, pleads guilty, forfeits bail, is found not guilty, or has the charges dismissed. If the person is convicted, pleads guilty, or forfeits bail, the clerk shall transmit the twenty-five dollars on or before the twentieth day of the month following the month in which the person was convicted, pleaded guilty, or forfeited bail to the treasurer of state, and the treasurer of state shall deposit it into the indigent defense support fund created under section 120.08 of the Revised Code. If the person is found not guilty or the charges are dismissed, the clerk shall return the twenty-five dollars to the person.

(C) All bail shall be received by the clerk of the court, deputy clerk of court, or by the magistrate, or by a special referee appointed by the supreme court pursuant to section 2937.46 of the Revised Code, and, except in cases of recognizances, receipt shall be given therefor ~~by him~~.

(D) As used in this section, "moving violation" has the same meaning as in section 2743.70 of the Revised Code.

Sec. 2949.091. (A)(1)(a) The court, in which any person is convicted of or pleads guilty to any offense ~~other than a traffic offense that is not a moving violation~~, shall impose one of the sum of fifteen dollars following sums as costs in the case in addition to any other court costs that the court is required by law to impose upon the offender;

(i) Thirty dollars if the offense is a felony;

(ii) Twenty dollars if the offense is a misdemeanor other than a traffic offense that is not a moving violation;

(iii) Ten dollars if the offense is a traffic offense that is not a moving violation, excluding parking violations. All such

(b) All moneys collected pursuant to division (A)(1)(a) of this section

during a month shall be transmitted on or before the twentieth day of the following month by the clerk of the court to the treasurer of state and deposited by the treasurer of state ~~into~~ to the credit of the general revenue indigent defense support fund established under section 120.08 of the Revised Code. The court shall not waive the payment of the additional ~~fifteen dollars~~ thirty-, twenty-, or ten-dollar court costs, unless the court determines that the offender is indigent and waives the payment of all court costs imposed upon the indigent offender.

(2)(a) The juvenile court, in which a child is found to be a delinquent child or a juvenile traffic offender for an act ~~which~~ that, if committed by an adult, would be an offense ~~other than a traffic offense that is not a moving violation,~~ shall impose one of the sum of fifteen dollars following sums as costs in the case in addition to any other court costs that the court is required or permitted by law to impose upon the delinquent child or juvenile traffic offender:

(i) Thirty dollars if the offense is a felony;

(ii) Twenty dollars if the offense is a misdemeanor other than a traffic offense that is not a moving violation;

(iii) Ten dollars if the offense is a traffic offense that is not a moving violation, excluding parking violations. All such

(b) All moneys collected pursuant to division (A)(2)(a) of this section during a month shall be transmitted on or before the twentieth day of the following month by the clerk of the court to the treasurer of state and deposited by the treasurer of state ~~into~~ to the credit of the general revenue indigent defense support fund established under section 120.08 of the Revised Code. The ~~fifteen dollars~~ thirty-, twenty-, or ten-dollar court costs shall be collected in all cases unless the court determines the juvenile is indigent and waives the payment of all court costs, or enters an order on its journal stating that it has determined that the juvenile is indigent, that no other court costs are to be taxed in the case, and that the payment of the ~~fifteen dollars~~ thirty-, twenty-, or ten-dollar court costs is waived.

(B) Whenever a person is charged with any offense ~~other than a traffic offense that is not a moving violation and posts bail~~ described in division (A)(1) of this section, the court shall add to the amount of the bail the ~~fifteen~~ thirty, twenty, or ten dollars required to be paid by division (A)(1) of this section. The ~~fifteen~~ thirty, twenty, or ten dollars shall be retained by the clerk of the court until the person is convicted, pleads guilty, forfeits bail, is found not guilty, or has the charges dismissed. If the person is convicted, pleads guilty, or forfeits bail, the clerk shall transmit the ~~fifteen~~ thirty, twenty, or ten dollars on or before the twentieth day of the month following

the month in which the person was convicted, pleaded guilty, or forfeited bail to the treasurer of state, who shall deposit it ~~into~~ to the credit of the general revenue indigent defense support fund established under section 120.08 of the Revised Code. If the person is found not guilty or the charges are dismissed, the clerk shall return the ~~fifteen~~ thirty, twenty, or ten dollars to the person.

(C) No person shall be placed or held in a detention facility for failing to pay the additional ~~fifteen dollars~~ thirty-, twenty-, or ten-dollar court costs or bail that are required to be paid by this section.

(D) As used in this section:

(1) "Moving violation" and "bail" have the same meanings as in section 2743.70 of the Revised Code.

(2) "Detention facility" has the same meaning as in section 2921.01 of the Revised Code.

Sec. 2949.111. (A) As used in this section:

(1) "Court costs" means any assessment that the court requires an offender to pay to defray the costs of operating the court.

(2) "State fines or costs" means any costs imposed or forfeited bail collected by the court under section 2743.70 of the Revised Code for deposit into the reparations fund or under section 2949.091 of the Revised Code for deposit into the general revenue indigent defense support fund established under section 120.08 of the Revised Code and all fines, penalties, and forfeited bail collected by the court and paid to a law library association under sections 3375.50 to 3375.53 of the Revised Code.

(3) "Reimbursement" means any reimbursement for the costs of confinement that the court orders an offender to pay pursuant to section 2929.28 of the Revised Code, any supervision fee, any fee for the costs of house arrest with electronic monitoring that an offender agrees to pay, any reimbursement for the costs of an investigation or prosecution that the court orders an offender to pay pursuant to section 2929.71 of the Revised Code, or any other costs that the court orders an offender to pay.

(4) "Supervision fees" means any fees that a court, pursuant to sections 2929.18, 2929.28, and 2951.021 of the Revised Code, requires an offender who is under a community control sanction to pay for supervision services.

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

(B) Unless the court, in accordance with division (C) of this section, enters in the record of the case a different method of assigning payments, if a person who is charged with a misdemeanor is convicted of or pleads guilty to the offense, if the court orders the offender to pay any combination of

court costs, state fines or costs, restitution, a conventional fine, or any reimbursement, and if the offender makes any payment of any of them to a clerk of court, the clerk shall assign the offender's payment in the following manner:

(1) If the court ordered the offender to pay any court costs, the offender's payment shall be assigned toward the satisfaction of those court costs until they have been entirely paid.

(2) If the court ordered the offender to pay any state fines or costs and if all of the court costs that the court ordered the offender to pay have been paid, the remainder of the offender's payment shall be assigned on a pro rata basis toward the satisfaction of the state fines or costs until they have been entirely paid.

(3) If the court ordered the offender to pay any restitution and if all of the court costs and state fines or costs that the court ordered the offender to pay have been paid, the remainder of the offender's payment shall be assigned toward the satisfaction of the restitution until it has been entirely paid.

(4) If the court ordered the offender to pay any fine and if all of the court costs, state fines or costs, and restitution that the court ordered the offender to pay have been paid, the remainder of the offender's payment shall be assigned toward the satisfaction of the fine until it has been entirely paid.

(5) If the court ordered the offender to pay any reimbursement and if all of the court costs, state fines or costs, restitution, and fines that the court ordered the offender to pay have been paid, the remainder of the offender's payment shall be assigned toward the satisfaction of the reimbursements until they have been entirely paid.

(C) If a person who is charged with a misdemeanor is convicted of or pleads guilty to the offense and if the court orders the offender to pay any combination of court costs, state fines or costs, restitution, fines, or reimbursements, the court, at the time it orders the offender to make those payments, may prescribe an order of payments that differs from the order set forth in division (B) of this section by entering in the record of the case the order so prescribed. If a different order is entered in the record, on receipt of any payment, the clerk of the court shall assign the payment in the manner prescribed by the court.

Sec. 2949.17. (A) The sheriff may take one guard for every two convicted felons to be transported to a correctional institution. The trial judge may authorize a larger number of guards upon written application of the sheriff, in which case a transcript of the order of the judge shall be

certified by the clerk of the court of common pleas under the seal of the court, and the sheriff shall deliver the order with the convict to the person in charge of the correctional institution.

(B) In order to obtain reimbursement for the county for the expenses of transportation for indigent convicted felons, the clerk of the court of common pleas shall prepare a transportation cost bill for each indigent convicted felon transported pursuant to this section for an amount equal to ~~ten cents~~ not less than one dollar a mile from the county seat to the state correctional institution and return for ~~the sheriff and each of the guards and five cents a mile from the county seat to the state correctional institution~~ for each prisoner. The number of miles shall be computed by the usual route of travel. The clerk's duties under this division are subject to division (B) of section 2949.19 of the Revised Code.

Sec. 2981.13. (A) Except as otherwise provided in this section, property ordered forfeited as contraband, proceeds, or an instrumentality pursuant to this chapter shall be disposed of, used, or sold pursuant to section 2981.12 of the Revised Code. If the property is to be sold under that section, the prosecutor shall cause notice of the proposed sale to be given in accordance with law.

(B) If the contraband or instrumentality forfeited under this chapter is sold, any moneys acquired from a sale and any proceeds forfeited under this chapter shall be applied in the following order:

(1) First, to pay costs incurred in the seizure, storage, maintenance, security, and sale of the property and in the forfeiture proceeding;

(2) Second, in a criminal forfeiture case, to satisfy any restitution ordered to the victim of the offense or, in a civil forfeiture case, to satisfy any recovery ordered for the person harmed, unless paid from other assets;

(3) Third, to pay the balance due on any security interest preserved under this chapter;

(4) Fourth, apply the remaining amounts as follows:

(a) If the forfeiture was ordered by a juvenile court, ten per cent to one or more certified alcohol and drug addiction treatment programs as provided in division (D) of section 2981.12 of the Revised Code;

(b) If the forfeiture was ordered in a juvenile court, ninety per cent, and if the forfeiture was ordered in a court other than a juvenile court, one hundred per cent to the law enforcement trust fund of the prosecutor and to the following fund supporting the law enforcement agency that substantially conducted the investigation: the law enforcement trust fund of the county sheriff, municipal corporation, township, or park district created under section 511.18 or 1545.01 of the Revised Code; the state highway patrol

contraband, forfeiture, and other fund; the department of public safety investigative unit contraband, forfeiture, and other fund; the department of taxation enforcement fund; the board of pharmacy drug law enforcement fund created by division (B)(1) of section 4729.65 of the Revised Code; the medicaid fraud investigation and prosecution fund; or the treasurer of state for deposit into the peace officer training commission fund if any other state law enforcement agency substantially conducted the investigation. In the case of property forfeited for medicaid fraud, any remaining amount shall be used by the attorney general to investigate and prosecute medicaid fraud offenses.

If the prosecutor declines to accept any of the remaining amounts, the amounts shall be applied to the fund of the agency that substantially conducted the investigation.

(c) If more than one law enforcement agency is substantially involved in the seizure of property forfeited under this chapter, the court ordering the forfeiture shall equitably divide the amounts, after calculating any distribution to the law enforcement trust fund of the prosecutor pursuant to division (B)(4) of this section, among the entities that the court determines were substantially involved in the seizure.

(C)(1) A law enforcement trust fund shall be established by the prosecutor of each county who intends to receive any remaining amounts pursuant to this section, by the sheriff of each county, by the legislative authority of each municipal corporation, by the board of township trustees of each township that has a township police department, township police district police force, or office of the constable, and by the board of park commissioners of each park district created pursuant to section 511.18 or 1545.01 of the Revised Code that has a park district police force or law enforcement department, for the purposes of this section.

There is hereby created in the state treasury the state highway patrol contraband, forfeiture, and other fund, the department of public safety investigative unit contraband, forfeiture, and other fund, the medicaid fraud investigation and prosecution fund, the department of taxation enforcement fund, and the peace officer training commission fund, for the purposes of this section.

Amounts distributed to any municipal corporation, township, or park district law enforcement trust fund shall be allocated from the fund by the legislative authority only to the police department of the municipal corporation, by the board of township trustees only to the township police department, township police district police force, or office of the constable, and by the board of park commissioners only to the park district police force

or law enforcement department.

(2)(a) No amounts shall be allocated to a fund created under this section or used by an agency unless the agency has adopted a written internal control policy that addresses the use of moneys received from the appropriate fund. The appropriate fund shall be expended only in accordance with that policy and, subject to the requirements specified in this section, only for the following purposes:

(i) To pay the costs of protracted or complex investigations or prosecutions;

(ii) To provide reasonable technical training or expertise;

(iii) To provide matching funds to obtain federal grants to aid law enforcement, in the support of DARE programs or other programs designed to educate adults or children with respect to the dangers associated with the use of drugs of abuse;

(iv) To pay the costs of emergency action taken under section 3745.13 of the Revised Code relative to the operation of an illegal methamphetamine laboratory if the forfeited property or money involved was that of a person responsible for the operation of the laboratory;

(v) For other law enforcement purposes that the superintendent of the state highway patrol, department of public safety, prosecutor, county sheriff, legislative authority, department of taxation, board of township trustees, or board of park commissioners determines to be appropriate.

(b) The board of pharmacy drug law enforcement fund shall be expended only in accordance with the written internal control policy so adopted by the board and only in accordance with section 4729.65 of the Revised Code, except that it also may be expended to pay the costs of emergency action taken under section 3745.13 of the Revised Code relative to the operation of an illegal methamphetamine laboratory if the forfeited property or money involved was that of a person responsible for the operation of the laboratory.

(c) The state highway patrol contraband, forfeiture, and other fund, the department of public safety investigative unit contraband, forfeiture, and other fund, the department of taxation enforcement fund, the board of pharmacy drug law enforcement fund, and a law enforcement trust fund shall not be used to meet the operating costs of the state highway patrol, of the investigative unit of the department of public safety, of the state board of pharmacy, of any political subdivision, or of any office of a prosecutor or county sheriff that are unrelated to law enforcement.

(d) Forfeited moneys that are paid into the state treasury to be deposited into the peace officer training commission fund shall be used by the

commission only to pay the costs of peace officer training.

(3) Any of the following offices or agencies that receive amounts under this section during any calendar year shall file a report with the specified entity, not later than the thirty-first day of January of the next calendar year, verifying that the moneys were expended only for the purposes authorized by this section or other relevant statute and specifying the amounts expended for each authorized purpose:

(a) Any sheriff or prosecutor shall file the report with the county auditor.

(b) Any municipal corporation police department shall file the report with the legislative authority of the municipal corporation.

(c) Any township police department, township police district police force, or office of the constable shall file the report with the board of township trustees of the township.

(d) Any park district police force or law enforcement department shall file the report with the board of park commissioners of the park district.

(e) The superintendent of the state highway patrol and the tax commissioner shall file the report with the attorney general.

(f) The executive director of the state board of pharmacy shall file the report with the attorney general, verifying that cash and forfeited proceeds paid into the board of pharmacy drug law enforcement fund were used only in accordance with section 4729.65 of the Revised Code.

(g) The peace officer training commission shall file a report with the attorney general, verifying that cash and forfeited proceeds paid into the peace officer training commission fund pursuant to this section during the prior calendar year were used by the commission during the prior calendar year only to pay the costs of peace officer training.

(D) The written internal control policy of a county sheriff, prosecutor, municipal corporation police department, township police department, township police district police force, office of the constable, or park district police force or law enforcement department shall provide that at least ten per cent of the first one hundred thousand dollars of amounts deposited during each calendar year in the agency's law enforcement trust fund under this section, and at least twenty per cent of the amounts exceeding one hundred thousand dollars that are so deposited, shall be used in connection with community preventive education programs. The manner of use shall be determined by the sheriff, prosecutor, department, police force, or office of the constable after receiving and considering advice on appropriate community preventive education programs from the county's board of alcohol, drug addiction, and mental health services, from the county's

alcohol and drug addiction services board, or through appropriate community dialogue.

The financial records kept under the internal control policy shall specify the amount deposited during each calendar year in the portion of that amount that was used pursuant to this division, and the programs in connection with which the portion of that amount was so used.

As used in this division, "community preventive education programs" include, but are not limited to, DARE programs and other programs designed to educate adults or children with respect to the dangers associated with using drugs of abuse.

(E) Upon the sale, under this section or section 2981.12 of the Revised Code, of any property that is required by law to be titled or registered, the state shall issue an appropriate certificate of title or registration to the purchaser. If the state is vested with title and elects to retain property that is required to be titled or registered under law, the state shall issue an appropriate certificate of title or registration.

(F) Any failure of a law enforcement officer or agency, prosecutor, court, or the attorney general to comply with this section in relation to any property seized does not affect the validity of the seizure and shall not be considered to be the basis for suppressing any evidence resulting from the seizure, provided the seizure itself was lawful.

Sec. 3105.87. The court may order a public retirement program or the Ohio public employees deferred compensation program to provide information from a participant's personal history record necessary to determine the amounts described in division (D) of section 3105.82 of the Revised Code.

Sec. 3111.04. (A) An action to determine the existence or nonexistence of the father and child relationship may be brought by the child or the child's personal representative, the child's mother or her personal representative, a man alleged or alleging himself to be the child's father, the child support enforcement agency of the county in which the child resides if the child's mother, father, or alleged father is a recipient of public assistance or of services under Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C.A. 651, as amended, or the alleged father's personal representative.

(B) An agreement does not bar an action under this section.

(C) If an action under this section is brought before the birth of the child and if the action is contested, all proceedings, except service of process and the taking of depositions to perpetuate testimony, may be stayed until after the birth.

(D) A recipient of public assistance or of services under Title IV-D of

the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C.A. 651, as amended, shall cooperate with the child support enforcement agency of the county in which a child resides to obtain an administrative determination pursuant to sections 3111.38 to 3111.54 of the Revised Code, or, if necessary, a court determination pursuant to sections 3111.01 to 3111.18 of the Revised Code, of the existence or nonexistence of a parent and child relationship between the father and the child. If the recipient fails to cooperate, the agency may commence an action to determine the existence or nonexistence of a parent and child relationship between the father and the child pursuant to sections 3111.01 to 3111.18 of the Revised Code.

(E) As used in this section, "public assistance" means all of the following:

- (1) Medicaid under Chapter 5111. of the Revised Code;
- (2) Ohio works first under Chapter 5107. of the Revised Code;
- (3) Disability financial assistance under Chapter 5115. of the Revised Code;
- (4) ~~Disability medical assistance under Chapter 5115. of the Revised Code;~~
- (5) Children's buy-in program under sections 5101.5211 to 5101.5216 of the Revised Code.

Sec. 3119.01. (A) As used in the Revised Code, "child support enforcement agency" means a child support enforcement agency designated under former section 2301.35 of the Revised Code prior to October 1, 1997, or a private or government entity designated as a child support enforcement agency under section 307.981 of the Revised Code.

(B) As used in this chapter and Chapters 3121., 3123., and 3125. of the Revised Code:

(1) "Administrative child support order" means any order issued by a child support enforcement agency for the support of a child pursuant to section 3109.19 or 3111.81 of the Revised Code or former section 3111.211 of the Revised Code, section 3111.21 of the Revised Code as that section existed prior to January 1, 1998, or section 3111.20 or 3111.22 of the Revised Code as those sections existed prior to March 22, 2001.

(2) "Child support order" means either a court child support order or an administrative child support order.

(3) "Obligee" means the person who is entitled to receive the support payments under a support order.

(4) "Obligor" means the person who is required to pay support under a support order.

(5) "Support order" means either an administrative child support order

or a court support order.

(C) As used in this chapter:

(1) "Combined gross income" means the combined gross income of both parents.

(2) "Court child support order" means any order issued by a court for the support of a child pursuant to Chapter 3115. of the Revised Code, section 2151.23, 2151.231, 2151.232, 2151.33, 2151.36, 2151.361, 2151.49, 3105.21, 3109.05, 3109.19, 3111.13, 3113.04, 3113.07, 3113.31, 3119.65, or 3119.70 of the Revised Code, or division (B) of former section 3113.21 of the Revised Code.

(3) "Court support order" means either a court child support order or an order for the support of a spouse or former spouse issued pursuant to Chapter 3115. of the Revised Code, section 3105.18, 3105.65, or 3113.31 of the Revised Code, or division (B) of former section 3113.21 of the Revised Code.

(4) "Extraordinary medical expenses" means any uninsured medical expenses incurred for a child during a calendar year that exceed one hundred dollars.

(5) "Income" means either of the following:

(a) For a parent who is employed to full capacity, the gross income of the parent;

(b) For a parent who is unemployed or underemployed, the sum of the gross income of the parent and any potential income of the parent.

(6) "Insurer" means any person authorized under Title XXXIX of the Revised Code to engage in the business of insurance in this state, any health insuring corporation, and any legal entity that is self-insured and provides benefits to its employees or members.

(7) "Gross income" means, except as excluded in division (C)(7) of this section, the total of all earned and unearned income from all sources during a calendar year, whether or not the income is taxable, and includes income from salaries, wages, overtime pay, and bonuses to the extent described in division (D) of section 3119.05 of the Revised Code; commissions; royalties; tips; rents; dividends; severance pay; pensions; interest; trust income; annuities; social security benefits, including retirement, disability, and survivor benefits that are not means-tested; workers' compensation benefits; unemployment insurance benefits; disability insurance benefits; benefits that are not means-tested and that are received by and in the possession of the veteran who is the beneficiary for any service-connected disability under a program or law administered by the United States department of veterans' affairs or veterans' administration; spousal support

actually received; and all other sources of income. "Gross income" includes income of members of any branch of the United States armed services or national guard, including, amounts representing base pay, basic allowance for quarters, basic allowance for subsistence, supplemental subsistence allowance, cost of living adjustment, specialty pay, variable housing allowance, and pay for training or other types of required drills; self-generated income; and potential cash flow from any source.

"Gross income" does not include any of the following:

(a) Benefits received from means-tested government administered programs, including Ohio works first; prevention, retention, and contingency; means-tested veterans' benefits; supplemental security income; ~~food stamps~~ supplemental nutrition assistance program; disability financial assistance; or other assistance for which eligibility is determined on the basis of income or assets;

(b) Benefits for any service-connected disability under a program or law administered by the United States department of veterans' affairs or veterans' administration that are not means-tested, that have not been distributed to the veteran who is the beneficiary of the benefits, and that are in the possession of the United States department of veterans' affairs or veterans' administration;

(c) Child support received for children who were not born or adopted during the marriage at issue;

(d) Amounts paid for mandatory deductions from wages such as union dues but not taxes, social security, or retirement in lieu of social security;

(e) Nonrecurring or unsustainable income or cash flow items;

(f) Adoption assistance and foster care maintenance payments made pursuant to Title IV-E of the "Social Security Act," 94 Stat. 501, 42 U.S.C.A. 670 (1980), as amended.

(8) "Nonrecurring or unsustainable income or cash flow item" means an income or cash flow item the parent receives in any year or for any number of years not to exceed three years that the parent does not expect to continue to receive on a regular basis. "Nonrecurring or unsustainable income or cash flow item" does not include a lottery prize award that is not paid in a lump sum or any other item of income or cash flow that the parent receives or expects to receive for each year for a period of more than three years or that the parent receives and invests or otherwise uses to produce income or cash flow for a period of more than three years.

(9)(a) "Ordinary and necessary expenses incurred in generating gross receipts" means actual cash items expended by the parent or the parent's business and includes depreciation expenses of business equipment as

shown on the books of a business entity.

(b) Except as specifically included in "ordinary and necessary expenses incurred in generating gross receipts" by division (C)(9)(a) of this section, "ordinary and necessary expenses incurred in generating gross receipts" does not include depreciation expenses and other noncash items that are allowed as deductions on any federal tax return of the parent or the parent's business.

(10) "Personal earnings" means compensation paid or payable for personal services, however denominated, and includes wages, salary, commissions, bonuses, draws against commissions, profit sharing, vacation pay, or any other compensation.

(11) "Potential income" means both of the following for a parent who the court pursuant to a court support order, or a child support enforcement agency pursuant to an administrative child support order, determines is voluntarily unemployed or voluntarily underemployed:

(a) Imputed income that the court or agency determines the parent would have earned if fully employed as determined from the following criteria:

- (i) The parent's prior employment experience;
- (ii) The parent's education;
- (iii) The parent's physical and mental disabilities, if any;
- (iv) The availability of employment in the geographic area in which the parent resides;
- (v) The prevailing wage and salary levels in the geographic area in which the parent resides;
- (vi) The parent's special skills and training;
- (vii) Whether there is evidence that the parent has the ability to earn the imputed income;
- (viii) The age and special needs of the child for whom child support is being calculated under this section;
- (ix) The parent's increased earning capacity because of experience;
- (x) Any other relevant factor.

(b) Imputed income from any nonincome-producing assets of a parent, as determined from the local passbook savings rate or another appropriate rate as determined by the court or agency, not to exceed the rate of interest specified in division (A) of section 1343.03 of the Revised Code, if the income is significant.

(12) "Schedule" means the basic child support schedule set forth in section 3119.021 of the Revised Code.

(13) "Self-generated income" means gross receipts received by a parent

from self-employment, proprietorship of a business, joint ownership of a partnership or closely held corporation, and rents minus ordinary and necessary expenses incurred by the parent in generating the gross receipts. "Self-generated income" includes expense reimbursements or in-kind payments received by a parent from self-employment, the operation of a business, or rents, including company cars, free housing, reimbursed meals, and other benefits, if the reimbursements are significant and reduce personal living expenses.

(14) "Split parental rights and responsibilities" means a situation in which there is more than one child who is the subject of an allocation of parental rights and responsibilities and each parent is the residential parent and legal custodian of at least one of those children.

(15) "Worksheet" means the applicable worksheet that is used to calculate a parent's child support obligation as set forth in sections 3119.022 and 3119.023 of the Revised Code.

Sec. 3119.371. (A) As used in this section:

(1) "Health insurance provider" means:

(a) A person authorized to engage in the business of sickness and accident insurance under Title XXXIX of the Revised Code;

(b) A person or government entity providing coverage for medical services or items to individuals on a self-insurance basis;

(c) A health insuring corporation as defined in section 1751.01 of the Revised Code;

(d) A group health plan as defined in 29 U.S.C. 1167;

(e) Any organization, business, or association described in 42 U.S.C. 1396a(a)(25); or

(f) A managed care organization.

(2) "Information" means all of the following:

(a) An individual's name, address, date of birth, and social security number;

(b) The group or plan number or other identifier assigned by a health insurance provider to a policy held by an individual or a plan in which the individual participates and the nature of the coverage; and

(c) Any other data specified by the director of job and family services in rules adopted under section 3119.51 of the Revised Code.

(B) Upon request of the office of child support in the department of job and family services and for the purpose of establishing and enforcing orders to provide health insurance coverage, a health insurance provider shall provide the information described in division (A)(2) of this section to the office of child support.

Sec. 3119.54. A party to a child support order issued in accordance with section 3119.30 of the Revised Code shall notify any physician, hospital, or other provider of medical services that provides medical services to the child who is the subject of the child support order of the number of any health insurance or health care policy, contract, or plan that covers the child if the child is eligible for medical assistance under sections 5101.5211 to 5101.5216 or Chapter 5111. ~~or 5115.~~ of the Revised Code. The party shall include in the notice the name and address of the insurer. Any physician, hospital, or other provider of medical services for which medical assistance is available under sections 5101.5211 to 5101.5216 or Chapter 5111. ~~or 5115.~~ of the Revised Code who is notified under this section of the existence of a health insurance or health care policy, contract, or plan with coverage for children who are eligible for medical assistance shall first bill the insurer for any services provided for those children. If the insurer fails to pay all or any part of a claim filed under this section and the services for which the claim is filed are covered by sections 5101.5211 to 5101.5216 or Chapter 5111. ~~or 5115.~~ of the Revised Code, the physician, hospital, or other medical services provider shall bill the remaining unpaid costs of the services in accordance with sections 5101.5211 to 5101.5216 or Chapter 5111. ~~or 5115.~~ of the Revised Code.

Sec. 3121.03. If a court or child support enforcement agency that issued or modified a support order, or the agency administering the support order, is required by the Revised Code to issue one or more withholding or deduction notices described in this section or other orders described in this section, the court or agency shall issue one or more of the following types of notices or orders, as appropriate, for payment of the support and also, if required by the Revised Code or the court, to pay any arrearages:

(A)(1) If the court or the child support enforcement agency determines that the obligor is receiving income from a payor, the court or agency shall require the payor to do all of the following:

(a) Withhold from the obligor's income a specified amount for support in satisfaction of the support order and begin the withholding no later than fourteen business days following the date the notice is mailed or transmitted to the payor under section 3121.035, 3123.021, or 3123.06 of the Revised Code and division (A)(2) of this section or, if the payor is an employer, no later than the first pay period that occurs after fourteen business days following the date the notice is mailed or transmitted;

(b) Send the amount withheld to the office of child support in the department of job and family services pursuant to section 3121.43 of the Revised Code immediately but not later than seven business days after the

date the obligor is paid;

(c) Continue the withholding at intervals specified in the notice until further notice from the court or child support enforcement agency.

To the extent possible, the amount specified to be withheld shall satisfy the amount ordered for support in the support order plus any arrearages owed by the obligor under any prior support order that pertained to the same child or spouse, notwithstanding any applicable limitations of sections 2329.66, 2329.70, 2716.02, 2716.041, and 2716.05 of the Revised Code. However, in no case shall the sum of the amount to be withheld and any fee withheld by the payor as a charge for its services exceed the maximum amount permitted under section 303(b) of the "Consumer Credit Protection Act," 15 U.S.C. 1673(b).

(2) A court or agency that imposes an income withholding requirement shall, within the applicable time specified in section 3119.80, 3119.81, 3121.035, 3123.021, or 3123.06 of the Revised Code, send to the obligor's payor by regular mail or via secure federally managed data transmission interface a notice that contains all of the information applicable to withholding notices set forth in section 3121.037 of the Revised Code. The notice is final and is enforceable by the court.

(B)(1) If the court or child support enforcement agency determines that the obligor has funds that are not exempt under the laws of this state or the United States from execution, attachment, or other legal process and are on deposit in an account in a financial institution under the jurisdiction of the court that issued the court support order, or in the case of an administrative child support order, under the jurisdiction of the common pleas court of the county in which the agency that issued or is administering the order is located, the court or agency may require any financial institution in which the obligor's funds are on deposit to do all of the following:

(a) Deduct from the obligor's account a specified amount for support in satisfaction of the support order and begin the deduction no later than fourteen business days following the date the notice was mailed or transmitted to the financial institution under section 3121.035 or 3123.06 of the Revised Code and division (B)(2) of this section;

(b) Send the amount deducted to the office of child support in the department of job and family services pursuant to section 3121.43 of the Revised Code immediately but not later than seven business days after the date the latest deduction was made;

(c) Provide the date on which the amount was deducted;

(d) Continue the deduction at intervals specified in the notice until further notice from the court or child support enforcement agency.

To the extent possible, the amount to be deducted shall satisfy the amount ordered for support in the support order plus any arrearages that may be owed by the obligor under any prior support order that pertained to the same child or spouse, notwithstanding the limitations of sections 2329.66, 2329.70, and 2716.13 of the Revised Code.

(2) A court or agency that imposes a deduction requirement shall, within the applicable period of time specified in section 3119.80, 3119.81, 3121.035, or 3123.06 of the Revised Code, send to the financial institution by regular mail or via secure federally managed data transmission interface a notice that contains all of the information applicable to deduction notices set forth in section 3121.037 of the Revised Code. The notice is final and is enforceable by the court.

(C) With respect to any court support order it issues, a court may issue an order requiring the obligor to enter into a cash bond with the court. The court shall issue the order as part of the court support order or, if the court support order has previously been issued, as a separate order. The cash bond shall be in a sum fixed by the court at not less than five hundred nor more than ten thousand dollars, conditioned that the obligor will make payment as previously ordered and will pay any arrearages under any prior court support order that pertained to the same child or spouse.

The order, along with an additional order requiring the obligor to immediately notify the child support enforcement agency, in writing, if the obligor begins to receive income from a payor, shall be attached to and served on the obligor at the same time as service of the court support order or, if the court support order has previously been issued, as soon as possible after the issuance of the order under this section. The additional order requiring notice by the obligor shall state all of the following:

(1) That when the obligor begins to receive income from a payor the obligor may request that the court cancel its bond order and instead issue a notice requiring the withholding of an amount from income for support in accordance with this section;

(2) That when the obligor begins to receive income from a payor the court will proceed to collect on the bond if the court determines that payments due under the court support order have not been made and that the amount that has not been paid is at least equal to the support owed for one month under the court support order and will issue a notice requiring the withholding of an amount from income for support in accordance with this section. The notice required of the obligor shall include a description of the nature of any new employment, the name and business address of any new employer, and any other information reasonably required by the court.

The court shall not order an obligor to post a cash bond under this section unless the court determines that the obligor has the ability to do so.

A child support enforcement agency may not issue a cash bond order. If a child support enforcement agency is required to issue a withholding or deduction notice under this section with respect to a court support order but the agency determines that no withholding or deduction notice would be appropriate, the agency may request that the court issue a cash bond order under this section, and upon the request, the court may issue the order.

(D)(1) If the obligor under a court support order is unemployed, has no income, and does not have an account at any financial institution, or on request of a child support enforcement agency under division (D)(1) or (2) of this section, the court shall issue an order requiring the obligor, if able to engage in employment, to seek employment or participate in a work activity to which a recipient of assistance under Title IV-A of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, may be assigned as specified in section 407(d) of the "Social Security Act," 42 U.S.C.A. 607(d), as amended. The court shall include in the order a requirement that the obligor notify the child support enforcement agency on obtaining employment, obtaining any income, or obtaining ownership of any asset with a value of five hundred dollars or more. The court may issue the order regardless of whether the obligee to whom the obligor owes support is a recipient of assistance under Title IV-A of the "Social Security Act." The court shall issue the order as part of a court support order or, if a court support order has previously been issued, as a separate order. If a child support enforcement agency is required to issue a withholding or deduction notice under this section with respect to a court support order but determines that no withholding or deduction notice would be appropriate, the agency may request that the court issue a court order under division (D)(1) of this section, and, on the request, the court may issue the order.

(2) If the obligor under an administrative child support order is unemployed, has no income, and does not have an account at any financial institution, the agency shall issue an administrative order requiring the obligor, if able to engage in employment, to seek employment or participate in a work activity to which a recipient of assistance under Title IV-A of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, may be assigned as specified in section 407(d) of the "Social Security Act," 42 U.S.C.A. 607(d), as amended. The agency shall include in the order a requirement that the obligor notify the agency on obtaining employment or income, or ownership of any asset with a value of five hundred dollars or more. The agency may issue the order regardless of whether the obligee to

whom the obligor owes support is a recipient of assistance under Title IV-A of the "Social Security Act." If an obligor fails to comply with an administrative order issued pursuant to division (D)(2) of this section, the agency shall submit a request to a court for the court to issue an order under division (D)(1) of this section.

Sec. 3121.035. Within fifteen days after an obligor under a support order is located following issuance or modification of the support order, the court or child support enforcement agency that issued or modified the support order, or the agency, pursuant to an agreement with the court with respect to a court support order, shall do either of the following:

(A) If a withholding or deduction notice described in section 3121.03 of the Revised Code is appropriate, send the notice by regular mail or via secure federally managed data transmission interface to each person required to comply with it;

(B) If an order described in section 3121.03, 3121.04 to 3121.08, or 3121.12 of the Revised Code is appropriate, issue and send the appropriate order.

Sec. 3121.037. (A) A withholding notice sent under section 3121.03 of the Revised Code shall contain all of the following:

(1) Notice of the amount to be withheld from the obligor's income and a statement that, notwithstanding that amount, the payor may not withhold an amount for support and other purposes, including the fee described in division (A)~~(4)~~(12) of this section, that exceeds the maximum amounts permitted under section 303(b) of the "Consumer Credit Protection Act," 15 U.S.C. 1673(b);

(2) A statement that the payor is required to send the amount withheld to the office of child support immediately, but not later than seven business days, after the obligor is paid and is required to report to the agency the date the amount was withheld;

(3) A statement that the withholding shall be submitted to the state via electronic means if the employer employs more than fifty employees;

(4) A statement that the withholding is binding on the payor until further notice from the court or agency;

~~(4)~~(5) A statement that if the payor is an employer, the payor is subject to a fine to be determined under the law of this state for discharging the obligor from employment, refusing to employ the obligor, or taking any disciplinary action against the obligor because of the withholding requirement;

~~(5)~~(6) A statement that, if the payor fails to withhold in accordance with the notice, the payor is liable for the accumulated amount the payor should

have withheld from the obligor's income;

~~(6)~~(7) A statement that, except for deductions from lump sum payments made in accordance with section 3121.0311 of the Revised Code, the withholding in accordance with the notice has priority over any other legal process under the law of this state against the same income;

~~(7)~~(8) The date on which the notice was mailed and a statement that the payor is required to implement the withholding no later than fourteen business days following the date the notice was mailed or, if the payor is an employer, no later than the first pay period that occurs after fourteen business days following the date the notice was mailed, and is required to continue the withholding at the intervals specified in the notice.

~~(8)~~(9) A requirement that the payor do the following:

(a) Promptly notify the child support enforcement agency administering the support order, in writing, within ten business days after the date of any situation that occurs in which the payor ceases to pay income to the obligor in an amount sufficient to comply with the order, including termination of employment, layoff of the obligor from employment, any leave of absence of the obligor from employment without pay, termination of workers' compensation benefits, or termination of any pension, annuity, allowance, or retirement benefit;

(b) Provide the agency with the obligor's last known address and, with respect to a court support order and if known, notify the agency of any new employer or income source and the name, address, and telephone number of the new employer or income source.

~~(9)~~(10) A requirement that, if the payor is an employer, the payor do both of the following:

(a) Identify in the notice given under division (A)~~(8)~~(9) of this section any types of benefits other than personal earnings the obligor is receiving or is eligible to receive as a benefit of employment or as a result of the obligor's termination of employment, including, but not limited to, unemployment compensation, workers' compensation benefits, severance pay, sick leave, lump sum payments of retirement benefits or contributions, and bonuses or profit-sharing payments or distributions, and the amount of the benefits;

(b) Include in the notice the obligor's last known address and telephone number, date of birth, social security number, and case number and, if known, the name and business address of any new employer of the obligor.

~~(10)~~(11) Subject to section 3121.0311 of the Revised Code, a requirement that, no later than the earlier of forty-five days before a lump sum payment is to be made or, if the obligor's right to the lump sum

payment is determined less than forty-five days before it is to be made, the date on which that determination is made, the payor notify the child support enforcement agency administering the support order of any lump sum payment of any kind of one hundred fifty dollars or more that is to be paid to the obligor, hold each lump sum payment of one hundred fifty dollars or more for thirty days after the date on which it would otherwise be paid to the obligor and, on order of the court or agency that issued the support order, pay all or a specified amount of the lump sum payment to the office of child support;

~~(H)~~(12) A statement that, in addition to the amount withheld for support, the payor may withhold a fee from the obligor's income as a charge for its services in complying with the notice and a specification of the amount that may be withheld.

(B) A deduction notice sent under section 3121.03 of the Revised Code shall contain all of the following:

(1) Notice of the amount to be deducted from the obligor's account;

(2) A statement that the financial institution is required to send the amount deducted to the office of child support immediately, but not later than seven business days, after the date the last deduction was made and to report to the child support enforcement agency the date on which the amount was deducted;

(3) A statement that the deduction is binding on the financial institution until further notice from the court or agency;

(4) A statement that the deduction in accordance with the notice has priority over any other legal process under the law of this state against the same account;

(5) The date on which the notice was mailed and a statement that the financial institution is required to implement the deduction no later than fourteen business days following that date and to continue the deduction at the intervals specified in the notice;

(6) A requirement that the financial institution promptly notify the child support enforcement agency administering the support order, in writing, within ten days after the date of any termination of the account from which the deduction is being made and notify the agency, in writing, of the opening of a new account at that financial institution, the account number of the new account, the name of any other known financial institutions in which the obligor has any accounts, and the numbers of those accounts;

(7) A requirement that the financial institution include in all notices the obligor's last known mailing address, last known residence address, and social security number;

(8) A statement that, in addition to the amount deducted for support, the financial institution may deduct a fee from the obligor's account as a charge for its services in complying with the notice and a specification of the amount that may be deducted.

Sec. 3121.0311. (A) If a lump sum payment referred to in division (A)~~(10)~~(11) of section 3121.037 of the Revised Code consists of workers' compensation benefits and the obligor is represented by an attorney with respect to the obligor's workers' compensation claim, prior to issuing the notice to the child support enforcement agency required by that division, the administrator of workers' compensation, for claims involving state fund employers, or a self-insuring employer, for that employer's claims, shall notify the obligor and the obligor's attorney in writing that the obligor is subject to a support order and that the administrator or self-insuring employer, as appropriate, shall hold the lump sum payment for a period of thirty days after the administrator or self-insuring employer sends this written notice, pending receipt of the information referred to in division (B) of this section.

(B) The administrator or self-insuring employer, as appropriate, shall instruct the obligor's attorney in writing to file a copy of the fee agreement signed by the obligor, along with an affidavit signed by the attorney setting forth the amount of the attorney's fee with respect to the lump sum payment award to the obligor and the amount of all necessary expenses, along with documentation of those expenses, incurred by the attorney with respect to obtaining the lump sum award. The obligor's attorney shall file the fee agreement and attorney affidavit with the administrator or self-insuring employer, as appropriate, within thirty days after the date the administrator or self-insuring employer sends the notice required by division (A) of this section.

(C) Upon receipt of the fee agreement and attorney affidavit, the administrator or self-insuring employer, as appropriate, shall deduct from the lump sum payment the amount of the attorney's fee and necessary expenses and pay that amount directly to and solely in the name of the attorney within fourteen days after the fee agreement and attorney affidavit have been filed with the administrator or self-insuring employer.

(D) After deducting any attorney's fee and necessary expenses, if the lump sum payment is one hundred fifty dollars or more, the administrator or self-insuring employer, as appropriate, shall hold the balance of the lump sum award in accordance with division (A)~~(10)~~(11) of section 3121.037 of the Revised Code.

Sec. 3121.19. (A) The entire amount withheld or deducted pursuant to a

withholding or deduction notice described in section 3121.03 of the Revised Code shall be forwarded to the office of child support in the department of job and family services immediately, but not later than seven business days, after the withholding or deduction, as directed in the withholding or deduction notice.

(B) An employer who employs more than fifty employees shall submit the entire amount withheld pursuant to a withholding notice described in section 3121.03 of the Revised Code by electronic transfer to the office of child support in the department of job and family services immediately, but not later than seven business days, after the withholding, as directed in the withholding notice.

Sec. 3121.20. (A) A payor or financial institution required to withhold or deduct a specified amount from the income or savings of more than one obligor under a withholding or deduction notice described in section 3121.03 of the Revised Code and to forward the amounts withheld or deducted to the office of child support may combine all of the amounts to be forwarded in one payment if the payment is accompanied by a list that clearly identifies each all of the following:

(1) Each obligor covered by the payment and the;

(2) Each child support case, numbered as provided on the withholding or deduction notice, that is covered by the payment;

(3) The portion of the payment attributable to each obligor and each case number.

(B) A payor who employs more than fifty employees and who is required to submit the withholding by electronic transfer pursuant to sections 3121.037 and 3121.19 of the Revised Code shall combine all of the amounts to be forwarded in one payment. The payment shall be accompanied by information that clearly identifies all of the following:

(1) Each obligor that is covered by the payment;

(2) Each child support case, numbered as provided on the withholding notice issued pursuant to section 3121.03 of the Revised Code, that is covered by the payment;

(3) The portion of the payment attributable to each obligor and each case number.

Sec. 3121.898. The department of job and family services shall use the new hire reports it receives for any of the following purposes set forth in 42 U.S.C. 653a, as amended, including:

(A) To locate individuals for the purposes of establishing paternity and for establishing, modifying, and enforcing child support orders.

(B) As used in this division, "state agency" means every department,

bureau, board, commission, office, or other organized body established by the constitution or laws of this state for the exercise of state government; every entity of county government that is subject to the rules of a state agency; and every contractual agent of a state agency.

To make available to any state agency responsible for administering any of the following programs for purposes of verifying program eligibility:

(1) Any Title IV-A program as defined in section 5101.80 of the Revised Code;

(2) The medicaid program authorized by Chapter 5111. of the Revised Code;

(3) The unemployment compensation program authorized by Chapter 4141. of the Revised Code;

(4) The ~~food-stamp~~ supplemental nutrition assistance program authorized by section 5101.54 of the Revised Code;

(5) Any other program authorized in 42 U.S.C. 1320b-7(b), as amended.

(C) The administration of the employment security program under the director of job and family services.

Sec. 3123.952. A child support enforcement agency may submit the name of a delinquent obligor to the office of child support for inclusion on a poster only if all of the following apply:

(A) The obligor is subject to a support order and there has been an attempt to enforce the order through a public notice, a wage withholding order, a lien on property, a financial institution deduction order, or other court-ordered procedures.

(B) The department of job and family services reviewed the obligor's records and confirms the child support enforcement agency's finding that the obligor's name and photograph may be submitted to be displayed on a poster.

(C) The agency does not know or is unable to verify the obligor's whereabouts.

(D) The obligor is not a participant in Ohio works first or the prevention, retention, and contingency program or a recipient of disability financial assistance, supplemental security income, or ~~food-stamps~~ supplemental nutrition assistance program benefits.

(E) The child support enforcement agency does not have evidence that the obligor has filed for protection under the federal Bankruptcy Code, 11 U.S.C.A. 101, as amended.

(F) The obligee gave written authorization to the agency to display the obligor on a poster.

(G) A legal representative of the agency and a child support

enforcement administrator reviewed the case.

(H) The agency is able to submit to the department a description and photograph of the obligor, a statement of the possible locations of the obligor, and any other information required by the department.

Sec. 3125.25. The director of job and family services shall adopt rules under Chapter 119. of the Revised Code governing the operation of support enforcement by child support enforcement agencies. The rules shall include, but shall not be limited to, provisions the following:

(A) Provisions relating to plans of cooperation between the agencies and boards of county commissioners entered into under section 3125.12 of the Revised Code, requirements;

(B) Provisions for the compromise and waiver of child support arrearages owed to the state and federal government, consistent with Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C. 651 et seq., as amended;

(C) Requirements for public hearings by the agencies, and provisions;

(D) Provisions for appeals of agency decisions under procedures established by the director.

Sec. 3301.041. The state board of education shall make available via the internet an audio recording of each regular and special business meeting of the state board conducted on or after the effective date of this section. The state board shall make the audio recording available not later than five business days after the conclusion of each such meeting. The state board shall not make available audio recordings of executive sessions conducted in accordance with division (G) of section 121.22 of the Revised Code.

The state board may contract or consult with the Ohio government telecommunications service, and the Ohio government telecommunications service may provide technical assistance, in implementing and complying with this section.

Sec. 3301.07. The state board of education shall exercise under the acts of the general assembly general supervision of the system of public education in the state. In addition to the powers otherwise imposed on the state board under the provisions of law, the board shall have the ~~following~~ powers: described in this section.

(A) ~~Exercise~~ The state board shall exercise policy forming, planning, and evaluative functions for the public schools of the state, ~~and for adult education,~~ except as otherwise provided by law;.

(B) ~~Exercise~~ (1) The state board shall exercise leadership in the improvement of public education in this state, and administer the educational policies of this state relating to public schools, and relating to

instruction and instructional material, building and equipment, transportation of pupils, administrative responsibilities of school officials and personnel, and finance and organization of school districts, educational service centers, and territory. Consultative and advisory services in such matters shall be provided by the board to school districts and educational service centers of this state. ~~The~~

(2) The state board also shall develop a standard of financial reporting which shall be used by all each school districts district board of education and educational service centers center governing board to make their its financial information and annual budgets for each school building under its control available to the public in a format understandable by the average citizen and provide year to year comparisons for at least five years. The format shall show, among other things, at the district and educational service center level or at the school building level, as determined appropriate by the department of education, revenue by source; expenditures for salaries, wages, and benefits of employees, showing such amounts separately for classroom teachers, other employees required to hold licenses issued pursuant to sections 3319.22 to 3319.31 of the Revised Code, and all other employees; expenditures other than for personnel, by category, including utilities, textbooks and other educational materials, equipment, permanent improvements, pupil transportation, extracurricular athletics, and other extracurricular activities; and per pupil expenditures.

~~(C) Administer~~ The state board shall administer and supervise the allocation and distribution of all state and federal funds for public school education under the provisions of law, and may prescribe such systems of accounting as are necessary and proper to this function. It may require county auditors and treasurers, boards of education, educational service center governing boards, treasurers of such boards, teachers, and other school officers and employees, or other public officers or employees, to file with it such reports as it may prescribe relating to such funds, or to the management and condition of such funds.

~~(D) Formulate~~ (1) Wherever in Titles IX, XXIII, XXIX, XXXIII, XXXVII, XLVII, and LI of the Revised Code a reference is made to standards prescribed under this section or division (D) of this section, that reference shall be construed to refer to the standards prescribed under division (D)(2) of this section, unless the context specifically indicates a different meaning or intent.

(2) The state board shall formulate and prescribe minimum standards to be applied to all elementary and secondary schools in this state for the purpose of requiring a general education of high quality. Such standards

shall provide adequately for: the licensing of teachers, administrators, and other professional personnel and their assignment according to training and qualifications; efficient and effective instructional materials and equipment, including library facilities; the proper organization, administration, and supervision of each school, including regulations for preparing all necessary records and reports and the preparation of a statement of policies and objectives for each school; buildings, grounds, health and sanitary facilities and services; admission of pupils, and such requirements for their promotion from grade to grade as will assure that they are capable and prepared for the level of study to which they are certified; requirements for graduation; and such other factors as the board finds necessary.

In the formulation and administration of such standards for nonpublic schools the board shall also consider the particular needs, methods and objectives of those schools, provided they do not conflict with the provision of a general education of a high quality and provided that regular procedures shall be followed for promotion from grade to grade of pupils who have met the educational requirements prescribed.

~~(E) May~~ In the formulation and administration of such standards as they relate to instructional materials and equipment in public schools, including library materials, the board shall require that the material and equipment be aligned with and promote skills expected under the statewide academic standards adopted under section 3301.079 of the Revised Code.

(3) In addition to the minimum standards required by division (D)(2) of this section, the state board shall formulate and prescribe the following additional minimum operating standards for school districts:

(a) Standards for the effective and efficient organization, administration, and supervision of each school district so that it becomes a thinking and learning organization according to principles of systems design and collaborative professional learning communities research as defined by the superintendent of public instruction, including a focus on the personalized and individualized needs of each student; a shared responsibility among school boards, administrators, faculty, and staff to develop a common vision, mission, and set of guiding principles; a shared responsibility among school boards, administrators, faculty, and staff to engage in a process of collective inquiry, action orientation, and experimentation to ensure the academic success of all students; commitment to teaching and learning strategies that utilize technological tools and emphasize inter-disciplinary, real-world, project-based, and technology-oriented learning experiences to meet the individual needs of every student; commitment to high expectations for every student and commitment to closing the achievement

gap so that all students achieve core knowledge and skills in accordance with the statewide academic standards adopted under section 3301.079 of the Revised Code; commitment to the use of assessments to diagnose the needs of each student; effective connections and relationships with families and others that support student success; and commitment to the use of positive behavior intervention supports throughout a district to ensure a safe and secure learning environment for all students;

(b) Standards for the establishment of business advisory councils and family and civic engagement teams by school districts under sections 3313.82, 3313.821, and 3313.822 of the Revised Code;

(c) Standards incorporating the classifications for the components of the adequacy amount under Chapter 3306. of the Revised Code into core academic strategy components and academic improvement components, as specified in rules adopted under section 3306.25 of the Revised Code;

(d) Standards for school district organizational units, as defined in sections 3306.02 and 3306.04 of the Revised Code, that require:

(i) The effective and efficient organization, administration, and supervision of each school district organizational unit so that it becomes a thinking and learning organization according to principles of systems design and collaborative professional learning communities research as defined by the state superintendent, including a focus on the personalized and individualized needs of each student; a shared responsibility among organizational unit administrators, faculty, and staff to develop a common vision, mission, and set of guiding principles; a shared responsibility among organizational unit administrators, faculty, and staff to engage in a process of collective inquiry, action orientation, and experimentation to ensure the academic success of all students; commitment to job embedded professional development and professional mentoring and coaching; established periods of time for teachers to pursue planning time for the development of lesson plans, professional development, and shared learning; commitment to effective management strategies that allow administrators reasonable access to classrooms for observation and professional development experiences; commitment to teaching and learning strategies that utilize technological tools and emphasize inter-disciplinary, real-world, project-based, and technology-oriented learning experiences to meet the individual needs of every student; commitment to high expectations for every student and commitment to closing the achievement gap so that all students achieve core knowledge and skills in accordance with the statewide academic standards adopted under section 3301.079 of the Revised Code; commitment to the use of assessments to diagnose the needs of each student; effective

connections and relationships with families and others that support student success; commitment to the use of positive behavior intervention supports throughout the organizational unit to ensure a safe and secure learning environment for all students;

(ii) A school organizational unit leadership team to coordinate positive behavior intervention supports, family and civic engagement services, learning environments, thinking and learning systems, collaborative planning, planning time, student academic interventions, student extended learning opportunities, and other activities identified by the team and approved by the district board of education. The team shall include the building principal, representatives from each collective bargaining unit, the building lead teacher, parents, business representatives, and others that support student success.

(E) The state board may require as part of the health curriculum information developed under section 2108.34 of the Revised Code promoting the donation of anatomical gifts pursuant to Chapter 2108. of the Revised Code and may provide the information to high schools, educational service centers, and joint vocational school district boards of education;

(F) Prepare The state board shall prepare and submit annually to the governor and the general assembly a report on the status, needs, and major problems of the public schools of the state, with recommendations for necessary legislative action and a ten-year projection of the state's public and nonpublic school enrollment, by year and by grade level;

(G) Prepare The state board shall prepare and submit to the director of budget and management the biennial budgetary requests of the state board of education, for its agencies and for the public schools of the state;

(H) Cooperate The state board shall cooperate with federal, state, and local agencies concerned with the health and welfare of children and youth of the state;

(I) Require The state board shall require such reports from school districts and educational service centers, school officers, and employees as are necessary and desirable. The superintendents and treasurers of school districts and educational service centers shall certify as to the accuracy of all reports required by law or state board or state department of education rules to be submitted by the district or educational service center and which contain information necessary for calculation of state funding. Any superintendent who knowingly falsifies such report shall be subject to license revocation pursuant to section 3319.31 of the Revised Code.

(J) In accordance with Chapter 119. of the Revised Code, the state board shall adopt procedures, standards, and guidelines for the education of

children with disabilities pursuant to Chapter 3323. of the Revised Code, including procedures, standards, and guidelines governing programs and services operated by county boards of mental retardation and developmental disabilities pursuant to section 3323.09 of the Revised Code;.

(K) For the purpose of encouraging the development of special programs of education for academically gifted children, the state board shall employ competent persons to analyze and publish data, promote research, advise and counsel with boards of education, and encourage the training of teachers in the special instruction of gifted children. The board may provide financial assistance out of any funds appropriated for this purpose to boards of education and educational service center governing boards for developing and conducting programs of education for academically gifted children.

(L) ~~Require~~ The state board shall require that all public schools emphasize and encourage, within existing units of study, the teaching of energy and resource conservation as recommended to each district board of education by leading business persons involved in energy production and conservation, beginning in the primary grades;.

(M) ~~Formulate~~ The state board shall formulate and prescribe minimum standards requiring the use of phonics as a technique in the teaching of reading in grades kindergarten through three. In addition, the state board shall provide in-service training programs for teachers on the use of phonics as a technique in the teaching of reading in grades kindergarten through three.

~~(N) Develop and modify as necessary a state plan for technology to encourage and promote the use of technological advancements in educational settings.~~

The board may adopt rules necessary for carrying out any function imposed on it by law, and may provide rules as are necessary for its government and the government of its employees, and may delegate to the superintendent of public instruction the management and administration of any function imposed on it by law. It may provide for the appointment of board members to serve on temporary committees established by the board for such purposes as are necessary. Permanent or standing committees shall not be created.

Compliance with the standards adopted under divisions (B)(2) and (D) of this section, as they relate to the operation of a school operated by a school district, may be waived by the state superintendent pursuant to section 3306.40 of the Revised Code.

Sec. 3301.075. The state board of education shall adopt rules governing the purchasing and leasing of data processing services and equipment for all

local, exempted village, city, and joint vocational school districts and all educational service centers. Such rules shall include provisions for the establishment of an Ohio education computer network under procedures, guidelines, and specifications of the department of education.

The department shall administer funds appropriated for the Ohio education computer network to ensure its efficient and economical operation and shall approve no more than twenty-seven information technology centers to operate concurrently. Such centers shall be approved for funding in accordance with rules of the state board adopted under this section that shall provide for the superintendent of public instruction to require the membership of each information technology center to be composed of combinations of school districts and educational service centers having sufficient students to support an efficient, economical comprehensive program of computer services to member districts and educational service centers. However, no such rule shall prohibit a school district or educational service center from receiving computer services from any information technology center established under this section or from any other public or private vendor. Each information technology center shall be organized in accordance with section 3313.92 or Chapter 167. of the Revised Code.

~~The department of education may contract with an independent for profit or nonprofit entity to provide current and historical information on Ohio government through the Ohio education computer network to school district libraries operating in accordance with section 3375.14 of the Revised Code in order to assist school teachers in social studies course instruction and support student research projects. Any such contract shall be awarded in accordance with Chapter 125. of the Revised Code.~~

The department may approve and administer funding for programs to provide technical support, maintenance, consulting, and group purchasing services for information technology centers, school districts, educational service centers, and other client entities or governmental entities served in accordance with rules adopted by the department or as otherwise authorized by law, and to deliver to schools programs operated by the infOhio network and the technology solutions group of the management council of the Ohio education computer network.

Sec. 3301.076. No information technology center established under section 3301.075 of the Revised Code shall be required to maintain an operating reserve account or fund or minimum cash balance. This section does not affect any sinking fund or other capital improvement fund the center may be required to maintain as a condition by law or contract relative to the issuance of securities. Any rule of the state board of education or

other regulation or guideline of the department of education that conflicts with this section is void.

Sec. 3301.079. (A)(1) ~~Not later than December 31, 2001~~ June 30, 2010, and at least once every five years thereafter, the state board of education shall adopt statewide academic standards with emphasis on coherence, focus, and rigor for each of grades kindergarten through twelve in ~~reading, writing, and mathematics.~~ Not later than December 31, 2002, the state board shall adopt statewide academic standards for each of grades kindergarten through twelve in science and social studies. The English language arts, mathematics, science, and social studies.

The standards shall specify the following:

(a) The core academic content and skills that students are expected to know and be able to do at each grade level-

(2) that will allow each student to be prepared for postsecondary instruction and the workplace for success in the twenty-first century;

(b) The development of skill sets as they relate to creativity and innovation, critical thinking and problem solving, and communication and collaboration;

(c) The development of skill sets that promote information, media, and technological literacy;

(d) The development of skill sets that promote personal management, productivity and accountability, and leadership and responsibility;

(e) Interdisciplinary, project-based, real-world learning opportunities.

(2) After completing the standards required by division (A)(1) of this section, the state board shall adopt standards and model curricula for instruction in computer literacy, financial literacy and entrepreneurship, fine arts, and foreign language for grades kindergarten through twelve. The standards shall meet the same requirements prescribed in divisions (A)(1)(a) to (e) of this section.

(3) The state board shall adopt the most recent standards developed by the national association for sport and physical education for physical education in grades kindergarten through twelve or shall adopt its own standards for physical education in those grades and revise and update them periodically.

The department shall employ a full-time physical education coordinator to provide guidance and technical assistance to districts, community schools, and STEM schools in implementing the physical education standards adopted under this division. The superintendent of public instruction shall determine that the person employed as coordinator is qualified for the position, as demonstrated by possessing an adequate combination of

education, license, and experience.

(4) When academic standards have been completed for any subject area required by this ~~division~~ section, the state board shall inform all school districts, all community schools established under Chapter 3314. of the Revised Code, all STEM schools established under Chapter 3326. of the Revised Code, and all nonpublic schools required to administer the assessments prescribed by sections 3301.0710 and 3301.0712 of the Revised Code of the content of those standards.

(B) Not later than ~~eighteen months after the completion of academic standards for any subject area required by division (A) of this section~~ March 31, 2011, the state board shall adopt a model curriculum for instruction in ~~that each~~ subject area for which updated academic standards are required by division (A)(1) of this section and for each of grades kindergarten through twelve that is sufficient to meet the needs of students in every community. The model curriculum shall be aligned with the standards, to ensure that the academic content and skills specified for each grade level are taught to students, and shall demonstrate vertical articulation and emphasize coherence, focus, and rigor. When any model curriculum has been completed, the state board shall inform all school districts, community schools, and STEM schools of the content of that model curriculum.

All school districts, community schools, and STEM schools may utilize the state standards and the model curriculum established by the state board, together with other relevant resources, examples, or models to ensure that students have the opportunity to attain the academic standards. Upon request, the department of education shall provide technical assistance to any district, community school, or STEM school in implementing the model curriculum.

Nothing in this section requires any school district to utilize all or any part of a model curriculum developed under this division.

(C) The state board shall develop achievement ~~tests~~ assessments aligned with the academic standards and model curriculum for each of the subject areas and grade levels required by divisions (A)(1) and (B)(1) of section 3301.0710 of the Revised Code.

When any achievement ~~test~~ assessment has been completed, the state board shall inform all school districts, community schools, STEM schools, and nonpublic schools required to administer the assessment of its completion, and the department of education shall make the achievement test assessment available to the districts and schools. ~~School districts shall administer the achievement test beginning in the school year indicated in section 3301.0712 of the Revised Code.~~

(D)(1) The state board shall adopt a diagnostic assessment aligned with the academic standards and model curriculum for each of grades kindergarten through two in ~~reading, writing, English language arts~~ and mathematics and for grade three in ~~writing~~ English language arts. The diagnostic assessment shall be designed to measure student comprehension of academic content and mastery of related skills for the relevant subject area and grade level. Any diagnostic assessment shall not include components to identify gifted students. Blank copies of diagnostic ~~tests~~ assessments shall be public records.

(2) When each diagnostic assessment has been completed, the state board shall inform all school districts of its completion and the department of education shall make the diagnostic assessment available to the districts at no cost to the district. School districts shall administer the diagnostic assessment pursuant to section 3301.0715 of the Revised Code beginning the first school year following the development of the assessment.

(E) The state board shall not adopt a diagnostic or achievement assessment for any grade level or subject area other than those specified in this section.

(E) Whenever the state board or the department of education consults with persons for the purpose of drafting or reviewing any standards, diagnostic assessments, achievement ~~tests~~ assessments, or model curriculum required under this section, the state board or the department shall first consult with parents of students in kindergarten through twelfth grade and with active Ohio classroom teachers, other school personnel, and administrators with expertise in the appropriate subject area. Whenever practicable, the state board and department shall consult with teachers recognized as outstanding in their fields.

If the department contracts with more than one outside entity for the development of the achievement ~~tests~~ assessments required by this section, the department shall ensure the interchangeability of those ~~tests~~ assessments.

~~(F)~~(G) The fairness sensitivity review committee, established by rule of the state board of education, shall not allow any question on any achievement ~~test~~ or diagnostic assessment developed under this section or any proficiency test prescribed by former section 3301.0710 of the Revised Code, as it existed prior to September 11, 2001, to include, be written to promote, or inquire as to individual moral or social values or beliefs. The decision of the committee shall be final. This section does not create a private cause of action.

(H) Not later than forty-five days prior to the initial deadline established under division (A)(1) of this section and the deadline established under

division (B) of this section, the superintendent of public instruction shall present the academic standards or model curricula, as applicable, to the respective committees of the house of representatives and senate that consider education legislation.

(I) As used in this section:

(1) "Coherence" means a reflection of the structure of the discipline being taught.

(2) "Focus" means limiting the number of items included in a curriculum to allow for deeper exploration of the subject matter.

(3) "Rigor" means more challenging and demanding when compared to international standards.

(4) "Vertical articulation" means key academic concepts and skills associated with mastery in particular content areas should be articulated and reinforced in a developmentally appropriate manner at each grade level so that over time students acquire a depth of knowledge and understanding in the core academic disciplines.

Sec. 3301.0710. The state board of education shall adopt rules establishing a statewide program to ~~test~~ assess student achievement. The state board shall ensure that all ~~tests~~ assessments administered under the ~~testing~~ program are aligned with the academic standards and model curricula adopted by the state board and are created with input from Ohio parents, Ohio classroom teachers, Ohio school administrators, and other Ohio school personnel pursuant to section 3301.079 of the Revised Code.

The ~~testing~~ assessment program shall be designed to ensure that students who receive a high school diploma demonstrate at least high school levels of achievement in ~~reading, writing~~ English language arts, mathematics, science, and social studies, and other skills necessary in the twenty-first century.

(A)(1) The state board shall prescribe all of the following:

(a) Two statewide achievement ~~tests~~ assessments, one each designed to measure the level of ~~reading~~ English language arts and mathematics skill expected at the end of third grade;

(b) ~~Three~~ Two statewide achievement ~~tests~~ assessments, one each designed to measure the level of ~~reading, writing~~ English language arts and mathematics skill expected at the end of fourth grade;

(c) Four statewide achievement ~~tests~~ assessments, one each designed to measure the level of ~~reading~~ English language arts, mathematics, science, and social studies skill expected at the end of fifth grade;

(d) Two statewide achievement ~~tests~~ assessments, one each designed to measure the level of ~~reading~~ English language arts and mathematics skill

expected at the end of sixth grade;

(e) ~~Three~~ Two statewide achievement ~~tests~~ assessments, one each designed to measure the level of ~~reading, writing, English language arts~~ and mathematics skill expected at the end of seventh grade;

(f) Four statewide achievement ~~tests~~ assessments, one each designed to measure the level of ~~reading~~ English language arts, mathematics, science, and social studies skill expected at the end of eighth grade.

(2) The state board shall determine and designate at least ~~five~~ three ranges of scores on each of the achievement ~~tests~~ assessments described in divisions (A)(1) and (B)(~~1~~) of this section. Each range of scores shall be deemed to demonstrate a level of achievement so that any student attaining a score within such range has achieved one of the following:

- (a) An advanced level of skill;
- (b) ~~An accelerated level of skill;~~
- (~~e~~) A proficient level of skill;
- (~~d~~) ~~A basic level of skill;~~
- (~~e~~)(c) A limited level of skill.

(B)(~~1~~) The ~~tests~~ assessments prescribed under ~~this~~ division (B)(~~1~~) of this section shall collectively be known as the Ohio graduation tests. The state board shall prescribe five statewide high school achievement ~~tests~~ assessments, one each designed to measure the level of reading, writing, mathematics, science, and social studies skill expected at the end of tenth grade. The state board shall designate a score in at least the range designated under division (A)(2)(~~e~~)(b) of this section on each such ~~test~~ assessment that shall be deemed to be a passing score on the ~~test~~ assessment as a condition toward granting high school diplomas under sections 3313.61, 3313.611, 3313.612, and 3325.08 of the Revised Code until the assessment system prescribed by section 3301.0712 of the Revised Code is implemented in accordance with rules adopted by the state board under division (E) of that section.

(2) The state board shall prescribe an assessment system in accordance with section 3301.0712 of the Revised Code that shall replace the Ohio graduation tests in the manner prescribed by rules adopted by the state board under division (E) of that section.

(3) The state board may enter into a reciprocal agreement with the appropriate body or agency of any other state that has similar statewide achievement ~~testing~~ assessment requirements for receiving high school diplomas, under which any student who has met an achievement ~~testing~~ assessment requirement of one state is recognized as having met the similar ~~achievement testing~~ requirement of the other state for purposes of receiving

a high school diploma. For purposes of this section and sections 3301.0711 and 3313.61 of the Revised Code, any student enrolled in any public high school in this state who has met an achievement ~~testing~~ assessment requirement specified in a reciprocal agreement entered into under this division shall be deemed to have attained at least the applicable score designated under this division on each ~~test~~ assessment required by ~~this~~ division (B)(1) or (2) of this section that is specified in the agreement.

~~(C) Except as provided in division (H) of this section, the state board shall annually designate as follows the dates on which the tests prescribed under this section shall be administered:~~

~~(1) For the reading test prescribed under division (A)(1)(a) of this section, as follows:~~

~~(a) One date prior to the thirty first day of December each school year;~~

~~(b) At least one date of each school year that is not earlier than Monday of the week containing the twenty fourth day of April.~~

~~(2) For the mathematics test prescribed under division (A)(1)(a) of this section and the tests prescribed under divisions (A)(1)(b), (c), (d), (e), and (f) of this section, at least one date of each school year that is not earlier than Monday of the week containing the twenty fourth day of April;~~

~~(3) For the tests prescribed under division (B) of this section, at least one date in each school year that is not earlier than Monday of the week containing the fifteenth day of March for all tenth grade students and at least one date prior to the thirty first day of December and at least one date subsequent to that date but prior to the thirty first day of March of each school year for eleventh and twelfth grade students.~~

~~(D) In prescribing test dates pursuant to division (C)(3) of this section, the state board shall, to the greatest extent practicable, provide options to school districts in the case of tests administered under that division to eleventh and twelfth grade students and in the case of tests administered to students pursuant to division (C)(2) of section 3301.0711 of the Revised Code. Such options shall include at least an opportunity for school districts to give such tests outside of regular school hours.~~

~~(E) In~~ The superintendent of public instruction shall designate dates and times for the administration of the assessments prescribed by divisions (A) and (B) of this section.

In prescribing test administration dates pursuant to this section division, ~~the state board of education~~ superintendent shall designate the dates in such a way as to allow a reasonable length of time between the administration of tests assessments prescribed under this section and any administration of the ~~National Assessment~~ national assessment of ~~Education Progress Test~~

educational progress given to students in the same grade level pursuant to section 3301.27 of the Revised Code or federal law.

~~(F)~~(D) The state board shall prescribe a practice version of each Ohio graduation test described in division ~~(B)~~(1) of this section that is of comparable length to the actual test.

~~(G)~~(E) Any committee established by the department of education for the purpose of making recommendations to the state board regarding the state board's designation of scores on the ~~tests~~ assessments described by this section shall inform the state board of the probable percentage of students who would score in each of the ranges established under division (A)(2) of this section on the ~~tests~~ assessments if the committee's recommendations are adopted by the state board. To the extent possible, these percentages shall be disaggregated by gender, major racial and ethnic groups, limited English proficient students, economically disadvantaged students, students with disabilities, and migrant students.

If the state board intends to make any change to the committee's recommendations, the state board shall explain the intended change to the Ohio accountability task force established by section 3302.021 of the Revised Code. The task force shall recommend whether the state board should proceed to adopt the intended change. Nothing in this division shall require the state board to designate ~~test~~ assessment scores based upon the recommendations of the task force.

~~(H)(1) The state board shall require any alternate assessment administered to a student under division (C)(1) of section 3301.0711 of the Revised Code to be completed and submitted to the entity with which the department contracts for the scoring of the test not later than the first day of April of the school year in which the test is administered.~~

~~(2) For any test prescribed by this section, the state board may designate a date one week earlier than the applicable date designated under division (C) of this section for the administration of the test to limited English proficient students.~~

~~(3) In designating days for the administration of the tests prescribed by division (A) of this section, the state board shall require the tests for each grade level to be administered over a period of two weeks.~~

Sec. 3301.0711. (A) The department of education shall:

(1) Annually furnish to, grade, and score all ~~tests~~ assessments required by divisions (A)(1) and (B)(1) of section 3301.0710 of the Revised Code to be administered by city, local, exempted village, and joint vocational school districts, except that each district shall score any ~~test~~ assessment administered pursuant to division (B)(10) of this section. Each ~~test~~

assessment so furnished shall include the data verification code of the student to whom the ~~test~~ assessment will be administered, as assigned pursuant to division (D)(2) of section 3301.0714 of the Revised Code. In furnishing the practice versions of Ohio graduation tests prescribed by division ~~(F)~~(D) of section 3301.0710 of the Revised Code, the department shall make the tests available on its web site for reproduction by districts. In awarding contracts for grading ~~tests~~ assessments, the department shall give preference to Ohio-based entities employing Ohio residents.

(2) Adopt rules for the ethical use of ~~tests~~ assessments and prescribing the manner in which the ~~tests~~ assessments prescribed by section 3301.0710 of the Revised Code shall be administered to students.

(B) Except as provided in divisions (C) and (J) of this section, the board of education of each city, local, and exempted village school district shall, in accordance with rules adopted under division (A) of this section:

(1) Administer the ~~reading test~~ English language arts assessments prescribed under division (A)(1)(a) of section 3301.0710 of the Revised Code twice annually to all students in the third grade who have not attained the score designated for that ~~test~~ assessment under division (A)(2)~~(e)~~(b) of section 3301.0710 of the Revised Code.

(2) Administer the mathematics ~~test~~ assessment prescribed under division (A)(1)(a) of section 3301.0710 of the Revised Code at least once annually to all students in the third grade.

(3) Administer the ~~tests~~ assessments prescribed under division (A)(1)(b) of section 3301.0710 of the Revised Code at least once annually to all students in the fourth grade.

(4) Administer the ~~tests~~ assessments prescribed under division (A)(1)(c) of section 3301.0710 of the Revised Code at least once annually to all students in the fifth grade.

(5) Administer the ~~tests~~ assessments prescribed under division (A)(1)(d) of section 3301.0710 of the Revised Code at least once annually to all students in the sixth grade.

(6) Administer the ~~tests~~ assessments prescribed under division (A)(1)(e) of section 3301.0710 of the Revised Code at least once annually to all students in the seventh grade.

(7) Administer the ~~tests~~ assessments prescribed under division (A)(1)(f) of section 3301.0710 of the Revised Code at least once annually to all students in the eighth grade.

(8) Except as provided in division (B)(9) of this section, administer any ~~test~~ assessment prescribed under division (B)(1) of section 3301.0710 of the Revised Code as follows:

(a) At least once annually to all tenth grade students and at least twice annually to all students in eleventh or twelfth grade who have not yet attained the score on that ~~test~~ assessment designated under that division;

(b) To any person who has successfully completed the curriculum in any high school or the individualized education program developed for the person by any high school pursuant to section 3323.08 of the Revised Code but has not received a high school diploma and who requests to take such ~~test~~ assessment, at any time such ~~test~~ assessment is administered in the district.

(9) In lieu of the board of education of any city, local, or exempted village school district in which the student is also enrolled, the board of a joint vocational school district shall administer any ~~test~~ assessment prescribed under division (B)(1) of section 3301.0710 of the Revised Code at least twice annually to any student enrolled in the joint vocational school district who has not yet attained the score on that ~~test~~ assessment designated under that division. A board of a joint vocational school district may also administer such a ~~test~~ an assessment to any student described in division (B)(8)(b) of this section.

(10) If the district has been declared to be under an academic watch or in a state of academic emergency pursuant to section 3302.03 of the Revised Code or has a three-year average graduation rate of not more than seventy-five per cent, administer each ~~test~~ assessment prescribed by division ~~(F)~~(D) of section 3301.0710 of the Revised Code in September to all ninth grade students, beginning in the school year that starts July 1, 2005.

Except as provided in section 3313.614 of the Revised Code for administration of an assessment to a person who has fulfilled the curriculum requirement for a high school diploma but has not passed one or more of the required assessments, the assessments prescribed under division (B)(1) of section 3301.0710 of the Revised Code and the practice assessments prescribed under division (D) of that section and required to be administered under divisions (B)(8), (9), and (10) of this section shall not be administered after the assessment system prescribed by division (B)(2) of section 3301.0710 and section 3301.0712 of the Revised Code is implemented under rule of the state board adopted under division (E)(1) of section 3301.0712 of the Revised Code.

(11) Administer the assessments prescribed by division (B)(2) of section 3301.0710 and section 3301.0712 of the Revised Code in accordance with the timeline and plan for implementation of those assessments prescribed by rule of the state board adopted under division (E)(1) of section 3301.0712 of the Revised Code.

(C)(1)(a) Any student receiving special education services under Chapter 3323. of the Revised Code may be excused from taking any particular ~~test~~ assessment required to be administered under this section if the individualized education program developed for the student pursuant to section 3323.08 of the Revised Code excuses the student from taking that ~~test~~ assessment and instead specifies an alternate assessment method approved by the department of education as conforming to requirements of federal law for receipt of federal funds for disadvantaged pupils. To the extent possible, the individualized education program shall not excuse the student from taking a ~~test~~ an assessment unless no reasonable accommodation can be made to enable the student to take the ~~test~~ assessment.

(b) Any alternate assessment approved by the department for a student under this division shall produce measurable results comparable to those produced by the ~~tests which the alternate assessments are replacing~~ assessment it replaces in order to allow for the student's ~~assessment~~ results to be included in the data compiled for a school district or building under section 3302.03 of the Revised Code.

(c) Any student enrolled in a chartered nonpublic school who has been identified, based on an evaluation conducted in accordance with section 3323.03 of the Revised Code or section 504 of the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C.A. 794, as amended, as a child with a disability shall be excused from taking any particular ~~test~~ assessment required to be administered under this section if a plan developed for the student pursuant to rules adopted by the state board excuses the student from taking that ~~test~~ assessment. In the case of any student so excused from taking a ~~test~~ an assessment, the chartered nonpublic school shall not prohibit the student from taking the ~~test~~ assessment.

(2) A district board may, for medical reasons or other good cause, excuse a student from taking a ~~test~~ an assessment administered under this section on the date scheduled, but ~~any such test that assessment~~ shall be administered to ~~such the~~ excused student not later than nine days following the scheduled date. The district board shall annually report the number of students who have not taken one or more of the ~~tests~~ assessments required by this section to the state board of education not later than the thirtieth day of June.

(3) As used in this division, "limited English proficient student" has the same meaning as in 20 U.S.C. 7801.

No school district board shall excuse any limited English proficient student from taking any particular ~~test~~ assessment required to be

administered under this section, except that any limited English proficient student who has been enrolled in United States schools for less than one full school year shall not be required to take any ~~such~~ reading ~~or~~ writing ~~test~~, or English language arts assessment. However, no board shall prohibit a limited English proficient student who is not required to take a ~~test~~ an assessment under this division from taking the ~~test~~ assessment. A board may permit any limited English proficient student to take ~~any test~~ an assessment required to be administered under this section with appropriate accommodations, as determined by the department. For each limited English proficient student, each school district shall annually assess that student's progress in learning English, in accordance with procedures approved by the department.

The governing authority of a chartered nonpublic school may excuse a limited English proficient student from taking any ~~test~~ assessment administered under this section. However, no governing authority shall prohibit a limited English proficient student from taking the ~~test~~ assessment.

(D)(1) In the school year next succeeding the school year in which the ~~tests~~ assessments prescribed by division (A)(1) or (B)(1) of section 3301.0710 of the Revised Code or former division (A)(1), (A)(2), or (B) of section 3301.0710 of the Revised Code as it existed prior to September 11, 2001, are administered to any student, the board of education of any school district in which the student is enrolled in that year shall provide to the student intervention services commensurate with the student's ~~test~~ performance, including any intensive intervention required under section 3313.608 of the Revised Code, in any skill in which the student failed to demonstrate at least a score at the proficient level on the ~~test~~ assessment.

(2) Following any administration of the ~~tests~~ assessments prescribed by division ~~(F)(D)~~ of section 3301.0710 of the Revised Code to ninth grade students, each school district that has a three-year average graduation rate of not more than seventy-five per cent shall determine for each high school in the district whether the school shall be required to provide intervention services to any students who took the ~~tests~~ assessments. In determining which high schools shall provide intervention services based on the resources available, the district shall consider each school's graduation rate and scores on the practice ~~tests~~ assessments. The district also shall consider the scores received by ninth grade students on the ~~reading~~ English language arts and mathematics ~~tests~~ assessments prescribed under division (A)(1)(f) of section 3301.0710 of the Revised Code in the eighth grade in determining which high schools shall provide intervention services.

Each high school selected to provide intervention services under this

division shall provide intervention services to any student whose ~~test~~ results indicate that the student is failing to make satisfactory progress toward being able to attain scores at the proficient level on the Ohio graduation tests. Intervention services shall be provided in any skill in which a student demonstrates unsatisfactory progress and shall be commensurate with the student's ~~test~~ performance. Schools shall provide the intervention services prior to the end of the school year, during the summer following the ninth grade, in the next succeeding school year, or at any combination of those times.

(E) Except as provided in section 3313.608 of the Revised Code and division (M) of this section, no school district board of education shall utilize any student's failure to attain a specified score on ~~any test~~ an assessment administered under this section as a factor in any decision to deny the student promotion to a higher grade level. However, a district board may choose not to promote to the next grade level any student who does not take ~~any test~~ an assessment administered under this section or make up ~~such test~~ an assessment as provided by division (C)(2) of this section and who is not exempt from the requirement to take the ~~test~~ assessment under division (C)(3) of this section.

(F) No person shall be charged a fee for taking any ~~test~~ assessment administered under this section.

(G)(1) Each school district board shall designate one location for the collection of ~~tests~~ assessments administered in the spring under division (B)(1) of this section and ~~the tests~~ those administered under divisions (B)(2) to (7) of this section. Each district board shall submit the ~~tests~~ assessments to the entity with which the department contracts for the scoring of the ~~tests~~ assessments as follows:

(a) If the district's total enrollment in grades kindergarten through twelve during the first full school week of October was less than two thousand five hundred, not later than the Friday after all of the ~~tests~~ assessments have been administered;

(b) If the district's total enrollment in grades kindergarten through twelve during the first full school week of October was two thousand five hundred or more, but less than seven thousand, not later than the Monday after all of the ~~tests~~ assessments have been administered;

(c) If the district's total enrollment in grades kindergarten through twelve during the first full school week of October was seven thousand or more, not later than the Tuesday after all of the ~~tests~~ assessments have been administered.

However, any ~~such test~~ assessment that a student takes during the

make-up period described in division (C)(2) of this section shall be submitted not later than the Friday following the day the student takes the ~~test~~ assessment.

(2) The department or an entity with which the department contracts for the scoring of the ~~test~~ assessment shall send to each school district board a list of the individual ~~test~~ scores of all persons taking ~~any test~~ an assessment prescribed by division (A)(1) or (B)(1) of section 3301.0710 of the Revised Code within sixty days after its administration, but in no case shall the scores be returned later than the fifteenth day of June following the administration. For ~~any tests~~ assessments administered under this section by a joint vocational school district, the department or entity shall also send to each city, local, or exempted village school district a list of the individual ~~test~~ scores of any students of such city, local, or exempted village school district who are attending school in the joint vocational school district.

(H) Individual ~~test~~ scores on any ~~tests~~ assessments administered under this section shall be released by a district board only in accordance with section 3319.321 of the Revised Code and the rules adopted under division (A) of this section. No district board or its employees shall utilize individual or aggregate ~~test~~ results in any manner that conflicts with rules for the ethical use of ~~tests~~ assessments adopted pursuant to division (A) of this section.

(I) Except as provided in division (G) of this section, the department or an entity with which the department contracts for the scoring of the ~~test~~ assessment shall not release any individual ~~test~~ scores on any ~~test~~ assessment administered under this section. The state board of education shall adopt rules to ensure the protection of student confidentiality at all times. The rules may require the use of the data verification codes assigned to students pursuant to division (D)(2) of section 3301.0714 of the Revised Code to protect the confidentiality of student ~~test~~ scores.

(J) Notwithstanding division (D) of section 3311.52 of the Revised Code, this section does not apply to the board of education of any cooperative education school district except as provided under rules adopted pursuant to this division.

(1) In accordance with rules that the state board of education shall adopt, the board of education of any city, exempted village, or local school district with territory in a cooperative education school district established pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code may enter into an agreement with the board of education of the cooperative education school district for administering any ~~test~~ assessment prescribed under this section to students of the city, exempted village, or local school

district who are attending school in the cooperative education school district.

(2) In accordance with rules that the state board of education shall adopt, the board of education of any city, exempted village, or local school district with territory in a cooperative education school district established pursuant to section 3311.521 of the Revised Code shall enter into an agreement with the cooperative district that provides for the administration of any ~~test~~ assessment prescribed under this section to both of the following:

(a) Students who are attending school in the cooperative district and who, if the cooperative district were not established, would be entitled to attend school in the city, local, or exempted village school district pursuant to section 3313.64 or 3313.65 of the Revised Code;

(b) Persons described in division (B)(8)(b) of this section.

Any ~~testing~~ assessment of students pursuant to such an agreement shall be in lieu of any ~~testing~~ assessment of such students or persons pursuant to this section.

(K)(1) As a condition of compliance with section 3313.612 of the Revised Code, each chartered nonpublic school that educates students in grades nine through twelve shall administer the assessments prescribed by divisions (B)(1) and (2) of section 3301.0710 of the Revised Code. Any chartered nonpublic school may participate in the ~~testing~~ assessment program by administering any of the ~~tests~~ assessments prescribed by division (A) of section 3301.0710 or 3301.0712 of the Revised Code if the. The chief administrator of the school specifies shall specify which ~~tests~~ assessments the school ~~wishes to~~ will administer. Such specification shall be made in writing to the superintendent of public instruction prior to the first day of August of any school year in which ~~tests~~ assessments are administered and shall include a pledge that the nonpublic school will administer the specified ~~tests~~ assessments in the same manner as public schools are required to do under this section and rules adopted by the department.

(2) The department of education shall furnish the ~~tests~~ assessments prescribed by section 3301.0710 or 3301.0712 of the Revised Code to ~~any~~ each chartered nonpublic school ~~electing to participate~~ that participates under this division.

(L)(1) The superintendent of the state school for the blind and the superintendent of the state school for the deaf shall administer the ~~tests~~ assessments described by ~~section sections~~ sections 3301.0710 and 3301.0712 of the Revised Code. Each superintendent shall administer the ~~tests~~ assessments in the same manner as district boards are required to do under this section and rules adopted by the department of education and in conformity with

division (C)(1)(a) of this section.

(2) The department of education shall furnish the ~~tests~~ assessments described by ~~section~~ sections 3301.0710 and 3301.0712 of the Revised Code to each superintendent.

(M) Notwithstanding division (E) of this section, a school district may use a student's failure to attain a score in at least the ~~basic~~ proficient range on the mathematics ~~test~~ assessment described by division (A)(1)(a) of section 3301.0710 of the Revised Code or on ~~any of the tests~~ an assessment described by division (A)(1)(b), (c), (d), (e), or (f) of section 3301.0710 of the Revised Code as a factor in retaining that student in the current grade level.

(N)(1) In the manner specified in divisions (N)(3) ~~to (5)~~ and (4) of this section, the ~~tests~~ assessments required by division (A)(1) of section 3301.0710 of the Revised Code shall become public records pursuant to section 149.43 of the Revised Code on the first day of July following the school year that the ~~test was~~ assessments were administered.

(2) The department may field test proposed ~~test~~ questions with samples of students to determine the validity, reliability, or appropriateness of ~~test~~ questions for possible inclusion in a future year's ~~test~~ assessment. The department also may use anchor questions on ~~tests~~ assessments to ensure that different versions of the same ~~test~~ assessment are of comparable difficulty.

Field test questions and anchor questions shall not be considered in computing ~~test~~ scores for individual students. Field test questions and anchor questions may be included as part of the administration of any ~~test~~ assessment required by division (A)(1) or (B)(1) of section 3301.0710 of the Revised Code.

(3) Any field test question or anchor question administered under division (N)(2) of this section shall not be a public record. Such field test questions and anchor questions shall be redacted from any ~~tests~~ assessments which are released as a public record pursuant to division (N)(1) of this section.

(4) This division applies to the ~~tests~~ assessments prescribed by division (A) of section 3301.0710 of the Revised Code.

(a) The first administration of each ~~test~~ assessment, as specified in former section 3301.0712 of the Revised Code, shall be a public record.

(b) For subsequent administrations of each ~~test~~ assessment, not less than forty per cent of the questions on the ~~test~~ assessment that are used to compute a student's score shall be a public record. The department shall determine which questions will be needed for reuse on a future ~~test~~

assessment and those questions shall not be public records and shall be redacted from the ~~test~~ assessment prior to its release as a public record. However, for each redacted question, the department shall inform each city, local, and exempted village school district of the statewide academic standard adopted by the state board of education under section 3301.079 of the Revised Code and the corresponding benchmark to which the question relates. The preceding sentence does not apply to field test questions that are redacted under division (N)(3) of this section.

(5) Each ~~test~~ assessment prescribed by division (B)(1) of section 3301.0710 of the Revised Code ~~that is administered in the spring shall be a public record. Each test prescribed by that division that is administered in the fall or summer~~ shall not be a public record.

(O) As used in this section:

(1) "Three-year average" means the average of the most recent consecutive three school years of data.

(2) "Dropout" means a student who withdraws from school before completing course requirements for graduation and who is not enrolled in an education program approved by the state board of education or an education program outside the state. "Dropout" does not include a student who has departed the country.

(3) "Graduation rate" means the ratio of students receiving a diploma to the number of students who entered ninth grade four years earlier. Students who transfer into the district are added to the calculation. Students who transfer out of the district for reasons other than dropout are subtracted from the calculation. If a student who was a dropout in any previous year returns to the same school district, that student shall be entered into the calculation as if the student had entered ninth grade four years before the graduation year of the graduating class that the student joins.

Sec. 3301.0712. (A) The state board of education, the superintendent of public instruction, and the chancellor of the Ohio board of regents shall develop a system of college and work ready assessments as described in divisions (B)(1) to (3) of this section to assess whether each student upon graduating from high school is ready to enter college or the workforce. The system shall replace the Ohio graduation tests prescribed in division (B)(1) of section 3301.0710 of the Revised Code as a measure of student academic performance and a prerequisite for eligibility for a high school diploma in the manner prescribed by rule of the state board adopted under division (E) of this section.

(B) The college and work ready assessment system shall consist of the following:

(1) A nationally standardized assessment that measures competencies in science, mathematics, and English language arts selected jointly by the state superintendent and the chancellor.

(2) A series of end-of-course examinations in the areas of science, mathematics, English language arts, and social studies selected jointly by the state superintendent and the chancellor in consultation with faculty in the appropriate subject areas at institutions of higher education of the university system of Ohio.

(3) A senior project completed by a student or a group of students. The purpose of the senior project is to assess the student's:

(a) Mastery of core knowledge in a subject area chosen by the student;

(b) Written and verbal communication skills;

(c) Critical thinking and problem-solving skills;

(d) Real-world and interdisciplinary learning;

(e) Creative and innovative thinking;

(f) Acquired technology, information, and media skills;

(g) Personal management skills such as self-direction, time management, work ethic, enthusiasm, and the desire to produce a high quality product.

The state superintendent and the chancellor jointly shall develop standards for the senior project for students participating in dual enrollment programs.

(C)(1) The state superintendent and the chancellor jointly shall designate the scoring rubrics and the required overall composite score for the assessment system to assess whether each student is college or work ready.

(2) Each senior project shall be judged by the student's high school in accordance with rubrics designated by the state superintendent and the chancellor.

(D) Not later than thirty days after the state board adopts the model curricula required by division (B) of section 3301.079 of the Revised Code, the state board shall convene a group of national experts, state experts, and local practitioners to provide advice, guidance, and recommendations for the alignment of standards and model curricula to the assessments and in the design of the end-of-course examinations and scoring rubrics prescribed by this section.

(E) Upon completion of the development of the assessment system, the state board shall adopt rules prescribing all of the following:

(1) A timeline and plan for implementation of the assessment system, including a phased implementation if the state board determines such a

phase-in is warranted:

(2) The date after which a person entering ninth grade shall attain at least the composite score for the entire assessment system as a prerequisite for a high school diploma under sections 3313.61, 3313.612, or 3325.08 of the Revised Code;

(3) The date after which a person shall attain at least the composite score for the entire assessment system as a prerequisite for a diploma of adult education under section 3313.611 of the Revised Code;

(4) Whether and the extent to which a person may be excused from a social studies end-of-course examination under division (H) of section 3313.61 and division (B)(2) of section 3313.612 of the Revised Code;

(5) The date after which a person who has fulfilled the curriculum requirement for a diploma but has not passed one or more of the required assessments at the time the person fulfilled the curriculum requirement shall attain at least the composite score for the entire assessment system as a prerequisite for a high school diploma under division (B) of section 3313.614 of the Revised Code;

(6) The extent to which the assessment system applies to students enrolled in a dropout recovery and prevention program for purposes of division (F) of section 3313.603 and section 3314.36 of the Revised Code.

No rule adopted under this division shall be effective earlier than one year after the date the rule is filed in final form pursuant to Chapter 119. of the Revised Code.

(F) Not later than forty-five days prior to the state board's adoption of a resolution directing the department of education to file the rules prescribed by division (E) of this section in final form under section 119.04 of the Revised Code, the superintendent of public instruction shall present the assessment system developed under this section to the respective committees of the house of representatives and senate that consider education legislation.

Sec. 3301.0714. (A) The state board of education shall adopt rules for a statewide education management information system. The rules shall require the state board to establish guidelines for the establishment and maintenance of the system in accordance with this section and the rules adopted under this section. The guidelines shall include:

(1) Standards identifying and defining the types of data in the system in accordance with divisions (B) and (C) of this section;

(2) Procedures for annually collecting and reporting the data to the state board in accordance with division (D) of this section;

(3) Procedures for annually compiling the data in accordance with

division (G) of this section;

(4) Procedures for annually reporting the data to the public in accordance with division (H) of this section.

(B) The guidelines adopted under this section shall require the data maintained in the education management information system to include at least the following:

(1) Student participation and performance data, for each grade in each school district as a whole and for each grade in each school building in each school district, that includes:

(a) The numbers of students receiving each category of instructional service offered by the school district, such as regular education instruction, vocational education instruction, specialized instruction programs or enrichment instruction that is part of the educational curriculum, instruction for gifted students, instruction for students with disabilities, and remedial instruction. The guidelines shall require instructional services under this division to be divided into discrete categories if an instructional service is limited to a specific subject, a specific type of student, or both, such as regular instructional services in mathematics, remedial reading instructional services, instructional services specifically for students gifted in mathematics or some other subject area, or instructional services for students with a specific type of disability. The categories of instructional services required by the guidelines under this division shall be the same as the categories of instructional services used in determining cost units pursuant to division (C)(3) of this section.

(b) The numbers of students receiving support or extracurricular services for each of the support services or extracurricular programs offered by the school district, such as counseling services, health services, and extracurricular sports and fine arts programs. The categories of services required by the guidelines under this division shall be the same as the categories of services used in determining cost units pursuant to division (C)(4)(a) of this section.

(c) Average student grades in each subject in grades nine through twelve;

(d) Academic achievement levels as assessed ~~by the testing of student achievement~~ under sections 3301.0710 ~~and~~, 3301.0711, and 3301.0712 of the Revised Code;

(e) The number of students designated as having a disabling condition pursuant to division (C)(1) of section 3301.0711 of the Revised Code;

(f) The numbers of students reported to the state board pursuant to division (C)(2) of section 3301.0711 of the Revised Code;

(g) Attendance rates and the average daily attendance for the year. For purposes of this division, a student shall be counted as present for any field trip that is approved by the school administration.

(h) Expulsion rates;

(i) Suspension rates;

~~(j) The percentage of students receiving corporal punishment;~~

~~(k) Dropout rates;~~

~~(l)~~(k) Rates of retention in grade;

~~(m)~~(l) For pupils in grades nine through twelve, the average number of carnegie units, as calculated in accordance with state board of education rules;

~~(n)~~(m) Graduation rates, to be calculated in a manner specified by the department of education that reflects the rate at which students who were in the ninth grade three years prior to the current year complete school and that is consistent with nationally accepted reporting requirements;

~~(o)~~(n) Results of diagnostic assessments administered to kindergarten students as required under section 3301.0715 of the Revised Code to permit a comparison of the academic readiness of kindergarten students. However, no district shall be required to report to the department the results of any diagnostic assessment administered to a kindergarten student if the parent of that student requests the district not to report those results.

(2) Personnel and classroom enrollment data for each school district, including:

(a) The total numbers of licensed employees and nonlicensed employees and the numbers of full-time equivalent licensed employees and nonlicensed employees providing each category of instructional service, instructional support service, and administrative support service used pursuant to division (C)(3) of this section. The guidelines adopted under this section shall require these categories of data to be maintained for the school district as a whole and, wherever applicable, for each grade in the school district as a whole, for each school building as a whole, and for each grade in each school building.

(b) The total number of employees and the number of full-time equivalent employees providing each category of service used pursuant to divisions (C)(4)(a) and (b) of this section, and the total numbers of licensed employees and nonlicensed employees and the numbers of full-time equivalent licensed employees and nonlicensed employees providing each category used pursuant to division (C)(4)(c) of this section. The guidelines adopted under this section shall require these categories of data to be maintained for the school district as a whole and, wherever applicable, for

each grade in the school district as a whole, for each school building as a whole, and for each grade in each school building.

(c) The total number of regular classroom teachers teaching classes of regular education and the average number of pupils enrolled in each such class, in each of grades kindergarten through five in the district as a whole and in each school building in the school district.

(d) The number of ~~master~~ lead teachers employed by each school district and each school building, ~~once a definition of master teacher has been developed by the educator standards board pursuant to section 3319.61 of the Revised Code.~~

(3)(a) Student demographic data for each school district, including information regarding the gender ratio of the school district's pupils, the racial make-up of the school district's pupils, the number of limited English proficient students in the district, and an appropriate measure of the number of the school district's pupils who reside in economically disadvantaged households. The demographic data shall be collected in a manner to allow correlation with data collected under division (B)(1) of this section. Categories for data collected pursuant to division (B)(3) of this section shall conform, where appropriate, to standard practices of agencies of the federal government.

(b) With respect to each student entering kindergarten, whether the student previously participated in a public preschool program, a private preschool program, or a head start program, and the number of years the student participated in each of these programs.

(4) Any data required to be collected pursuant to federal law.

(C) The education management information system shall include cost accounting data for each district as a whole and for each school building in each school district. The guidelines adopted under this section shall require the cost data for each school district to be maintained in a system of mutually exclusive cost units and shall require all of the costs of each school district to be divided among the cost units. The guidelines shall require the system of mutually exclusive cost units to include at least the following:

(1) Administrative costs for the school district as a whole. The guidelines shall require the cost units under this division (C)(1) to be designed so that each of them may be compiled and reported in terms of average expenditure per pupil in formula ADM in the school district, as determined pursuant to section 3317.03 of the Revised Code.

(2) Administrative costs for each school building in the school district. The guidelines shall require the cost units under this division (C)(2) to be designed so that each of them may be compiled and reported in terms of

average expenditure per full-time equivalent pupil receiving instructional or support services in each building.

(3) Instructional services costs for each category of instructional service provided directly to students and required by guidelines adopted pursuant to division (B)(1)(a) of this section. The guidelines shall require the cost units under division (C)(3) of this section to be designed so that each of them may be compiled and reported in terms of average expenditure per pupil receiving the service in the school district as a whole and average expenditure per pupil receiving the service in each building in the school district and in terms of a total cost for each category of service and, as a breakdown of the total cost, a cost for each of the following components:

(a) The cost of each instructional services category required by guidelines adopted under division (B)(1)(a) of this section that is provided directly to students by a classroom teacher;

(b) The cost of the instructional support services, such as services provided by a speech-language pathologist, classroom aide, multimedia aide, or librarian, provided directly to students in conjunction with each instructional services category;

(c) The cost of the administrative support services related to each instructional services category, such as the cost of personnel that develop the curriculum for the instructional services category and the cost of personnel supervising or coordinating the delivery of the instructional services category.

(4) Support or extracurricular services costs for each category of service provided to students and required by guidelines adopted pursuant to division (B)(1)(b) of this section. The guidelines shall require the cost units under division (C)(4) of this section to be designed so that each of them may be compiled and reported in terms of average expenditure per pupil receiving the service in the school district as a whole and average expenditure per pupil receiving the service in each building in the school district and in terms of a total cost for each category of service and, as a breakdown of the total cost, a cost for each of the following components:

(a) The cost of each support or extracurricular services category required by guidelines adopted under division (B)(1)(b) of this section that is provided directly to students by a licensed employee, such as services provided by a guidance counselor or any services provided by a licensed employee under a supplemental contract;

(b) The cost of each such services category provided directly to students by a nonlicensed employee, such as janitorial services, cafeteria services, or services of a sports trainer;

(c) The cost of the administrative services related to each services category in division (C)(4)(a) or (b) of this section, such as the cost of any licensed or nonlicensed employees that develop, supervise, coordinate, or otherwise are involved in administering or aiding the delivery of each services category.

(D)(1) The guidelines adopted under this section shall require school districts to collect information about individual students, staff members, or both in connection with any data required by division (B) or (C) of this section or other reporting requirements established in the Revised Code. The guidelines may also require school districts to report information about individual staff members in connection with any data required by division (B) or (C) of this section or other reporting requirements established in the Revised Code. The guidelines shall not authorize school districts to request social security numbers of individual students. The guidelines shall prohibit the reporting under this section of a student's name, address, and social security number to the state board of education or the department of education. The guidelines shall also prohibit the reporting under this section of any personally identifiable information about any student, except for the purpose of assigning the data verification code required by division (D)(2) of this section, to any other person unless such person is employed by the school district or the information technology center operated under section 3301.075 of the Revised Code and is authorized by the district or technology center to have access to such information or is employed by an entity with which the department contracts for the scoring of ~~tests~~ assessments administered under section 3301.0711 ~~or 3301.0712~~ of the Revised Code. The guidelines may require school districts to provide the social security numbers of individual staff members.

(2) The guidelines shall provide for each school district or community school to assign a data verification code that is unique on a statewide basis over time to each student whose initial Ohio enrollment is in that district or school and to report all required individual student data for that student utilizing such code. The guidelines shall also provide for assigning data verification codes to all students enrolled in districts or community schools on the effective date of the guidelines established under this section.

Individual student data shall be reported to the department through the information technology centers utilizing the code but, except as provided in sections 3310.11, 3310.42, 3313.978, and 3317.20 of the Revised Code, at no time shall the state board or the department have access to information that would enable any data verification code to be matched to personally identifiable student data.

Each school district shall ensure that the data verification code is included in the student's records reported to any subsequent school district or community school in which the student enrolls. Any such subsequent district or school shall utilize the same identifier in its reporting of data under this section.

The director of health shall request and receive, pursuant to sections 3301.0723 and 3701.62 of the Revised Code, a data verification code for a child who is receiving services under division (A)(2) of section 3701.61 of the Revised Code.

(E) The guidelines adopted under this section may require school districts to collect and report data, information, or reports other than that described in divisions (A), (B), and (C) of this section for the purpose of complying with other reporting requirements established in the Revised Code. The other data, information, or reports may be maintained in the education management information system but are not required to be compiled as part of the profile formats required under division (G) of this section or the annual statewide report required under division (H) of this section.

(F) Beginning with the school year that begins July 1, 1991, the board of education of each school district shall annually collect and report to the state board, in accordance with the guidelines established by the board, the data required pursuant to this section. A school district may collect and report these data notwithstanding section 2151.357 or 3319.321 of the Revised Code.

(G) The state board shall, in accordance with the procedures it adopts, annually compile the data reported by each school district pursuant to division (D) of this section. The state board shall design formats for profiling each school district as a whole and each school building within each district and shall compile the data in accordance with these formats. These profile formats shall:

(1) Include all of the data gathered under this section in a manner that facilitates comparison among school districts and among school buildings within each school district;

(2) Present the data on academic achievement levels as assessed by the testing of student achievement maintained pursuant to division (B)(1)(d) of this section.

(H)(1) The state board shall, in accordance with the procedures it adopts, annually prepare a statewide report for all school districts and the general public that includes the profile of each of the school districts developed pursuant to division (G) of this section. Copies of the report shall

be sent to each school district.

(2) The state board shall, in accordance with the procedures it adopts, annually prepare an individual report for each school district and the general public that includes the profiles of each of the school buildings in that school district developed pursuant to division (G) of this section. Copies of the report shall be sent to the superintendent of the district and to each member of the district board of education.

(3) Copies of the reports received from the state board under divisions (H)(1) and (2) of this section shall be made available to the general public at each school district's offices. Each district board of education shall make copies of each report available to any person upon request and payment of a reasonable fee for the cost of reproducing the report. The board shall annually publish in a newspaper of general circulation in the school district, at least twice during the two weeks prior to the week in which the reports will first be available, a notice containing the address where the reports are available and the date on which the reports will be available.

(I) Any data that is collected or maintained pursuant to this section and that identifies an individual pupil is not a public record for the purposes of section 149.43 of the Revised Code.

(J) As used in this section:

(1) "School district" means any city, local, exempted village, or joint vocational school district and, in accordance with section 3314.17 of the Revised Code, any community school. As used in division (L) of this section, "school district" also includes any educational service center or other educational entity required to submit data using the system established under this section.

(2) "Cost" means any expenditure for operating expenses made by a school district excluding any expenditures for debt retirement except for payments made to any commercial lending institution for any loan approved pursuant to section 3313.483 of the Revised Code.

(K) Any person who removes data from the information system established under this section for the purpose of releasing it to any person not entitled under law to have access to such information is subject to section 2913.42 of the Revised Code prohibiting tampering with data.

(L)(1) In accordance with division (L)(2) of this section and the rules adopted under division (L)(10) of this section, the department of education may sanction any school district that reports incomplete or inaccurate data, reports data that does not conform to data requirements and descriptions published by the department, fails to report data in a timely manner, or otherwise does not make a good faith effort to report data as required by this

section.

(2) If the department decides to sanction a school district under this division, the department shall take the following sequential actions:

(a) Notify the district in writing that the department has determined that data has not been reported as required under this section and require the district to review its data submission and submit corrected data by a deadline established by the department. The department also may require the district to develop a corrective action plan, which shall include provisions for the district to provide mandatory staff training on data reporting procedures.

(b) Withhold up to ten per cent of the total amount of state funds due to the district for the current fiscal year and, if not previously required under division (L)(2)(a) of this section, require the district to develop a corrective action plan in accordance with that division;

(c) Withhold an additional amount of up to twenty per cent of the total amount of state funds due to the district for the current fiscal year;

(d) Direct department staff or an outside entity to investigate the district's data reporting practices and make recommendations for subsequent actions. The recommendations may include one or more of the following actions:

(i) Arrange for an audit of the district's data reporting practices by department staff or an outside entity;

(ii) Conduct a site visit and evaluation of the district;

(iii) Withhold an additional amount of up to thirty per cent of the total amount of state funds due to the district for the current fiscal year;

(iv) Continue monitoring the district's data reporting;

(v) Assign department staff to supervise the district's data management system;

(vi) Conduct an investigation to determine whether to suspend or revoke the license of any district employee in accordance with division (N) of this section;

(vii) If the district is issued a report card under section 3302.03 of the Revised Code, indicate on the report card that the district has been sanctioned for failing to report data as required by this section;

(viii) If the district is issued a report card under section 3302.03 of the Revised Code and incomplete or inaccurate data submitted by the district likely caused the district to receive a higher performance rating than it deserved under that section, issue a revised report card for the district;

(ix) Any other action designed to correct the district's data reporting problems.

(3) Any time the department takes an action against a school district under division (L)(2) of this section, the department shall make a report of the circumstances that prompted the action. The department shall send a copy of the report to the district superintendent or chief administrator and maintain a copy of the report in its files.

(4) If any action taken under division (L)(2) of this section resolves a school district's data reporting problems to the department's satisfaction, the department shall not take any further actions described by that division. If the department withheld funds from the district under that division, the department may release those funds to the district, except that if the department withheld funding under division (L)(2)(c) of this section, the department shall not release the funds withheld under division (L)(2)(b) of this section and, if the department withheld funding under division (L)(2)(d) of this section, the department shall not release the funds withheld under division (L)(2)(b) or (c) of this section.

(5) Notwithstanding anything in this section to the contrary, the department may use its own staff or an outside entity to conduct an audit of a school district's data reporting practices any time the department has reason to believe the district has not made a good faith effort to report data as required by this section. If any audit conducted by an outside entity under division (L)(2)(d)(i) or (5) of this section confirms that a district has not made a good faith effort to report data as required by this section, the district shall reimburse the department for the full cost of the audit. The department may withhold state funds due to the district for this purpose.

(6) Prior to issuing a revised report card for a school district under division (L)(2)(d)(viii) of this section, the department may hold a hearing to provide the district with an opportunity to demonstrate that it made a good faith effort to report data as required by this section. The hearing shall be conducted by a referee appointed by the department. Based on the information provided in the hearing, the referee shall recommend whether the department should issue a revised report card for the district. If the referee affirms the department's contention that the district did not make a good faith effort to report data as required by this section, the district shall bear the full cost of conducting the hearing and of issuing any revised report card.

(7) If the department determines that any inaccurate data reported under this section caused a school district to receive excess state funds in any fiscal year, the district shall reimburse the department an amount equal to the excess funds, in accordance with a payment schedule determined by the department. The department may withhold state funds due to the district for

this purpose.

(8) Any school district that has funds withheld under division (L)(2) of this section may appeal the withholding in accordance with Chapter 119. of the Revised Code.

(9) In all cases of a disagreement between the department and a school district regarding the appropriateness of an action taken under division (L)(2) of this section, the burden of proof shall be on the district to demonstrate that it made a good faith effort to report data as required by this section.

(10) The state board of education shall adopt rules under Chapter 119. of the Revised Code to implement division (L) of this section.

(M) No information technology center or school district shall acquire, change, or update its student administration software package to manage and report data required to be reported to the department unless it converts to a student software package that is certified by the department.

(N) The state board of education, in accordance with sections 3319.31 and 3319.311 of the Revised Code, may suspend or revoke a license as defined under division (A) of section 3319.31 of the Revised Code that has been issued to any school district employee found to have willfully reported erroneous, inaccurate, or incomplete data to the education management information system.

(O) No person shall release or maintain any information about any student in violation of this section. Whoever violates this division is guilty of a misdemeanor of the fourth degree.

(P) The department shall disaggregate the data collected under division (B)(1)~~(n)~~ of this section according to the race and socioeconomic status of the students assessed. No data collected under that division shall be included on the report cards required by section 3302.03 of the Revised Code.

(Q) If the department cannot compile any of the information required by division (C)(5) of section 3302.03 of the Revised Code based upon the data collected under this section, the department shall develop a plan and a reasonable timeline for the collection of any data necessary to comply with that division.

Sec. 3301.0715. (A) Except as provided in division (E) of this section, the board of education of each city, local, and exempted village school district shall administer each applicable diagnostic assessment developed and provided to the district in accordance with section 3301.079 of the Revised Code to the following:

(1) Each student enrolled in a building that has failed to make adequate

yearly progress for two or more consecutive school years;

(2) Any student who transfers into the district or to a different school within the district if each applicable diagnostic assessment was not administered by the district or school the student previously attended in the current school year, within thirty days after the date of transfer. If the district or school into which the student transfers cannot determine whether the student has taken any applicable diagnostic assessment in the current school year, the district or school may administer the diagnostic assessment to the student.

(3) Each kindergarten student, not earlier than four weeks prior to the first day of school and not later than the first day of October. For the purpose of division (A)(3) of this section, the district shall administer the kindergarten readiness assessment provided by the department of education. In no case shall the results of the readiness assessment be used to prohibit a student from enrolling in kindergarten.

(4) Each student enrolled in first or second grade.

(B) Each district board shall administer each diagnostic assessment as the board deems appropriate. However, the board shall administer any diagnostic assessment at least once annually to all students in the appropriate grade level. A district board may administer any diagnostic assessment in the fall and spring of a school year to measure the amount of academic growth attributable to the instruction received by students during that school year.

(C) Each district board shall utilize and score any diagnostic assessment administered under division (A) of this section in accordance with rules established by the department. Except as required by division (B)(1)~~(e)~~(n) of section 3301.0714 of the Revised Code, neither the state board of education nor the department shall require school districts to report the results of diagnostic assessments for any students to the department or to make any such results available in any form to the public. After the administration of any diagnostic assessment, each district shall provide a student's completed diagnostic assessment, the results of such assessment, and any other accompanying documents used during the administration of the assessment to the parent of that student upon the parent's request.

(D) Each district board shall provide intervention services to students whose diagnostic assessments show that they are failing to make satisfactory progress toward attaining the academic standards for their grade level.

(E) Any district that made adequate yearly progress in the immediately preceding school year may assess student progress in grades one through three using a diagnostic assessment other than the diagnostic assessment

required by division (A) of this section.

(F) A district board may administer the third grade ~~writing~~ English language arts diagnostic assessment provided to the district in accordance with section 3301.079 of the Revised Code to any student enrolled in a building that is not subject to division (A)(1) of this section. Any district electing to administer the diagnostic assessment to students under this division shall provide intervention services to any such student whose diagnostic assessment shows unsatisfactory progress toward attaining the academic standards for the student's grade level.

(G) As used in this section, "adequate yearly progress" has the same meaning as in section 3302.01 of the Revised Code.

Sec. 3301.0716. Notwithstanding division (D) of section 3301.0714 of the Revised Code, the department of education may have access to personally identifiable information about any student under the following circumstances:

(A) An entity with which the department contracts for the scoring of ~~tests~~ assessments administered under section 3301.0711 or 3301.0712 of the Revised Code has notified the department that the student's written response to a question on ~~such a test~~ an assessment included threats or descriptions of harm to another person or the student's self and the information is necessary to enable the department to identify the student for purposes of notifying the school district or school in which the student is enrolled of the potential for harm.

(B) The department requests the information to respond to an appeal from a school district or school for verification of the accuracy of the student's score on ~~a test~~ an assessment administered under section 3301.0711 or 3301.0712 of the Revised Code.

(C) The department requests the information to determine whether the student satisfies the alternative conditions for a high school diploma prescribed in section 3313.615 of the Revised Code.

Sec. 3301.0718. ~~(A) After completing the required standards specified in section 3301.079 of the Revised Code, the state board of education shall adopt standards and model curricula for instruction in computer literacy for grades three through twelve and in fine arts and foreign language for grades kindergarten through twelve.~~

~~(B) Not later than December 31, 2007, the state board shall adopt the most recent standards developed by the national association for sport and physical education for physical education in grades kindergarten through twelve or shall adopt its own standards for physical education in those grades. The department of education shall provide the standards, and any~~

~~revisions of the standards, to all school districts and community schools established under Chapter 3314. of the Revised Code. Any school district or community school may utilize the standards.~~

~~The department shall employ a full-time physical education coordinator to provide guidance and technical assistance to districts and community schools in implementing the standards adopted under this division. The superintendent of public instruction shall determine that the person employed as coordinator is qualified for the position, as demonstrated by possessing an adequate combination of education, license, and experience. The department shall hire a coordinator not later than October 31, 2007.~~

~~(C) The state board of education shall not adopt or revise any standards or curriculum in the area of health unless, by concurrent resolution, the standards, curriculum, or revisions are approved by both houses of the general assembly. Before the house of representatives or senate votes on a concurrent resolution approving health standards, curriculum, or revisions, its standing committee having jurisdiction over education legislation shall conduct at least one public hearing on the standards, curriculum, or revisions.~~

~~(D) The state board shall not adopt a diagnostic assessment or achievement test for any grade level or subject area other than those specified in section 3301.079 of the Revised Code.~~

Sec. 3301.0719. (A) As used in this section, "business education" includes, but is not limited to, accounting, career development, economics and personal finance, entrepreneurship, information technology, management, and marketing.

(B) Not later than July 1, 2010, the state board of education shall adopt standards for business education in grades seven through twelve. The standards shall incorporate existing business education standards as appropriate to help guide instruction in the state's schools. The department shall provide the standards, and any revisions of the standards, to all school districts, community schools established under Chapter 3314. of the Revised Code, and STEM schools established under Chapter 3326. of the Revised Code. Any school district, community school or STEM school may utilize the standards. Standards adopted under this division shall supplement, and not supersede, academic content standards adopted under section 3301.079 of the Revised Code.

Sec. 3301.0721. The superintendent of public instruction shall develop a model curriculum for instruction in college and career readiness and financial literacy. The curriculum shall focus on grades seven through twelve, but the superintendent may include other grade levels. When the

model curriculum has been developed, the department of education shall notify all school districts, community schools established under Chapter 3314. of the Revised Code, and STEM schools established under Chapter 3326. of the Revised Code of the content of the curriculum. Any district or school may utilize the model curriculum.

Sec. 3301.12. (A) The superintendent of public instruction in addition to the authority otherwise imposed on the superintendent, shall perform the following duties:

(1) The superintendent shall provide technical and professional assistance and advice to all school districts in reference to all aspects of education, including finance, buildings and equipment, administration, organization of school districts, curriculum and instruction, transportation of pupils, personnel problems, and the interpretation of school laws and state regulations.

(2) The superintendent shall prescribe and require the preparation and filing of such financial and other reports from school districts, officers, and employees as are necessary or proper. The superintendent shall prescribe and require the installation by school districts of such standardized reporting forms and accounting procedures as are essential to the businesslike operations of the public schools of the state.

(3) The superintendent shall conduct such studies and research projects as are necessary or desirable for the improvement of public school education in Ohio, and such as may be assigned to the superintendent by the state board of education. Such studies and projects may include analysis of data contained in the education management information system established under section 3301.0714 of the Revised Code. For any study or project that requires the analysis of individual student data, the department of education or any entity with which the superintendent or department contracts to conduct the study or project shall maintain the confidentiality of student data at all times. For this purpose, the department or contracting entity shall use the data verification code assigned pursuant to division (D)(2) of section 3301.0714 of the Revised Code for each student whose data is analyzed. Except as otherwise provided in division (D)(1) of section 3301.0714 of the Revised Code, at no time shall the superintendent, the department, the state board of education, or any entity conducting a study or research project on the superintendent's behalf have access to a student's name, address, or social security number while analyzing individual student data.

(4) The superintendent shall prepare and submit annually to the state board of education a report of the activities of the department of education and the status, problems, and needs of education in the state of Ohio.

(5) The superintendent shall supervise all agencies over which the board exercises administrative control, including schools for education of persons with disabilities.

(6) In accordance with section 3333.048 of the Revised Code, the superintendent, jointly with the chancellor of the Ohio board of regents, shall establish metrics and courses of study for institutions of higher education that prepare educators and other school personnel and shall provide for inspection of those institutions.

(B) The superintendent of public instruction may annually inspect and analyze the expenditures of each school district and make a determination as to the efficiency of each district's costs, relative to other school districts in the state, for instructional, administrative, and student support services. The superintendent shall notify each school district as to the nature of, and reasons for, the determination. The state board of education shall adopt rules in accordance with Chapter 119. of the Revised Code setting forth the procedures and standards for the performance of the inspection and analysis.

Sec. 3301.122. Not later than December 1, 2009, the superintendent of public instruction shall develop a ten-year strategic plan aligned with the strategic plan for higher education developed by the chancellor of the Ohio board of regents under division (D) of Section 375.30.25 of Am. Sub. H.B. 119 of the 127th general assembly. The superintendent may consult with the chancellor in developing the plan. The superintendent shall submit the plan to the general assembly, in accordance with section 101.68 of the Revised Code, and to the governor. The plan shall include recommendations for:

(A) A framework for collaborative, professional, innovative, and thinking twenty-first century learning environments;

(B) Ways to prepare and support Ohio's educators for successful instructional careers;

(C) Enhancement of the current financial and resource management accountability systems;

(D) Implementation of an effective school funding system.

Sec. 3301.16. Pursuant to standards prescribed by the state board of education as provided in division (D) of section 3301.07 of the Revised Code, the state board shall classify and charter school districts and individual schools within each district except that no charter shall be granted to a nonpublic school unless ~~pursuant to division (K) of section 3301.0711 of the Revised Code the school elects to administer the tests prescribed by division (B) of~~ complies with section ~~3301.0710~~ 3313.612 of the Revised Code ~~beginning July 1, 1995.~~

In the course of considering the charter of a new school district created

under section 3311.26 or 3311.38 of the Revised Code, the state board shall require the party proposing creation of the district to submit to the board a map, certified by the county auditor of the county in which the proposed new district is located, showing the boundaries of the proposed new district. In the case of a proposed new district located in more than one county, the map shall be certified by the county auditor of each county in which the proposed district is located.

The state board shall revoke the charter of any school district or school which fails to meet the standards for elementary and high schools as prescribed by the board. The state board shall also revoke the charter of any nonpublic school that does not comply with section 3313.612 of the Revised Code ~~or, on or after July 1, 1995, does not participate in the testing program prescribed by division (B) of section 3301.0710 of the Revised Code.~~

In the issuance and revocation of school district or school charters, the state board shall be governed by the provisions of Chapter 119. of the Revised Code.

No school district, or individual school operated by a school district, shall operate without a charter issued by the state board under this section.

In case a school district charter is revoked pursuant to this section, the state board may dissolve the school district and transfer its territory to one or more adjacent districts. An equitable division of the funds, property, and indebtedness of the school district shall be made by the state board among the receiving districts. The board of education of a receiving district shall accept such territory pursuant to the order of the state board. Prior to dissolving the school district, the state board shall notify the appropriate educational service center governing board and all adjacent school district boards of education of its intention to do so. Boards so notified may make recommendations to the state board regarding the proposed dissolution and subsequent transfer of territory. Except as provided in section 3301.161 of the Revised Code, the transfer ordered by the state board shall become effective on the date specified by the state board, but the date shall be at least thirty days following the date of issuance of the order.

A high school is one of higher grade than an elementary school, in which instruction and training are given in accordance with sections 3301.07 and 3313.60 of the Revised Code and which also offers other subjects of study more advanced than those taught in the elementary schools and such other subjects as may be approved by the state board of education.

An elementary school is one in which instruction and training are given in accordance with sections 3301.07 and 3313.60 of the Revised Code and which offers such other subjects as may be approved by the state board of

education. In districts wherein a junior high school is maintained, the elementary schools in that district may be considered to include only the work of the first six school years inclusive, plus the kindergarten year.

A high school or an elementary school may consist of less than one or more than one organizational unit, as defined in sections 3306.02 and 3306.04 of the Revised Code.

Sec. 3301.42. The partnership for continued learning shall promote systemic approaches to education by supporting regional efforts to foster collaboration among providers of preschool through postsecondary education, identifying the workforce needs of private sector employers in the state, and making recommendations for facilitating collaboration among providers of preschool through postsecondary education and for maintaining a high-quality workforce in the state. Copies of the recommendations shall be provided to the governor, the president and minority leader of the senate, the speaker and minority leader of the house of representatives, the chairpersons and ranking minority members of the standing committees of the senate and the house of representatives that consider education legislation, the ~~chairperson~~ chancellor of the Ohio board of regents, and the president of the state board of education. The recommendations shall address at least the following issues:

(A) Expansion of access to preschool and other learning opportunities for children under five years old;

(B) Increasing opportunities for students to earn credit toward a degree from an institution of higher education while enrolled in high school, including expanded opportunities for students to earn that credit on their high school campuses; a definition of "in good standing" for purposes of section 3313.6013 of the Revised Code; and legislative changes that the partnership, in consultation with the Ohio board of regents and the state board of education, determines would improve the operation of the post-secondary enrollment options program established under Chapter 3365. of the Revised Code and other dual enrollment programs. The recommendations for legislative changes required by this division shall be issued not later than May 31, 2007.

(C) Expansion of access to workforce development programs administered by school districts, institutions of higher education, and other providers of career-technical education;

(D) Alignment of the statewide academic standards for grades nine through twelve adopted under section 3301.079 of the Revised Code, the Ohio graduation tests prescribed by division (B)(1) of section 3301.0710 of the Revised Code and the assessment system prescribed by division (B)(2)

of that section, and the curriculum requirements for a high school diploma prescribed by section 3313.603 of the Revised Code with the expectations of employers and institutions of higher education regarding the knowledge and skills that high school graduates should attain prior to entering the workforce or enrolling in an institution of higher education;

(E) Improving the science and mathematics skills of students and employees to meet the needs of a knowledge-intensive economy;

(F) Reducing the number of students who need academic remediation after enrollment in an institution of higher education;

(G) Expansion of school counseling career and educational programs, access programs, and other strategies to overcome financial, cultural, and organizational barriers that interfere with students' planning for postsecondary education and that prevent students from obtaining a postsecondary education;

(H) Alignment of teacher preparation programs approved by the ~~state board of education~~ chancellor of the Ohio board of regents pursuant to section ~~3319.23~~ 3333.048 of the Revised Code with the instructional needs and expectations of school districts;

(I) Strategies for retaining more graduates of Ohio institutions of higher education in the state and for attracting talented individuals from outside Ohio to work in the state;

(J) Strategies for promoting lifelong continuing education as a component of maintaining a strong workforce and economy;

(K) Appropriate measures of the impact of statewide efforts to promote collaboration among providers of preschool through postsecondary education and to develop a high-quality workforce and strategies for collecting and sharing data relevant to such measures;

(L) Strategies for developing and improving opportunities and for removing barriers to achievement for children identified as gifted under Chapter 3324. of the Revised Code;

(M) Legislative changes to establish criteria by which state universities may waive the general requirement, under division (B) of section 3345.06 of the Revised Code, that a student complete the Ohio core curriculum to be admitted as an undergraduate. The partnership at least shall consider criteria for waiving the requirement for students who have served in the military and students who entered ninth grade on or after July 1, 2010, in another state and moved to Ohio prior to high school graduation. The recommendations for legislative changes under this division shall be developed in consultation with the Ohio board of regents and shall be issued not later than July 1, 2007.

Sec. 3301.46. Not later than April 30, 2009, the department of education and the chancellor of the Ohio board of regents jointly shall propose a standard method and form for documenting on high school transcripts high school credits earned that are compatible with the standards for credit transfer and articulation adopted ~~by the board of regents~~ under sections 3333.16 and 3333.161 of the Revised Code and any electronic clearinghouse for student transcript transfer developed by the ~~board of regents~~ chancellor. The proposal shall be submitted to the state board of education, ~~the chancellor of the board of regents, the partnership for continued learning,~~ the governor, the speaker and minority leader of the house of representatives, the president and minority leader of the senate, and the chairpersons and ranking minority members of the standing committees of the house of representatives and the senate that consider education legislation.

Sec. 3301.55. (A) A school district, county MR/DD board, or eligible nonpublic school operating a preschool program shall house the program in buildings that meet the following requirements:

(1) The building is operated by the district, county MR/DD board, or eligible nonpublic school and has been approved by the division of ~~industrial compliance~~ labor in the department of commerce or a certified municipal, township, or county building department for the purpose of operating a program for preschool children. Any such structure shall be constructed, equipped, repaired, altered, and maintained in accordance with applicable provisions of Chapters 3781. and 3791. and with rules adopted by the board of building standards under Chapter 3781. of the Revised Code for the safety and sanitation of structures erected for this purpose.

(2) The building is in compliance with fire and safety laws and regulations as evidenced by reports of annual school fire and safety inspections as conducted by appropriate local authorities.

(3) The school is in compliance with rules established by the state board of education regarding school food services.

(4) The facility includes not less than thirty-five square feet of indoor space for each child in the program. Safe play space, including both indoor and outdoor play space, totaling not less than sixty square feet for each child using the space at any one time, shall be regularly available and scheduled for use.

(5) First aid facilities and space for temporary placement or isolation of injured or ill children are provided.

(B) Each school district, county MR/DD board, or eligible nonpublic school that operates, or proposes to operate, a preschool program shall

submit a building plan including all information specified by the state board of education to the board not later than the first day of September of the school year in which the program is to be initiated. The board shall determine whether the buildings meet the requirements of this section and section 3301.53 of the Revised Code, and notify the superintendent of its determination. If the board determines, on the basis of the building plan or any other information, that the buildings do not meet those requirements, it shall cause the buildings to be inspected by the department of education. The department shall make a report to the superintendent specifying any aspects of the building that are not in compliance with the requirements of this section and section 3301.53 of the Revised Code and the time period that will be allowed the district, county MR/DD board, or school to meet the requirements.

Sec. 3301.57. (A) For the purpose of improving programs, facilities, and implementation of the standards promulgated by the state board of education under section 3301.53 of the Revised Code, the state department of education shall provide consultation and technical assistance to school districts, county MR/DD boards, and eligible nonpublic schools operating preschool programs or school child programs, and inservice training to preschool staff members, school child program staff members, and nonteaching employees.

(B) The department and the school district board of education, county MR/DD board, or eligible nonpublic school shall jointly monitor each preschool program and each school child program.

If the program receives any grant or other funding from the state or federal government, the department annually shall monitor all reports on attendance, financial support, and expenditures according to provisions for use of the funds.

(C) The department of education, at least ~~twice~~ once during every twelve-month period of operation of a preschool program or a licensed school child program, shall inspect the program and provide a written inspection report to the superintendent of the school district, county MR/DD board, or eligible nonpublic school. ~~At least one inspection shall be unannounced, and all~~ The department may inspect any program more than once, as considered necessary by the department, during any twelve-month period of operation. All inspections may be unannounced. No person shall interfere with any inspection conducted pursuant to this division or to the rules adopted pursuant to sections 3301.52 to 3301.59 of the Revised Code.

Upon receipt of any complaint that a preschool program or a licensed school child program is out of compliance with the requirements in sections

3301.52 to 3301.59 of the Revised Code or the rules adopted under those sections, the department shall investigate and may inspect the program.

(D) If a preschool program or a licensed school child program is determined to be out of compliance with the requirements of sections 3301.52 to 3301.59 of the Revised Code or the rules adopted under those sections, the department of education shall notify the appropriate superintendent, county MR/DD board, or eligible nonpublic school in writing regarding the nature of the violation, what must be done to correct the violation, and by what date the correction must be made. If the correction is not made by the date established by the department, it may commence action under Chapter 119. of the Revised Code to close the program or to revoke the license of the program. If a program does not comply with an order to cease operation issued in accordance with Chapter 119. of the Revised Code, the department shall notify the attorney general, the prosecuting attorney of the county in which the program is located, or the city attorney, village solicitor, or other chief legal officer of the municipal corporation in which the program is located that the program is operating in violation of sections 3301.52 to 3301.59 of the Revised Code or the rules adopted under those sections and in violation of an order to cease operation issued in accordance with Chapter 119. of the Revised Code. Upon receipt of the notification, the attorney general, prosecuting attorney, city attorney, village solicitor, or other chief legal officer shall file a complaint in the court of common pleas of the county in which the program is located requesting the court to issue an order enjoining the program from operating. The court shall grant the requested injunctive relief upon a showing that the program named in the complaint is operating in violation of sections 3301.52 to 3301.59 of the Revised Code or the rules adopted under those sections and in violation of an order to cease operation issued in accordance with Chapter 119. of the Revised Code.

(E) The department of education shall prepare an annual report on inspections conducted under this section. The report shall include the number of inspections conducted, the number and types of violations found, and the steps taken to address the violations. The department shall file the report with the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives on or before the first day of January of each year, beginning in 1999.

Sec. 3301.60. The interstate compact on educational opportunity for military children is hereby ratified, enacted into law, and entered into by this state as a party thereto with any other state that heretofore has legally joined or hereafter legally joins the compact, as follows:

Interstate Compact on Educational
Opportunity for Military Children

ARTICLE I. PURPOSE

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district or variations in entrance or age requirements.

B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment.

C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities.

D. Facilitating the on-time graduation of children of military families.

E. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact.

F. Providing for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

G. Promoting coordination between this compact and other compacts affecting military children.

H. Promoting flexibility and cooperation between the educational system, parents, and the student in order to achieve educational success for the student.

ARTICLE II. DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

A. "Active duty" means full-time duty status in the active uniformed service of the United States, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. 1209 and 1211.

B. "Children of military families" means school-aged children, enrolled in kindergarten through twelfth grade, in the household of an active duty member.

C. "Compact commissioner" means the voting representative of each compacting state appointed pursuant to Article VIII of this compact.

D. "Deployment" means the period one month prior to the service

members' departure from their home station on military orders through six months after return to their home station.

E. "Educational records" or "education records" means those official records, files, and data directly related to a student and maintained by the school or local education agency, including, but not limited to, records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

F. "Extracurricular activities" means a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

G. "Interstate Commission on Educational Opportunity for Military Children" means the commission that is created under Article IX of this compact, which is generally referred to as Interstate Commission.

H. "Local education agency" means a public authority legally constituted by the state as an administrative agency to provide control of and direction for kindergarten through twelfth grade public educational institutions.

I. "Member state" means a state that has enacted this compact.

J. "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other United States territory. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

K. "Nonmember state" means a state that has not enacted this compact.

L. "Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought.

M. "Rule" means a written statement by the Interstate Commission promulgated pursuant to Article XII of this compact that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an

existing rule.

N. "Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought.

O. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other United States territory.

P. "Student" means the child of a military family for whom the local education agency receives public funding and who is formally enrolled in kindergarten through twelfth grade.

Q. "Transition" means 1) the formal and physical process of transferring from school to school or 2) the period of time in which a student moves from one school in the sending state to another school in the receiving state.

R. "Uniformed services" means the Army, Navy, Air Force, Marine Corps, and Coast Guard, as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration and Public Health Service.

S. "Veteran" means a person who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

ARTICLE III. APPLICABILITY

A. Except as otherwise provided in Section B, this compact shall apply to the children of:

1. Active duty members of the uniformed services as defined in this compact, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. 1209 and 1211;

2. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and

3. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one year after death.

B. The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.

C. The provisions of this compact shall not apply to the children of:

1. Inactive members of the national guard and military reserves;

2. Members of the uniformed services now retired, except as provided in Section A;

3. Veterans of the uniformed services, except as provided in Section A; and

4. Other Department of Defense personnel and other federal agency

civilian and contract employees not defined as active duty members of the uniformed services.

ARTICLE IV. EDUCATIONAL RECORDS AND ENROLLMENT

A. Unofficial or "hand-carried" education records - In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

B. Official education records and transcripts - Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within ten days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

C. Immunizations - Compacting states shall give thirty days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Interstate Commission, for students to obtain any immunizations required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

D. Kindergarten and first grade entrance age - Students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level (including kindergarten) from a local education agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from an accredited school in the sending state.

ARTICLE V. PLACEMENT AND ATTENDANCE

A. Course placement - When the student transfers before or during the school year, the receiving state school shall initially honor placement of the

student in educational courses based on the student's enrollment in the sending state school or educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes but is not limited to Honors, International Baccalaureate, Advanced Placement, vocational, technical, and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the courses.

B. Educational program placement - The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation/placement in like programs in the sending state. Such programs include, but are not limited to: 1) gifted and talented programs; and 2) English as a second language. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

C. Special education services - 1) In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1400 et seq., the receiving state shall initially provide comparable services to a student with disabilities based on the student's current individualized education program (IEP); and 2) in compliance with the requirements of Section 504 of the Rehabilitation Act, 29 U.S.C. 794, and with Title II of the Americans with Disabilities Act, 42 U.S.C. 12131 to 12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing Section 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

D. Placement flexibility - Local education agency administrative officials shall have flexibility in waiving course or program prerequisites, or other preconditions for placement in courses or programs offered under the jurisdiction of the local education agency.

E. Absence as related to deployment activities - A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the

local education agency superintendent to visit with the student's parent or legal guardian relative to such leave or deployment of the parent or guardian.

ARTICLE VI. ELIGIBILITY

A. Eligibility for enrollment

1. A special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

2. A local education agency shall be prohibited from charging local tuition to a transitioning military child placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.

3. A transitioning military child, placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which the child was enrolled while residing with the custodial parent.

B. Eligibility for extracurricular participation - State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

ARTICLE VII. GRADUATION

In order to facilitate the on-time graduation of children of military families states and local education agencies shall incorporate the following procedures:

A. Waiver requirements - Local education agency administrative officials shall waive specific courses required for graduation if similar coursework has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the local education agency shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

B. Exit exams - States shall accept: 1) exit or end-of-course exams required for graduation from the sending state; or 2) national norm-referenced achievement tests; or 3) alternative testing, in lieu of testing requirements for graduation in the receiving state. In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in his or her Senior year, then the provisions of Article VII, Section C shall apply.

C. Transfers during Senior year - Should a military student transferring

at the beginning or during the student's Senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with Sections A and B of this Article.

ARTICLE VIII. STATE COORDINATION

A. Each member state shall, through the creation of a state council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies and military installations concerning the state's participation in, and compliance with, this compact and Interstate Commission activities. While each member state may determine the membership of its own state council, its membership must include at least: the state superintendent of education, superintendent of a school district with a high concentration of military children, representative from a military installation, one representative each from the legislative and executive branches of government, and other offices and stakeholder groups the state council deems appropriate. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the state council.

B. The state council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

C. The compact commissioner responsible for the administration and management of the state's participation in the compact shall be appointed by the governor or as otherwise determined by each member state.

D. The compact commissioner and the military family education liaison designated herein shall be ex officio members of the state council, unless either is already a full voting member of the state council.

ARTICLE IX. INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

The member states hereby create the "Interstate Commission on Educational Opportunity for Military Children." The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

A. Be a body corporate and joint agency of the member states and shall

have all the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.

B. Consist of one Interstate Commission voting representative from each member state who shall be that state's compact commissioner.

1. Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

2. A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

3. A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the governor or state council may delegate voting authority to another person from their state for a specified meeting.

4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

C. Consist of ex officio, nonvoting representatives who are members of interested organizations. Such ex officio members, as defined in the bylaws, may include but not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel and other interstate compacts affecting the education of children of military members.

D. Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

E. Establish an executive committee, whose members shall include the officers of the Interstate Commission and such other members of the Interstate Commission as determined by the bylaws. Members of the executive committee shall serve a one year term. Members of the executive committee shall be entitled to one vote each. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as deemed necessary. The Department of Defense, shall serve as an ex officio, nonvoting member of the executive committee.

F. Establish bylaws and rules that provide for conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

G. Give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

1. Relate solely to the Interstate Commission's internal personnel practices and procedures;

2. Disclose matters specifically exempted from disclosure by federal and state statute;

3. Disclose trade secrets or commercial or financial information which is privileged or confidential;

4. Involve accusing a person of a crime, or formally censuring a person;

5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

6. Disclose investigative records compiled for law enforcement purposes; or

7. Specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

H. Shall cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission.

I. Shall collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules which shall specify the data to be collected, the means of collection and data exchange, and reporting requirements. Such methods of data collection, exchange, and reporting shall, in so far as is reasonably possible,

conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.

J. Shall create a process that permits military officials, education officials and parents to inform the Interstate Commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This section shall not be construed to create a private right of action against the Interstate Commission or any member state.

ARTICLE X. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

A. To provide for dispute resolution among member states.

B. To promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact. The rules shall have the force and effect of statutory law and shall be binding in the compact states to the extent and in the manner provided in this compact.

C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions.

D. To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process.

E. To establish and maintain offices which shall be located within one or more of the member states.

F. To purchase and maintain insurance and bonds.

G. To borrow, accept, hire, or contract for services of personnel.

H. To establish and appoint committees including, but not limited to, an executive committee as required by Article IX, Section E, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.

I. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.

J. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.

K. To lease, purchase, accept contributions or donations of, or otherwise

to own, hold, improve, or use any property, real, personal, or mixed.

L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.

M. To establish a budget and make expenditures.

N. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

O. To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

P. To coordinate education, training, and public awareness regarding the compact, its implementation and operation for officials and parents involved in such activity.

Q. To establish uniform standards for the reporting, collecting and exchanging of data.

R. To maintain corporate books and records in accordance with the bylaws.

S. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

T. To provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

ARTICLE XI. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall, by a majority of the members present and voting, within twelve months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

1. Establishing the fiscal year of the Interstate Commission;

2. Establishing an executive committee, and such other committees as may be necessary;

3. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;

4. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;

5. Establishing the titles and responsibilities of the officers and staff of

the Interstate Commission:

6. Providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations.

7. Providing "start up" rules for initial administration of the compact.

B. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.

C. Executive Committee, Officers, and Personnel

1. The executive committee shall have such authority and duties as may be set forth in the bylaws, including but not limited to:

a. Managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission;

b. Overseeing an organizational structure within, and appropriate procedures for the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and

c. Planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the Interstate Commission.

2. The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation, as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a Member of the Interstate Commission. The executive director shall hire and supervise such other persons as may be authorized by the Interstate Commission.

D. The Interstate Commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable

basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

1. The liability of the Interstate Commission's executive director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

2. The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

3. To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE XII. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. Rulemaking Authority - The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the Interstate

Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this act, or the powers granted hereunder, then such an action by the Interstate Commission shall be invalid and have no force or effect.

B. Rulemaking Procedure - Rules shall be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act," of 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.

C. Not later than thirty days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided, that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority.

D. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

ARTICLE XIII. OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

A. Oversight

1. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the Interstate Commission.

3. The Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this compact or promulgated rules.

B. Default, Technical Assistance, Suspension, and Termination - If the Interstate Commission determines that a member state has defaulted in the

performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the Interstate Commission shall:

1. Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default.

2. Provide remedial training and specific technical assistance regarding the default.

3. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

4. Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Interstate Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

5. The state which has been suspended or terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of suspension or termination including obligations, the performance of which extends beyond the effective date of suspension or termination.

6. The Interstate Commission shall not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

7. The defaulting state may appeal the action of the Interstate Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

C. Dispute Resolution

1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and nonmember states.

2. The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement

1. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

2. The Interstate Commission, may by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices, to enforce compliance with the provisions of the compact, its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or the regulation of a profession.

ARTICLE XIV. FINANCING OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE XV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

A. Any state is eligible to become a member state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than ten of the states. The effective date shall be no earlier than December 1, 2007. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XVI. WITHDRAWAL AND DISSOLUTION

A. Withdrawal

1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact by specifically repealing the statute, which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until one year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other member jurisdiction.

3. The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty days of its receipt thereof.

4. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

B. Dissolution of Compact

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of

the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVII. SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

ARTICLE XVIII. BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other Laws

1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

2. All member states' laws conflicting with this compact are superseded to the extent of the conflict.

B. Binding Effect of the Compact

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

2. All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

3. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

Sec. 3301.61. (A) The state council on educational opportunity for military children is hereby established within the department of education. The council shall consist of the following members:

(1) The superintendent of public instruction or the superintendent's designee;

(2) The director of veterans services or the director's designee;

(3) The superintendent of a school district that has a high concentration of children of military families, appointed by the governor;

(4) A representative of a military installation located in this state, appointed by the governor;

(5) A representative of the governor's office, appointed by the governor;

(6) Four members of the general assembly, appointed as follows:

(a) One member of the house of representatives appointed by the

speaker of the house of representatives;

(b) One member of the house of representatives appointed by the minority leader of the house of representatives;

(c) One member of the senate appointed by the president of the senate;

(d) One member of the senate appointed by the minority leader of the senate.

(7) The compact commissioner appointed under section 3301.62 of the Revised Code;

(8) The military family education liaison appointed under section 3301.63 of the Revised Code;

(9) Other members appointed in the manner prescribed by and seated at the discretion of the voting members of the council.

The members of the council shall serve at the pleasure of their appointing authorities. Vacancies shall be filled in the manner of the initial appointments.

The members appointed under divisions (A)(6) to (9) of this section shall be nonvoting members of the council.

The members of the council shall serve without compensation.

(B) The council shall oversee and provide coordination for the state's participation in and compliance with the interstate compact on educational opportunity for military children, as ratified by section 3301.60 of the Revised Code.

(C) The department of education shall provide staff support for the council.

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

(E) As used in this section, "children of military families" and "military installation" have the same meanings as in Article II of the interstate compact on educational opportunity for military children.

Sec. 3301.62. The governor shall appoint a compact commissioner who shall be responsible for administering the state's participation in the interstate compact on educational opportunity for military children, as ratified by section 3301.60 of the Revised Code. The compact commissioner shall be a state officer within the department of education and shall serve at the pleasure of the governor.

Sec. 3301.63. The state council on educational opportunity for military children, established under section 3301.61 of the Revised Code, shall appoint a military family education liaison to assist families and the state in implementing the interstate compact on educational opportunity for military children, as ratified by section 3301.60 of the Revised Code. The

department of education shall provide staff support for the military family education liaison.

Sec. 3301.64. The annual assessment charged to the state for participating in the interstate compact on educational opportunity for military children shall be divided equally between the department of education and the department of veterans services.

Sec. 3301.82. (A) The superintendent of public instruction may create the center for creativity and innovation in the department of education. If created, the center shall assist schools in city, exempted village, local, and joint vocational school districts, educational service centers, community schools established under Chapter 3314. of the Revised Code, and STEM schools established under Chapter 3326. of the Revised Code with any of the following:

(1) The design and implementation of strategies and systems that enable schools to become professional learning communities, including the following:

(a) Mentoring and coaching teachers and support staff;

(b) Enabling school principals to focus on supporting instruction and engaging teachers and support staff as part of the instructional leadership team so that teachers and staff may share the responsibility for making and implementing school decisions;

(c) Adopting new models for restructuring the learning day or year, such as including teacher planning and collaboration time as part of the school day;

(d) Creating smaller schools or smaller units within larger schools to facilitate teacher collaboration to improve and advance the professional practice of teaching and to enhance instruction that yields enhanced student achievement.

(2) The use of strategies in collaboration with the teach Ohio program to promote, recruit, and enhance the teaching profession, including:

(a) The design and implementation of "grow your own" recruitment and retention strategies that are designed to support individuals in becoming licensed teachers, to retain highly qualified teachers, to assist experienced teachers in obtaining licensure in subject areas for which there is need, to assist teachers in obtaining senior professional educator and lead professional educator licenses, and to assist teachers to grow and develop in the profession;

(b) Enhanced conditions for new teachers;

(c) Incentives to attract qualified mathematics, science, or special education teachers;

(d) The development and implementation of a partnership with teacher preparation programs at colleges and universities to help attract teachers qualified to teach in shortage areas;

(e) The implementation of a program to increase the cultural competency of both new and veteran teachers.

(3) Identifying statutes, rules, and regulations that impede the adoption of innovative practices and make recommendations to the superintendent of public instruction for the repeal, rescission, revision, or waiver of those provisions;

(4) Identifying promising programs and practices based on high quality education research and developing models for their early adoption, including research and practices in arts education and creativity;

(5) Other duties as assigned by the superintendent of public instruction.

(B) If created, the center shall promote collaboration between school districts and community schools established under Chapter 3314. of the Revised Code to enhance the academic programs of both and to broaden the application of successful and innovative academic practices developed by community schools. In doing so, the center shall work with the office of community schools to do the following:

(1) Study, gather information concerning, and serve as a clearinghouse of best practices and innovative programming developed and utilized by community schools that could be adopted by school districts;

(2) Identify circumstances in which students could benefit from collaboration between the complementary programs of school districts and community schools.

(C) The department may accept, receive, and expend gifts, devises, or bequests of money, lands, or other properties for the center for creativity and innovation. The state board of education may adopt rules for the purpose of enabling the center to carry out the conditions and limitations upon which a bequest, gift, or endowment is made.

Sec. 3301.90. The governor shall create the early childhood advisory council in accordance with 42 U.S.C. 9837b(b)(1) and shall appoint one of its members to serve as chairperson of the council. The council shall serve as the state advisory council on early childhood education and care, as described in 42 U.S.C. 9837b(b)(1). In addition to the duties specified in 42 U.S.C. 9837b(b)(1), the council shall advise the state regarding the creation and duties of the center for early childhood development and shall promote family-centered programs and services that acknowledge and support the social, emotional, cognitive, intellectual, and physical development of children and the vital role of families in ensuring the well-being and success

of children.

Sec. 3301.95. Each school district that receives federal funding under the "American Recovery and Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, shall use the required amounts of that funding for services for students enrolled in nonpublic schools located in the district as prescribed under Title I of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6301 et seq., the "Individuals with Disabilities Education Improvement Act of 2004," 20 U.S.C. 1400 et seq., or the "Enhancing Education Through Technology Act of 2001," 20 U.S.C. 6751 et seq., and under section 3323.041 of the Revised Code.

The department of education shall ensure compliance with this section.

Sec. 3302.01. As used in this chapter:

(A) "Performance index score" means the average of the totals derived from calculations for each subject area of ~~reading, writing~~ English language arts, mathematics, science, and social studies of the weighted proportion of untested students and students scoring at each level of skill described in division (A)(2) of section 3301.0710 of the Revised Code on the ~~tests~~ assessments prescribed by divisions (A) and (B)(~~1~~) of that section. The department of education shall assign weights such that students who do not take ~~a test~~ an assessment receive a weight of zero and students who take ~~a test~~ an assessment receive progressively larger weights dependent upon the level of skill attained on the ~~test~~ assessment. The department shall also determine the performance index score a school district or building needs to achieve for the purpose of the performance ratings assigned pursuant to section 3302.03 of the Revised Code.

Students shall be included in the "performance index score" in accordance with division (D)(2) of section 3302.03 of the Revised Code.

(B) "Subgroup" means a subset of the entire student population of the state, a school district, or a school building and includes each of the following:

- (1) Major racial and ethnic groups;
- (2) Students with disabilities;
- (3) Economically disadvantaged students;
- (4) Limited English proficient students.

(C) "No Child Left Behind Act of 2001" includes the statutes codified at 20 U.S.C. 6301 et seq. and any amendments thereto, rules and regulations promulgated pursuant to those statutes, guidance documents, and any other policy directives regarding implementation of that act issued by the United States department of education.

(D) "Adequate yearly progress" means a measure of annual academic

performance as calculated in accordance with the "No Child Left Behind Act of 2001."

(E) "Supplemental educational services" means additional academic assistance, such as tutoring, remediation, or other educational enrichment activities, that is conducted outside of the regular school day by a provider approved by the department in accordance with the "No Child Left Behind Act of 2001."

(F) "Value-added progress dimension" means a measure of academic gain for a student or group of students over a specific period of time that is calculated by applying a statistical methodology to individual student achievement data derived from the achievement ~~tests~~ assessments prescribed by section 3301.0710 of the Revised Code.

Sec. 3302.02. ~~The~~ Not later than one year after the adoption of rules under division (E) of section 3301.0712 of the Revised Code and at least every sixth year thereafter, upon recommendations of the superintendent of public instruction, the state board of education annually through 2007, and every six years thereafter, shall establish ~~at least seventeen~~ performance indicators for the report cards required by division (C) of section 3302.03 of the Revised Code. In establishing these indicators, the ~~state board superintendent~~ shall consider inclusion of student performance on ~~any tests given~~ assessments prescribed under section 3301.0710 or 3301.0712 of the Revised Code, rates of student improvement on such ~~tests~~ assessments, student attendance, the breadth of coursework available within the district, and other indicators of student success. ~~The state board~~ Not later than December 31, 2011, the state board, upon recommendation of the superintendent, shall establish a performance indicator reflecting the level of services provided to, and the performance of, students identified as gifted under Chapter 3324. of the Revised Code.

The superintendent shall inform the Ohio accountability task force established under section 3302.021 of the Revised Code of the performance indicators ~~it~~ the superintendent establishes under this section and the rationale for choosing each indicator and for determining how a school district or building meets that indicator.

The ~~state board~~ superintendent shall not establish any performance indicator for passage of the third or fourth grade ~~reading test~~ English language arts assessment that is solely based on the ~~test~~ assessment given in the fall for the purpose of determining whether students have met the reading guarantee provisions of section 3313.608 of the Revised Code.

Sec. 3302.021. (A) Not earlier than July 1, 2005, and not later than July 1, 2007, the department of education shall implement a value-added

progress dimension for school districts and buildings and shall incorporate the value-added progress dimension into the report cards and performance ratings issued for districts and buildings under section 3302.03 of the Revised Code.

The state board of education shall adopt rules, pursuant to Chapter 119. of the Revised Code, for the implementation of the value-added progress dimension. In adopting rules, the state board shall consult with the Ohio accountability task force established under division ~~(D)~~(E) of this section. The rules adopted under this division shall specify both of the following:

(1) A scale for describing the levels of academic progress in reading and mathematics relative to a standard year of academic growth in those subjects for each of grades three through eight;

(2) That the department shall maintain the confidentiality of individual student test scores and individual student reports in accordance with sections 3301.0711, 3301.0714, and 3319.321 of the Revised Code and federal law. The department may require school districts to use a unique identifier for each student for this purpose. Individual student test scores and individual student reports shall be made available only to a student's classroom teacher and other appropriate educational personnel and to the student's parent or guardian.

(B) The department shall use a system designed for collecting necessary data, calculating the value-added progress dimension, analyzing data, and generating reports, which system has been used previously by a non-profit organization led by the Ohio business community for at least one year in the operation of a pilot program in cooperation with school districts to collect and report student achievement data via electronic means and to provide information to the districts regarding the academic performance of individual students, grade levels, school buildings, and the districts as a whole.

(C) The department shall not pay more than two dollars per student for data analysis and reporting to implement the value-added progress dimension in the same manner and with the same services as under the pilot program described by division (B) of this section. However, nothing in this section shall preclude the department or any school district from entering into a contract for the provision of more services at a higher fee per student. Any data analysis conducted under this section by an entity under contract with the department shall be completed in accordance with timelines established by the superintendent of public instruction.

(D) The department shall share any aggregate student data and any calculation, analysis, or report utilizing aggregate student data that is

generated under this section with the chancellor of the Ohio board of regents. The department shall not share individual student test scores and individual student reports with the chancellor.

(E)(1) There is hereby established the Ohio accountability task force. The task force shall consist of the following thirteen members:

(a) The chairpersons and ranking minority members of the house of representatives and senate standing committees primarily responsible for education legislation, who shall be nonvoting members;

(b) One representative of the governor's office, appointed by the governor;

(c) The superintendent of public instruction, or the superintendent's designee;

(d) One representative of teacher employee organizations formed pursuant to Chapter 4117. of the Revised Code, appointed by the speaker of the house of representatives;

(e) One representative of school district boards of education, appointed by the president of the senate;

(f) One school district superintendent, appointed by the speaker of the house of representatives;

(g) One representative of business, appointed by the president of the senate;

(h) One representative of a non-profit organization led by the Ohio business community, appointed by the governor;

(i) One school building principal, appointed by the president of the senate;

(j) A member of the state board of education, appointed by the speaker of the house of representatives.

Initial appointed members of the task force shall serve until January 1, 2005. Thereafter, terms of office for appointed members shall be for two years, each term ending on the same day of the same month as did the term that it succeeds. Each appointed member shall hold office from the date of appointment until the end of the term for which the member was appointed. Members may be reappointed. Vacancies shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term.

The task force shall select from among its members a chairperson. The task force shall meet at least six times each calendar year and at other times upon the call of the chairperson to conduct its business. Members of the task force shall serve without compensation.

(2) The task force shall do all of the following:

(a) Examine the implementation of the value-added progress dimension by the department, including the system described in division (B) of this section, the reporting of performance data to school districts and buildings, and the provision of professional development on the interpretation of the data to classroom teachers and administrators;

(b) Periodically review any fees for data analysis and reporting paid by the department pursuant to division (C) of this section and determine if the fees are appropriate based upon the level of services provided;

(c) Periodically report to the department and the state board on all issues related to the school district and building accountability system established under this chapter;

(d) Not later than seven years after its initial meeting, make recommendations to improve the school district and building accountability system established under this chapter. The task force shall adopt recommendations by a majority vote of its members. Copies of the recommendations shall be provided to the state board, the governor, the speaker of the house of representatives, and the president of the senate.

(e) Determine starting dates for the implementation of the value-added progress dimension and its incorporation into school district and building report cards and performance ratings.

Sec. 3302.03. (A) Annually the department of education shall report for each school district and each school building in a district all of the following:

(1) The extent to which the school district or building meets each of the applicable performance indicators created by the state board of education under section 3302.02 of the Revised Code and the number of applicable performance indicators that have been achieved;

(2) The performance index score of the school district or building;

(3) Whether the school district or building has made adequate yearly progress;

(4) Whether the school district or building is excellent, effective, needs continuous improvement, is under an academic watch, or is in a state of academic emergency.

(B) Except as otherwise provided in divisions (B)(6) and (7) of this section:

(1) A school district or building shall be declared excellent if it fulfills one of the following requirements:

(a) It makes adequate yearly progress and either meets at least ninety-four per cent of the applicable state performance indicators or has a

performance index score established by the department.

(b) It has failed to make adequate yearly progress for not more than two consecutive years and either meets at least ninety-four per cent of the applicable state performance indicators or has a performance index score established by the department.

(2) A school district or building shall be declared effective if it fulfills one of the following requirements:

(a) It makes adequate yearly progress and either meets at least seventy-five per cent but less than ninety-four per cent of the applicable state performance indicators or has a performance index score established by the department.

(b) It does not make adequate yearly progress and either meets at least seventy-five per cent of the applicable state performance indicators or has a performance index score established by the department, except that if it does not make adequate yearly progress for three consecutive years, it shall be declared in need of continuous improvement.

(3) A school district or building shall be declared to be in need of continuous improvement if it fulfills one of the following requirements:

(a) It makes adequate yearly progress, meets less than seventy-five per cent of the applicable state performance indicators, and has a performance index score established by the department.

(b) It does not make adequate yearly progress and either meets at least fifty per cent but less than seventy-five per cent of the applicable state performance indicators or has a performance index score established by the department.

(4) A school district or building shall be declared to be under an academic watch if it does not make adequate yearly progress and either meets at least thirty-one per cent but less than fifty per cent of the applicable state performance indicators or has a performance index score established by the department.

(5) A school district or building shall be declared to be in a state of academic emergency if it does not make adequate yearly progress, does not meet at least thirty-one per cent of the applicable state performance indicators, and has a performance index score established by the department.

(6) When designating performance ratings for school districts and buildings under divisions (B)(1) to (5) of this section, the department shall not assign a school district or building a lower designation from its previous year's designation based solely on one subgroup not making adequate yearly progress.

(7) Division (B)(7) of this section does not apply to any community

school established under Chapter 3314. of the Revised Code in which a majority of the students are enrolled in a dropout prevention and recovery program.

A school district or building shall not be assigned a higher performance rating than in need of continuous improvement if at least ten per cent but not more than fifteen per cent of the enrolled students do not take all achievement ~~tests~~ assessments prescribed for their grade level under division (A)(1) or (B)(1) of section 3301.0710 of the Revised Code from which they are not excused pursuant to division (C)(1) or (3) of section 3301.0711 of the Revised Code. A school district or building shall not be assigned a higher performance rating than under an academic watch if more than fifteen per cent but not more than twenty per cent of the enrolled students do not take all achievement ~~tests~~ assessments prescribed for their grade level under division (A)(1) or (B)(1) of section 3301.0710 of the Revised Code from which they are not excused pursuant to division (C)(1) or (3) of section 3301.0711 of the Revised Code. A school district or building shall not be assigned a higher performance rating than in a state of academic emergency if more than twenty per cent of the enrolled students do not take all achievement ~~tests~~ assessments prescribed for their grade level under division (A)(1) or (B)(1) of section 3301.0710 of the Revised Code from which they are not excused pursuant to division (C)(1) or (3) of section 3301.0711 of the Revised Code.

(C)(1) The department shall issue annual report cards for each school district, each building within each district, and for the state as a whole reflecting performance on the indicators created by the state board under section 3302.02 of the Revised Code, the performance index score, and adequate yearly progress.

(2) The department shall include on the report card for each district information pertaining to any change from the previous year made by the school district or school buildings within the district on any performance indicator.

(3) When reporting data on student performance, the department shall disaggregate that data according to the following categories:

- (a) Performance of students by age group;
- (b) Performance of students by race and ethnic group;
- (c) Performance of students by gender;
- (d) Performance of students grouped by those who have been enrolled in a district or school for three or more years;
- (e) Performance of students grouped by those who have been enrolled in a district or school for more than one year and less than three years;

(f) Performance of students grouped by those who have been enrolled in a district or school for one year or less;

(g) Performance of students grouped by those who are economically disadvantaged;

(h) Performance of students grouped by those who are enrolled in a conversion community school established under Chapter 3314. of the Revised Code;

(i) Performance of students grouped by those who are classified as limited English proficient;

(j) Performance of students grouped by those who have disabilities;

(k) Performance of students grouped by those who are classified as migrants;

(l) Performance of students grouped by those who are identified as gifted pursuant to Chapter 3324. of the Revised Code.

The department may disaggregate data on student performance according to other categories that the department determines are appropriate. To the extent possible, the department shall disaggregate data on student performance according to any combinations of two or more of the categories listed in divisions (C)(3)(a) to (l) of this section that it deems relevant.

In reporting data pursuant to division (C)(3) of this section, the department shall not include in the report cards any data statistical in nature that is statistically unreliable or that could result in the identification of individual students. For this purpose, the department shall not report student performance data for any group identified in division (C)(3) of this section that contains less than ten students.

(4) The department may include with the report cards any additional education and fiscal performance data it deems valuable.

(5) The department shall include on each report card a list of additional information collected by the department that is available regarding the district or building for which the report card is issued. When available, such additional information shall include student mobility data disaggregated by race and socioeconomic status, college enrollment data, and the reports prepared under section 3302.031 of the Revised Code.

The department shall maintain a site on the world wide web. The report card shall include the address of the site and shall specify that such additional information is available to the public at that site. The department shall also provide a copy of each item on the list to the superintendent of each school district. The district superintendent shall provide a copy of any item on the list to anyone who requests it.

(6)(a) This division does not apply to conversion community schools

that primarily enroll students between sixteen and twenty-two years of age who dropped out of high school or are at risk of dropping out of high school due to poor attendance, disciplinary problems, or suspensions.

For any district that sponsors a conversion community school under Chapter 3314. of the Revised Code, the department shall combine data regarding the academic performance of students enrolled in the community school with comparable data from the schools of the district for the purpose of calculating the performance of the district as a whole on the report card issued for the district.

(b) Any district that leases a building to a community school located in the district or that enters into an agreement with a community school located in the district whereby the district and the school endorse each other's programs may elect to have data regarding the academic performance of students enrolled in the community school combined with comparable data from the schools of the district for the purpose of calculating the performance of the district as a whole on the district report card. Any district that so elects shall annually file a copy of the lease or agreement with the department.

(7) The department shall include on each report card the percentage of teachers in the district or building who are highly qualified, as defined by the "No Child Left Behind Act of 2001," and a comparison of that percentage with the percentages of such teachers in similar districts and buildings.

(8) The department shall include on the report card the number of ~~master~~ lead teachers employed by each district and each building once the data is available from the education management information system established under section 3301.0714 of the Revised Code.

(D)(1) In calculating ~~reading, writing~~ English language arts, mathematics, social studies, or science ~~proficiency or achievement test~~ assessment passage rates used to determine school district or building performance under this section, the department shall include all students taking ~~a test~~ an assessment with accommodation or to whom an alternate assessment is administered pursuant to division (C)(1) or (3) of section 3301.0711 of the Revised Code.

(2) In calculating performance index scores, rates of achievement on the performance indicators established by the state board under section 3302.02 of the Revised Code, and adequate yearly progress for school districts and buildings under this section, the department shall do all of the following:

(a) Include for each district or building only those students who are included in the ADM certified for the first full school week of October and

are continuously enrolled in the district or building through the time of the spring administration of any ~~test assessment~~ prescribed by division (A)(1) or (B)(1) of section 3301.0710 of the Revised Code that is administered to the student's grade level;

(b) Include cumulative totals from both the fall and spring administrations of the third grade ~~reading~~ English language arts achievement ~~test assessment~~;

(c) Except as required by the "No Child Left Behind Act of 2001" for the calculation of adequate yearly progress, exclude for each district or building any limited English proficient student who has been enrolled in United States schools for less than one full school year.

Sec. 3302.031. In addition to the report cards required under section 3302.03 of the Revised Code, the department of education shall annually prepare the following reports for each school district and make a copy of each report available to the superintendent of each district:

(A) A funding and expenditure accountability report which shall consist of the amount of state aid payments the school district will receive during the fiscal year under ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code and any other fiscal data the department determines is necessary to inform the public about the financial status of the district;

(B) A school safety and discipline report which shall consist of statistical information regarding student safety and discipline in each school building, including the number of suspensions and expulsions disaggregated according to race and gender;

(C) A student equity report which shall consist of at least a description of the status of teacher qualifications, library and media resources, textbooks, classroom materials and supplies, and technology resources for each district. To the extent possible, the information included in the report required under this division shall be disaggregated according to grade level, race, gender, disability, and scores attained on ~~tests~~ assessments required under section 3301.0710 of the Revised Code.

(D) A school enrollment report which shall consist of information about the composition of classes within each district by grade and subject disaggregated according to race, gender, and scores attained on ~~tests~~ assessments required under section 3301.0710 of the Revised Code;

(E) A student retention report which shall consist of the number of students retained in their respective grade levels in the district disaggregated by grade level, subject area, race, gender, and disability;

(F) A school district performance report which shall describe for the district and each building within the district the extent to which the district

or building meets each of the applicable performance indicators established under section 3302.02 of the Revised Code, the number of performance indicators that have been achieved, and the performance index score. In calculating the rates of achievement on the performance indicators and the performance index scores for each report, the department shall exclude all students with disabilities.

Sec. 3302.05. The state board of education shall adopt rules freeing school districts declared to be excellent under division (B)(1) or effective under division (B)(2) of section 3302.03 of the Revised Code from specified state mandates. Any mandates included in the rules shall be only those statutes or rules pertaining to state education requirements. The rules shall not exempt districts from any standard or requirement of Chapter 3306. or from any operating standard adopted under division (D)(3) of section 3301.07 of the Revised Code.

Sec. 3302.07. (A) The board of education of any school district, the governing board of any educational service center, or the administrative authority of any chartered nonpublic school may submit to the state board of education an application proposing an innovative education pilot program the implementation of which requires exemptions from specific statutory provisions or rules. If a district or service center board employs teachers under a collective bargaining agreement adopted pursuant to Chapter 4117. of the Revised Code, any application submitted under this division shall include the written consent of the teachers' employee representative designated under division (B) of section 4117.04 of the Revised Code. The exemptions requested in the application shall be limited to any requirement of Title XXXIII of the Revised Code or of any rule of the state board adopted pursuant to that title except that the application may not propose an exemption from any requirement of or rule adopted pursuant to Chapter 3307. or 3309., sections 3319.07 to 3319.21, or Chapter 3323. of the Revised Code. Furthermore, an exemption from any standard or requirement of Chapter 3306. or from any operating standard adopted under division (D)(3) of section 3301.07 of the Revised Code shall be granted only pursuant to a waiver granted by the superintendent of public instruction under section 3306.40 of the Revised Code.

(B) The state board of education shall accept any application submitted in accordance with division (A) of this section. The superintendent of public instruction shall approve or disapprove the application in accordance with standards for approval, which shall be adopted by the state board.

(C) The superintendent of public instruction shall exempt each district or service center board or chartered nonpublic school administrative

authority with an application approved under division (B) of this section for a specified period from the statutory provisions or rules specified in the approved application. The period of exemption shall not exceed the period during which the pilot program proposed in the application is being implemented and a reasonable period to allow for evaluation of the effectiveness of the program.

Sec. 3304.16. In carrying out the purposes of sections 3304.11 to 3304.27 of the Revised Code, the rehabilitation services commission:

(A) Shall develop all necessary rules;

(B) Shall prepare and submit to the governor annual reports of activities and expenditures and, prior to each first regular session of the general assembly, an estimate of sums required to carry out the commission's responsibilities;

(C) Shall certify any disbursement of funds available to the commission for vocational rehabilitation activities;

(D) Shall serve as the sole state agency designated to administer the plan under the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C. 701, as amended;

(E) Shall take appropriate action to guarantee rights of and services to handicapped persons;

(F) Shall consult with and advise other state agencies to assist them in meeting the needs of handicapped persons more effectively and to achieve maximum coordination among programs for the handicapped;

(G) Shall establish an administrative division of consumer affairs and advocacy within the commission to promote and help guarantee the rights of handicapped persons;

(H) Shall maintain an inventory of state services that are available to handicapped persons;

(I) Shall utilize, support, assist, and cooperate with the governor's committee on employment of the handicapped;

(J) May delegate to any officer or employee of the commission any necessary powers and duties;

(K) May take any other necessary or appropriate action for cooperation with public and private agencies and organizations which may include:

(1) Reciprocal agreements with other states to provide for the vocational rehabilitation of individuals within the states concerned;

(2) Contracts or other arrangements with public and other nonprofit agencies and organizations for the construction or establishment and operation of vocational rehabilitation programs and facilities;

(3) Cooperative arrangements with the federal government for carrying

out sections 3304.11 to 3304.27 of the Revised Code, the "Vocational Rehabilitation Act," 41 Stat. 735 (1920), 29 U.S.C. 31, as amended, or other federal statutes pertaining to vocational rehabilitation, and to this end, may adopt plans and methods of administration found necessary by the federal government for the efficient operation of any joint arrangements or the efficient application of any federal statutes;

(4) Upon the designation of the governor, performing functions and services for the federal government relating to individuals under a physical or mental disability;

~~(S)~~ ~~Compliance~~ (L) Shall comply with any requirements necessary to obtain federal funds in the maximum amount and most advantageous proportion possible.

~~(L)~~(M) May conduct research and demonstration projects, including inquiries concerning the causes of blindness and its prevention, provide training and instruction, including the establishment and maintenance of research fellowships and traineeships along with all necessary stipends and allowances, disseminate information, and provide technical assistance relating to vocational rehabilitation;

~~(M)~~(N) May plan, establish, and operate programs, facilities, and services relating to vocational rehabilitation;

~~(N)~~(O) May accept and hold, invest, reinvest, or otherwise use gifts made for the purpose of furthering vocational rehabilitation;

~~(O)~~(P) May ameliorate the condition of the aged blind or other severely disabled individuals by establishing a program of home visitation by commission employees for the purpose of instruction;

~~(P)~~(Q) May establish and manage small business enterprises that are operated by persons with a substantial handicap to employment, including blind persons;

~~(Q)~~(R) May purchase from insurance companies licensed to do business in this state any insurance deemed necessary by the commission for the efficient operation of a suitable vending facility as defined in division (A) of section 3304.28 of the Revised Code;

~~(R)~~(S) May accept directly from any state agency, and any state agency may transfer directly to the commission, surplus computers and computer equipment to be used for any purposes the commission considers appropriate, notwithstanding sections 125.12 to 125.14 of the Revised Code.

Sec. 3304.181. If the total of all funds available from nonfederal sources to support the activities of the rehabilitation services commission does not comply with the expenditure requirements of 34 C.F.R. 361.60 and 361.62 for those activities or would cause the state to lose an allotment or fail to

receive a reallocation under 34 C.F.R. 361.65, the commission shall solicit additional funds from, and enter into agreements for the use of those funds with, private or public entities, including local government entities of this state. The commission shall continue to solicit additional funds and enter into agreements until the total funding available is sufficient for the commission to receive federal funds at the maximum amount and in the most advantageous proportion possible.

Any agreement entered into between the commission and a private or public entity to provide funds under this section shall be in accordance with section 3304.182 of the Revised Code.

Sec. 3304.182. Any agreement between the rehabilitation services commission and a private or public entity providing funds under section 3304.181 of the Revised Code may permit the commission to receive a specified percentage of the funds for administration, but the percentage shall be not more than thirteen per cent of the total funds available under the agreement. The agreement shall not be for less than six months or be discontinued by the commission without the commission first providing three months notice of intent to discontinue the agreement. The commission may terminate an agreement only for good cause.

Any services provided under an agreement entered into under section 3304.181 of the Revised Code shall be provided by a person or government entity that meets the accreditation standards established in rules adopted by the commission under section 3304.16 of the Revised Code.

Sec. 3304.231. There is hereby created a brain injury advisory committee, which shall advise the administrator of the rehabilitation services commission and the brain injury program with regard to unmet needs of survivors of brain injury, development of programs for survivors and their families, establishment of training programs for health care professionals, and any other matter within the province of the brain injury program. The committee shall consist of not ~~less~~ fewer than ~~eighteen~~ twenty and not more than ~~twenty-one~~ twenty-two members as follows:

(A) Not ~~less~~ fewer than ten and not more than twelve members appointed by the administrator of the rehabilitation services commission, including all of the following: a survivor of brain injury, a relative of a survivor of brain injury, a licensed physician recommended by the Ohio chapter of the American college of emergency physicians, a licensed physician recommended by the Ohio state medical association, one other health care professional, a rehabilitation professional, an individual who represents the brain injury association of Ohio, and not ~~less~~ fewer than three nor more than five individuals who shall represent the public;

(B) The directors of the departments of health, alcohol and drug addiction services, mental retardation and developmental disabilities, mental health, job and family services, aging, and highway public safety; the administrator of workers' compensation; the superintendent of public instruction; and the administrator of the rehabilitation services commission. Any of the officials specified in this division may designate an individual to serve in the official's place as a member of the committee.

~~The director of health shall make initial appointments to the committee by November 1, 1990. Appointments made after July 26, 1991, shall be made by the administrator of the rehabilitation services commission.~~ Terms of office of the appointed members shall be two years. Members may be reappointed. Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term.

Members of the committee shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

Sec. 3306.01. This chapter shall be administered by the state board of education. The superintendent of public instruction shall calculate the amounts payable to each school district and shall certify the amounts payable to each eligible district to the treasurer of the district as determined under this chapter. As soon as possible after such amounts are calculated, the superintendent shall certify to the treasurer of each school district the district's adjusted charge-off increase, as defined in section 5705.211 of the Revised Code. No moneys shall be distributed pursuant to this chapter without the approval of the controlling board.

The state board of education shall, in accordance with appropriations made by the general assembly, meet the financial obligations of this chapter.

Annually, the department of education shall calculate and report to each school district the district's adequacy amount utilizing the calculations in sections 3306.03 and 3306.13 of the Revised Code. The department shall calculate and report separately for each school district the district's total state and local funds for its students with disabilities, utilizing the calculations in sections 3306.05, 3306.11, and 3306.13 of the Revised Code. The department shall calculate and report separately for each school district the amount of funding calculated for each factor of the district's adequacy amount.

Not later than the thirty-first day of August of each fiscal year, the department of education shall provide to each school district a preliminary

estimate of the amount of funding that the department calculates the district will receive under section 3306.13 of the Revised Code. Not later than the first day of December of each fiscal year, the department shall update that preliminary estimate.

Moneys distributed pursuant to this chapter shall be calculated and paid on a fiscal year basis, beginning with the first day of July and extending through the thirtieth day of June. Unless otherwise provided, the moneys appropriated for each fiscal year shall be distributed at least monthly to each school district. The state board shall submit a yearly distribution plan to the controlling board at its first meeting in July. The state board shall submit any proposed midyear revision of the plan to the controlling board in January. Any year-end revision of the plan shall be submitted to the controlling board in June. If moneys appropriated for each fiscal year are distributed other than monthly, such distribution shall be on the same basis for each school district.

The total amounts paid each month shall constitute, as nearly as possible, one-twelfth of the total amount payable for the entire year.

Payments shall be calculated to reflect the reporting of formula ADM. Annualized periodic payments for each school district shall be based on the district's final student counts verified by the superintendent of public instruction based on reports under section 3317.03 of the Revised Code, as adjusted, if so ordered, under division (K) of that section.

(A) Except as otherwise provided, payments under this chapter shall be made only to those school districts that comply with divisions (A)(1) to (3) of this section.

(1) Each city, exempted village, and local school district shall levy for current operating expenses at least twenty mills. Levies for joint vocational or cooperative education school districts or county school financing districts, limited to or to the extent apportioned to current expenses, shall be included in this qualification requirement. School district income tax levies under Chapter 5748. of the Revised Code, limited to or to the extent apportioned to current operating expenses, shall be included in this qualification requirement to the extent determined by the tax commissioner under division (D) of section 3317.021 of the Revised Code.

(2) Each city, exempted village, local, and joint vocational school district, during the school year next preceding the fiscal year for which payments are calculated under this chapter, shall meet the requirement of section 3313.48 or 3313.481 of the Revised Code, with regard to the minimum number of days or hours school must be open for instruction with pupils in attendance, for individualized parent-teacher conference and

reporting periods, and for professional meetings of teachers. The superintendent of public instruction shall waive a number of days in accordance with section 3317.01 of the Revised Code on which it had been necessary for a school to be closed because of disease epidemic, hazardous weather conditions, inoperability of school buses or other equipment necessary to the school's operation, damage to a school building, or other temporary circumstances due to utility failure rendering the school building unfit for school use.

A school district shall not be considered to have failed to comply with this division or section 3313.481 of the Revised Code because schools were open for instruction but either twelfth grade students were excused from attendance for up to three days or only a portion of the kindergarten students were in attendance for up to three days in order to allow for the gradual orientation to school of such students.

The superintendent of public instruction shall waive the requirements of this section with reference to the minimum number of days or hours a school must be open for instruction with pupils in attendance for the school year succeeding the school year in which a board of education initiates a plan of operation pursuant to section 3313.481 of the Revised Code. The minimum requirements of this section shall again be applicable to the district beginning with the school year commencing the second July succeeding the initiation of the plan, and for each school year thereafter.

A school district shall not be considered to have failed to comply with this division or section 3313.48 or 3313.481 of the Revised Code because schools were open for instruction but the length of the regularly scheduled learning day, for any number of days during the school year, was reduced by not more than two hours due to hazardous weather conditions.

(3) Each city, exempted village, local, and joint vocational school district shall have on file, and shall pay in accordance with, a teachers' salary schedule which complies with section 3317.13 of the Revised Code.

(B) A school district board of education or educational service center governing board that has not conformed with other law, and the rules pursuant thereto, shall not participate in the distribution of funds authorized by this chapter, except for good and sufficient reason established to the satisfaction of the state board of education and the state controlling board.

(C) All funds allocated to school districts under this chapter, except those specifically allocated for other purposes, shall be used only to pay current operating expenses or for either of the following purposes:

(1) The modification or purchase of classroom space to provide all-day kindergarten as required by section 3321.05 of the Revised Code, provided

the district certifies its shortage of space for providing all-day kindergarten to the department of education, in a manner specified by the department;

(2) The modification or purchase of classroom space to reduce class sizes in grades kindergarten through three to attain the goal of fifteen students per core teacher, provided the district certifies its need for additional classroom space to the department, in a manner specified by the department.

(D) On or before the last day of each month, the department of education shall certify to the director of budget and management for payment, for each county:

(1)(a) That portion of the allocation of money under section 3306.13 of the Revised Code that is required to be paid in that month to each school district located wholly within the county subsequent to the deductions described in division (D)(1)(b) of this section;

(b) The amounts deducted from such allocation under sections 3307.31 and 3309.51 of the Revised Code for payment directly to the school employees and state teachers retirement systems under such sections.

(2) If the district is located in more than one county, an apportionment of the amounts that would otherwise be certified under division (D)(1) of this section. The amounts apportioned to the county shall equal the amounts certified under division (D)(1) of this section times the percentage of the district's resident pupils who reside both in the district and in the county, based on the average daily membership reported under division (A) of section 3317.03 of the Revised Code in October of the prior fiscal year.

Sec. 3306.011. Beginning with fiscal year 2010, the payments prescribed by this chapter supersede and replace the payments described under sections 3317.012, 3317.013, 3317.014, 3317.022, 3317.029, 3317.0216, 3317.0217, and 3317.16 of the Revised Code, except as otherwise provided in section 3317.018 of the Revised Code.

Sec. 3306.012. The form developed by the department of education to calculate funding to a school district formerly known as the form "SF-3," on and after the effective date of this section shall be known as the "PASS form." As used in this section and any section referring to the PASS form, "PASS" is an acronym for "PAthway to Student Success." The form shall be revised as necessary to reflect payments made under this chapter and Chapter 3317. of the Revised Code and shall be available to the public in a format understandable to the average citizen.

Sec. 3306.02. As used in this chapter:

(A) "Adequacy amount" means the amount described in section 3306.03 of the Revised Code.

(B) "Building manager" means a person who supervises the administrative (non-curricular, non-instructional) functions of school operation so that a school principal can focus on supporting instruction, providing instructional leadership, and engaging teachers as part of the instructional leadership team. A building manager may be, but is not required to be, a licensed educator under section 3319.22 of the Revised Code.

(C) "Career-technical education teacher" means an education professional who holds a valid license to provide specialized instruction in career and technical courses.

(D)(1) "Category one special education ADM" means a school district's formula ADM of children whose primary or only identified disability is a speech and language disability, as this term is defined pursuant to Chapter 3323. of the Revised Code. Beginning in fiscal year 2010, for any school district for which formula ADM means the number verified in the previous fiscal year, the category one special education ADM also shall be as verified from the previous year.

(2) "Category two special education ADM" means a school district's formula ADM of children identified as specific learning disabled or developmentally disabled, as these terms are defined pursuant to Chapter 3323. of the Revised Code, or as having an other health impairment-minor, as defined in this section. Beginning in fiscal year 2010, for any school district for which formula ADM means the number verified in the previous fiscal year, the category two special education ADM also shall be as verified from the previous year.

(3) "Category three special education ADM" means a school district's formula ADM of children identified as hearing disabled or severe behavior disabled, as these terms are defined pursuant to Chapter 3323. of the Revised Code. Beginning in fiscal year 2010, for any school district for which formula ADM means the number verified in the previous fiscal year, the category three special education ADM also shall be as verified from the previous year.

(4) "Category four special education ADM" means a school district's formula ADM of children identified as vision impaired, as this term is defined pursuant to Chapter 3323. of the Revised Code, or as having an other health impairment-major, as defined in this section. Beginning in fiscal year 2010, for any school district for which formula ADM means the number verified in the previous fiscal year, the category four special education ADM also shall be as verified from the previous year.

(5) "Category five special education ADM" means a school district's

formula ADM of children identified as orthopedically disabled or as having multiple disabilities, as these terms are defined pursuant to Chapter 3323. of the Revised Code. Beginning in fiscal year 2010, for any school district for which formula ADM means the number verified in the previous fiscal year, the category five special education ADM also shall be as verified from the previous year.

(6) "Category six special education ADM" means a school district's formula ADM of children identified as autistic, having traumatic brain injuries, or as both visually and hearing impaired, as these terms are defined pursuant to Chapter 3323. of the Revised Code. Beginning in fiscal year 2010, for any school district for which formula ADM means the number verified in the previous fiscal year, the category six special education ADM also shall be as verified from the previous year.

(E) "Class one effective operating tax rate" of a school district means the quotient obtained by dividing the district's class one taxes charged and payable for current expenses, excluding taxes levied under sections 5705.194 to 5705.197, 5705.199, 5705.213, and 5705.219 of the Revised Code, by the district's class one taxable value.

(F) "Core teacher" means an education professional who provides instruction in English-language arts, mathematics, science, social studies, or foreign languages.

(G) "Counselor" means a person with a valid educator license issued pursuant to section 3319.22 of the Revised Code who provides pre-college and career counseling, general academic counseling, course planning, and other counseling services that are not related to a student's individualized education plan, as defined in section 3323.01 of the Revised Code.

(H)(1) "Formula ADM" means, for a city, local, or exempted village school district, the average daily membership described in division (A) of section 3317.03 of the Revised Code, as verified by the superintendent of public instruction and adjusted if so ordered under division (K) of that section, further adjusted by the department of education, as follows:

(a) Count only twenty per cent of the number of joint vocational school district students counted under division (A)(3) of section 3317.03 of the Revised Code;

(b) Add twenty per cent of the number of students who are entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code and are enrolled in another school district under a career-technical educational compact.

(2) In making calculations under this chapter that utilize formula ADM, the department shall use the formula ADM derived from the final, verified,

and adjusted average daily membership described under division (A) of section 3317.03 of the Revised Code for the prior fiscal year, unless such average daily membership for the current fiscal year exceeds that number by two per cent or more. In that case, the department shall derive the formula ADM from such average daily membership for the current fiscal year.

(3) For fiscal year 2010, the department shall calculate formula ADM on the basis of the final, verified, and adjusted average daily membership, described in division (A) of the version of section 3317.03 of the Revised Code in effect on and after the effective date of this amendment, for October 2008 unless such average daily membership for October 2009 exceeds that number by two per cent or more. In that case, the department shall derive the formula ADM from such average daily membership for October 2009.

(I) "Gifted coordinator" means a person who holds a valid educator license issued under section 3319.22 of the Revised Code, meets the qualifications for a gifted coordinator specified in the operating standards for identifying and serving gifted students prescribed in rules adopted by the state board of education, and provides coordination services for gifted students in accordance with those standards.

(J) "Gifted intervention specialist" means a person who holds a valid gifted intervention specialist license or endorsement issued under section 3319.22 of the Revised Code and serves gifted students in accordance with the operating standards for identifying and serving gifted students prescribed in rules adopted by the state board of education.

(K) "Internet- or computer-based community school" has the same meaning as in section 3314.02 of the Revised Code.

(L) "Lead teacher" means a teacher who provides mentoring and coaching for new teachers. A lead teacher also assists in coordinating professional development activities, in the development of professional learning communities, and in common planning time, and assists teachers in developing project-based, real-world learning activities for their students. The lead teacher position shall be a rotating position in which an individual shall serve no more than three years. After lead teacher licenses become available under section 3319.22 of the Revised Code, only teachers who hold that license shall be appointed as lead teachers. Until that time, each school district shall designate qualifications for the lead teacher position that are comparable to the licensing requirements, and shall give preference for appointment to the position to teachers who are certified by the national board for professional teaching standards or who meet the qualifications for a "master teacher" established by the educator standards board.

(M) "Limited English proficiency teacher" means a person who

provides instruction in English as a second language.

(N) "Medically fragile child" means a child to whom all of the following apply:

(1) The child requires the services of a doctor of medicine or osteopathic medicine at least once a week due to the instability of the child's medical condition.

(2) The child requires the services of a registered nurse on a daily basis.

(3) The child is at risk of institutionalization in a hospital, skilled nursing facility, or intermediate care facility for the mentally retarded.

(O) "Ohio educational challenge factor" means an index to adjust the funding amount for each school district to account for student and community socioeconomic factors affecting teacher recruitment and retention, professional development, and other factors related to quality instruction. The Ohio educational challenge factor for each school district includes the district's college attainment rate of population, wealth per pupil, and concentration of poverty, and is listed in section 3306.051 of the Revised Code.

(P) "Organizational unit" means, for the purpose of calculating a school district's adequacy amount under this chapter, a unit used to index a school district's formula ADM in certain grade levels. Calculating the number of organizational units in a school district functions to allocate the state's resources in a manner that achieves a thorough, efficient, and adequate educational system that provides the appropriate services to students enrolled in that district. In recognition of the fact that students have different educational needs at each developmental stage, organizational units group the grade levels into elementary school units, middle school units, and high school units. Except as provided in division (C) of section 3306.04 of the Revised Code, a school district's "organizational units" is the sum of its elementary school units, middle school units, and high school units.

(Q) A child may be identified as having an "other health impairment-major" if the child's condition meets the definition of "other health impaired" established in rules adopted by the state board of education prior to July 1, 2001, and if either of the following apply:

(1) The child is identified as having a medical condition that is among those listed by the superintendent of public instruction as conditions where a substantial majority of cases fall within the definition of "medically fragile child."

(2) The child is determined by the superintendent of public instruction to be a medically fragile child. A school district may petition the superintendent of public instruction for a determination that a child is a

medically fragile child.

(R) A child may be identified as having an "other health impairment-minor" if the child's condition meets the definition of "other health impaired" established in rules adopted by the state board of education prior to July 1, 2001, but the child's condition does not meet either of the conditions specified in division (Q)(1) or (2) of this section.

(S) "Potential value" of a school district means:

(1) For a district with a class one effective operating rate that is less than twenty and one-tenth effective mills, the sum of its total taxable value plus its tax exempt value;

(2) For a district with a class one effective operating rate that is greater than or equal to twenty and one-tenth effective mills, the sum of its recognized valuation plus its tax exempt value.

(T) "Principal" means a person who provides management oversight of building operations, academic leadership for the teaching professionals, and other administrative duties.

(U) "Property exemption value" means the amount certified for a school district under divisions (A)(6) and (7) of section 3317.021 of the Revised Code.

(V) "Recognized valuation" means the amount calculated for a school district pursuant to section 3317.015 of the Revised Code.

(W) "School nurse wellness coordinator" means a person who has fulfilled the requirements for the issuance of a school nurse wellness coordinator license under section 3319.221 of the Revised Code.

(X) "Small school district" means a city, local, or exempted village school district that has a formula ADM of less than four hundred eighteen students in grades kindergarten through twelve.

(Y) "Special education" has the same meaning as in section 3323.01 of the Revised Code.

(Z) "Special education teacher" means a teacher who holds the necessary license issued pursuant to section 3319.22 of the Revised Code to meet the unique needs of children with disabilities.

(AA) "Special education teacher's aide" means a person providing support for special education teachers and other associated duties.

(BB) "Specialist teacher" means a person holding a valid educator's license, issued pursuant to section 3319.22 of the Revised Code, who provides instruction in dance, drama and theater, music, visual art, or physical education.

(CC) "State share percentage" means the quotient of a school district's state share of the adequacy amount determined under section 3306.13 of the

Revised Code divided by the total adequacy amount for the district as described in section 3306.03 of the Revised Code. If the quotient is a negative number, the district's state share percentage is zero.

(DD) "Family and community liaisons" means individuals who provide assistance to students and their families, individuals who are linkage coordinators as described in section 3306.31 of the Revised Code, and may include individuals who hold valid licenses as family liaisons, social workers, and student advocates.

(EE) "Supplemental teacher" means a person holding a valid educator license issued pursuant to section 3319.22 of the Revised Code, or qualified to secure such a license and approved by the school district to provide remedial services, intensive subject-based instruction, homework help, or other forms of supplemental instruction.

(FF) "Targeted poverty indicator" means the percentage of a school district's students who are economically disadvantaged, as determined for purposes of the report card issued under section 3302.03 of the Revised Code.

(GG) "Tax exempt value" of a school district means the amount certified for a school district under division (A)(4) of section 3317.021 of the Revised Code.

(HH) "Total taxable value" means the sum of the amounts certified for a school district under divisions (A)(1) and (2) of section 3317.021 of the Revised Code.

Sec. 3306.03. (A) The adequacy amount for each city, local, and exempted village school district is the sum of the following:

(1) Instructional services support calculated under section 3306.05 of the Revised Code;

(2) Additional services support calculated under section 3306.06 of the Revised Code;

(3) Administrative services support calculated under section 3306.07 of the Revised Code;

(4) Operations and maintenance support calculated under section 3306.08 of the Revised Code;

(5) Gifted education and enrichment support calculated under sections 3306.09 and 3306.091, respectively, of the Revised Code;

(6) Technology resources support calculated under section 3306.10 of the Revised Code;

(7) The professional development factor, calculated by multiplying the sum of the school district's core teacher, specialist teacher, lead teacher, and special education teacher positions, all as calculated under sections 3306.05

and 3306.11 of the Revised Code, by \$1,833 in fiscal years 2010 and 2011;

(8) The instructional materials factor, calculated by multiplying the school district's formula ADM by \$165. The instructional materials factor for each city, local, and exempted village school district shall be adjusted by multiplying this calculated amount by 0.20 in fiscal year 2010, by 0.30 in fiscal year 2011, by 0.40 in fiscal years 2012 and 2013, by 0.60 in fiscal years 2014 and 2015, and by 0.80 in fiscal years 2016 and 2017.

(B) The state share of the adequacy amount paid to each school district shall be determined under section 3306.13 of the Revised Code.

(C) Funding for career-technical education teachers and career-technical education program operations shall be calculated under section 3306.052 of the Revised Code. Transportation support shall be calculated under section 3306.12 of the Revised Code. Both are in addition to the state share of the adequacy amount.

Sec. 3306.04. (A) For purposes of calculating the adequacy amount for each city, local, and exempted village school district, the department of education shall calculate the number of the district's organizational units.

(B) Except for a small school district, each school district's "organizational units" is the sum of its elementary school units, middle school units, and high school units, as follows:

(1) The number of the district's elementary school organizational units is calculated by dividing its formula ADM for grades kindergarten to five by four hundred eighteen.

(2) The number of the district's middle school organizational units is calculated by dividing its formula ADM for grades six to eight by five hundred fifty-seven.

(3) The number of the district's high school organizational units is calculated by dividing its formula ADM for grades nine to twelve by seven hundred thirty-three.

(C) For each small school district, the number of organizational units is one organizational unit.

(D) Each school district, regardless of its formula ADM, shall have at least one organizational unit.

Sec. 3306.05. (A) The instructional services support component of the adequacy amount for each city, local, and exempted village school district is the sum of the following:

(1) The core teacher factor;

(2) The specialist teacher factor;

(3) The lead teacher factor;

(4) The special education teacher factor;

(5) The special education teacher's aide factor;

(6) The limited English proficiency teacher factor;

(7) The supplemental teacher factor.

(B) Each factor listed in division (A) of this section shall be calculated by multiplying the Ohio educational challenge factor, specified for the district in section 3306.051 of the Revised Code, times the statewide base teacher salary of \$56,902 in fiscal year 2010 and \$57,812 in fiscal year 2011, times the number of positions funded, as follows:

(1) The number of core teacher positions funded shall be calculated by dividing the district's formula ADM in grades four to twelve by twenty-five, and then adding that number to the quotient of the district's formula ADM in grades kindergarten to three divided by the following:

(a) In fiscal years 2010 and 2011, nineteen;

(b) In fiscal years 2012 and 2013, seventeen;

(c) In fiscal year 2014 and in each fiscal year thereafter, fifteen.

(2) The number of specialist teacher positions funded shall be calculated by multiplying the number of core teacher positions determined under division (B)(1) of this section for grades kindergarten to eight by one-fifth, and by multiplying the number of core teacher positions determined for grades nine to twelve by one-fourth.

(3) The number of lead teacher positions funded shall equal the number of the district's organizational units.

(4) The number of special education teacher positions and special education teacher's aide positions funded shall be calculated as provided in section 3306.11 of the Revised Code.

(5) The number of limited English proficiency teacher positions funded shall be calculated by multiplying the district's formula ADM times the district's percentage of limited English proficient students, as defined in 20 U.S.C. 7801, and then dividing that product by one hundred;

(6) The number of supplemental teacher positions funded shall be calculated by multiplying the district's formula ADM times its targeted poverty indicator, and then dividing that product by one hundred.

(C) Each school district shall account separately for expenditures of the amounts received for instructional services support under this section and report that information to the department of education.

Sec. 3306.051. (A) The Ohio educational challenge factor is based on the following characteristics:

(1) The college attainment rate of the school district's population;

(2) The district's wealth per pupil, based on property valuation and federal adjusted gross income;

(3) The district's concentration of poverty, based on its targeted poverty indicator.

(B) The Ohio educational challenge factor for each city, local, and exempted village school district for fiscal years 2010 and 2011 shall equal the following:

<u>School District</u>	<u>County</u>	<u>Educational Challenge Factor</u>
<u>Ada Ex Vill SD</u>	<u>Hardin</u>	<u>1.276507</u>
<u>Adena Local SD</u>	<u>Ross</u>	<u>1.464992</u>
<u>Akron City SD</u>	<u>Summit</u>	<u>1.406389</u>
<u>Alexander Local SD</u>	<u>Athens</u>	<u>1.313935</u>
<u>Allen East Local SD</u>	<u>Allen</u>	<u>1.424432</u>
<u>Alliance City SD</u>	<u>Stark</u>	<u>1.412775</u>
<u>Amanda-Clearcreek Local SD</u>	<u>Fairfield</u>	<u>1.475639</u>
<u>Amherst Ex Vill SD</u>	<u>Lorain</u>	<u>1.075260</u>
<u>Anna Local SD</u>	<u>Shelby</u>	<u>1.145758</u>
<u>Ansonia Local SD</u>	<u>Darke</u>	<u>1.491442</u>
<u>Anthony Wayne Local SD</u>	<u>Lucas</u>	<u>0.967172</u>
<u>Antwerp Local SD</u>	<u>Paulding</u>	<u>1.388847</u>
<u>Arcadia Local SD</u>	<u>Hancock</u>	<u>1.099092</u>
<u>Arcanum Butler Local SD</u>	<u>Darke</u>	<u>1.232531</u>
<u>Archbold-Area Local SD</u>	<u>Fulton</u>	<u>1.061622</u>
<u>Arlington Local SD</u>	<u>Hancock</u>	<u>1.209353</u>
<u>Ashland City SD</u>	<u>Ashland</u>	<u>1.165340</u>
<u>Ashtabula Area City SD</u>	<u>Ashtabula</u>	<u>1.382239</u>
<u>Athens City SD</u>	<u>Athens</u>	<u>1.111632</u>
<u>Aurora City SD</u>	<u>Portage</u>	<u>0.926606</u>
<u>Austintown Local SD</u>	<u>Mahoning</u>	<u>1.199890</u>
<u>Avon Lake City SD</u>	<u>Lorain</u>	<u>0.907126</u>
<u>Avon Local SD</u>	<u>Lorain</u>	<u>0.956278</u>
<u>Ayersville Local SD</u>	<u>Defiance</u>	<u>1.083115</u>
<u>Barberton City SD</u>	<u>Summit</u>	<u>1.378977</u>
<u>Barnesville Ex Vill SD</u>	<u>Belmont</u>	<u>1.336210</u>
<u>Batavia Local SD</u>	<u>Clermont</u>	<u>1.237613</u>
<u>Bath Local SD</u>	<u>Allen</u>	<u>1.162598</u>
<u>Bay Village City SD</u>	<u>Cuyahoga</u>	<u>0.872927</u>
<u>Beachwood City SD</u>	<u>Cuyahoga</u>	<u>0.788347</u>
<u>Beaver Local SD</u>	<u>Columbiana</u>	<u>1.326577</u>
<u>Beavercreek City SD</u>	<u>Greene</u>	<u>0.922944</u>

<u>Bedford City SD</u>	<u>Cuyahoga</u>	<u>1.146404</u>
<u>Bellaire Local SD</u>	<u>Belmont</u>	<u>1.553266</u>
<u>Bellefontaine City SD</u>	<u>Logan</u>	<u>1.316875</u>
<u>Bellevue City SD</u>	<u>Huron</u>	<u>1.224385</u>
<u>Belpre City SD</u>	<u>Washington</u>	<u>1.189101</u>
<u>Benjamin Logan Local SD</u>	<u>Logan</u>	<u>1.092906</u>
<u>Benton Carroll Salem Local SD</u>	<u>Ottawa</u>	<u>1.064360</u>
<u>Berea City SD</u>	<u>Cuyahoga</u>	<u>1.076406</u>
<u>Berkshire Local SD</u>	<u>Geauga</u>	<u>1.031217</u>
<u>Berlin-Milan Local SD</u>	<u>Erie</u>	<u>1.080029</u>
<u>Berne Union Local SD</u>	<u>Fairfield</u>	<u>1.212285</u>
<u>Bethel Local SD</u>	<u>Miami</u>	<u>1.042841</u>
<u>Bethel-Tate Local SD</u>	<u>Clermont</u>	<u>1.467173</u>
<u>Bettsville Local SD</u>	<u>Seneca</u>	<u>1.266982</u>
<u>Bexley City SD</u>	<u>Franklin</u>	<u>0.811340</u>
<u>Big Walnut Local SD</u>	<u>Delaware</u>	<u>0.967045</u>
<u>Black River Local SD</u>	<u>Medina</u>	<u>1.235165</u>
<u>Blanchester Local SD</u>	<u>Clinton</u>	<u>1.464462</u>
<u>Bloom Carroll Local SD</u>	<u>Fairfield</u>	<u>1.019268</u>
<u>Bloomfield-Mespo Local SD</u>	<u>Trumbull</u>	<u>1.242742</u>
<u>Bloom-Vernon Local SD</u>	<u>Scioto</u>	<u>1.550611</u>
<u>Bluffton Ex Vill SD</u>	<u>Allen</u>	<u>1.110535</u>
<u>Boardman Local SD</u>	<u>Mahoning</u>	<u>1.059697</u>
<u>Botkins Local SD</u>	<u>Shelby</u>	<u>1.160687</u>
<u>Bowling Green City SD</u>	<u>Wood</u>	<u>0.994699</u>
<u>Bradford Ex Vill SD</u>	<u>Miami</u>	<u>1.501180</u>
<u>Brecksville-Broadview Hts City SD</u>	<u>Cuyahoga</u>	<u>0.907332</u>
<u>Bridgeport Ex Vill SD</u>	<u>Belmont</u>	<u>1.400416</u>
<u>Bright Local SD</u>	<u>Highland</u>	<u>1.514786</u>
<u>Bristol Local SD</u>	<u>Trumbull</u>	<u>1.311147</u>
<u>Brookfield Local SD</u>	<u>Trumbull</u>	<u>1.254722</u>
<u>Brooklyn City SD</u>	<u>Cuyahoga</u>	<u>1.095906</u>
<u>Brookville Local SD</u>	<u>Montgomery</u>	<u>1.117308</u>
<u>Brown Local SD</u>	<u>Carroll</u>	<u>1.200260</u>
<u>Brunswick City SD</u>	<u>Medina</u>	<u>1.070900</u>
<u>Bryan City SD</u>	<u>Williams</u>	<u>1.147033</u>
<u>Buckeye Central Local SD</u>	<u>Crawford</u>	<u>1.318612</u>
<u>Buckeye Local SD</u>	<u>Ashtabula</u>	<u>1.205162</u>
<u>Buckeye Local SD</u>	<u>Jefferson</u>	<u>1.289405</u>

<u>Buckeye Local SD</u>	<u>Medina</u>	<u>1.045651</u>
<u>Buckeye Valley Local SD</u>	<u>Delaware</u>	<u>1.000444</u>
<u>Bucyrus City SD</u>	<u>Crawford</u>	<u>1.523808</u>
<u>Caldwell Ex Vill SD</u>	<u>Noble</u>	<u>1.326424</u>
<u>Cambridge City SD</u>	<u>Guernsey</u>	<u>1.499755</u>
<u>Campbell City SD</u>	<u>Mahoning</u>	<u>1.595858</u>
<u>Canal Winchester Local SD</u>	<u>Franklin</u>	<u>1.106260</u>
<u>Canfield Local SD</u>	<u>Mahoning</u>	<u>0.947954</u>
<u>Canton City SD</u>	<u>Stark</u>	<u>1.585014</u>
<u>Canton Local SD</u>	<u>Stark</u>	<u>1.232137</u>
<u>Cardinal Local SD</u>	<u>Geauga</u>	<u>1.108513</u>
<u>Cardington-Lincoln Local SD</u>	<u>Morrow</u>	<u>1.470847</u>
<u>Carey Ex Vill SD</u>	<u>Wyandot</u>	<u>1.236865</u>
<u>Carlisle Local SD</u>	<u>Warren</u>	<u>1.238244</u>
<u>Carrollton Ex Vill SD</u>	<u>Carroll</u>	<u>1.267127</u>
<u>Cedar Cliff Local SD</u>	<u>Greene</u>	<u>1.196668</u>
<u>Celina City SD</u>	<u>Mercer</u>	<u>1.175680</u>
<u>Centerburg Local SD</u>	<u>Knox</u>	<u>1.226160</u>
<u>Centerville City SD</u>	<u>Montgomery</u>	<u>0.874900</u>
<u>Central Local SD</u>	<u>Defiance</u>	<u>1.471967</u>
<u>Chagrin Falls Ex Vill SD</u>	<u>Cuyahoga</u>	<u>0.773955</u>
<u>Champion Local SD</u>	<u>Trumbull</u>	<u>1.138977</u>
<u>Chardon Local SD</u>	<u>Geauga</u>	<u>0.970334</u>
<u>Chesapeake Union Ex Vill SD</u>	<u>Lawrence</u>	<u>1.588621</u>
<u>Chillicothe City SD</u>	<u>Ross</u>	<u>1.213102</u>
<u>Chippewa Local SD</u>	<u>Wayne</u>	<u>1.085963</u>
<u>Cincinnati City SD</u>	<u>Hamilton</u>	<u>1.160152</u>
<u>Circleville City SD</u>	<u>Pickaway</u>	<u>1.242114</u>
<u>Clark-Shawnee Local SD</u>	<u>Clark</u>	<u>1.060460</u>
<u>Clay Local SD</u>	<u>Scioto</u>	<u>1.438160</u>
<u>Claymont City SD</u>	<u>Tuscarawas</u>	<u>1.549650</u>
<u>Clear Fork Valley Local SD</u>	<u>Richland</u>	<u>1.313111</u>
<u>Clearview Local SD</u>	<u>Lorain</u>	<u>1.541988</u>
<u>Clermont-Northeastern Local SD</u>	<u>Clermont</u>	<u>1.156191</u>
<u>Cleveland Hts-Univ Hts City SD</u>	<u>Cuyahoga</u>	<u>1.034050</u>
<u>Cleveland Municipal SD</u>	<u>Cuyahoga</u>	<u>1.591903</u>
<u>Clinton-Massie Local SD</u>	<u>Clinton</u>	<u>1.133361</u>
<u>Cloverleaf Local SD</u>	<u>Medina</u>	<u>1.075321</u>
<u>Clyde-Green Springs Ex Vill SD</u>	<u>Sandusky</u>	<u>1.316544</u>
<u>Coldwater Ex Vill SD</u>	<u>Mercer</u>	<u>1.379071</u>

<u>College Corner Local SD</u>	<u>Preble</u>	<u>1.316130</u>
<u>Colonel Crawford Local SD</u>	<u>Crawford</u>	<u>1.091023</u>
<u>Columbia Local SD</u>	<u>Lorain</u>	<u>1.030821</u>
<u>Columbiana Ex Vill SD</u>	<u>Columbiana</u>	<u>1.137881</u>
<u>Columbus City SD</u>	<u>Franklin</u>	<u>1.266133</u>
<u>Columbus Grove Local SD</u>	<u>Putnam</u>	<u>1.244911</u>
<u>Conneaut Area City SD</u>	<u>Ashtabula</u>	<u>1.525711</u>
<u>Conotton Valley Union Local SD</u>	<u>Harrison</u>	<u>1.345678</u>
<u>Continental Local SD</u>	<u>Putnam</u>	<u>1.396089</u>
<u>Copley-Fairlawn City SD</u>	<u>Summit</u>	<u>0.909191</u>
<u>Cory-Rawson Local SD</u>	<u>Hancock</u>	<u>1.146248</u>
<u>Coshocton City SD</u>	<u>Coshocton</u>	<u>1.385980</u>
<u>Coventry Local SD</u>	<u>Summit</u>	<u>1.095527</u>
<u>Covington Ex Vill SD</u>	<u>Miami</u>	<u>1.157932</u>
<u>Crestline Ex Vill SD</u>	<u>Crawford</u>	<u>1.374339</u>
<u>Crestview Local SD</u>	<u>Columbiana</u>	<u>1.310088</u>
<u>Crestview Local SD</u>	<u>Richland</u>	<u>1.481045</u>
<u>Crestview Local SD</u>	<u>Van Wert</u>	<u>1.373754</u>
<u>Crestwood Local SD</u>	<u>Portage</u>	<u>1.129538</u>
<u>Crooksville Ex Vill SD</u>	<u>Perry</u>	<u>1.573427</u>
<u>Cuyahoga Falls City SD</u>	<u>Summit</u>	<u>1.094856</u>
<u>Cuyahoga Heights Local SD</u>	<u>Cuyahoga</u>	<u>0.898436</u>
<u>Dalton Local SD</u>	<u>Wayne</u>	<u>1.092859</u>
<u>Danbury Local SD</u>	<u>Ottawa</u>	<u>0.971857</u>
<u>Danville Local SD</u>	<u>Knox</u>	<u>1.494103</u>
<u>Dawson-Bryant Local SD</u>	<u>Lawrence</u>	<u>1.648169</u>
<u>Dayton City SD</u>	<u>Montgomery</u>	<u>1.448163</u>
<u>Deer Park Community City SD</u>	<u>Hamilton</u>	<u>1.020600</u>
<u>Defiance City SD</u>	<u>Defiance</u>	<u>1.325040</u>
<u>Delaware City SD</u>	<u>Delaware</u>	<u>1.113757</u>
<u>Delphos City SD</u>	<u>Allen</u>	<u>1.157538</u>
<u>Dover City SD</u>	<u>Tuscarawas</u>	<u>1.140054</u>
<u>Dublin City SD</u>	<u>Franklin</u>	<u>0.867517</u>
<u>East Cleveland City SD</u>	<u>Cuyahoga</u>	<u>1.581708</u>
<u>East Clinton Local SD</u>	<u>Clinton</u>	<u>1.462780</u>
<u>East Guernsey Local SD</u>	<u>Guernsey</u>	<u>1.515285</u>
<u>East Holmes Local SD</u>	<u>Holmes</u>	<u>1.139627</u>
<u>East Knox Local SD</u>	<u>Knox</u>	<u>1.155805</u>
<u>East Liverpool City SD</u>	<u>Columbiana</u>	<u>1.590185</u>
<u>East Muskingum Local SD</u>	<u>Muskingum</u>	<u>1.207660</u>

<u>East Palestine City SD</u>	<u>Columbiana</u>	<u>1.344973</u>
<u>Eastern Local SD</u>	<u>Brown</u>	<u>1.331577</u>
<u>Eastern Local SD</u>	<u>Meigs</u>	<u>1.512415</u>
<u>Eastern Local SD</u>	<u>Pike</u>	<u>1.581268</u>
<u>Eastwood Local SD</u>	<u>Wood</u>	<u>1.126743</u>
<u>Eaton Community Schools City SD</u>	<u>Preble</u>	<u>1.136722</u>
<u>Edgerton Local SD</u>	<u>Williams</u>	<u>1.306016</u>
<u>Edgewood City SD</u>	<u>Butler</u>	<u>1.233147</u>
<u>Edison Local SD</u>	<u>Jefferson</u>	<u>1.199355</u>
<u>Edon-Northwest Local SD</u>	<u>Williams</u>	<u>1.318268</u>
<u>Elgin Local SD</u>	<u>Marion</u>	<u>1.333351</u>
<u>Elida Local SD</u>	<u>Allen</u>	<u>1.174016</u>
<u>Elmwood Local SD</u>	<u>Wood</u>	<u>1.457047</u>
<u>Elyria City SD</u>	<u>Lorain</u>	<u>1.284154</u>
<u>Euclid City SD</u>	<u>Cuyahoga</u>	<u>1.257378</u>
<u>Evergreen Local SD</u>	<u>Fulton</u>	<u>1.132215</u>
<u>Fairbanks Local SD</u>	<u>Union</u>	<u>1.029919</u>
<u>Fairborn City SD</u>	<u>Greene</u>	<u>1.169324</u>
<u>Fairfield City SD</u>	<u>Butler</u>	<u>1.120999</u>
<u>Fairfield Local SD</u>	<u>Highland</u>	<u>1.476728</u>
<u>Fairfield Union Local SD</u>	<u>Fairfield</u>	<u>1.305113</u>
<u>Fairland Local SD</u>	<u>Lawrence</u>	<u>1.298842</u>
<u>Fairlawn Local SD</u>	<u>Shelby</u>	<u>1.450135</u>
<u>Fairless Local SD</u>	<u>Stark</u>	<u>1.342312</u>
<u>Fairport Harbor Ex Vill SD</u>	<u>Lake</u>	<u>1.074627</u>
<u>Fairview Park City SD</u>	<u>Cuyahoga</u>	<u>0.917044</u>
<u>Fayetteville-Perry Local SD</u>	<u>Brown</u>	<u>1.232747</u>
<u>Federal Hocking Local SD</u>	<u>Athens</u>	<u>1.504926</u>
<u>Felicity-Franklin Local SD</u>	<u>Clermont</u>	<u>1.545885</u>
<u>Field Local SD</u>	<u>Portage</u>	<u>1.063508</u>
<u>Findlay City SD</u>	<u>Hancock</u>	<u>1.134799</u>
<u>Finneytown Local SD</u>	<u>Hamilton</u>	<u>1.067569</u>
<u>Firelands Local SD</u>	<u>Lorain</u>	<u>1.084064</u>
<u>Forest Hills Local SD</u>	<u>Hamilton</u>	<u>0.918825</u>
<u>Fort Frye Local SD</u>	<u>Washington</u>	<u>1.247229</u>
<u>Fort Loramie Local SD</u>	<u>Shelby</u>	<u>1.228727</u>
<u>Fort Recovery Local SD</u>	<u>Mercer</u>	<u>1.390459</u>
<u>Fostoria City SD</u>	<u>Seneca</u>	<u>1.398532</u>
<u>Franklin City SD</u>	<u>Warren</u>	<u>1.181691</u>

<u>Franklin Local SD</u>	<u>Muskingum</u>	<u>1.516304</u>
<u>Franklin-Monroe Local SD</u>	<u>Darke</u>	<u>1.155467</u>
<u>Fredericktown Local SD</u>	<u>Knox</u>	<u>1.206674</u>
<u>Fremont City SD</u>	<u>Sandusky</u>	<u>1.222520</u>
<u>Frontier Local SD</u>	<u>Washington</u>	<u>1.548391</u>
<u>Gahanna-Jefferson City SD</u>	<u>Franklin</u>	<u>0.937449</u>
<u>Galion City SD</u>	<u>Crawford</u>	<u>1.340599</u>
<u>Gallia County Local SD</u>	<u>Gallia</u>	<u>1.180183</u>
<u>Gallipolis City SD</u>	<u>Gallia</u>	<u>1.309992</u>
<u>Garaway Local SD</u>	<u>Tuscarawas</u>	<u>1.168729</u>
<u>Garfield Heights City SD</u>	<u>Cuyahoga</u>	<u>1.275039</u>
<u>Geneva Area City SD</u>	<u>Ashtabula</u>	<u>1.241353</u>
<u>Genoa Area Local SD</u>	<u>Ottawa</u>	<u>1.144052</u>
<u>Georgetown Ex Vill SD</u>	<u>Brown</u>	<u>1.330521</u>
<u>Gibsonburg Ex Vill SD</u>	<u>Sandusky</u>	<u>1.447493</u>
<u>Girard City SD</u>	<u>Trumbull</u>	<u>1.331051</u>
<u>Gorham Fayette Local SD</u>	<u>Fulton</u>	<u>1.474052</u>
<u>Goshen Local SD</u>	<u>Clermont</u>	<u>1.330935</u>
<u>Graham Local SD</u>	<u>Champaign</u>	<u>1.232041</u>
<u>Grand Valley Local SD</u>	<u>Ashtabula</u>	<u>1.254268</u>
<u>Grandview Heights City SD</u>	<u>Franklin</u>	<u>0.884845</u>
<u>Granville Ex Vill SD</u>	<u>Licking</u>	<u>0.945199</u>
<u>Green Local SD</u>	<u>Scioto</u>	<u>1.368399</u>
<u>Green Local SD</u>	<u>Summit</u>	<u>1.028315</u>
<u>Green Local SD</u>	<u>Wayne</u>	<u>1.206381</u>
<u>Greeneview Local SD</u>	<u>Greene</u>	<u>1.148655</u>
<u>Greenfield Ex Vill SD</u>	<u>Highland</u>	<u>1.511212</u>
<u>Greenon Local SD</u>	<u>Clark</u>	<u>1.063320</u>
<u>Greenville City SD</u>	<u>Darke</u>	<u>1.182750</u>
<u>Groveport Madison Local SD</u>	<u>Franklin</u>	<u>1.237531</u>
<u>Hamilton City SD</u>	<u>Butler</u>	<u>1.370018</u>
<u>Hamilton Local SD</u>	<u>Franklin</u>	<u>1.517435</u>
<u>Hardin Northern Local SD</u>	<u>Hardin</u>	<u>1.241016</u>
<u>Hardin-Houston Local SD</u>	<u>Shelby</u>	<u>1.235363</u>
<u>Harrison Hills City SD</u>	<u>Harrison</u>	<u>1.285541</u>
<u>Heath City SD</u>	<u>Licking</u>	<u>1.159649</u>
<u>Hicksville Ex Vill SD</u>	<u>Defiance</u>	<u>1.451150</u>
<u>Highland Local SD</u>	<u>Medina</u>	<u>0.966108</u>
<u>Highland Local SD</u>	<u>Morrow</u>	<u>1.319540</u>
<u>Hilliard City SD</u>	<u>Franklin</u>	<u>0.985085</u>

<u>Hillsboro City SD</u>	<u>Highland</u>	<u>1.326287</u>
<u>Hillsdale Local SD</u>	<u>Ashland</u>	<u>1.192263</u>
<u>Holgate Local SD</u>	<u>Henry</u>	<u>1.480580</u>
<u>Hopewell-Loudon Local SD</u>	<u>Seneca</u>	<u>1.094095</u>
<u>Howland Local SD</u>	<u>Trumbull</u>	<u>0.997232</u>
<u>Hubbard Ex Vill SD</u>	<u>Trumbull</u>	<u>1.217366</u>
<u>Huber Heights City SD</u>	<u>Montgomery</u>	<u>1.189895</u>
<u>Hudson Local SD</u>	<u>Summit</u>	<u>0.867982</u>
<u>Huntington Local SD</u>	<u>Ross</u>	<u>1.563988</u>
<u>Huron City SD</u>	<u>Erie</u>	<u>0.953062</u>
<u>Independence Local SD</u>	<u>Cuyahoga</u>	<u>0.877361</u>
<u>Indian Creek Local SD</u>	<u>Jefferson</u>	<u>1.194894</u>
<u>Indian Hill Ex Vill SD</u>	<u>Hamilton</u>	<u>0.769421</u>
<u>Indian Lake Local SD</u>	<u>Logan</u>	<u>1.177268</u>
<u>Indian Valley Local SD</u>	<u>Tuscarawas</u>	<u>1.490431</u>
<u>Ironton City SD</u>	<u>Lawrence</u>	<u>1.372550</u>
<u>Jackson Center Local SD</u>	<u>Shelby</u>	<u>1.222754</u>
<u>Jackson City SD</u>	<u>Jackson</u>	<u>1.339235</u>
<u>Jackson Local SD</u>	<u>Stark</u>	<u>0.936952</u>
<u>Jackson-Milton Local SD</u>	<u>Mahoning</u>	<u>1.120098</u>
<u>James A Garfield Local SD</u>	<u>Portage</u>	<u>1.221108</u>
<u>Jefferson Area Local SD</u>	<u>Ashtabula</u>	<u>1.231486</u>
<u>Jefferson Local SD</u>	<u>Madison</u>	<u>1.217465</u>
<u>Jefferson Township Local SD</u>	<u>Montgomery</u>	<u>1.349631</u>
<u>Jennings Local SD</u>	<u>Putnam</u>	<u>1.233214</u>
<u>Johnstown-Monroe Local SD</u>	<u>Licking</u>	<u>1.068628</u>
<u>Jonathan Alder Local SD</u>	<u>Madison</u>	<u>1.087918</u>
<u>Joseph Badger Local SD</u>	<u>Trumbull</u>	<u>1.217508</u>
<u>Kalida Local SD</u>	<u>Putnam</u>	<u>1.134357</u>
<u>Kelleys Island Local SD</u>	<u>Erie</u>	<u>0.897093</u>
<u>Kenston Local SD</u>	<u>Geauga</u>	<u>0.888370</u>
<u>Kent City SD</u>	<u>Portage</u>	<u>1.292091</u>
<u>Kenton City SD</u>	<u>Hardin</u>	<u>1.341240</u>
<u>Kettering City SD</u>	<u>Montgomery</u>	<u>1.039020</u>
<u>Keystone Local SD</u>	<u>Lorain</u>	<u>1.095731</u>
<u>Kings Local SD</u>	<u>Warren</u>	<u>0.944617</u>
<u>Kirtland Local SD</u>	<u>Lake</u>	<u>0.869122</u>
<u>La Brae Local SD</u>	<u>Trumbull</u>	<u>1.509648</u>
<u>Lake Local SD</u>	<u>Stark</u>	<u>1.105350</u>
<u>Lake Local SD</u>	<u>Wood</u>	<u>1.092732</u>

<u>Lakeview Local SD</u>	<u>Trumbull</u>	<u>1.050113</u>
<u>Lakewood City SD</u>	<u>Cuyahoga</u>	<u>1.082658</u>
<u>Lakewood Local SD</u>	<u>Licking</u>	<u>1.161169</u>
<u>Lakota Local SD</u>	<u>Butler</u>	<u>0.991612</u>
<u>Lakota Local SD</u>	<u>Sandusky</u>	<u>1.334058</u>
<u>Lancaster City SD</u>	<u>Fairfield</u>	<u>1.181921</u>
<u>Lebanon City SD</u>	<u>Warren</u>	<u>1.057278</u>
<u>Ledgemont Local SD</u>	<u>Geauga</u>	<u>1.089874</u>
<u>Leetonia Ex Vill SD</u>	<u>Columbiana</u>	<u>1.492636</u>
<u>Leipsic Local SD</u>	<u>Putnam</u>	<u>1.358612</u>
<u>Lexington Local SD</u>	<u>Richland</u>	<u>1.055083</u>
<u>Liberty Benton Local SD</u>	<u>Hancock</u>	<u>1.100796</u>
<u>Liberty Center Local SD</u>	<u>Henry</u>	<u>1.243394</u>
<u>Liberty Local SD</u>	<u>Trumbull</u>	<u>1.143199</u>
<u>Liberty Union-Thurston Local SD</u>	<u>Fairfield</u>	<u>1.153214</u>
<u>Licking Heights Local SD</u>	<u>Licking</u>	<u>1.099699</u>
<u>Licking Valley Local SD</u>	<u>Licking</u>	<u>1.315180</u>
<u>Lima City SD</u>	<u>Allen</u>	<u>1.609824</u>
<u>Lincolnview Local SD</u>	<u>Van Wert</u>	<u>1.304841</u>
<u>Lisbon Ex Vill SD</u>	<u>Columbiana</u>	<u>1.485931</u>
<u>Little Miami Local SD</u>	<u>Warren</u>	<u>1.000131</u>
<u>Lockland City SD</u>	<u>Hamilton</u>	<u>1.263116</u>
<u>Logan Elm Local SD</u>	<u>Pickaway</u>	<u>1.144691</u>
<u>Logan-Hocking Local SD</u>	<u>Hocking</u>	<u>1.351308</u>
<u>London City SD</u>	<u>Madison</u>	<u>1.168705</u>
<u>Lorain City SD</u>	<u>Lorain</u>	<u>1.606260</u>
<u>Lordstown Local SD</u>	<u>Trumbull</u>	<u>1.028907</u>
<u>Loudonville-Perrysville Ex Vill SD</u>	<u>Ashland</u>	<u>1.239646</u>
<u>Louisville City SD</u>	<u>Stark</u>	<u>1.145913</u>
<u>Loveland City SD</u>	<u>Hamilton</u>	<u>0.952906</u>
<u>Lowellville Local SD</u>	<u>Mahoning</u>	<u>1.444465</u>
<u>Lucas Local SD</u>	<u>Richland</u>	<u>1.148773</u>
<u>Lynchburg-Clay Local SD</u>	<u>Highland</u>	<u>1.487133</u>
<u>Mad River Local SD</u>	<u>Montgomery</u>	<u>1.516797</u>
<u>Madeira City SD</u>	<u>Hamilton</u>	<u>0.902798</u>
<u>Madison Local SD</u>	<u>Butler</u>	<u>1.149365</u>
<u>Madison Local SD</u>	<u>Lake</u>	<u>1.210499</u>
<u>Madison Local SD</u>	<u>Richland</u>	<u>1.260875</u>
<u>Madison-Plains Local SD</u>	<u>Madison</u>	<u>1.111244</u>

<u>Manchester Local SD</u>	<u>Summit</u>	<u>1.072196</u>
<u>Manchester Local SD</u>	<u>Adams</u>	<u>1.093117</u>
<u>Mansfield City SD</u>	<u>Richland</u>	<u>1.413073</u>
<u>Maple Heights City SD</u>	<u>Cuyahoga</u>	<u>1.369670</u>
<u>Mapleton Local SD</u>	<u>Ashland</u>	<u>1.244822</u>
<u>Maplewood Local SD</u>	<u>Trumbull</u>	<u>1.306471</u>
<u>Margaretta Local SD</u>	<u>Erie</u>	<u>1.101795</u>
<u>Mariemont City SD</u>	<u>Hamilton</u>	<u>0.888848</u>
<u>Marietta City SD</u>	<u>Washington</u>	<u>1.142004</u>
<u>Marion City SD</u>	<u>Marion</u>	<u>1.561608</u>
<u>Marion Local SD</u>	<u>Mercer</u>	<u>1.395959</u>
<u>Marlington Local SD</u>	<u>Stark</u>	<u>1.198789</u>
<u>Martins Ferry City SD</u>	<u>Belmont</u>	<u>1.598533</u>
<u>Marysville Ex Vill SD</u>	<u>Union</u>	<u>1.084320</u>
<u>Mason City SD</u>	<u>Warren</u>	<u>0.992155</u>
<u>Massillon City SD</u>	<u>Stark</u>	<u>1.355745</u>
<u>Mathews Local SD</u>	<u>Trumbull</u>	<u>1.030473</u>
<u>Maumee City SD</u>	<u>Lucas</u>	<u>0.996440</u>
<u>Mayfield City SD</u>	<u>Cuyahoga</u>	<u>0.851001</u>
<u>Maysville Local SD</u>	<u>Muskingum</u>	<u>1.517598</u>
<u>McComb Local SD</u>	<u>Hancock</u>	<u>1.301153</u>
<u>McDonald Local SD</u>	<u>Trumbull</u>	<u>1.429212</u>
<u>Mechanicsburg Ex Vill SD</u>	<u>Champaign</u>	<u>1.243229</u>
<u>Medina City SD</u>	<u>Medina</u>	<u>1.005089</u>
<u>Meigs Local SD</u>	<u>Meigs</u>	<u>1.584300</u>
<u>Mentor Ex Vill SD</u>	<u>Lake</u>	<u>0.964461</u>
<u>Miami East Local SD</u>	<u>Miami</u>	<u>1.121995</u>
<u>Miami Trace Local SD</u>	<u>Fayette</u>	<u>1.228492</u>
<u>Miamisburg City SD</u>	<u>Montgomery</u>	<u>1.114930</u>
<u>Middletown City SD</u>	<u>Butler</u>	<u>1.257163</u>
<u>Midview Local SD</u>	<u>Lorain</u>	<u>1.092786</u>
<u>Milford Ex Vill SD</u>	<u>Clermont</u>	<u>1.018109</u>
<u>Millcreek-West Unity Local SD</u>	<u>Williams</u>	<u>1.351879</u>
<u>Miller City-New Cleveland Local SD</u>	<u>Putnam</u>	<u>1.379562</u>
<u>Milton-Union Ex Vill SD</u>	<u>Miami</u>	<u>1.221554</u>
<u>Minerva Local SD</u>	<u>Stark</u>	<u>1.326538</u>
<u>Minford Local SD</u>	<u>Scioto</u>	<u>1.509434</u>
<u>Minster Local SD</u>	<u>Auglaize</u>	<u>1.068103</u>
<u>Mississinawa Valley Local SD</u>	<u>Darke</u>	<u>1.517760</u>

<u>Mogadore Local SD</u>	<u>Summit</u>	<u>1.115527</u>
<u>Mohawk Local SD</u>	<u>Wyandot</u>	<u>1.149449</u>
<u>Monroe Local SD</u>	<u>Butler</u>	<u>0.988156</u>
<u>Monroeville Local SD</u>	<u>Huron</u>	<u>1.105963</u>
<u>Montpelier Ex Vill SD</u>	<u>Williams</u>	<u>1.484169</u>
<u>Morgan Local SD</u>	<u>Morgan</u>	<u>1.515632</u>
<u>Mount Gilead Ex Vill SD</u>	<u>Morrow</u>	<u>1.303456</u>
<u>Mount Healthy City SD</u>	<u>Hamilton</u>	<u>1.385527</u>
<u>Mount Vernon City SD</u>	<u>Knox</u>	<u>1.222667</u>
<u>Napoleon City SD</u>	<u>Henry</u>	<u>1.219862</u>
<u>National Trail Local SD</u>	<u>Preble</u>	<u>1.337309</u>
<u>Nelsonville-York City SD</u>	<u>Athens</u>	<u>1.554619</u>
<u>New Albany-Plain Local SD</u>	<u>Franklin</u>	<u>0.863212</u>
<u>New Boston Local SD</u>	<u>Scioto</u>	<u>1.589690</u>
<u>New Bremen Local SD</u>	<u>Auglaize</u>	<u>1.127253</u>
<u>New Knoxville Local SD</u>	<u>Auglaize</u>	<u>1.217764</u>
<u>New Lebanon Local SD</u>	<u>Montgomery</u>	<u>1.462491</u>
<u>New Lexington City SD</u>	<u>Perry</u>	<u>1.545076</u>
<u>New London Local SD</u>	<u>Huron</u>	<u>1.474130</u>
<u>New Miami Local SD</u>	<u>Butler</u>	<u>1.573547</u>
<u>New Philadelphia City SD</u>	<u>Tuscarawas</u>	<u>1.184127</u>
<u>New Richmond Ex Vill SD</u>	<u>Clermont</u>	<u>1.121137</u>
<u>New Riegel Local SD</u>	<u>Seneca</u>	<u>1.393211</u>
<u>Newark City SD</u>	<u>Licking</u>	<u>1.252280</u>
<u>Newbury Local SD</u>	<u>Geauga</u>	<u>0.944732</u>
<u>Newcomerstown Ex Vill SD</u>	<u>Tuscarawas</u>	<u>1.529126</u>
<u>Newton Falls Ex Vill SD</u>	<u>Trumbull</u>	<u>1.313730</u>
<u>Newton Local SD</u>	<u>Miami</u>	<u>1.224466</u>
<u>Niles City SD</u>	<u>Trumbull</u>	<u>1.334003</u>
<u>Noble Local SD</u>	<u>Noble</u>	<u>1.480889</u>
<u>Nordonia Hills City SD</u>	<u>Summit</u>	<u>0.934080</u>
<u>North Baltimore Local SD</u>	<u>Wood</u>	<u>1.308125</u>
<u>North Canton City SD</u>	<u>Stark</u>	<u>1.003775</u>
<u>North Central Local SD</u>	<u>Wayne</u>	<u>1.223714</u>
<u>North Central Local SD</u>	<u>Williams</u>	<u>1.324444</u>
<u>North College Hill City SD</u>	<u>Hamilton</u>	<u>1.379521</u>
<u>North Fork Local SD</u>	<u>Licking</u>	<u>1.226601</u>
<u>North Olmsted City SD</u>	<u>Cuyahoga</u>	<u>1.055678</u>
<u>North Ridgeville City SD</u>	<u>Lorain</u>	<u>1.035395</u>
<u>North Royalton City SD</u>	<u>Cuyahoga</u>	<u>0.943948</u>

<u>North Union Local SD</u>	<u>Union</u>	<u>1.325953</u>
<u>Northeastern Local SD</u>	<u>Clark</u>	<u>1.119356</u>
<u>Northeastern Local SD</u>	<u>Defiance</u>	<u>1.078723</u>
<u>Northern Local SD</u>	<u>Perry</u>	<u>1.254464</u>
<u>Northmont City SD</u>	<u>Montgomery</u>	<u>1.099334</u>
<u>Northmor Local SD</u>	<u>Morrow</u>	<u>1.234469</u>
<u>Northridge Local SD</u>	<u>Licking</u>	<u>1.112137</u>
<u>Northridge Local SD</u>	<u>Montgomery</u>	<u>1.313654</u>
<u>Northwest Local SD</u>	<u>Hamilton</u>	<u>1.097477</u>
<u>Northwest Local SD</u>	<u>Scioto</u>	<u>1.585245</u>
<u>Northwest Local SD</u>	<u>Stark</u>	<u>1.188706</u>
<u>Northwestern Local SD</u>	<u>Clark</u>	<u>1.124065</u>
<u>Northwestern Local SD</u>	<u>Wayne</u>	<u>1.480021</u>
<u>Northwood Local SD</u>	<u>Wood</u>	<u>1.172657</u>
<u>Norton City SD</u>	<u>Summit</u>	<u>1.077363</u>
<u>Norwalk City SD</u>	<u>Huron</u>	<u>1.238518</u>
<u>Norwood City SD</u>	<u>Hamilton</u>	<u>1.203977</u>
<u>Oak Hill Union Local SD</u>	<u>Jackson</u>	<u>1.517445</u>
<u>Oak Hills Local SD</u>	<u>Hamilton</u>	<u>1.009889</u>
<u>Oakwood City SD</u>	<u>Montgomery</u>	<u>0.888026</u>
<u>Oberlin City SD</u>	<u>Lorain</u>	<u>1.151305</u>
<u>Ohio Valley Local SD</u>	<u>Adams</u>	<u>1.546394</u>
<u>Old Fort Local SD</u>	<u>Seneca</u>	<u>1.154292</u>
<u>Olentangy Local SD</u>	<u>Delaware</u>	<u>0.873909</u>
<u>Olmsted Falls City SD</u>	<u>Cuyahoga</u>	<u>1.034716</u>
<u>Ontario Local SD</u>	<u>Richland</u>	<u>1.017660</u>
<u>Orange City SD</u>	<u>Cuyahoga</u>	<u>0.767949</u>
<u>Oregon City SD</u>	<u>Lucas</u>	<u>1.149614</u>
<u>Orrville City SD</u>	<u>Wayne</u>	<u>1.220908</u>
<u>Osnaburg Local SD</u>	<u>Stark</u>	<u>1.161056</u>
<u>Otsego Local SD</u>	<u>Wood</u>	<u>1.085754</u>
<u>Ottawa Hills Local SD</u>	<u>Lucas</u>	<u>0.807704</u>
<u>Ottawa-Glandorf Local SD</u>	<u>Putnam</u>	<u>1.129901</u>
<u>Ottoville Local SD</u>	<u>Putnam</u>	<u>1.155937</u>
<u>Painsville City Local SD</u>	<u>Lake</u>	<u>1.576006</u>
<u>Painsville Township Local SD</u>	<u>Lake</u>	<u>0.979713</u>
<u>Paint Valley Local SD</u>	<u>Ross</u>	<u>1.511112</u>
<u>Pandora-Gilboa Local SD</u>	<u>Putnam</u>	<u>1.207508</u>
<u>Parkway Local SD</u>	<u>Mercer</u>	<u>1.451914</u>
<u>Parma City SD</u>	<u>Cuyahoga</u>	<u>1.096590</u>

<u>Patrick Henry Local SD</u>	<u>Henry</u>	<u>1.314110</u>
<u>Paulding Ex Vill SD</u>	<u>Paulding</u>	<u>1.316904</u>
<u>Perkins Local SD</u>	<u>Erie</u>	<u>1.006525</u>
<u>Perry Local SD</u>	<u>Allen</u>	<u>1.252464</u>
<u>Perry Local SD</u>	<u>Lake</u>	<u>1.014880</u>
<u>Perry Local SD</u>	<u>Stark</u>	<u>1.155570</u>
<u>Perrysburg Ex Vill SD</u>	<u>Wood</u>	<u>0.941179</u>
<u>Pettisville Local SD</u>	<u>Fulton</u>	<u>1.215972</u>
<u>Pickerington Local SD</u>	<u>Fairfield</u>	<u>1.078034</u>
<u>Pike-Delta-York Local SD</u>	<u>Fulton</u>	<u>1.225338</u>
<u>Piqua City SD</u>	<u>Miami</u>	<u>1.252751</u>
<u>Plain Local SD</u>	<u>Stark</u>	<u>1.101022</u>
<u>Pleasant Local SD</u>	<u>Marion</u>	<u>1.066006</u>
<u>Plymouth-Shiloh Local SD</u>	<u>Richland</u>	<u>1.539933</u>
<u>Poland Local SD</u>	<u>Mahoning</u>	<u>0.976878</u>
<u>Port Clinton City SD</u>	<u>Ottawa</u>	<u>1.045171</u>
<u>Portsmouth City SD</u>	<u>Scioto</u>	<u>1.560445</u>
<u>Preble-Shawnee Local SD</u>	<u>Preble</u>	<u>1.253492</u>
<u>Princeton City SD</u>	<u>Hamilton</u>	<u>0.989700</u>
<u>Put-In-Bay Local SD</u>	<u>Ottawa</u>	<u>0.870887</u>
<u>Pymatuning Valley Local SD</u>	<u>Ashtabula</u>	<u>1.357539</u>
<u>Ravenna City SD</u>	<u>Portage</u>	<u>1.258270</u>
<u>Reading Community City SD</u>	<u>Hamilton</u>	<u>1.138957</u>
<u>Revere Local SD</u>	<u>Summit</u>	<u>0.811916</u>
<u>Reynoldsburg City SD</u>	<u>Franklin</u>	<u>1.185729</u>
<u>Richmond Heights Local SD</u>	<u>Cuyahoga</u>	<u>0.988219</u>
<u>Ridgedale Local SD</u>	<u>Marion</u>	<u>1.232091</u>
<u>Ridgemont Local SD</u>	<u>Hardin</u>	<u>1.315320</u>
<u>Ridgewood Local SD</u>	<u>Coshocton</u>	<u>1.499377</u>
<u>Ripley-Union-Lewis Local SD</u>	<u>Brown</u>	<u>1.518737</u>
<u>Rittman Ex Vill SD</u>	<u>Wayne</u>	<u>1.341158</u>
<u>River Valley Local SD</u>	<u>Marion</u>	<u>1.144948</u>
<u>River View Local SD</u>	<u>Coshocton</u>	<u>1.255718</u>
<u>Riverdale Local SD</u>	<u>Hardin</u>	<u>1.463411</u>
<u>Riverside Local SD</u>	<u>Logan</u>	<u>1.477936</u>
<u>Rock Hill Local SD</u>	<u>Lawrence</u>	<u>1.590768</u>
<u>Rocky River City SD</u>	<u>Cuyahoga</u>	<u>0.840017</u>
<u>Rolling Hills Local SD</u>	<u>Guernsey</u>	<u>1.513489</u>
<u>Rootstown Local SD</u>	<u>Portage</u>	<u>1.084884</u>
<u>Ross Local SD</u>	<u>Butler</u>	<u>1.128779</u>

<u>Rossford Ex Vill SD</u>	<u>Wood</u>	<u>1.080899</u>
<u>Russia Local SD</u>	<u>Shelby</u>	<u>1.374251</u>
<u>Salem City SD</u>	<u>Columbiana</u>	<u>1.180687</u>
<u>Sandusky City SD</u>	<u>Erie</u>	<u>1.300930</u>
<u>Sandy Valley Local SD</u>	<u>Stark</u>	<u>1.331965</u>
<u>Scioto Valley Local SD</u>	<u>Pike</u>	<u>1.526714</u>
<u>Sebring Local SD</u>	<u>Mahoning</u>	<u>1.501056</u>
<u>Seneca East Local SD</u>	<u>Seneca</u>	<u>1.233540</u>
<u>Shadyside Local SD</u>	<u>Belmont</u>	<u>1.206383</u>
<u>Shaker Heights City SD</u>	<u>Cuyahoga</u>	<u>0.930871</u>
<u>Shawnee Local SD</u>	<u>Allen</u>	<u>1.008274</u>
<u>Sheffield-Sheffield Lake City SD</u>	<u>Lorain</u>	<u>1.122898</u>
<u>Shelby City SD</u>	<u>Richland</u>	<u>1.248437</u>
<u>Sidney City SD</u>	<u>Shelby</u>	<u>1.240389</u>
<u>Solon City SD</u>	<u>Cuyahoga</u>	<u>0.895529</u>
<u>South Central Local SD</u>	<u>Huron</u>	<u>1.497606</u>
<u>South Euclid-Lyndhurst City SD</u>	<u>Cuyahoga</u>	<u>1.002369</u>
<u>South Point Local SD</u>	<u>Lawrence</u>	<u>1.517360</u>
<u>South Range Local SD</u>	<u>Mahoning</u>	<u>1.076772</u>
<u>Southeast Local SD</u>	<u>Portage</u>	<u>1.237090</u>
<u>Southeast Local SD</u>	<u>Wayne</u>	<u>1.180842</u>
<u>Southeastern Local SD</u>	<u>Clark</u>	<u>1.160870</u>
<u>Southeastern Local SD</u>	<u>Ross</u>	<u>1.513790</u>
<u>Southern Local SD</u>	<u>Columbiana</u>	<u>1.537098</u>
<u>Southern Local SD</u>	<u>Meigs</u>	<u>1.547346</u>
<u>Southern Local SD</u>	<u>Perry</u>	<u>1.600707</u>
<u>Southington Local SD</u>	<u>Trumbull</u>	<u>1.160291</u>
<u>Southwest Licking Local SD</u>	<u>Licking</u>	<u>1.065949</u>
<u>Southwest Local SD</u>	<u>Hamilton</u>	<u>1.093489</u>
<u>South-Western City SD</u>	<u>Franklin</u>	<u>1.265187</u>
<u>Spencerville Local SD</u>	<u>Allen</u>	<u>1.301749</u>
<u>Springboro Community City SD</u>	<u>Warren</u>	<u>0.960788</u>
<u>Springfield City SD</u>	<u>Clark</u>	<u>1.552526</u>
<u>Springfield Local SD</u>	<u>Lucas</u>	<u>1.056764</u>
<u>Springfield Local SD</u>	<u>Mahoning</u>	<u>1.192990</u>
<u>Springfield Local SD</u>	<u>Summit</u>	<u>1.196328</u>
<u>St Bernard-Elmwood Place City SD</u>	<u>Hamilton</u>	<u>1.248092</u>
<u>St Clairsville-Richland City SD</u>	<u>Belmont</u>	<u>1.150841</u>
<u>St Henry Consolidated Local SD</u>	<u>Mercer</u>	<u>1.382949</u>

<u>St Marys City SD</u>	<u>Auglaize</u>	<u>1.150444</u>
<u>Steubenville City SD</u>	<u>Jefferson</u>	<u>1.365647</u>
<u>Stow-Munroe Falls City SD</u>	<u>Summit</u>	<u>0.974464</u>
<u>Strasburg-Franklin Local SD</u>	<u>Tuscarawas</u>	<u>1.147256</u>
<u>Streetsboro City SD</u>	<u>Portage</u>	<u>1.023340</u>
<u>Strongsville City SD</u>	<u>Cuyahoga</u>	<u>0.942379</u>
<u>Struthers City SD</u>	<u>Mahoning</u>	<u>1.530919</u>
<u>Stryker Local SD</u>	<u>Williams</u>	<u>1.237584</u>
<u>Sugarcreek Local SD</u>	<u>Greene</u>	<u>0.946787</u>
<u>Swanton Local SD</u>	<u>Fulton</u>	<u>1.077057</u>
<u>Switzerland Of Ohio Local SD</u>	<u>Monroe</u>	<u>1.363501</u>
<u>Sycamore Community City SD</u>	<u>Hamilton</u>	<u>0.805157</u>
<u>Sylvania City SD</u>	<u>Lucas</u>	<u>0.919772</u>
<u>Symmes Valley Local SD</u>	<u>Lawrence</u>	<u>1.554601</u>
<u>Talawanda City SD</u>	<u>Butler</u>	<u>1.090290</u>
<u>Tallmadge City SD</u>	<u>Summit</u>	<u>1.039240</u>
<u>Teays Valley Local SD</u>	<u>Pickaway</u>	<u>1.231537</u>
<u>Tecumseh Local SD</u>	<u>Clark</u>	<u>1.318724</u>
<u>Three Rivers Local SD</u>	<u>Hamilton</u>	<u>0.992195</u>
<u>Tiffin City SD</u>	<u>Seneca</u>	<u>1.200469</u>
<u>Tipp City Ex Vill SD</u>	<u>Miami</u>	<u>1.056646</u>
<u>Toledo City SD</u>	<u>Lucas</u>	<u>1.362225</u>
<u>Toronto City SD</u>	<u>Jefferson</u>	<u>1.279649</u>
<u>Triad Local SD</u>	<u>Champaign</u>	<u>1.247663</u>
<u>Tri-County North Local SD</u>	<u>Preble</u>	<u>1.220510</u>
<u>Trimble Local SD</u>	<u>Athens</u>	<u>1.608740</u>
<u>Tri-Valley Local SD</u>	<u>Muskingum</u>	<u>1.302648</u>
<u>Tri-Village Local SD</u>	<u>Darke</u>	<u>1.253812</u>
<u>Triway Local SD</u>	<u>Wayne</u>	<u>1.201400</u>
<u>Trotwood-Madison City SD</u>	<u>Montgomery</u>	<u>1.536714</u>
<u>Troy City SD</u>	<u>Miami</u>	<u>1.128451</u>
<u>Tuscarawas Valley Local SD</u>	<u>Tuscarawas</u>	<u>1.133251</u>
<u>Tuslaw Local SD</u>	<u>Stark</u>	<u>1.149109</u>
<u>Twin Valley Community Local SD</u>	<u>Preble</u>	<u>1.226702</u>
<u>Twinsburg City SD</u>	<u>Summit</u>	<u>0.954737</u>
<u>Union Local SD</u>	<u>Belmont</u>	<u>1.472803</u>
<u>Union Scioto Local SD</u>	<u>Ross</u>	<u>1.459022</u>
<u>United Local SD</u>	<u>Columbiana</u>	<u>1.456646</u>
<u>Upper Arlington City SD</u>	<u>Franklin</u>	<u>0.763445</u>

<u>Upper Sandusky Ex Vill SD</u>	<u>Wyandot</u>	<u>1.211886</u>
<u>Upper Scioto Valley Local SD</u>	<u>Hardin</u>	<u>1.481493</u>
<u>Urbana City SD</u>	<u>Champaign</u>	<u>1.245402</u>
<u>Valley Local SD</u>	<u>Scioto</u>	<u>1.556395</u>
<u>Valley View Local SD</u>	<u>Montgomery</u>	<u>1.134885</u>
<u>Van Buren Local SD</u>	<u>Hancock</u>	<u>0.986475</u>
<u>Van Wert City SD</u>	<u>Van Wert</u>	<u>1.302853</u>
<u>Vandalia-Butler City SD</u>	<u>Montgomery</u>	<u>0.982917</u>
<u>Vanlue Local SD</u>	<u>Hancock</u>	<u>1.225490</u>
<u>Vermilion Local SD</u>	<u>Erie</u>	<u>1.101326</u>
<u>Versailles Ex Vill SD</u>	<u>Darke</u>	<u>1.234253</u>
<u>Vinton County Local SD</u>	<u>Vinton</u>	<u>1.581898</u>
<u>Wadsworth City SD</u>	<u>Medina</u>	<u>1.221864</u>
<u>Walnut Township Local SD</u>	<u>Fairfield</u>	<u>1.169550</u>
<u>Wapakoneta City SD</u>	<u>Auglaize</u>	<u>1.218209</u>
<u>Warren City SD</u>	<u>Trumbull</u>	<u>1.557959</u>
<u>Warren Local SD</u>	<u>Washington</u>	<u>1.298018</u>
<u>Warrensville Heights City SD</u>	<u>Cuyahoga</u>	<u>1.261012</u>
<u>Washington Court House City SD</u>	<u>Fayette</u>	<u>1.333465</u>
<u>Washington Local SD</u>	<u>Lucas</u>	<u>1.172637</u>
<u>Washington-Nile Local SD</u>	<u>Scioto</u>	<u>1.547444</u>
<u>Waterloo Local SD</u>	<u>Portage</u>	<u>1.150614</u>
<u>Wauseon Ex Vill SD</u>	<u>Fulton</u>	<u>1.299620</u>
<u>Waverly City SD</u>	<u>Pike</u>	<u>1.469624</u>
<u>Wayne Local SD</u>	<u>Warren</u>	<u>1.056943</u>
<u>Wayne Trace Local SD</u>	<u>Paulding</u>	<u>1.323577</u>
<u>Waynesfield-Goshen Local SD</u>	<u>Auglaize</u>	<u>1.402136</u>
<u>Weathersfield Local SD</u>	<u>Trumbull</u>	<u>1.207306</u>
<u>Wellington Ex Vill SD</u>	<u>Lorain</u>	<u>1.219534</u>
<u>Wellston City SD</u>	<u>Jackson</u>	<u>1.550848</u>
<u>Wellsville Local SD</u>	<u>Columbiana</u>	<u>1.568998</u>
<u>West Branch Local SD</u>	<u>Mahoning</u>	<u>1.297805</u>
<u>West Carrollton City SD</u>	<u>Montgomery</u>	<u>1.220862</u>
<u>West Clermont Local SD</u>	<u>Clermont</u>	<u>1.059095</u>
<u>West Geauga Local SD</u>	<u>Gauga</u>	<u>0.858500</u>
<u>West Holmes Local SD</u>	<u>Holmes</u>	<u>1.243758</u>
<u>West Liberty-Salem Local SD</u>	<u>Champaign</u>	<u>1.221358</u>
<u>West Muskingum Local SD</u>	<u>Muskingum</u>	<u>1.138872</u>
<u>Western Brown Local SD</u>	<u>Brown</u>	<u>1.508565</u>
<u>Western Local SD</u>	<u>Pike</u>	<u>1.616394</u>

<u>Western Reserve Local SD</u>	<u>Huron</u>	<u>1.309909</u>
<u>Western Reserve Local SD</u>	<u>Mahoning</u>	<u>1.091041</u>
<u>Westerville City SD</u>	<u>Franklin</u>	<u>0.963748</u>
<u>Westfall Local SD</u>	<u>Pickaway</u>	<u>1.311966</u>
<u>Westlake City SD</u>	<u>Cuyahoga</u>	<u>0.820277</u>
<u>Wheelersburg Local SD</u>	<u>Scioto</u>	<u>1.305562</u>
<u>Whitehall City SD</u>	<u>Franklin</u>	<u>1.402068</u>
<u>Wickliffe City SD</u>	<u>Lake</u>	<u>0.994269</u>
<u>Willard City SD</u>	<u>Huron</u>	<u>1.358778</u>
<u>Williamsburg Local SD</u>	<u>Clermont</u>	<u>1.225041</u>
<u>Willoughby-Eastlake City SD</u>	<u>Lake</u>	<u>1.069333</u>
<u>Wilmington City SD</u>	<u>Clinton</u>	<u>1.169459</u>
<u>Windham Ex Vill SD</u>	<u>Portage</u>	<u>1.584385</u>
<u>Winton Woods City SD</u>	<u>Hamilton</u>	<u>1.120204</u>
<u>Wolf Creek Local SD</u>	<u>Washington</u>	<u>1.158506</u>
<u>Woodmore Local SD</u>	<u>Sandusky</u>	<u>1.082991</u>
<u>Woodridge Local SD</u>	<u>Summit</u>	<u>0.956249</u>
<u>Wooster City SD</u>	<u>Wayne</u>	<u>1.128544</u>
<u>Worthington City SD</u>	<u>Franklin</u>	<u>0.896897</u>
<u>Wynford Local SD</u>	<u>Crawford</u>	<u>1.300946</u>
<u>Wyoming City SD</u>	<u>Hamilton</u>	<u>0.871194</u>
<u>Xenia Community City SD</u>	<u>Greene</u>	<u>1.223093</u>
<u>Yellow Springs Ex Vill SD</u>	<u>Greene</u>	<u>0.955678</u>
<u>Youngstown City SD</u>	<u>Mahoning</u>	<u>1.634946</u>
<u>Zane Trace Local SD</u>	<u>Ross</u>	<u>1.222296</u>
<u>Zanesville City SD</u>	<u>Muskingum</u>	<u>1.389095</u>

Sec. 3306.052. Each city, local, and exempted village school district shall receive funding for career-technical education teachers and career-technical education program operations for fiscal years 2010 and 2011 as follows:

(A) For fiscal year 2010, each district shall receive an amount equal to the amount the district received for fiscal year 2009 under division (E) of section 3317.022 of the Revised Code, as that section existed for that fiscal year, times 1.0075.

(B) For fiscal year 2011, each district shall receive an amount equal to the amount the district received for fiscal year 2010 under division (A) of this section times 1.0075.

Each school district that receives funds under this section shall spend the funds only for purposes the department of education designates as approved for vocational education expenses. Vocational education expenses

approved by the department shall include only expenses connected to the delivery of career-technical programming to students enrolled in state-approved career-technical programs. The department shall require each school district to report data annually so that the department may monitor the district's compliance with the requirements regarding the manner in which funding received under this section may be spent.

Sec. 3306.06. (A) The additional services support component of the adequacy amount for each city, local, and exempted village school district is the sum of the following:

- (1) The family and community liaison factor;
- (2) The counselor factor;
- (3) The summer remediation factor;
- (4) The school nurse wellness coordinator factor;
- (5) The district health professional factor.

(B)(1) The family and community liaison factor shall be calculated by multiplying the school district's formula ADM times its targeted poverty indicator and dividing the product by seventy-five, and then multiplying the quotient by the product of the applicable Ohio educational challenge factor times \$38,633, in fiscal year 2010, and times \$39,381, in fiscal year 2011.

(2) The counselor factor shall be calculated by dividing the district's formula ADM for grades six to twelve by two hundred fifty, and then multiplying the quotient by a dollar amount for each fiscal year established by law. No counselor factor shall be calculated and paid for fiscal years 2010 and 2011.

(3) The summer remediation program factor shall be calculated by multiplying the district's formula ADM times its targeted poverty indicator times fifty per cent, which represents the anticipated participation rate, dividing that product by thirty, which is the assumed student-to-teacher ratio for summer remediation, and multiplying that quotient by the product of \$3,000 times the applicable Ohio educational challenge factor.

(4) The school nurse wellness coordinator factor shall be calculated by multiplying the number of the district's organizational units times a dollar amount for each fiscal year established by law, except that in a small school district, the school nurse wellness coordinator factor shall be zero. No school nurse wellness coordinator factor shall be calculated and paid for fiscal years 2010 and 2011.

(5) The district health professional factor for each district equals a dollar amount specified by law for each fiscal year. No district health professional factor shall be calculated and paid for fiscal years 2010 and 2011.

(C) In adopting expenditure and reporting standards under section

3306.25 of the Revised Code, the superintendent of public instruction shall include standards that encourage school districts to give preference to employing or obtaining the services of licensed school nurses with funds received for the school nurse wellness coordinator factor and the district health professional factor.

(D) Each school district shall account separately for expenditures of the amounts received for additional services support under this section and report that information to the department of education.

Sec. 3306.07. (A) The administrative services support component of the adequacy amount for each city, local, and exempted village school district is the sum of the following:

(1) The district administration factor;

(2) The principal factor;

(3) The administrative support personnel factor;

(B)(1) The district administration factor equals \$187,176 in fiscal year 2010 and \$190,801 in fiscal year 2011.

(2) The principal factor shall be calculated by multiplying the number of the district's organizational units times \$89,563 in fiscal year 2010 and \$91,297 in fiscal year 2011. However, each type 1 or type 2 school district shall receive for a principal factor an amount not less than the applicable dollar amount specified in this paragraph times the number of school buildings in the district for which the department of education issued a report card under section 3302.03 of the Revised Code for the prior school year. As used in this division, "type 1 school district" means a school district characterized as a type 1 (rural/agricultural, high poverty, low median income) district, and "type 2 school district" means a school district characterized as a type 2 (rural/agricultural, small student population, low poverty, low to moderate median income), in the typology of districts published by the department in July 2007.

(3) The administrative support personnel factor is funding determined for building managers, secretaries, and noninstructional aides.

(a) The funding for building managers shall be calculated by multiplying \$33,624 in fiscal year 2010 and \$34,275 in fiscal year 2011 times the number of the district's organizational units.

(b) The funding for secretaries shall be calculated by multiplying \$33,624 in fiscal year 2010 and \$34,275 in fiscal year 2011 times the number of the district's organizational units, where two additional secretaries shall be funded for each high school organizational unit.

(c) The funding for noninstructional aides shall be a dollar amount set by law for each fiscal year times the number of the district's organizational

units, where the organizational units are multiplied by two in the case of elementary school and middle school organizational units and by three in case of high school organizational units.

However, each small school district shall receive funding for one building manager, one secretary, and one noninstructional aide. Every other city, local, and exempted village school district shall receive funding for at least one building manager, one secretary, and one noninstructional aide.

No funding shall be calculated and paid for noninstructional aides for fiscal years 2010 and 2011.

(C) Each school district shall account separately for the amounts received for administrative services support under this section and report that information to the department of education.

Sec. 3306.08. (A) The operations and maintenance support component of the adequacy amount for each city, local, and exempted village school district shall be calculated by multiplying the district's formula ADM times \$884.

(B) The operations and maintenance support for each city, local, and exempted village school district shall be adjusted by multiplying the calculated amount by 0.45 in fiscal years 2010 and 2011, and by 0.75 in fiscal years 2012 and 2013.

(C) Each school district shall account separately for expenditures of the amounts received for operations and maintenance support under this section and report that information to the department of education.

Sec. 3306.09. (A) The gifted education support component of the adequacy amount for each city, local, and exempted village school district is the sum of the following:

(1) The gifted identification factor;

(2) The gifted coordinator factor;

(3) The gifted intervention specialist factor;

(4) The gifted intervention specialist professional development factor.

(B)(1) The gifted identification factor shall be calculated by multiplying the district's formula ADM times \$5.

(2) The gifted coordinator factor shall be calculated by multiplying \$66,375 in fiscal year 2010 and \$67,660 in fiscal year 2011 times the quotient of the district's formula ADM divided by two thousand five hundred.

(3) The gifted intervention specialist factor shall be calculated by multiplying the number of the district's organizational units times the Ohio educational challenge factor specified for the district in section 3306.051 of the Revised Code times the statewide base teacher salary specified in section

3306.05 of the Revised Code.

(4) The gifted intervention specialist professional development factor shall be calculated by multiplying the number of the district's organizational units times the per-teaching-position dollar amount specified for the professional development factor in division (A)(7) of section 3306.03 of the Revised Code.

(C) The gifted intervention specialist factor and the gifted intervention specialist professional development factor for each city, local, and exempted village school district, shall be adjusted by multiplying the calculated amount by 0.20 in fiscal year 2010, by 0.30 in fiscal year 2011, by 0.40 in fiscal years 2012 and 2013, by 0.60 in fiscal years 2014 and 2015, and by 0.80 in fiscal years 2016 and 2017.

(D) A school district that does not submit an annual report under section 3324.05 of the Revised Code, or that reports zero students identified as gifted, shall receive zero funding for the gifted coordinator factor, the gifted intervention specialist factor, and the gifted intervention specialist professional development factor.

(E) Each school district shall expend the funds calculated under the gifted education support component in accordance with rules adopted under section 3306.25 of the Revised Code. Those rules shall require that such funds be spent only for the employment of staff to serve students identified as gifted, in accordance with Chapter 3324. of the Revised Code, or for other services to such students. The rules shall be aligned with the operating standards for identifying and serving gifted students prescribed in rules adopted by the state board of education. Notwithstanding anything to the contrary in section 3306.25 of the Revised Code, the rules regarding the expenditure and reporting of funds for the gifted education support component adopted under that section shall take effect July 1, 2011.

Subject to approval by the department of education, a school district may use up to fifteen per cent of the portion of the gifted intervention specialist factor attributable to the grade six through twelve formula ADM to support access to services provided by the district that are not services described in Chapter 3324. of the Revised Code but are specified in gifted students' written education plans prepared in accordance with the state board's operating standards for identifying and serving gifted students.

(F) Each school district shall account separately for expenditures of the amounts received for gifted identification, gifted coordinators, gifted intervention specialists, and gifted intervention specialist professional development under this section and report that information to the department of education.

(G)(1) Each city, local, and exempted village school district that received for fiscal year 2009 unit funding for gifted student services under division (L) of section 3317.024 and division (E) of section 3317.05 of the Revised Code, as those sections existed for that fiscal year, shall spend in each fiscal year thereafter for services to identified gifted students from the funds received under this chapter an amount not less than the aggregate amount received for such gifted unit funding for fiscal year 2009.

(2) Each city, local, and exempted village school district that, in fiscal year 2009, received gifted student services from an educational service center, which service center received for fiscal year 2009 unit funding for gifted student services, shall in each fiscal year thereafter do either of the following:

(a) Obtain gifted student services from an educational service center that are comparable to the gifted student services provided to the district with gifted unit funding in fiscal year 2009 by an educational service center;

(b) Spend for services to identified gifted students from the funds received under this chapter an amount not less than the amount of gifted unit funding expended by an educational service center in fiscal year 2009 for the district's students.

(3) No district to which division (G)(1) or (2) of this section applies shall apply for or receive a waiver under section 3306.40 of the Revised Code from the spending requirements prescribed in those divisions or under division (E) of this section.

(4) Each educational service center that received for fiscal year 2009 unit funding for gifted student services shall spend from its state funds in each fiscal year thereafter for services to identified gifted students an amount not less than the aggregate amount received for gifted unit funding for fiscal year 2009. No educational service center to which division (G)(4) of this section shall receive any waiver of this requirement.

(H) A city, local, or exempted village school district that did not receive for fiscal year 2009 unit funding for gifted student services under division (L) of section 3317.024 and division (E) of section 3317.05 of the Revised Code, as those sections existed for that fiscal year, may apply for a waiver under section 3306.40 of the Revised Code from any expenditure requirements prescribed under division (E) of this section. Notwithstanding anything to the contrary in section 3306.40 of the Revised Code, the first waiver granted to a district pursuant to this division shall not be effective for longer than two years, and any subsequent renewal of that waiver shall not be effective for longer than one year.

Sec. 3306.091. (A) The enrichment support component of the adequacy

amount for each city, local, and exempted village school district shall be calculated by multiplying the district's formula ADM times \$100 times the Ohio educational challenge factor.

(B) The enrichment support for each city, local, and exempted village school district shall be adjusted by multiplying the calculated amount by 0.20 in fiscal year 2010, by 0.30 in fiscal year 2011, by 0.40 in fiscal years 2012 and 2013, by 0.60 in fiscal years 2014 and 2015, and by 0.80 in fiscal years 2016 and 2017.

(C) The enrichment support component shall be used for purposes other than services for students identified as gifted delivered in accordance with Chapter 3324. of the Revised Code. A district may spend the enrichment support component to pay for enrichment activities that may encourage the intellectual and creative pursuits of all students, including the fine arts.

(D) Each school district shall account separately for expenditures of the amounts received for enrichment support under this section and report that information to the department of education.

Sec. 3306.10. (A) The technology resources support component of the adequacy amount for each city, local, and exempted village school district is the sum of the following:

(1) The licensed librarian and media specialist factor;

(2) The technical equipment factor.

(B)(1) The licensed librarian and media specialist factor shall be calculated by multiplying the number of the district's organizational units times \$60,000.

(2) The technical equipment factor shall be calculated by multiplying the district's formula ADM times \$250.

(C) The licensed librarian and media specialist factor and the technical equipment factor for each city, local, and exempted village school district shall be adjusted by multiplying the calculated amounts by 0.20 in fiscal year 2010, by 0.30 in fiscal year 2011, by 0.40 in fiscal years 2012 and 2013, by 0.60 in fiscal years 2014 and 2015, and by 0.80 in fiscal years 2016 and 2017.

(D) Each school district shall account separately for the amounts received for technology resources support under this section and report that information to the department of education.

Sec. 3306.11. (A) For the purpose of calculating a school district's instructional services support under section 3306.05 of the Revised Code, the number of special education teacher positions used in calculating the special education teacher factor, and the number of special education teacher's aide positions used in calculating the special education teacher's

aide factor shall be calculated as set forth in this section.

(B)(1) The number of special education teacher positions shall be calculated by multiplying the sum of the weighted number of children with disabilities calculated under division (C) of this section times nine-tenths, and then dividing that product by twenty.

(2) The number of special education teacher's aide positions shall be calculated by dividing the number of special education teacher positions calculated under division (B)(1) of this section by two, and multiplying that quotient by 0.50 in fiscal years 2010 and 2011.

(C) The weighted number of children with disabilities for a school district is the sum of:

- (1) 0.2906 times the district's category one special education ADM;
- (2) 0.7374 times the district's category two special education ADM;
- (3) 1.7716 times the district's category three special education ADM;
- (4) 2.3643 times the district's category four special education ADM;
- (5) 3.2022 times the district's category five special education ADM;
- (6) 4.7205 times the district's category six special education ADM.

(D) Each school district shall account separately for expenditures of the amounts received for resources for children with disabilities under this section and section 3306.05 of the Revised Code and report that information to the department of education. Those amounts may be used to pay for providers of related services, as defined in section 3323.01 of the Revised Code, for children with disabilities.

Sec. 3306.12. (A) As used in this section:

(1) "Assigned bus" means a school bus used to transport qualifying riders.

(2) "Nontraditional ridership" means the average number of qualifying riders who are enrolled in a community school established under Chapter 3314. of the Revised Code, in a STEM school established under Chapter 3326. of the Revised Code, or in a nonpublic school and are provided school bus service by a school district during the first full week of October.

(3) "Qualifying riders" means resident students enrolled in regular education in grades kindergarten to twelve who are provided school bus service by a school district and who live more than one mile from the school they attend, including students with dual enrollment in a joint vocational school district or a cooperative education school district, and students enrolled in a community school, STEM school, or nonpublic school.

(4) "Qualifying ridership" means the average number of qualifying riders who are provided school bus service by a school district during the first full week of October.

(5) "Rider density" means the number of qualifying riders per square mile of a school district.

(6) "School bus service" means a school district's transportation of qualifying riders in any of the following types of vehicles:

(a) School buses owned or leased by the district;

(b) School buses operated by a private contractor hired by the district;

(c) School buses operated by another school district or entity with which the district has contracted, either as part of a consortium for the provision of transportation or otherwise.

(B) Not later than the fifteenth day of October each year, each city, local, and exempted village school district shall report to the department of education its qualifying ridership, nontraditional ridership, number of qualifying riders per assigned bus, and any other information requested by the department. Subsequent adjustments to the reported numbers shall be made only in accordance with rules adopted by the department.

(C) The department shall calculate the statewide transportation cost per student as follows:

(1) Determine each city, local, and exempted village school district's transportation cost per student by dividing the district's total costs for school bus service in the previous fiscal year by its qualifying ridership in the previous fiscal year.

(2) After excluding districts that do not provide school bus service and the ten districts with the highest transportation costs per student and the ten districts with the lowest transportation costs per student, divide the aggregate cost for school bus service for the remaining districts in the previous fiscal year by the aggregate qualifying ridership of those districts in the previous fiscal year.

(D) The department shall calculate the statewide transportation cost per mile as follows:

(1) Determine each city, local, and exempted village school district's transportation cost per mile by dividing the district's total costs for school bus service in the previous fiscal year by its total number of miles driven for school bus service in the previous fiscal year.

(2) After excluding districts that do not provide school bus service and the ten districts with the highest transportation costs per mile and the ten districts with the lowest transportation costs per mile, divide the aggregate cost for school bus service for the remaining districts in the previous fiscal year by the aggregate miles driven for school bus service in those districts in the previous fiscal year.

(E) The department shall calculate each city, local, and exempted

village school district's transportation base payment as follows:

(1) Multiply the statewide transportation cost per student by the district's qualifying ridership for the current fiscal year.

(2) Multiply the statewide transportation cost per mile by the district's total number of miles driven for school bus service in the current fiscal year.

(3) Multiply the greater of the amounts calculated under divisions (E)(1) and (2) of this section by the greater of sixty per cent or the district's state share percentage.

(F) The department shall calculate each city, local, and exempted village school district's nontraditional ridership adjustment according to the following formula:

$$\frac{\text{(nontraditional ridership for the current fiscal year /} \\ \text{qualifying ridership for the current fiscal year)} \times 0.1 \times \\ \text{transportation base payment}}{\text{transportation base payment}}$$

(G) If a city, local, and exempted village school district offers school bus service to all resident students who are enrolled in regular education in district schools in grades nine to twelve and who live more than one mile from the school they attend, the department shall calculate the district's high school ridership adjustment according to the following formula:

$$0.025 \times \text{transportation base payment}$$

(H) If a city, local, and exempted village school district offers school bus service to students enrolled in grades kindergarten to eight who live more than one mile, but two miles or less, from the school they attend, the department shall calculate an additional adjustment according to the following formula:

$$0.025 \times \text{transportation base payment}$$

(I)(1) The department annually shall establish a target number of qualifying riders per assigned bus for each city, local, and exempted village school district. The department shall use the most recently available data in establishing the target number. The target number shall be based on the statewide median number of qualifying riders per assigned bus as adjusted to reflect the district's rider density in comparison to the rider density of all other districts. The department shall post on the department's web site each district's target number of qualifying riders per assigned bus and a description of how the target number was determined.

(2) The department shall determine each school district's efficiency index by dividing the district's median number of qualifying riders per assigned bus by its target number of qualifying riders per assigned bus.

(3) The department shall determine each city, local, and exempted village school district's efficiency adjustment as follows:

(a) If the district's efficiency index is equal to or greater than 1.5, the efficiency adjustment shall be calculated according to the following formula:

0.1 X transportation base payment

(b) If the district's efficiency index is less than 1.5 but equal to or greater than 1.0, the efficiency adjustment shall be calculated according to the following formula:

[(efficiency index - 1) / 5] X transportation base payment

(c) If the district's efficiency index is less than 1.0, the efficiency adjustment shall be zero.

(J) The department shall pay each city, local, and exempted village school district the lesser of the following:

(1) The sum of the amounts calculated under divisions (E) to (H) and (I)(3) of this section;

(2) The district's total costs for school bus service for the prior fiscal year.

(K) In addition to funds paid under division (J) of this section, each city, local, and exempted village district shall receive in accordance with rules adopted by the state board of education a payment for students transported by means other than school bus service and whose transportation is not funded under division (G) of section 3317.024 of the Revised Code. The rules shall include provisions for school district reporting of such students.

(L)(1) In fiscal years 2010 and 2011, the department shall pay each district a pro rata portion of the amounts calculated under division (J) of this section and described in division (K) of this section, based on state appropriations.

(2) In addition to the prorated payment under division (L)(1) of this section, in fiscal years 2010 and 2011, the department shall pay each school district that meets the conditions prescribed in division (L)(3) of this section an additional amount equal to the following product:

(a) The difference of (i) the amounts calculated under division (J) of this section and prescribed in division (K) of this section minus (ii) that prorated payment; times

(b) 0.30 in fiscal year 2010 and 0.70 in fiscal year 2011.

(3) Division (L)(2) of this section applies to each school district that meets all of the following conditions:

(a) The district qualifies for the calculation of a payment under division (J) of this section because it transports students on board-owned or contractor-owned school buses.

(b) The district's local wealth per pupil, calculated as prescribed in

section 3317.0217 of the Revised Code, is at or below the median local wealth per pupil of all districts that qualify for calculation of a payment under division (J) of this section.

(c) The district's rider density is at or below the median rider density of all districts that qualify for calculation of a payment under division (J) of this section.

Sec. 3306.13. (A) The department of education shall compute and distribute to each city, local, and exempted village school district the state share of the adequacy amount for the fiscal year by subtracting the district's charge-off amount calculated under division (B) of this section from its adequacy amount calculated under section 3306.03 of the Revised Code.

(B)(1) For districts with a class one effective operating tax rate that is less than twenty and one-tenth effective mills as of the first day of July of the current fiscal year, the charge-off amount equals the applicable charge-off rate, prescribed in division (C) of this section, times the sum of the district's total taxable value plus its property exemption value.

(2) For districts with a class one effective operating tax rate that is greater than or equal to twenty and one-tenth class one effective mills as of the first day of July of the current fiscal year, the charge-off amount equals the applicable charge-off rate, prescribed in division (C) of this section, times the sum of the district's recognized valuation plus its property exemption value.

If the difference obtained from the calculation is a negative number, the state share shall be zero.

(3)(a) For each school district for which the tax exempt value of the district equals or exceeds twenty-five per cent of the potential value of the district, the department shall calculate the difference between the district's tax exempt value and twenty-five per cent of the district's potential value.

(b) For each school district to which division (B)(3)(a) of this section applies, the department shall adjust the total taxable value used in the calculation under division (B)(1) of this section or the recognized valuation used in the calculation under division (B)(2) of this section by subtracting from it the amount calculated under division (B)(3)(a) of this section.

(C) The charge-off rate shall be as follows:

(1) In fiscal years 2010 and 2011, 0.022;

(2) In fiscal years 2012 and 2013, 0.021;

(3) In fiscal year 2014 and in each fiscal year thereafter, 0.020.

(D) The department shall use the information obtained under section 3317.021 of the Revised Code during the calendar year in which the fiscal year begins to calculate the district state shares under this section.

Sec. 3306.18. On or before the fifteenth day of July of each year, the superintendent of public instruction shall certify to the state board of education the amount each city, local, and exempted village school district expended in the previous fiscal year on each factor of the district's adequacy amount.

Sec. 3306.19. (A) The department of education shall calculate and pay transitional aid in fiscal years 2010 and 2011 to each city, local, and exempted village school district in accordance with this section. For fiscal year 2010, the amount of a district's transitional aid shall be the positive difference of ninety-nine per cent of its transitional aid base for that fiscal year minus the sum of its state share of the adequacy amount calculated under section 3306.13 of the Revised Code plus the amount calculated for career-technical education under section 3306.052 of the Revised Code plus the prorated transportation funding calculated under division (L)(1) of section 3306.12 of the Revised Code. For fiscal year 2011, the amount of a district's transitional aid shall be the positive difference of ninety-eight per cent of its transitional aid base for that fiscal year minus the sum of its state share of the adequacy amount calculated under section 3306.13 of the Revised Code plus the amount calculated for career-technical education under section 3306.052 of the Revised Code plus the prorated transportation funding calculated under division (L)(1) of section 3306.12 of the Revised Code.

(1) The transitional aid guarantee base for each city, local, and exempted village school district for fiscal year 2010 equals the sum of the following computed for fiscal year 2009, as reconciled by the department, less any general revenue fund spending reductions ordered by the governor under section 126.05 of the Revised Code:

(a) Base-cost funding under division (A) of section 3317.022 of the Revised Code;

(b) Special education and related services additional weighted funding under division (C)(1) of section 3317.022 of the Revised Code;

(c) Speech services funding under division (C)(4) of section 3317.022 of the Revised Code;

(d) Vocational education additional weighted funding under division (E) of section 3317.022 of the Revised Code;

(e) GRADS funding under division (N) of section 3317.024 of the Revised Code;

(f) Adjustments for classroom teachers and educational service personnel under divisions (B), (C), and (D) of section 3317.023 of the Revised Code;

(g) Gifted education units under division (L) of section 3317.024 and section 3317.05 of the Revised Code;

(h) Transportation under Section 269.20.80 of Am. Sub. H.B. 119 of the 127th general assembly;

(i) The excess cost supplement under division (F) of section 3317.022 of the Revised Code;

(j) The charge-off supplement under section 3317.0216 of the Revised Code;

(k) Transitional aid under Section 269.30.80 of Am. Sub. H.B. 119 of the 127th general assembly.

(2) The transitional aid guarantee base for each city, local, and exempted village school district for fiscal year 2011 equals the following difference:

(a) The sum of the district's state share of the adequacy amount calculated under section 3306.13 of the Revised Code plus the district's career-technical education funding calculated under division (L)(1) of section 3306.052 of the Revised Code plus the district's prorated transportation funding calculated under division (L)(1) of section 3306.12 of the Revised Code plus any transitional aid payment under this section for fiscal year 2010, as the sum is adjusted under division (B)(1) of this section, if applicable; minus

(b) Any general revenue fund spending reductions ordered by the governor for fiscal year 2010 under section 126.05 of the Revised Code.

(B) Notwithstanding any provision of this chapter to the contrary:

(1) The combination of the state share of the adequacy amount plus the prorated transportation funding under division (L)(1) of section 3306.12 of the Revised Code for any city, local, or exempted village school district for fiscal year 2010 shall not exceed 1.0075 times the difference of its transitional aid guarantee base for fiscal year 2010 minus the amount described in division (A)(1)(d) of this section.

(2) The combination of the state share of the adequacy amount plus the prorated transportation funding under division (L)(1) of section 3306.12 of the Revised Code for any city, local, or exempted village school district for fiscal year 2011 shall not exceed 1.0075 times the difference of its transitional aid guarantee base for fiscal year 2011 minus the amount paid to the district under division (A) of section 3306.052 of the Revised Code.

Sec. 3306.191. The department of education shall calculate and pay additional transitional aid in fiscal year 2011 to a city, local, and exempted village school district equal to the following:

(0.98 X the district's state education aid for fiscal year 2010) – the district's

state education aid for fiscal year 2011

If the result is a negative number, no payment shall be paid under this section.

As used in this section, "state education aid" has the same meaning as in section 5751.20 of the Revised Code.

Sec. 3306.192. In fiscal year 2012 and in each fiscal year thereafter, the department of education shall pay a city, local, or exempted village school district additional funds computed as follows:

(A) The statewide per pupil amount paid for chartered nonpublic school students – (the sum of the district's payments under sections 3306.052, 3306.12, 3306.13, and 3306.19 of the Revised Code/its formula ADM); times

(B) The district's formula ADM.

If the result is a negative number, no payment shall be made under this section.

As used in this section, the "statewide per pupil amount paid for chartered nonpublic school for students" means the statewide per pupil amount paid under sections 3317.06 and 3317.063 of the Revised Code, combined, for the current fiscal year, as calculated by the department.

Sec. 3306.21. Nothing in this chapter shall be construed to affect or limit the authority of a school district, community school, or STEM school to contract with an educational service center, under sections 3313.843, 3313.844, 3313.845, 3314.022, and 3326.45 of the Revised Code, for the provision of any services for which funds are calculated and paid under this chapter.

Sec. 3306.22. Nothing in this chapter shall be construed to prohibit a school district from using funds calculated and paid under this chapter to establish, operate, or participate in a joint or cooperative program under section 3313.842 of the Revised Code.

Sec. 3306.25. (A) The superintendent of public instruction shall adopt rules, in accordance with Chapter 119. of the Revised Code, prescribing standards for the expenditure of funds calculated under this chapter and for the reporting of expenditures of those funds for particular funded components, as determined by the superintendent, so that those funds are directed toward the purposes for which they were calculated.

The superintendent shall classify the components into the following categories:

(1) Core academic strategy components, which shall be considered those components that are fundamental to successful education practices in the twenty-first century for all students;

(2) Academic improvement components, which shall be considered those components that have been demonstrated to make the greatest improvement in the academic achievement of underperforming students;

(3) Other components.

The superintendent shall determine the funded components included in each category.

(B) The rules adopted for core academic strategy components under division (A)(1) of this section shall prescribe standards for expenditure and reporting. The rules shall afford districts degrees of flexibility in determining how to spend funds calculated for the components included in that category depending on the district's current performance rating under section 3302.03 of the Revised Code. The higher the rating, the greater flexibility the rules shall provide. Districts rated excellent shall not be subject to the expenditure standards, but shall comply with the reporting standards.

(C) The rules adopted for academic improvement components under division (A)(2) of this section shall prescribe standards for expenditure and reporting and shall apply only to school districts that have been declared to be in academic emergency or academic watch, under section 3302.03 of the Revised Code, for two or more consecutive years, beginning with the ratings of districts issued under that section in the fiscal year that begins two years prior to the effective date of rules adopted under division (A)(2) of this section.

(D) The rules adopted under division (A)(3) of this section shall prescribe only reporting standards and shall not prescribe spending requirements or standards. The rules shall apply to all school districts.

(E) The rules shall take effect pursuant to a schedule determined by the superintendent. However:

(1) The rules adopted under division (A)(1) of this section prescribing reporting standards for core academic strategy components shall not take effect before July 1, 2010.

(2) The rules adopted under division (A)(1) of this section prescribing expenditure standards for core academic strategy components shall not take effect before July 1, 2011.

(3) The rules adopted under division (A)(2) of this section prescribing reporting standards for academic improvement components shall not take effect before July 1, 2010.

(4) The rules adopted under division (A)(2) of this section prescribing expenditure standards for academic improvement components shall not take effect before July 1, 2011.

(5) The rules adopted under division (A)(3) of this section prescribing reporting standards for other components shall not take effect before July 1, 2010.

(F) Each school district shall comply with each applicable rule adopted under this section beginning on the effective date of that rule.

Sec. 3306.29. (A) The Ohio school funding advisory council is hereby established. The council shall consist of the following members:

(1) The governor, or the governor's designee;

(2) The superintendent of public instruction, or the superintendent's designee;

(3) The chancellor of the Ohio board of regents, or the chancellor's designee;

(4) Two school district teachers, appointed by the governor;

(5) Two nonteaching, nonadministrative school district employees, appointed by the governor;

(6) One school district principal, appointed by the speaker of the house of representatives;

(7) One school district superintendent, appointed by the president of the senate;

(8) One school district treasurer, appointed by the speaker of the house of representatives;

(9) One member of a school district board, appointed by the president of the senate;

(10) One representative of a college of education, appointed by the speaker of the house of representatives;

(11) One representative of the business community, appointed by the president of the senate;

(12) One representative of a philanthropic organization, appointed by the speaker of the house of representatives;

(13) One representative of the Ohio academy of science, appointed by the president of the senate;

(14) One representative of the general public, appointed by the president of the senate;

(15) One representative of educational service centers, appointed by the speaker of the house of representatives;

(16) One parent of a student attending a school operated by a school district, appointed by the governor;

(17) One representative of community school sponsors, appointed by the governor;

(18) One representative of operators of community schools, appointed

by the president of the senate:

(19) One community school fiscal officer, appointed by the speaker of the house of representatives;

(20) One parent of a student attending a community school, appointed by the president of the senate;

(21) One representative of early childhood education providers, appointed by the governor;

(22) One representative of chartered nonpublic schools, appointed by the speaker of the house of representatives;

(23) Two persons appointed by the president of the senate, one of whom shall be recommended by the minority leader of the senate;

(24) Two persons appointed by the speaker of the house of representatives, one of whom shall be recommended by the minority leader of the house of representatives.

The members shall serve without compensation.

(B) The superintendent of public instruction, or the superintendent's designee to the council, shall be the chairperson of the council.

The department of education shall provide staffing assistance to the council.

(C) Not later than December 1, 2010, and the first day of July of each even-numbered year thereafter, the council shall present to the state board of education, the general assembly, in accordance with section 101.68 of the Revised Code, and the public recommendations for revisions to the educational adequacy components of the school funding model established under this chapter.

(1) The recommendations shall be based on current, high quality research, information provided by school districts, and best practices in operational efficiencies.

(2) In preparing its recommendations due December 1, 2010, the council's analyses shall include, but shall not be limited to, the adequacy of the model's financing for special education, gifted education services, career-technical education, arts education, services for limited English proficient students, and early college high schools. This analysis shall consider, for each area, current educational need, current educational practices, and best practices. In its December 1, 2010, report the council also shall include all of the following:

(a) Recommendations for a student-centered evidence-based model for schools that uses a per pupil level of funding to follow a student to the school that best meets the student's individual learning needs;

(b) A study of the extent to which current funding for joint vocational

school districts and compact and comprehensive career-technical schools is responsive to state, regional, and local business and industry needs, and recommendations for revisions to career-technical education programming and funding;

(c) A study of the extent to which the current educational service center system supports school districts in academic achievement, teacher quality, shared educational services, and the purchasing of educational services and commodities, and recommendations for a new regional service delivery system, the educational service system governance structure, and accountability metrics for educational service centers;

(d) An examination of the existing structures and systems that support compensation and retirement benefits for teachers, and recommendations for changes to the systems of teacher compensation and retirement benefits to improve the connections between teacher compensation, teaching excellence, and higher levels of student learning;

(e) A consideration of whether community schools and STEM schools should be subject to the expenditure and reporting standards adopted under section 3306.25 of the Revised Code and the accountability requirements of sections 3306.30 to 3306.40 of the Revised Code;

(f) An analysis of the effects of open enrollment on students and school districts, and recommendations for ensuring that open enrollment policy and financing is equitable for students and school districts.

(3) In preparing its recommendations due December 1, 2010, and in subsequent biennia, the council's analyses may address, but need not be limited to, any of the following:

(a) Strategies and incentives to promote school cost-saving measures and efficiencies;

(b) Options for adding learning time to the learning year, such as moving professional development for educators to summer, adding learning time for children with greater educational needs, accounting for learning time by hours instead of days, and appropriate compensation to school districts and staff for providing additional learning time;

(c) The adequacy of the model's accounting for and financing of operational costs, including district-level administration and administrative and transportation challenges experienced by low-density and low-wealth school districts, and the effect of those costs on student academic achievement;

(d) The accuracy of the calculation of each component of the funding model, and of the model as a whole, in light of current educational needs, current educational practices, and best practices;

(e) Options to encourage school districts and schools already attaining excellent ratings under section 3302.03 of the Revised Code to go beyond state standards and aspire to higher international norms.

Sec. 3306.291. (A) A subcommittee of the Ohio school funding advisory council is hereby established to study and make recommendations to foster collaboration between school districts and community schools established under Chapter 3314. of the Revised Code. The subcommittee shall recommend fiscal strategies, including changes to the funding model established under this chapter, that will provide incentives and compensation for Ohio school districts and community schools to enter into collaborative agreements that result in creative and innovative academic programming for students and academic and fiscal efficiency. The subcommittee shall report its findings and recommendations to the council and, in accordance with section 101.68 of the Revised Code, the general assembly not later than September 1, 2010, and periodically thereafter at the direction of the superintendent of public instruction.

(B) The subcommittee shall consist of the following members of the council:

- (1) The school district superintendent;
- (2) The school district treasurer;
- (3) One of the school district teachers, selected by the superintendent of public instruction;
- (4) The member representing a college of education;
- (5) The member representing sponsors of community schools;
- (6) The member representing operators of community schools;
- (7) The community school fiscal officer;
- (8) The parent of a student attending a community school;
- (9) The parent of a student attending a school operated by a school district.

The members of the subcommittee shall serve without compensation.

Sec. 3306.292. The Ohio school funding advisory council may establish subcommittees in addition to the subcommittee established under section 3306.291 of the Revised Code. The council shall determine the membership and duties of the additional subcommittees. Up to one-half of the members of each additional subcommittee may be individuals who are not members of the council.

Sec. 3306.30. (A) The board of education of each city, local, and exempted village school district annually shall submit to the department of education, by the date and in the manner prescribed by the superintendent of public instruction, a plan describing how the district will deploy the funds

received under this chapter. The plan shall deploy the funds received for each component of the adequacy amount, shall comply with any applicable expenditure or reporting standard prescribed by rule adopted under section 3306.25 of the Revised Code, and shall comply with the operating standards adopted under division (D)(3) of section 3301.07 of the Revised Code and any directive of the superintendent of public instruction, unless a waiver has been granted under section 3306.40 of the Revised Code. In the case of a district to which section 3306.31 of the Revised Code applies, the plan shall include the deployment of funds for the purposes described in divisions (B) and (D) of that section.

(B) The department annually shall reconcile each spending plan submitted under this section with the actual spending of the district. If the department finds that a district has not complied with any applicable expenditure or reporting standard prescribed by rule adopted under section 3306.25 of the Revised Code, the department shall proceed to take action under section 3306.33 of the Revised Code.

(C) If a school district fails to submit a spending plan as required by this section or, as applicable, section 3306.31 of the Revised Code, the department shall proceed to take action under section 3306.33 of the Revised Code.

Sec. 3306.31. (A) This section applies to any city, local, or exempted village school district that has a three-year average graduation rate, as defined in section 3301.0711 of the Revised Code, of eighty per cent or less.

(B) The board of education of each school district to which this section applies shall implement actions prescribed by the governor's closing the achievement gap initiative in each of the following:

(1) Each high school;

(2) Each elementary or middle school in which less than fifty per cent of the students have attained a proficient score on the fourth or seventh grade achievement assessments in English language arts or mathematics required under section 3301.0710 of the Revised Code.

(C) The board of education of each school district to which this section applies shall work with the department of education and the governor's closing the achievement gap initiative in developing its annual spending plan prior to submitting the plan under section 3306.30 of the Revised Code.

(D) The board of each district to which this section applies shall create and staff, in each organizational unit, at least one position funded under division (A)(1) of section 3306.06 of the Revised Code. Each such position shall function as a linkage coordinator for closing the achievement gap and increasing the graduation rate. A linkage coordinator is a person, meeting

guidelines established by the governor's closing the achievement gap initiative, who shall work with and who is the primary mentor, coach, and motivator for students identified as at risk of not graduating, as defined by the governor's closing the achievement gap initiative, and who coordinates those students' participation in academic programs, social service programs, out-of-school cultural and work-related experiences, and in-school and out-of-school mentoring programs, based on the students' needs. The linkage coordinator shall coordinate remedial disciplinary plans as needed and work with school personnel to gather student academic information and to engage parents of targeted students. The linkage coordinator shall serve as a liaison between the school and the governor's closing the achievement gap initiative and shall participate in all professional development activities as directed by the closing the achievement gap initiative. The linkage coordinator shall establish and coordinate the work of academic promotion teams, which shall address the academic and social needs of the identified students. The membership of teams in different schools may vary and may include the linkage coordinator, parents, teachers, principals, school nurses, school counselors, probation officers, or other school personnel or members of the community.

(E) The governor's closing the achievement gap initiative shall work with each organizational unit of a school district to which this section applies to assess the progress in implementing prescribed activities, as required under division (B) of this section, and shall assist linkage coordinators, administrators, and other school staff in ensuring compliance with the district's spending plan required under section 3306.30 of the Revised Code.

(F) The items related to implementing divisions (B) and (D) of this section included in the spending plan of a district to which this section applies are subject to the approval of the superintendent of public instruction and the governor's closing the achievement gap initiative. If they disapprove those items in the plan, the state superintendent shall do one of the following:

(1) Modify the items related to implementing divisions (B) and (D) of this section in the plan as the state superintendent considers appropriate and notify the district board of the modifications. The district board shall comply with the plan as modified by the state superintendent.

(2) Return the spending plan and require the district board to modify the items related to implementing divisions (B) and (D) of this section in the plan according to the state superintendent's instructions or recommendations. The district board shall modify the plan according to the

state superintendent's instructions or recommendations and return the modified plan by a date specified by the state superintendent.

(G) The department shall work with the governor's closing the achievement gap initiative in reconciling, under division (B) of section 3306.30 of the Revised Code, the spending plan submitted by a district to which this section applies with the district's actual spending.

Sec. 3306.33. (A) Not earlier than July 1, 2011, the department of education shall take action under this section with respect to a school district in either of the following circumstances:

(1) The department determines that the school district has failed to comply with any applicable expenditure or reporting standard prescribed by rule adopted under section 3306.25 of the Revised Code.

(2) The district fails to submit a spending plan under section 3306.30 and, if applicable, section 3306.31 of the Revised Code.

(B) When a circumstance described in division (A) of this section applies, the department shall provide the school district with technical assistance to bring the district into compliance with the expenditure and reporting standards adopted under section 3306.25 of the Revised Code and the requirements of this chapter, as applicable to the circumstance triggering action under this section. In addition, the board of the district shall take all of the following actions:

(1) Develop and submit to the department a three-year operations improvement plan containing all of the following:

(a) An analysis of the reasons for the failure to meet the applicable expenditure or reporting standards or requirements of this chapter;

(b) Specific strategies the board will use to address the problems in meeting the standards or requirements;

(c) Identification of the resources the board will use to meet the standards or requirements;

(d) A description of how the board will measure its progress in meeting the standards or requirements.

If the district is required to have a continuous improvement plan under section 3302.04 of the Revised Code, the three-year operations improvement plan required by this section shall be aligned with the continuous improvement plan.

(2) Notify the parent or guardian of each student served by the district either in writing or by electronic means, of the standards or requirements that were not met, the actions being taken to meet the standards or requirements, and any progress achieved in the immediately preceding school year toward meeting the standards or requirements.

(3) Present the plan, and take public testimony with respect to it, in a public hearing before the board.

(C) When a circumstance described in division (A) of this section applies to a school district for a second consecutive year, whether it is the same or a different circumstance, the department shall provide the district with technical assistance to bring the district into compliance with the expenditure or reporting standards adopted under section 3306.25 of the Revised Code and the requirements of this chapter, as applicable to the circumstance triggering action under this section. In addition, both of the following apply:

(1) The board shall take all of the actions prescribed in divisions (B)(1) to (3) of this section;

(2) The department shall establish a state intervention team to evaluate all aspects of the district's operations, including, but not limited to, management, instructional methods, resource allocation, and scheduling. The intervention team shall include teachers and administrators recognized as outstanding in their fields. The team shall make recommendations regarding methods for bringing the district into compliance with the applicable standards adopted under section 3306.25 of the Revised Code and requirements of this chapter. The superintendent of public instruction shall establish guidelines for the intervention teams. The district shall pay the costs of the intervention team.

(D) When a circumstance described in division (A) of this section applies to a school district for a third consecutive year, whether it is the same or a different circumstance as in the preceding years, the superintendent of public instruction shall either:

(1) Establish an accountability compliance commission under section 3306.34 of the Revised Code;

(2) Appoint a trustee who shall govern the district in place of the board of education of the school district until the beginning of the first year that none of the circumstances described in division (A) of this section apply to the district.

(E) When a circumstance described in division (A) of this section applies to a school district for a fourth consecutive year, whether it is the same or a different circumstance as in the preceding years, the state board of education shall proceed under section 3301.16 of the Revised Code to revoke the district's charter.

(F) At any time, the state board may proceed under section 3301.16 of the Revised Code to revoke the charter of a school district that fails to meet the operating standards established under division (D)(3) of section 3301.07

of the Revised Code or fails to comply with this section.

Sec. 3306.34. (A) Each accountability compliance commission appointed under division (D) of section 3306.33 of the Revised Code is a body both corporate and politic, constituting an agency and instrumentality of the state and performing essential governmental functions of the state. A commission shall be known as the "accountability compliance commission for (name of school district)," and, in that name, may exercise all authority vested in such a commission by this section. A separate commission shall be established for each school district for which the superintendent of public instruction opts to establish a commission under division (D) of section 3306.33 of the Revised Code.

(B) Each accountability commission shall consist of three members, one of whom shall be appointed by the governor, one of whom shall be appointed by the superintendent of public instruction, and one of whom shall be appointed by the auditor of state.

All members shall serve at the pleasure of the appointing authority during the life of the commission. In the event of the death, resignation, incapacity, removal, or ineligibility to serve of a member, the appointing authority shall appoint a successor within fifteen days after the vacancy occurs. Members shall serve without compensation, but shall be paid by the commission their necessary and actual expenses incurred while engaged in the business of the commission.

(C) Immediately after appointment of the initial members of an accountability compliance commission, the state superintendent shall call the first meeting of the commission and shall cause written notice of the time, date, and place of that meeting to be given to each member of the commission at least forty-eight hours in advance of the meeting. The first meeting shall include an overview of the commission's roles and responsibilities, the requirements of section 2921.42 and Chapter 102. of the Revised Code as they pertain to commission members, the requirements of section 121.22 of the Revised Code, and the provisions of division (F) of this section. At its first meeting, the commission shall adopt temporary bylaws in accordance with division (D) of this section to govern its operations until the adoption of permanent bylaws.

The state superintendent shall designate a chairperson for the commission from among the members. The chairperson shall call and conduct meetings, set meeting agendas, and serve as a liaison between the commission and the district board of education. The chairperson also shall appoint a secretary, who shall not be a member of the commission.

The department of education shall provide administrative support for the

commission, provide data requested by the commission, and inform the commission of available state resources that could assist the commission in its work.

(D) Each accountability compliance commission may adopt and alter bylaws and rules, which shall not be subject to section 111.15 or Chapter 119. of the Revised Code, for the conduct of its affairs and for the manner, subject to this section, in which its powers and functions shall be exercised and embodied.

(E) Two members of an accountability compliance commission constitute a quorum of the commission. The affirmative vote of two members of the commission is necessary for any action taken by vote of the commission. No vacancy in the membership of the commission shall impair the rights of a quorum by such vote to exercise all the rights and perform all the duties of the commission. Members of the commission are not disqualified from voting by reason of the functions of any other office they hold and are not disqualified from exercising the functions of the other office with respect to the school district, its officers, or the commission.

(F) The members of an accountability compliance commission, the state superintendent, and any person authorized to act on behalf of or assist them shall not be personally liable or subject to any suit, judgment, or claim for damages resulting from the exercise of or failure to exercise the powers, duties, and functions granted to them in regard to their functioning under this section, but the commission, state superintendent, and such other persons shall be subject to mandamus proceedings to compel performance of their duties under this section.

(G) Each member of an accountability compliance commission shall file the statement described in section 102.02 of the Revised Code with the Ohio ethics commission. The statement shall be confidential, subject to review, as described in division (B) of that section.

(H) Meetings of each accountability compliance commission shall be subject to section 121.22 of the Revised Code.

(I) Each accountability compliance commission shall seek input from the district board of education regarding ways to improve the district's operations and compliance with the requirements of this chapter and the expenditure and reporting standards prescribed by rule adopted under section 3306.25 of the Revised Code, but any decision of the commission related to any authority granted to the commission under this section shall be final.

The commission may do any of the following:

(1) Prepare and submit the school district's spending plan required under

section 3306.30 and, if applicable, section 3306.31 of the Revised Code:

(2) Appoint school building administrators and reassign administrative personnel;

(3) Terminate the contracts of administrators or administrative personnel. The commission shall not be required to comply with section 3319.16 of the Revised Code with respect to any contract terminated under this division.

(4) Contract with a private entity to perform school or district management functions;

(5) Establish a budget for the district and approve district appropriations and expenditures, unless a financial planning and supervision commission has been established for the district pursuant to section 3316.05 of the Revised Code;

(6) Exercise the powers, duties, and functions with respect to the district as are granted to a financial planning and supervision commission with respect to a school district under divisions (A)(1) to (4) of section 3316.07 of the Revised Code, unless a financial planning and supervision commission has been established for the district.

(J) If the board of education of a school district for which an accountability compliance commission has been established renews any collective bargaining agreement under Chapter 4117. of the Revised Code during the existence of the commission, the board shall not enter into any agreement that would render any decision of the commission unenforceable.

(K) An accountability compliance commission shall cease to exist at the beginning of the first year that none of the circumstances described in division (A) of section 3306.33 of the Revised Code apply to the district.

Sec. 3306.35. The department of education shall develop a form, which shall be known as the "Formula Accountability and Transparency" form or "FACT" form. The department annually shall issue and publish on its web site a FACT form for each city, local, and exempted village school district. The form shall compare the payments to the district under each component prescribed by this chapter with the district's deployment of those payments as indicated in its spending plan submitted under section 3306.30 and, if applicable, 3306.31 of the Revised Code. The form shall not be the basis of any actions under section 3306.33 of the Revised Code but shall be a public document to inform parents, students, and taxpayers about the district's spending.

Sec. 3306.40. The board of education of a school district may apply to the superintendent of public instruction for a waiver of any standard or requirement of this chapter, including any applicable expenditure or

reporting standard prescribed by rule adopted under section 3306.25 of the Revised Code, or a waiver of any operating standard adopted under division (D)(3) of section 3301.07 of the Revised Code.

The state board of education shall adopt standards for the approval or disapproval of waivers under this section. The state superintendent shall consider every application for a waiver, and shall determine whether to grant or deny a waiver in accordance with the state board's standards. For each waiver granted, the state superintendent shall specify the period of time during which the waiver is in effect, which shall not exceed five years. A district may apply to renew a waiver.

Sec. 3306.50. (A) The Harmon commission is hereby created.

The commission shall consist of the following twenty-one members:

(1) Six persons who are not also members of the general assembly, appointed by the president of the senate, upon consultation with the minority leader of the senate, two of whom are classroom teachers, two of whom are school administrators, and two of whom are instructors at an Ohio teacher preparation program;

(2) Six persons who are not also members of the general assembly, appointed by the speaker of the house of representatives, upon consultation with the minority leader of the house of representatives, two of whom are classroom teachers, two of whom are school administrators, and two of whom are instructors at an Ohio teacher preparation program;

(3) Nine persons appointed by the governor, three of whom are classroom teachers, three of whom are school administrators, and three of whom are instructors at an Ohio teacher preparation program.

The members appointed under divisions (A)(1) and (2) of this section shall serve for the duration of the general assembly in which they were appointed.

The members appointed under division (A)(3) of this section shall serve for the duration of the term of the governor in which they were appointed.

Vacancies on the commission shall be filled in the manner of the initial appointments.

(B) The chairperson of the commission shall be selected by the governor from among the members of the commission.

(C) The members of the commission shall serve without compensation but shall be paid by the department of education their necessary and actual expenses incurred while engaged in the business of the commission.

Sec. 3306.51. The Harmon commission shall review and approve or disapprove applications from city, exempted village, and local school districts and community schools established under Chapter 3314. of the

Revised Code for individual classrooms to be designated as creative learning environments. To be eligible for designation of one or more of its classrooms as a creative learning environment, a community school shall enter into a memorandum of understanding, approved by the department of education, with one or more school districts that specifies a collaborative agreement to share programming and resources to promote successful academic achievement for students and academic and fiscal efficiencies.

The commission shall designate a classroom as a creative learning environment if the commission determines that the classroom supports and emphasizes innovation in instruction methods and lesson plans and operates in accordance with the guidelines adopted by the state board of education under section 3306.52 of the Revised Code. Beginning July 1, 2010, a district or community school that has a classroom that is designated a creative learning environment may qualify for a grant or subsidy awarded by the commission under section 3306.58 of the Revised Code.

Sec. 3306.52. The state board of education shall do both of the following:

(A) Adopt guidelines for the Harmon commission to use in reviewing applications for creative learning environments.

(B) Direct the department of education to provide staff to assist the commission in carrying out the commission's duties under sections 3306.50 to 3306.58 of the Revised Code.

Sec. 3306.53. From January 1, 2010, through April 14, 2010, a city, exempted village, or local school district and a community school may submit to the Harmon commission an unlimited number of applications for first-time designation of individual classrooms as creative learning environments. No applications may be submitted between April 15, 2010, and July 1, 2010. After July 1, 2010, each city, exempted village, or local school district and each eligible community school may submit only one application per fiscal year for first-time designation of one classroom as a creative learning environment.

Sec. 3306.54. Not later than the first day of May each year, the Harmon commission shall begin meeting to review pending applications for first-time designations submitted under section 3306.53 of the Revised Code. The commission shall approve or disapprove all pending applications by the first day of July. The decision of the commission is final.

Sec. 3306.55. (A) The Harmon commission's first-time designation of a classroom as a creative learning environment is valid for one fiscal year. A school district or community school may apply to have the designation renewed. The commission shall renew the designation for the next two fiscal

years if the school district or community school applies for the renewal and the commission finds that the classroom continues to meet the guidelines adopted under section 3306.52 of the Revised Code. The commission shall not renew the designation if the school district or community school does not apply for renewal or if the commission determines that the classroom no longer meets those guidelines.

(B) At the end of a two-year renewal granted under division (A) of this section, and every two fiscal years thereafter, the designation of a classroom as a creative learning environment is automatically renewed, without need for application, for the next two fiscal years, unless the designation is revoked under division (C) of this section.

(C) If the department of education at any time finds that the classroom is no longer operating in accordance with the standards adopted under section 3306.52 of the Revised Code, the department shall appeal the designation to the commission not later than the fifteenth day of February. The commission shall review the operation of the classroom and either continue the designation or revoke the designation. A revocation shall take effect on the first day of July following the department's appeal.

(D) The decision of the commission under divisions (A) to (C) of this section is final.

(E) If the commission does not renew a designation of a classroom under division (A) of this section or revokes that designation under division (C) of this section, the district or community school may reapply for designation of the classroom under section 3306.53 of the Revised Code. That application shall be treated as a new application for first-time designation.

Sec. 3306.56. The city, exempted village, or local school district or community school that operates a classroom designated by the Harmon commission as a creative learning environment shall submit periodic progress reports on the operation and performance of the classroom to the department of education in the manner and by the deadlines prescribed by the department.

Sec. 3306.57. The department of education may accept, receive, and expend gifts, devise, or bequests of money, lands, or other properties for operation of the Harmon commission and the award of grants and subsidies under section 3306.58 of the Revised Code. The state board of education may adopt rules for the purpose of enabling the department to carry out the conditions and limitations upon which a bequest, gift, or endowment is made.

Sec. 3306.58. Beginning July 1, 2010, to the extent the Harmon

commission determines that sufficient funds are available, the commission may award grants or stipends to school districts and community schools that have one or more of their classrooms designated as creative learning environments under section 3306.51 of the Revised Code. The commission shall adopt procedures for application for and the award of grants or stipends under this section.

Sec. 3307.31. (A) Payments by boards of education and governing authorities of community schools to the state teachers retirement system, as provided in sections 3307.29 and 3307.291 of the Revised Code, shall be made from the amount allocated under section 3314.08, Chapter 3306., or Chapter 3317. of the Revised Code prior to its distribution to the individual school districts or community schools. The amount due from each school district or community school shall be certified by the secretary of the system to the superintendent of public instruction monthly, or at such times as may be determined by the state teachers retirement board.

The superintendent shall deduct, from the amount allocated to each district or community school under section 3314.08, Chapter 3306., or Chapter 3317. of the Revised Code, the entire amounts due to the system from such district or school upon the certification to the superintendent by the secretary thereof.

The superintendent shall certify to the director of budget and management the amounts thus due the system for payment.

(B) Payments to the state teachers retirement system by a science, technology, engineering, and mathematics school shall be deducted from the amount allocated under section 3326.33 of the Revised Code and shall be made in the same manner as payments by boards of education under this section.

Sec. 3307.64. A disability benefit recipient, notwithstanding section 3319.13 of the Revised Code, shall retain membership in the state teachers retirement system and shall be considered on leave of absence during the first five years following the effective date of a disability benefit.

The state teachers retirement board shall require any disability benefit recipient to submit to an annual medical examination by a physician selected by the board, except that the board may waive the medical examination if the board's physician certifies that the recipient's disability is ongoing. If a disability benefit recipient refuses to submit to a medical examination, the recipient's disability benefit shall be suspended until the recipient withdraws the refusal. If the refusal continues for one year, all the recipient's rights under and to the disability benefit shall be terminated as of the effective date of the original suspension.

After the examination, the examiner shall report and certify to the board whether the disability benefit recipient is no longer physically and mentally incapable of resuming the service from which the recipient was found disabled. If the board concurs in a report by the examining physician that the disability benefit recipient is no longer incapable, the payment of a disability benefit shall be terminated not later than the following thirty-first day of August or upon employment as a teacher prior thereto. If the leave of absence has not expired, the board shall so certify to the disability benefit recipient's last employer before being found disabled that the recipient is no longer physically and mentally incapable of resuming service that is the same or similar to that from which the recipient was found disabled. If the recipient was under contract at the time the recipient was found disabled, the employer by the first day of the next succeeding year shall restore the recipient to the recipient's previous position and salary or to a position and salary similar thereto, unless the recipient was dismissed or resigned in lieu of dismissal for dishonesty, misfeasance, malfeasance, or conviction of a felony.

A disability benefit shall terminate if the disability benefit recipient becomes employed as a teacher in any public or private school or institution in this state or elsewhere. An individual receiving a disability benefit from the system shall be ineligible for any employment as a teacher and it shall be unlawful for any employer to employ the individual as a teacher. If any employer should employ or reemploy the individual prior to the termination of a disability benefit, the employer shall file notice of employment with the board designating the date of the employment. If the individual should be paid both a disability benefit and also compensation for teaching service for all or any part of the same month, the secretary of the board shall certify to the employer or to the superintendent of public instruction the amount of the disability benefit received by the individual during the employment, which amount shall be deducted from any amount due the employing district under ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code or shall be paid by the employer to the annuity and pension reserve fund.

Each disability benefit recipient shall file with the board an annual statement of earnings, current medical information on the recipient's condition, and any other information required in rules adopted by the board. The board may waive the requirement that a disability benefit recipient file an annual statement of earnings or current medical information if the board's physician certifies that the recipient's disability is ongoing.

The board shall annually examine the information submitted by the recipient. If a disability benefit recipient refuses to file the statement or

information, the disability benefit shall be suspended until the statement and information are filed. If the refusal continues for one year, the recipient's right to the disability benefit shall be terminated as of the effective date of the original suspension.

A disability benefit also may be terminated by the board at the request of the disability benefit recipient.

If disability retirement under section 3307.63 of the Revised Code is terminated for any reason, the annuity and pension reserves at that time in the annuity and pension reserve fund shall be transferred to the teachers' savings fund and the employers' trust fund, respectively. If the total disability benefit paid was less than the amount of the accumulated contributions of the member transferred to the annuity and pension reserve fund at the time of the member's disability retirement, then the difference shall be transferred from the annuity and pension reserve fund to another fund as required. In determining the amount of a member's account following the termination of disability retirement for any reason, the total amount paid shall be charged against the member's refundable account.

If a disability allowance paid under section 3307.631 of the Revised Code is terminated for any reason, the reserve on the allowance at that time in the annuity and pension reserve fund shall be transferred from that fund to the employers' trust fund.

If a former disability benefit recipient again becomes a contributor, other than as an other system retirant under section 3307.35 of the Revised Code, to this retirement system, the school employees retirement system, or the public employees retirement system, and completes at least two additional years of service credit, the former disability benefit recipient shall receive credit for the period as a disability benefit recipient.

Sec. 3309.41. (A) A disability benefit recipient shall retain membership status and shall be considered on leave of absence from employment during the first five years following the effective date of a disability benefit, notwithstanding any contrary provisions in Chapter 124. or 3319. of the Revised Code.

(B) The school employees retirement board shall require a disability benefit recipient to undergo an annual medical examination, except that the board may waive the medical examination if the board's physician or physicians certify that the recipient's disability is ongoing. Should any disability benefit recipient refuse to submit to a medical examination, the recipient's disability benefit shall be suspended until withdrawal of the refusal. Should the refusal continue for one year, all the recipient's rights in and to the disability benefit shall be terminated as of the effective date of the

original suspension.

(C) On completion of the examination by an examining physician or physicians selected by the board, the physician or physicians shall report and certify to the board whether the disability benefit recipient is no longer physically and mentally incapable of resuming the service from which the recipient was found disabled. If the board concurs in the report that the disability benefit recipient is no longer incapable, the payment of the disability benefit shall be terminated not later than three months after the date of the board's concurrence or upon employment as an employee. If the leave of absence has not expired, the retirement board shall certify to the disability benefit recipient's last employer before being found disabled that the recipient is no longer physically and mentally incapable of resuming service that is the same or similar to that from which the recipient was found disabled. The employer shall restore the recipient to the recipient's previous position and salary or to a position and salary similar thereto not later than the first day of the first month following termination of the disability benefit, unless the recipient was dismissed or resigned in lieu of dismissal for dishonesty, misfeasance, malfeasance, or conviction of a felony.

(D) Each disability benefit recipient shall file with the board an annual statement of earnings, current medical information on the recipient's condition, and any other information required in rules adopted by the board. The board may waive the requirement that a disability benefit recipient file an annual statement of earnings or current medical information on the recipient's condition if the board's physician or physicians certify that the recipient's disability is ongoing.

The board shall annually examine the information submitted by the recipient. If a disability benefit recipient refuses to file the statement or information, the disability benefit shall be suspended until the statement and information are filed. If the refusal continues for one year, the recipient's right to the disability benefit shall be terminated as of the effective date of the original suspension.

(E) If a disability benefit recipient is employed by an employer covered by this chapter, the recipient's disability benefit shall cease.

(F) If disability retirement under section 3309.40 of the Revised Code is terminated for any reason, the annuity and pension reserves at that time in the annuity and pension reserve fund shall be transferred to the employees' savings fund and the employers' trust fund, respectively. If the total disability benefit paid is less than the amount of the accumulated contributions of the member transferred into the annuity and pension reserve fund at the time of the member's disability retirement, the difference shall be

transferred from the annuity and pension reserve fund to another fund as may be required. In determining the amount of a member's account following the termination of disability retirement for any reason, the amount paid shall be charged against the member's refundable account.

If a disability allowance paid under section 3309.401 of the Revised Code is terminated for any reason, the reserve on the allowance at that time in the annuity and pension reserve fund shall be transferred from that fund to the employers' trust fund.

The board may terminate a disability benefit at the request of the recipient.

(G) If a disability benefit is terminated and a former disability benefit recipient again becomes a contributor, other than as an other system retirant as defined in section 3309.341 of the Revised Code, to this system, the public employees retirement system, or the state teachers retirement system, and completes an additional two years of service credit after the termination of the disability benefit, the former disability benefit recipient shall be entitled to full service credit for the period as a disability benefit recipient.

(H) If any employer employs any member who is receiving a disability benefit, the employer shall file notice of employment with the retirement board, designating the date of employment. In case the notice is not filed, the total amount of the benefit paid during the period of employment prior to notice shall be paid from amounts allocated under ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code prior to its distribution to the school district in which the disability benefit recipient was so employed.

Sec. 3309.48. Any employee who left the service of an employer after attaining age sixty-five or over and such employer had failed or refused to deduct and transmit to the school employees retirement system the employee contributions as required by section 3309.47 of the Revised Code during any year for which membership was compulsory as determined by the school employees retirement board, shall be granted service credit without cost, which shall be considered as total service credit for the purposes of meeting the qualifications for service retirement provided by the law in effect on and retroactive to the first eligible retirement date following the date such employment terminated, but shall not be paid until formal application for such allowance on a form provided by the retirement board is received in the office of the retirement system. The total service credit granted under this section shall not exceed ten years for any such employee.

The liability incurred by the retirement board because of the service credit granted under this section shall be determined by the retirement board, the cost of which shall be equal to an amount that is determined by

applying the combined employee and employer rates of contribution against the compensation of such employee at the rates of contribution and maximum salary provisions in effect during such employment for each year for which credit is granted, together with interest at the rate to be credited accumulated contributions at retirement, compounded annually from the first day of the month payment was due the retirement system to and including the month of deposit, the total amount of which shall be collected from the employer. Such amounts shall be certified by the retirement board to the superintendent of public instruction, who shall deduct the amount due the system from any funds due the affected school district under ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code. The superintendent shall certify to the director of budget and management the amount due the system for payment. The total amount paid shall be deposited into the employers' trust fund, and shall not be considered as accumulated contributions of the employee in the event of ~~his~~ the employee's death or withdrawal of funds.

Sec. 3309.51. (A) Each employer shall pay annually into the employers' trust fund, in such monthly or less frequent installments as the school employees retirement board requires, an amount certified by the school employees retirement board, which shall be as required by Chapter 3309. of the Revised Code.

Payments by school district boards of education to the employers' trust fund of the school employees retirement system may be made from the amounts allocated under ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code prior to their distribution to the individual school districts. The amount due from each school district may be certified by the secretary of the system to the superintendent of public instruction monthly, or at such times as is determined by the school employees retirement board.

Payments by governing authorities of community schools to the employers' trust fund of the school employees retirement system shall be made from the amounts allocated under section 3314.08 of the Revised Code prior to their distribution to the individual community schools. The amount due from each community school shall be certified by the secretary of the system to the superintendent of public instruction monthly, or at such times as determined by the school employees retirement board.

Payments by a science, technology, engineering, and mathematics school to the employers' trust fund of the school employees retirement system shall be made from the amounts allocated under section 3326.33 of the Revised Code prior to their distribution to the school. The amount due from a science, technology, engineering, and mathematics school shall be certified by the secretary of the school employees retirement system to the

superintendent of public instruction monthly, or at such times as determined by the school employees retirement board.

(B) The superintendent shall deduct from the amount allocated to each community school under section 3314.08 of the Revised Code, to each school district under ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code, or to each science, technology, engineering, and mathematics school under section 3326.33 of the Revised Code the entire amounts due to the school employees retirement system from such school or school district upon the certification to the superintendent by the secretary thereof.

(C) Where an employer fails or has failed or refuses to make payments to the employers' trust fund, as provided for under Chapter 3309. of the Revised Code, the secretary of the school employees retirement system may certify to the state superintendent of public instruction, monthly or at such times as is determined by the school employees retirement board, the amount due from such employer, and the superintendent shall deduct from the amount allocated to the employer under section 3314.08 or 3326.33 or Chapter 3306. or 3317. of the Revised Code, as applicable, the entire amounts due to the system from the employer upon the certification to the superintendent by the secretary of the school employees retirement system.

(D) The superintendent shall certify to the director of budget and management the amounts thus due the system for payment.

Sec. 3310.03. (A) A student is an "eligible student" for purposes of the educational choice scholarship pilot program if the student's resident district is not a school district in which the pilot project scholarship program is operating under sections 3313.974 to 3313.979 of the Revised Code and the student satisfies one of the following conditions:

(1) The student is enrolled in a school building that is operated by the student's resident district and to which both of the following apply:

(a) The building was declared, in at least two of the three most recent ratings of school buildings published prior to the first day of July of the school year for which a scholarship is sought, to be in a state of academic emergency or academic watch under section 3302.03 of the Revised Code;

(b) The building was not declared to be excellent or effective under that section in the most recent rating published prior to the first day of July of the school year for which a scholarship is sought.

(2) The student is eligible to enroll in kindergarten in the school year for which a scholarship is sought and otherwise would be assigned under section 3319.01 of the Revised Code to a school building described in division (A)(1) of this section.

(3) The student is enrolled in a community school established under

Chapter 3314. of the Revised Code but otherwise would be assigned under section 3319.01 of the Revised Code to a building described in division (A)(1) of this section.

(4) The student is enrolled in a school building that is operated by the student's resident district or in a community school established under Chapter 3314. of the Revised Code and otherwise would be assigned under section 3319.01 of the Revised Code to a school building described in division (A)(1) of this section in the school year for which the scholarship is sought.

(5) The student is eligible to enroll in kindergarten in the school year for which a scholarship is sought, or is enrolled in a community school established under Chapter 3314. of the Revised Code, and all of the following apply to the student's resident district:

(a) The district has in force an intradistrict open enrollment policy under which no student in kindergarten or the community school student's grade level, respectively, is automatically assigned to a particular school building;

(b) In at least two of the three most recent ratings of school districts published prior to the first day of July of the school year for which a scholarship is sought, the district was declared to be in a state of academic emergency under section 3302.03 of the Revised Code;

(c) The district was not declared to be excellent or effective under that section in the most recent rating published prior to the first day of July of the school year for which a scholarship is sought.

(6) The student is enrolled in a new school building that is operated by the student's resident district and to which all of the following apply:

(a) The new building is open for instruction for its second or third school year.

(b) For the first school year that the new building was open for instruction, at least seventy-five per cent of the enrolled students had transferred directly from two or more school buildings that closed and to each of which all of the following apply:

(i) The closed buildings were operated by the same school district that operates the new building.

(ii) The closed buildings offered at least some of the grade levels that the new building also offers.

(iii) The closed buildings were declared, for at least two of their last three ratings under section 3302.03 of the Revised Code, to be in a state of academic emergency or academic watch.

(iv) The closed buildings were not declared to be excellent or effective in their last rating under section 3302.03 of the Revised Code.

(c) If the new building is conducting its second school year of instruction, the building was declared, based on its first school year of instruction, to be in a state of academic emergency or academic watch under section 3302.03 of the Revised Code.

(d) If the new building is conducting its third school year of instruction, the building was declared, based on either its first or second school year of instruction, to be in a state of academic emergency or academic watch under section 3302.03 of the Revised Code, but was not declared to be excellent or effective under that section based on its second school year of instruction.

(7) The student is eligible to enroll in kindergarten in the school year for which a scholarship is sought and otherwise would be assigned under section 3319.01 of the Revised Code to a school building described in division (A)(6) of this section.

(8) The student is enrolled in a community school established under Chapter 3314. of the Revised Code but otherwise would be assigned under section 3319.01 of the Revised Code to a building described in division (A)(6) of this section.

(B) A student who receives a scholarship under the educational choice scholarship pilot program remains an eligible student and may continue to receive scholarships in subsequent school years until the student completes grade twelve, so long as all of the following apply:

(1) The student's resident district remains the same, or the student transfers to a new resident district and otherwise would be assigned in the new resident district to a school building described in division (A)(1) or (6) of this section;

(2) The student takes each ~~state-test~~ assessment prescribed for the student's grade level under section 3301.0710 or 3301.0712 of the Revised Code while enrolled in a chartered nonpublic school;

(3) In each school year that the student is enrolled in a chartered nonpublic school, the student is absent from school for not more than twenty days that the school is open for instruction, not including excused absences.

(C) The department shall cease awarding first-time scholarships pursuant to divisions (A)(1) to (4) of this section with respect to a school building that, in the most recent ratings of school buildings published under section 3302.03 of the Revised Code prior to the first day of July of the school year, ceases to meet the criteria in division (A)(1) of this section. The department shall cease awarding first-time scholarships pursuant to division (A)(5) of this section with respect to a school district that, in the most recent ratings of school districts published under section 3302.03 of the Revised Code prior to the first day of July of the school year, ceases to meet the

criteria in division (A)(5) of this section. However, students who have received scholarships in the prior school year remain eligible students pursuant to division (B) of this section.

(D) The state board of education shall adopt rules defining excused absences for purposes of division (B)(3) of this section.

Sec. 3310.08. (A) The amount paid for an eligible student under the educational choice scholarship pilot program shall be the lesser of the tuition of the chartered nonpublic school in which the student is enrolled or the maximum amount prescribed in section 3310.09 of the Revised Code.

(B)(1) The department shall pay to the parent of each eligible student for whom a scholarship is awarded under the program, or to the student if at least eighteen years of age, periodic partial payments of the scholarship.

(2) The department shall proportionately reduce or terminate the payments for any student who withdraws from a chartered nonpublic school prior to the end of the school year.

(C)(1) The department shall deduct five thousand two hundred dollars from the payments made to each school district under ~~Chapter~~ Chapters 3306. and 3317. and, if necessary, sections 321.24 and 323.156 of the Revised Code ~~one of the following amounts, as applicable,~~ for each eligible student awarded a scholarship under the educational choice scholarship pilot program who is entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in the district:

~~(a) For each scholarship student enrolled in kindergarten, two thousand seven hundred dollars;~~

~~(b) For each scholarship student enrolled in grades one to twelve, five thousand two hundred dollars.~~

The amount deducted under division (C)(1) of this section funds scholarships for students under both the educational choice scholarship pilot program and the pilot project scholarship program under sections 3313.974 to 3313.979 of the Revised Code.

(2) If the department reduces or terminates payments to a parent or a student, as prescribed in division (B)(2) of this section, and the student enrolls in the schools of the student's resident district or in a community school, established under Chapter 3314. of the Revised Code, before the end of the school year, the department shall proportionally restore to the resident district the amount deducted for that student under division (C)(1) of this section.

(D) In the case of any school district from which a deduction is made under division (C) of this section, the department shall disclose on the district's SF-3 form, or any successor to that form used to calculate a

district's state funding for operating expenses, a comparison of the following:

(1) The district's ~~state base cost~~ state share of the adequacy amount payment, as calculated under ~~division (A)(1) of section 3317.022~~ 3306.13 of the Revised Code ~~prior to making the adjustments under divisions (A)(2) and (3) of that section,~~ with the scholarship students included in the district's formula ADM;

(2) What the district's ~~state base cost~~ share of the adequacy amount payment would have been, as calculated under ~~division (A)(1) of that section prior to making the adjustments under divisions (A)(2) and (3) of that section,~~ if the scholarship students were not included in the district's formula ADM.

This comparison shall display both the aggregate difference between the amounts described in divisions (D)(1) and (2) of this section, and the quotient of that aggregate difference divided by the number of eligible students for whom deductions are made under division (C) of this section.

Sec. 3310.09. ~~(A)~~ The maximum amount awarded to an eligible student ~~in fiscal year 2007~~ under the educational choice scholarship pilot program shall be as follows:

~~(1)(A)~~ For grades kindergarten through eight, four thousand ~~two~~ five hundred ~~fifty~~ dollars;

~~(2)(B)~~ For grades nine through twelve, five thousand three hundred dollars.

~~(B) In fiscal year 2008 and in each fiscal year thereafter, the maximum amount awarded under the program shall be the applicable maximum amount awarded in the previous fiscal year increased by the same percentage by which the general assembly increased the formula amount, as defined in section 3317.02 of the Revised Code, from the previous fiscal year.~~

Sec. 3310.11. (A) Only for the purpose of administering the educational choice scholarship pilot program, the department of education may request from any of the following entities the data verification code assigned under division (D)(2) of section 3301.0714 of the Revised Code to any student who is seeking a scholarship under the program:

(1) The student's resident district;

(2) If applicable, the community school in which that student is enrolled;

(3) The independent contractor engaged to create and maintain student data verification codes.

(B) Upon a request by the department under division (A) of this section

for the data verification code of a student seeking a scholarship or a request by the student's parent for that code, the school district or community school shall submit that code to the department or parent in the manner specified by the department. If the student has not been assigned a code, because the student will be entering kindergarten during the school year for which the scholarship is sought, the district shall assign a code to that student and submit the code to the department or parent by a date specified by the department. If the district does not assign a code to the student by the specified date, the department shall assign a code to that student.

The department annually shall submit to each school district the name and data verification code of each student residing in the district who is entering kindergarten, who has been awarded a scholarship under the program, and for whom the department has assigned a code under this division.

(C) For the purpose of administering the applicable ~~tests~~ assessments prescribed under sections 3301.0710 and 3301.0712 of the Revised Code, as required by section 3310.14 of the Revised Code, the department shall provide to each chartered nonpublic school that enrolls a scholarship student the data verification code for that student.

(D) The department and each chartered nonpublic school that receives a data verification code under this section shall not release that code to any person except as provided by law.

Any document relative to this program that the department holds in its files that contains both a student's name or other personally identifiable information and the student's data verification code shall not be a public record under section 149.43 of the Revised Code.

Sec. 3310.14. Notwithstanding division (K) of section 3301.0711 of the Revised Code, each chartered nonpublic school that enrolls students awarded scholarships under sections 3310.01 to 3310.17 of the Revised Code annually shall administer the ~~tests~~ assessments prescribed by section 3301.0710 or 3301.0712 of the Revised Code to each scholarship student enrolled in the school in accordance with section 3301.0711 of the Revised Code. Each chartered nonpublic school shall report to the department of education the results of each ~~test~~ assessment administered to each scholarship student under this section.

Nothing in this section requires a chartered nonpublic school to administer any achievement ~~test~~ assessment, except for an Ohio graduation test prescribed by division (B)(1) of section 3301.0710 of the Revised Code, as required by section 3313.612 of the Revised Code, to any student enrolled in the school who is not a scholarship student.

Sec. 3310.15. (A) The department of education annually shall compile the scores attained by scholarship students to whom an assessment is administered under section 3310.14 of the Revised Code. The scores shall be aggregated as follows:

(1) By state, which shall include all students awarded a scholarship under the educational choice scholarship pilot program and who were required to take an assessment under section 3310.14 of the Revised Code;

(2) By school district, which shall include all scholarship students who were required to take an assessment under section 3310.14 of the Revised Code and for whom the district is the student's resident district;

(3) By chartered nonpublic school, which shall include all scholarship students enrolled in that school who were required to take an assessment under section 3310.14 of the Revised Code.

(B) The department shall disaggregate the student performance data described in division (A) of this section according to the following categories:

(1) Age;

(2) Race and ethnicity;

(3) Gender;

(4) Students who have participated in the scholarship program for three or more years;

(5) Students who have participated in the scholarship program for more than one year and less than three years;

(6) Students who have participated in the scholarship program for one year or less;

(7) Economically disadvantaged students.

(C) The department shall post the student performance data required under divisions (A) and (B) of this section on its web site and, by the first day of February each year, shall distribute that data to the parent of each eligible student. In reporting student performance data under this division, the department shall not include any data that is statistically unreliable or that could result in the identification of individual students. For this purpose, the department shall not report performance data for any group that contains less than ten students.

(D) The department shall provide the parent of each scholarship student with information comparing the student's performance on the assessments administered under section 3310.14 of the Revised Code with the average performance of similar students enrolled in the building operated by the student's resident district that the scholarship student would otherwise attend. In calculating the performance of similar students, the department

shall consider age, grade, race and ethnicity, gender, and socioeconomic status.

Sec. 3310.41. (A) As used in this section:

(1) "Alternative public provider" means either of the following providers that agrees to enroll a child in the provider's special education program to implement the child's individualized education program and to which the child's parent owes fees for the services provided to the child:

(a) A school district that is not the school district in which the child is entitled to attend school;

(b) A public entity other than a school district.

(2) "Entitled to attend school" means entitled to attend school in a school district under section 3313.64 or 3313.65 of the Revised Code.

(3) "Formula ADM" and "category six special education ADM" have the same meanings as in section 3317.02 of the Revised Code.

(4) "Preschool child with a disability" and "individualized education program" have the same meanings as in section 3323.01 of the Revised Code.

(5) "Parent" has the same meaning as in section 3313.64 of the Revised Code, except that "parent" does not mean a parent whose custodial rights have been terminated.

(6) "Preschool scholarship ADM" means the number of preschool children with disabilities reported under division (B)(3)(h) of section 3317.03 of the Revised Code.

(7) "Qualified special education child" is a child for whom all of the following conditions apply:

(a) The school district in which the child is entitled to attend school has identified the child as autistic. A child who has been identified as having a "pervasive developmental disorder - not otherwise specified (PPD-NOS)" shall be considered to be an autistic child for purposes of this section.

(b) The school district in which the child is entitled to attend school has developed an individualized education program under Chapter 3323. of the Revised Code for the child.

(c) The child either:

(i) Was enrolled in the school district in which the child is entitled to attend school in any grade from preschool through twelve in the school year prior to the year in which a scholarship under this section is first sought for the child; or

(ii) Is eligible to enter school in any grade preschool through twelve in the school district in which the child is entitled to attend school in the school year in which a scholarship under this section is first sought for the child.

(8) "Registered private provider" means a nonpublic school or other nonpublic entity that has been approved by the department of education to participate in the program established under this section.

(9) "Special education program" means a school or facility that provides special education and related services to children with disabilities.

(B) There is hereby established the autism scholarship program. Under the program, the department of education shall pay a scholarship to the parent of each qualified special education child upon application of that parent pursuant to procedures and deadlines established by rule of the state board of education. Each scholarship shall be used only to pay tuition for the child on whose behalf the scholarship is awarded to attend a special education program that implements the child's individualized education program and that is operated by an alternative public provider or by a registered private provider. Each scholarship shall be in an amount not to exceed the lesser of the tuition charged for the child by the special education program or twenty thousand dollars. The purpose of the scholarship is to permit the parent of a qualified special education child the choice to send the child to a special education program, instead of the one operated by or for the school district in which the child is entitled to attend school, to receive the services prescribed in the child's individualized education program once the individualized education program is finalized. A scholarship under this section shall not be awarded to the parent of a child while the child's individualized education program is being developed by the school district in which the child is entitled to attend school, or while any administrative or judicial mediation or proceedings with respect to the content of the child's individualized education program are pending. A scholarship under this section shall not be used for a child to attend a public special education program that operates under a contract, compact, or other bilateral agreement between the school district in which the child is entitled to attend school and another school district or other public provider, or for a child to attend a community school established under Chapter 3314. of the Revised Code. However, nothing in this section or in any rule adopted by the state board shall prohibit a parent whose child attends a public special education program under a contract, compact, or other bilateral agreement, or a parent whose child attends a community school, from applying for and accepting a scholarship under this section so that the parent may withdraw the child from that program or community school and use the scholarship for the child to attend a special education program for which the parent is required to pay for services for the child. A child attending a special education program with a scholarship under this section shall continue to be entitled to

transportation to and from that program in the manner prescribed by law.

(C)(1) As prescribed in divisions (A)(2)(h), (B)(3)(g), and (B)(10) of section 3317.03 of the Revised Code, a child who is not a preschool child with a disability for whom a scholarship is awarded under this section shall be counted in the formula ADM and the category six special education ADM of the district in which the child is entitled to attend school and not in the formula ADM and the category six special education ADM of any other school district. As prescribed in divisions (B)(3)(h) and (B)(10) of section 3317.03 of the Revised Code, a child who is a preschool child with a disability for whom a scholarship is awarded under this section shall be counted in the preschool scholarship ADM and category six special education ADM of the school district in which the child is entitled to attend school and not in the preschool scholarship ADM or category six special education ADM of any other school district.

(2) In each fiscal year, the department shall deduct from the amounts paid to each school district under ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code, and, if necessary, sections 321.24 and 323.156 of the Revised Code, the aggregate amount of scholarships awarded under this section for qualified special education children included in the formula ADM, or preschool scholarship ADM, and in the category six special education ADM of that school district as provided in division (C)(1) of this section. The When computing the school district's instructional services support under section 3306.05 of the Revised Code, the department shall add the district's preschool scholarship ADM to the district's formula ADM.

The scholarships deducted shall be considered as an approved special education and related services expense ~~for the purpose of the school district's compliance with division (C)(5) of section 3317.022 of the Revised Code~~ district.

(3) From time to time, the department shall make a payment to the parent of each qualified special education child for whom a scholarship has been awarded under this section. The scholarship amount shall be proportionately reduced in the case of any such child who is not enrolled in the special education program for which a scholarship was awarded under this section for the entire school year. The department shall make no payments to the parent of a child while any administrative or judicial mediation or proceedings with respect to the content of the child's individualized education program are pending.

(D) A scholarship shall not be paid to a parent for payment of tuition owed to a nonpublic entity unless that entity is a registered private provider. The department shall approve entities that meet the standards established by

rule of the state board for the program established under this section.

(E) The state board shall adopt rules under Chapter 119. of the Revised Code prescribing procedures necessary to implement this section, including, but not limited to, procedures and deadlines for parents to apply for scholarships, standards for registered private providers, and procedures for approval of entities as registered private providers.

Sec. 3311.059. The procedure prescribed in this section may be used in lieu of a transfer prescribed under section 3311.231 of the Revised Code.

(A) Subject to divisions (B) and (C) of this section, a board of education of a local school district may by a resolution approved by a majority of all its members propose to sever that local school district from the territory of the educational service center in which the local school district is currently included and to instead annex the local school district to the territory of another educational service center, the current territory of which is adjacent to the territory of the educational service center in which the local school district is currently included. The resolution shall promptly be filed with the governing board of each educational service center affected by the resolution and with the superintendent of public instruction.

(B) The resolution adopted under division (A) of this section shall not be effective unless it is approved by the state board of education. In deciding whether to approve the resolution, the state board shall consider the ~~impact~~ financial, staffing, programmatic, and other impacts of ~~an~~ the severance and annexation on both the school district and, the educational service center to which the district is proposed to be annexed, and the service center in which the district is currently located, including the effect on cost of operation and the ability of that both service center centers to continue to deliver services in a cost-effective and efficient manner. ~~The~~ The state board shall not vote on whether to approve the resolution until it has been presented on its agenda, which is not a consent agenda, and heard before the state board at not fewer than two separate meetings of the state board. There shall be at least thirty days between the meeting at which the state board first hears the matter of the resolution and the meeting at which the state board votes on whether to approve the resolution. The state board shall provide for public testimony at each hearing on the matter of the resolution, shall provide written prior notice of each hearing to the governing board of both educational service centers affected by the proposed action, and shall attach to that written notice any documentation about the proposed action provided to the state board by the board of education of the local school district.

The severance of the local school district from one educational service center and its annexation to another educational service center under this

section shall not be effective until one year after the first day of July following the later of the date that the state board of education approves the resolution or the date the board of elections certifies the results of the referendum election as provided in division (C) of this section.

(C) Within sixty days following the date of the adoption of the resolution under division (A) of this section, the electors of the local school district may petition for a referendum vote on the resolution. The question whether to approve or disapprove the resolution shall be submitted to the electors of such school district if a number of qualified electors equal to twenty per cent of the number of electors in the school district who voted for the office of governor at the most recent general election for that office sign a petition asking that the question of whether the resolution shall be disapproved be submitted to the electors. The petition shall be filed with the board of elections of the county in which the school district is located. If the school district is located in more than one county, the petition shall be filed with the board of elections of the county in which the majority of the territory of the school district is located. The board shall certify the validity and sufficiency of the signatures on the petition.

The board of elections shall immediately notify the board of education of the local school district and the governing board of each educational service center affected by the resolution that the petition has been filed.

The effect of the resolution shall be stayed until the board of elections certifies the validity and sufficiency of the signatures on the petition. If the board of elections determines that the petition does not contain a sufficient number of valid signatures and sixty days have passed since the adoption of the resolution, the resolution shall become effective as provided in division (B) of this section.

If the board of elections certifies that the petition contains a sufficient number of valid signatures, the board shall submit the question to the qualified electors of the school district on the day of the next general or primary election held at least seventy-five days after the board of elections certifies the validity and sufficiency of signatures on the petition. The election shall be conducted and canvassed and the results shall be certified in the same manner as in regular elections for the election of members of a board of education.

If a majority of the electors voting on the question disapprove the resolution, the resolution shall not become effective. If a majority of the electors voting on the question approve the resolution, the resolution shall become effective as provided in division (B) of this section.

(D) Upon the effective date of the severance of the local school district

from one educational service center and its annexation to another educational service center as provided in division (B) of this section, the governing board of each educational service center shall take such steps for the election of members of the governing board and for organization of the governing board as prescribed in Chapter 3313. of the Revised Code.

(E) If a school district is severed from one educational service center and annexed to another service center under this section, the board of education of that school district shall not propose a subsequent severance and annexation action under this section that would be effective sooner than five years after the effective date of the next previous severance and annexation action under this section.

Sec. 3311.0510. (A) If all of the local school districts that make up the territory of an educational service center have severed from the territory of that service center pursuant to section 3311.059 of the Revised Code, upon the effective date of the severance of the last remaining local school district to make up the territory of the service center, the governing board of that service center shall be abolished and such service center shall be dissolved by order of the superintendent of public instruction. The superintendent's order shall provide for the equitable division and disposition of the assets, property, debts, and obligations of the service center among the local school districts, of which the territory of the service center is or previously was made up, and the city and exempted village school districts with which the service center had agreements under section 3313.843 of the Revised Code for the service center's last fiscal year of operation. The superintendent's order shall provide that the tax duplicate of each of those school districts shall be bound for and assume the district's equitable share of the outstanding indebtedness of the service center. The superintendent's order is final and is not appealable.

Immediately upon the abolishment of the service center governing board pursuant to this section, the superintendent of public instruction shall appoint a qualified individual to administer the dissolution of the service center and to implement the terms of the superintendent's dissolution order. Prior to distributing assets to any school district under this section, but after paying in full other debts and obligations of the service center, the superintendent of public instruction may assess against the remaining assets of the service center the amount of the costs incurred by the department of education in performing the superintendent's duties under this division, including the fees, if any, owed to the individual appointed to administer the superintendent's dissolution order. Any excess cost incurred by the department under this division shall be divided equitably among the local

school districts, of which the territory of the service center is or previously was made up, and the city and exempted village school districts with which the service center had agreements under section 3313.843 of the Revised Code for the service center's last fiscal year of operation. Each district's share of that excess cost shall be bound against the tax duplicate of that district.

(B) A final audit of the former service center shall be performed in accordance with procedures established by the auditor of state.

(C) The public records of an educational service center that is dissolved under this section shall be transferred in accordance with this division. Public records maintained by the service center in connection with services provided by the service center to local school districts shall be transferred to each of the respective local school districts. Public records maintained by the service center in connection with services provided under an agreement with a city or exempted village school district pursuant to section 3313.843 of the Revised Code shall be transferred to each of the respective city or exempted village school districts. All other public records maintained by the service center at the time the service center ceases operations shall be transferred to the Ohio historical society for analysis and disposition by the society in its capacity as archives administrator for the state and its political subdivisions pursuant to division (C) of section 149.30 and section 149.31 of the Revised Code.

Sec. 3311.06. (A) As used in this section:

(1) "Annexation" and "annexed" mean annexation for municipal purposes under sections 709.02 to 709.37 of the Revised Code.

(2) "Annexed territory" means territory that has been annexed for municipal purposes to a city served by an urban school district, but on September 24, 1986, has not been transferred to the urban school district.

(3) "Urban school district" means a city school district with an average daily membership for the 1985-1986 school year in excess of twenty thousand that is the school district of a city that contains annexed territory.

(4) "Annexation agreement" means an agreement entered into under division (F) of this section that has been approved by the state board of education or an agreement entered into prior to September 24, 1986, that meets the requirements of division (F) of this section and has been filed with the state board.

(B) The territory included within the boundaries of a city, local, exempted village, or joint vocational school district shall be contiguous except where a natural island forms an integral part of the district, where the state board of education authorizes a noncontiguous school district, as

provided in division (E)(1) of this section, or where a local school district is created pursuant to section 3311.26 of the Revised Code from one or more local school districts, one of which has entered into an agreement under section 3313.42 of the Revised Code.

(C)(1) When all of the territory of a school district is annexed to a city or village, such territory thereby becomes a part of the city school district or the school district of which the village is a part, and the legal title to school property in such territory for school purposes shall be vested in the board of education of the city school district or the school district of which the village is a part.

(2) When the territory so annexed to a city or village comprises part but not all of the territory of a school district, the said territory becomes part of the city school district or the school district of which the village is a part only upon approval by the state board of education, unless the district in which the territory is located is a party to an annexation agreement with the city school district.

Any urban school district that has not entered into an annexation agreement with any other school district whose territory would be affected by any transfer under this division and that desires to negotiate the terms of transfer with any such district shall conduct any negotiations under division (F) of this section as part of entering into an annexation agreement with such a district.

Any school district, except an urban school district, desiring state board approval of a transfer under this division shall make a good faith effort to negotiate the terms of transfer with any other school district whose territory would be affected by the transfer. Before the state board may approve any transfer of territory to a school district, except an urban school district, under this section, it must receive the following:

(a) A resolution requesting approval of the transfer, passed by at least one of the school districts whose territory would be affected by the transfer;

(b) Evidence determined to be sufficient by the state board to show that good faith negotiations have taken place or that the district requesting the transfer has made a good faith effort to hold such negotiations;

(c) If any negotiations took place, a statement signed by all boards that participated in the negotiations, listing the terms agreed on and the points on which no agreement could be reached.

(D) The state board of education shall adopt rules governing negotiations held by any school district except an urban school district pursuant to division (C)(2) of this section. The rules shall encourage the realization of the following goals:

(1) A discussion by the negotiating districts of the present and future educational needs of the pupils in each district;

(2) The educational, financial, and territorial stability of each district affected by the transfer;

(3) The assurance of appropriate educational programs, services, and opportunities for all the pupils in each participating district, and adequate planning for the facilities needed to provide these programs, services, and opportunities.

Districts involved in negotiations under such rules may agree to share revenues from the property included in the territory to be transferred, establish cooperative programs between the participating districts, and establish mechanisms for the settlement of any future boundary disputes.

(E)(1) If territory annexed after September 24, 1986, is part of a school district that is a party to an annexation agreement with the urban school district serving the annexing city, the transfer of such territory shall be governed by the agreement. If the agreement does not specify how the territory is to be dealt with, the boards of education of the district in which the territory is located and the urban school district shall negotiate with regard to the transfer of the territory which shall be transferred to the urban school district unless, not later than ninety days after the effective date of municipal annexation, the boards of education of both districts, by resolution adopted by a majority of the members of each board, agree that the territory will not be transferred and so inform the state board of education.

If territory is transferred under this division the transfer shall take effect on the first day of July occurring not sooner than ninety-one days after the effective date of the municipal annexation. Territory transferred under this division need not be contiguous to the district to which it is transferred.

(2) Territory annexed prior to September 24, 1986, by a city served by an urban school district shall not be subject to transfer under this section if the district in which the territory is located is a party to an annexation agreement or becomes a party to such an agreement not later than ninety days after September 24, 1986. If the district does not become a party to an annexation agreement within the ninety-day period, transfer of territory shall be governed by division (C)(2) of this section. If the district subsequently becomes a party to an agreement, territory annexed prior to September 24, 1986, other than territory annexed under division (C)(2) of this section prior to the effective date of the agreement, shall not be subject to transfer under this section.

(F) An urban school district may enter into a comprehensive agreement

with one or more school districts under which transfers of territory annexed by the city served by the urban school district after September 24, 1986, shall be governed by the agreement. Such agreement must provide for the establishment of a cooperative education program under section 3313.842 of the Revised Code in which all the parties to the agreement are participants and must be approved by resolution of the majority of the members of each of the boards of education of the school districts that are parties to it. An agreement may provide for interdistrict payments based on local revenue growth resulting from development in any territory annexed by the city served by the urban school district.

An agreement entered into under this division may be altered, modified, or terminated only by agreement, by resolution approved by the majority of the members of each board of education, of all school districts that are parties to the agreement, except that with regard to any provision that affects only the urban school district and one of the other districts that is a party, that district and the urban district may modify or alter the agreement by resolution approved by the majority of the members of the board of that district and the urban district. Alterations, modifications, terminations, and extensions of an agreement entered into under this division do not require approval of the state board of education, but shall be filed with the board after approval and execution by the parties.

If an agreement provides for interdistrict payments, each party to the agreement, except any school district specifically exempted by the agreement, shall agree to make an annual payment to the urban school district with respect to any of its territory that is annexed territory in an amount not to exceed the amount certified for that year under former section 3317.029 of the Revised Code as that section existed prior to July 1, 1998; except that such limitation of annual payments to amounts certified under former section 3317.029 of the Revised Code does not apply to agreements or extensions of agreements entered into on or after June 1, 1992, unless such limitation is expressly agreed to by the parties. The agreement may provide that all or any part of the payment shall be waived if the urban school district receives its payment with respect to such annexed territory under former section 3317.029 of the Revised Code and that all or any part of such payment may be waived if the urban school district does not receive its payment with respect to such annexed territory under such section.

With respect to territory that is transferred to the urban school district after September 24, 1986, the agreement may provide for annual payments by the urban school district to the school district whose territory is transferred to the urban school district subsequent to annexation by the city

served by the urban school district.

(G) In the event territory is transferred from one school district to another under this section, an equitable division of the funds and indebtedness between the districts involved shall be made under the supervision of the state board of education and that board's decision shall be final. Such division shall not include funds payable to or received by a school district under Chapter 3306. or 3317. of the Revised Code or payable to or received by a school district from the United States or any department or agency thereof. In the event such transferred territory includes real property owned by a school district, the state board of education, as part of such division of funds and indebtedness, shall determine the true value in money of such real property and all buildings or other improvements thereon. The board of education of the school district receiving such territory shall forthwith pay to the board of education of the school district losing such territory such true value in money of such real property, buildings, and improvements less such percentage of the true value in money of each school building located on such real property as is represented by the ratio of the total enrollment in day classes of the pupils residing in the territory transferred enrolled at such school building in the school year in which such annexation proceedings were commenced to the total enrollment in day classes of all pupils residing in the school district losing such territory enrolled at such school building in such school year. The school district receiving such payment shall place the proceeds thereof in its sinking fund or bond retirement fund.

(H) The state board of education, before approving such transfer of territory, shall determine that such payment has been made and shall apportion to the acquiring school district such percentage of the indebtedness of the school district losing the territory as is represented by the ratio that the assessed valuation of the territory transferred bears to the total assessed valuation of the entire school district losing the territory as of the effective date of the transfer, provided that in ascertaining the indebtedness of the school district losing the territory the state board of education shall disregard such percentage of the par value of the outstanding and unpaid bonds and notes of said school district issued for construction or improvement of the school building or buildings for which payment was made by the acquiring district as is equal to the percentage by which the true value in money of such building or buildings was reduced in fixing the amount of said payment.

(I) No transfer of school district territory or division of funds and indebtedness incident thereto, pursuant to the annexation of territory to a

city or village shall be completed in any other manner than that prescribed by this section regardless of the date of the commencement of such annexation proceedings, and this section applies to all proceedings for such transfers and divisions of funds and indebtedness pending or commenced on or after October 2, 1959.

Sec. 3311.19. (A) The management and control of a joint vocational school district shall be vested in the joint vocational school district board of education. Where a joint vocational school district is composed only of two or more local school districts located in one county, or when all the participating districts are in one county and the boards of such participating districts so choose, the educational service center governing board of the county in which the joint vocational school district is located shall serve as the joint vocational school district board of education. Where a joint vocational school district is composed of local school districts of more than one county, or of any combination of city, local, or exempted village school districts or educational service centers, unless administration by the educational service center governing board has been chosen by all the participating districts in one county pursuant to this section, the board of education of the joint vocational school district shall be composed of one or more persons who are members of the boards of education from each of the city or exempted village school districts or members of the educational service centers' governing boards affected to be appointed by the boards of education or governing boards of such school districts and educational service centers. In such joint vocational school districts the number and terms of members of the joint vocational school district board of education and the allocation of a given number of members to each of the city and exempted village districts and educational service centers shall be determined in the plan for such district, provided that each such joint vocational school district board of education shall be composed of an odd number of members.

(B) Notwithstanding division (A) of this section, a governing board of an educational service center that has members of its governing board serving on a joint vocational school district board of education may make a request to the joint vocational district board that the joint vocational school district plan be revised to provide for one or more members of boards of education of local school districts that are within the territory of the educational service district and within the joint vocational school district to serve in the place of or in addition to its educational service center governing board members. If agreement is obtained among a majority of the boards of education and governing boards that have a member serving on

the joint vocational school district board of education and among a majority of the local school district boards of education included in the district and located within the territory of the educational service center whose board requests the substitution or addition, the state board of education may revise the joint vocational school district plan to conform with such agreement.

(C) If the board of education of any school district or educational service center governing board included within a joint vocational district that has had its board or governing board membership revised under division (B) of this section requests the joint vocational school district board to submit to the state board of education a revised plan under which one or more joint vocational board members chosen in accordance with a plan revised under such division would again be chosen in the manner prescribed by division (A) of this section, the joint vocational board shall submit the revised plan to the state board of education, provided the plan is agreed to by a majority of the boards of education represented on the joint vocational board, a majority of the local school district boards included within the joint vocational district, and each educational service center governing board affected by such plan. The state board of education may revise the joint vocational school district plan to conform with the revised plan.

(D) The vocational schools in such joint vocational school district shall be available to all youth of school age within the joint vocational school district subject to the rules adopted by the joint vocational school district board of education in regard to the standards requisite to admission. A joint vocational school district board of education shall have the same powers, duties, and authority for the management and operation of such joint vocational school district as is granted by law, except by this chapter and Chapters 124., 3306., 3317., 3323., and 3331. of the Revised Code, to a board of education of a city school district, and shall be subject to all the provisions of law that apply to a city school district, except such provisions in this chapter and Chapters 124., 3306., 3317., 3323., and 3331. of the Revised Code.

(E) Where a governing board of an educational service center has been designated to serve as the joint vocational school district board of education, the educational service center superintendent shall be the executive officer for the joint vocational school district, and the governing board may provide for additional compensation to be paid to the educational service center superintendent by the joint vocational school district, but the educational service center superintendent shall have no continuing tenure other than that of educational service center superintendent. The superintendent of schools of a joint vocational school district shall exercise the duties and authority

vested by law in a superintendent of schools pertaining to the operation of a school district and the employment and supervision of its personnel. The joint vocational school district board of education shall appoint a treasurer of the joint vocational school district who shall be the fiscal officer for such district and who shall have all the powers, duties, and authority vested by law in a treasurer of a board of education. Where a governing board of an educational service center has been designated to serve as the joint vocational school district board of education, such board may appoint the educational service center superintendent as the treasurer of the joint vocational school district.

(F) Each member of a joint vocational school district board of education may be paid such compensation as the board provides by resolution, but it shall not exceed one hundred twenty-five dollars per member for each meeting attended plus mileage, at the rate per mile provided by resolution of the board, to and from meetings of the board.

The board may provide by resolution for the deduction of amounts payable for benefits under section 3313.202 of the Revised Code.

Each member of a joint vocational school district board may be paid such compensation as the board provides by resolution for attendance at an approved training program, provided that such compensation shall not exceed sixty dollars per day for attendance at a training program three hours or fewer in length and one hundred twenty-five dollars a day for attendance at a training program longer than three hours in length. However, no board member shall be compensated for the same training program under this section and section 3313.12 of the Revised Code.

Sec. 3311.21. (A) In addition to the resolutions authorized by sections 5705.194, 5705.199, 5705.21, 5705.212, and 5705.213 of the Revised Code, the board of education of a joint vocational or cooperative education school district by a vote of two-thirds of its full membership may at any time adopt a resolution declaring the necessity to levy a tax in excess of the ten-mill limitation for a period not to exceed ten years to provide funds for any one or more of the following purposes, which may be stated in the following manner in such resolution, the ballot, and the notice of election: purchasing a site or enlargement thereof and for the erection and equipment of buildings; for the purpose of enlarging, improving, or rebuilding thereof; for the purpose of providing for the current expenses of the joint vocational or cooperative school district; or for a continuing period for the purpose of providing for the current expenses of the joint vocational or cooperative education school district. The resolution shall specify the amount of the proposed rate and, if a renewal, whether the levy is to renew all, or a portion

of, the existing levy, and shall specify the first year in which the levy will be imposed. If the levy provides for but is not limited to current expenses, the resolution shall apportion the annual rate of the levy between current expenses and the other purpose or purposes. Such apportionment may but need not be the same for each year of the levy, but the respective portions of the rate actually levied each year for current expenses and the other purpose or purposes shall be limited by such apportionment. The portion of any such rate actually levied for current expenses of a joint vocational or cooperative education school district shall be used in applying division (A)(1) of section 3306.01 and division (A) of section 3317.01 of the Revised Code. The portion of any such rate not apportioned to the current expenses of a joint vocational or cooperative education school district shall be used in applying division (B) of this section. On the adoption of such resolution, the joint vocational or cooperative education school district board of education shall certify the resolution to the board of elections of the county containing the most populous portion of the district, which board shall receive resolutions for filing and send them to the boards of elections of each county in which territory of the district is located, furnish all ballots for the election as provided in section 3505.071 of the Revised Code, and prepare the election notice; and the board of elections of each county in which the territory of such district is located shall make the other necessary arrangements for the submission of the question to the electors of the joint vocational or cooperative education school district at the next primary or general election occurring not less than seventy-five days after the resolution was received from the joint vocational or cooperative education school district board of education, or at a special election to be held at a time designated by the district board of education consistent with the requirements of section 3501.01 of the Revised Code, which date shall not be earlier than seventy-five days after the adoption and certification of the resolution.

The board of elections of the county or counties in which territory of the joint vocational or cooperative education school district is located shall cause to be published in one or more newspapers of general circulation in that district an advertisement of the proposed tax levy question together with a statement of the amount of the proposed levy once a week for two consecutive weeks, prior to the election at which the question is to appear on the ballot, and, if the board of elections operates and maintains a web site, the board also shall post a similar advertisement on its web site for thirty days prior to that election.

If a majority of the electors voting on the question of levying such tax vote in favor of the levy, the joint vocational or cooperative education

school district board of education shall annually make the levy within the district at the rate specified in the resolution and ballot or at any lesser rate, and the county auditor of each affected county shall annually place the levy on the tax list and duplicate of each school district in the county having territory in the joint vocational or cooperative education school district. The taxes realized from the levy shall be collected at the same time and in the same manner as other taxes on the duplicate, and the taxes, when collected, shall be paid to the treasurer of the joint vocational or cooperative education school district and deposited to a special fund, which shall be established by the joint vocational or cooperative education school district board of education for all revenue derived from any tax levied pursuant to this section and for the proceeds of anticipation notes which shall be deposited in such fund. After the approval of the levy, the joint vocational or cooperative education school district board of education may anticipate a fraction of the proceeds of the levy and from time to time, during the life of the levy, but in any year prior to the time when the tax collection from the levy so anticipated can be made for that year, issue anticipation notes in an amount not exceeding fifty per cent of the estimated proceeds of the levy to be collected in each year up to a period of five years after the date of the issuance of the notes, less an amount equal to the proceeds of the levy obligated for each year by the issuance of anticipation notes, provided that the total amount maturing in any one year shall not exceed fifty per cent of the anticipated proceeds of the levy for that year. Each issue of notes shall be sold as provided in Chapter 133. of the Revised Code, and shall, except for such limitation that the total amount of such notes maturing in any one year shall not exceed fifty per cent of the anticipated proceeds of the levy for that year, mature serially in substantially equal installments, during each year over a period not to exceed five years after their issuance.

(B) Prior to the application of section 319.301 of the Revised Code, the rate of a levy that is limited to, or to the extent that it is apportioned to, purposes other than current expenses shall be reduced in the same proportion in which the district's total valuation increases during the life of the levy because of additions to such valuation that have resulted from improvements added to the tax list and duplicate.

(C) The form of ballot cast at an election under division (A) of this section shall be as prescribed by section 5705.25 of the Revised Code.

Sec. 3311.29. (A) Except as provided under division (B) or (C) of this section, no school district shall be created and no school district shall exist which does not maintain within such district public schools consisting of grades kindergarten through twelve and any such existing school district not

maintaining such schools shall be dissolved and its territory joined with another school district or districts by order of the state board of education if no agreement is made among the surrounding districts voluntarily, which order shall provide an equitable division of the funds, property, and indebtedness of the dissolved school district among the districts receiving its territory. The state board of education may authorize exceptions to school districts where topography, sparsity of population, and other factors make compliance impracticable.

The superintendent of public instruction is without authority to distribute funds under ~~sections 3317.022 to 3317.025~~ Chapter 3306. or 3317. of the Revised Code to any school district that does not maintain schools with grades kindergarten through twelve and to which no exception has been granted by the state board of education.

(B) Division (A) of this section does not apply to any joint vocational school district or any cooperative education school district established pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code.

(C)(1)(a) Except as provided in division (C)(3) of this section, division (A) of this section does not apply to any cooperative education school district established pursuant to section 3311.521 of the Revised Code nor to the city, exempted village, or local school districts that have territory within such a cooperative education district.

(b) The cooperative district and each city, exempted village, or local district with territory within the cooperative district shall maintain the grades that the resolution adopted or amended pursuant to section 3311.521 of the Revised Code specifies.

(2) Any cooperative education school district described under division (C)(1) of this section that fails to maintain the grades it is specified to operate shall be dissolved by order of the state board of education unless prior to such an order the cooperative district is dissolved pursuant to section 3311.54 of the Revised Code. Any such order shall provide for the equitable adjustment, division, and disposition of the assets, property, debts, and obligations of the district among each city, local, and exempted village school district whose territory is in the cooperative district and shall provide that the tax duplicate of each city, local, and exempted village school district whose territory is in the cooperative district shall be bound for and assume its share of the outstanding indebtedness of the cooperative district.

(3) If any city, exempted village, or local school district described under division (C)(1) of this section fails to maintain the grades it is specified to operate the cooperative district within which it has territory shall be dissolved in accordance with division (C)(2) of this section and upon that

dissolution any city, exempted village, or local district failing to maintain grades kindergarten through twelve shall be subject to the provisions for dissolution in division (A) of this section.

Sec. 3311.52. A cooperative education school district may be established pursuant to divisions (A) to (C) of this section or pursuant to section 3311.521 of the Revised Code.

(A) A cooperative education school district may be established upon the adoption of identical resolutions within a sixty-day period by a majority of the members of the board of education of each city, local, and exempted village school district that is within the territory of a county school financing district.

A copy of each resolution shall be filed with the governing board of ~~education~~ of the educational service center which created the county school financing district. Upon the filing of the last such resolution, the educational service center governing board shall immediately notify each board of education filing such a resolution of the date on which the last resolution was filed.

Ten days after the date on which the last resolution is filed with the educational service center governing board or ten days after the last of any notices required under division (C) of this section is received by the educational service center governing board, whichever is later, the county school financing district shall be dissolved and the new cooperative education school district and the board of education of the cooperative education school district shall be established.

On the date that any county school financing district is dissolved and a cooperative education school district is established under this section, each of the following shall apply:

(1) The territory of the dissolved district becomes the territory of the new district.

(2) Any outstanding tax levy in force in the dissolved district shall be spread over the territory of the new district and shall remain in force in the new district until the levy expires or is renewed.

(3) Any funds of the dissolved district shall be paid over in full to the new district.

(4) Any net indebtedness of the dissolved district shall be assumed in full by the new district. As used in division (A)(4) of this section, "net indebtedness" means the difference between the par value of the outstanding and unpaid bonds and notes of the dissolved district and the amount held in the sinking fund and other indebtedness retirement funds for their redemption.

When a county school financing district is dissolved and a cooperative education school district is established under this section, the governing board of the educational service center that created the dissolved district shall give written notice of this fact to the county auditor and the board of elections of each county having any territory in the new district.

(B) The resolutions adopted under division (A) of this section shall include all of the following provisions:

(1) Provision that the governing board of the educational service center which created the county school financing district shall be the board of education of the cooperative education school district, except that provision may be made for the composition, selection, and terms of office of an alternative board of education of the cooperative district, which board shall include at least one member selected from or by the members of the board of education of each city, local, and exempted village school district and at least one member selected from or by the members of the educational service center governing board within the territory of the cooperative district;

(2) Provision that the treasurer and superintendent of the educational service center which created the county school financing district shall be the treasurer and superintendent of the cooperative education school district, except that provision may be made for the selection of a treasurer or superintendent of the cooperative district other than the treasurer or superintendent of the educational service center, which provision shall require one of the following:

(a) The selection of one person as both the treasurer and superintendent of the cooperative district, which provision may require such person to be the treasurer or superintendent of any city, local, or exempted village school district or educational service center within the territory of the cooperative district;

(b) The selection of one person as the treasurer and another person as the superintendent of the cooperative district, which provision may require either one or both such persons to be treasurers or superintendents of any city, local, or exempted village school districts or educational service center within the territory of the cooperative district.

(3) A statement of the educational program the board of education of the cooperative education school district will conduct, including but not necessarily limited to the type of educational program, the grade levels proposed for inclusion in the program, the timetable for commencing operation of the program, and the facilities proposed to be used or constructed to be used by the program;

(4) A statement of the annual amount, or the method for determining that amount, of funds or services or facilities that each city, local, and exempted village school district within the territory of the cooperative district is required to pay to or provide for the use of the board of education of the cooperative education school district;

(5) Provision for adopting amendments to the provisions of divisions (B)(2) to (4) of this section.

(C) If the resolutions adopted under division (A) of this section provide for a board of education of the cooperative education school district that is not the governing board of the educational service center that created the county school financing district, each board of education of each city, local, or exempted village school district and the governing board of the educational service center within the territory of the cooperative district shall, within thirty days after the date on which the last resolution is filed with the educational service center governing board under division (A) of this section, select one or more members of the board of education of the cooperative district as provided in the resolutions filed with the educational service center governing board. Each such board shall immediately notify the educational ~~services~~ service center governing board of each such selection.

(D) Except for the powers and duties in this chapter and Chapters 124., 3306., 3317., 3318., 3323., and 3331. of the Revised Code, a cooperative education school district established pursuant to divisions (A) to (C) of this section or pursuant to section 3311.521 of the Revised Code has all the powers of a city school district and its board of education has all the powers and duties of a board of education of a city school district with respect to the educational program specified in the resolutions adopted under division (A) of this section. All laws applicable to a city school district or the board of education or the members of the board of education of a city school district, except such laws in this chapter and Chapters 124., 3306., 3317., 3318., 3323., and 3331. of the Revised Code, are applicable to a cooperative education school district and its board.

The treasurer and superintendent of a cooperative education school district shall have the same respective duties and powers as a treasurer and superintendent of a city school district, except for any powers and duties in this chapter and Chapters 124., 3306., 3317., 3318., 3323., and 3331. of the Revised Code.

(E) For purposes of this title, any student included in the formula ADM certified for any city, exempted village, or local school district under section 3317.03 of the Revised Code by virtue of being counted, in whole or in part,

in the average daily membership of a cooperative education school district under division (A)(2)(f) of that section shall be construed to be enrolled both in that city, exempted village, or ~~village~~ local school district and in that cooperative education school district. This division shall not be construed to mean that any such individual student may be counted more than once for purposes of determining the average daily membership of any one school district.

Sec. 3311.76. (A) Notwithstanding Chapters 3302., 3306., and 3317. of the Revised Code, upon written request of the district chief executive officer the state superintendent of public instruction may exempt a municipal school district from any rules adopted under Title XXXIII of the Revised Code except for any rule adopted under Chapter 3307. or 3309., sections 3319.07 to 3319.21, or Chapter 3323. of the Revised Code, and may authorize a municipal school district to apply funds allocated to the district under ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code, except those specifically allocated to purposes other than current expenses, to the payment of debt charges on the district's public obligations. The request must specify the provisions from which the district is seeking exemption or the application requested and the reasons for the request. The state superintendent shall approve the request if the superintendent finds the requested exemption or application is in the best interest of the district's students. The superintendent shall approve or disapprove the request within thirty days and shall notify the district board and the district chief executive officer of approval or reasons for disapproving the request.

(B) In addition to the rights, authority, and duties conferred upon a municipal school district and its board of education in sections 3311.71 to 3311.76 of the Revised Code, a municipal school district and its board shall have all of the rights, authority, and duties conferred upon a city school district and its board by law that are not inconsistent with sections 3311.71 to 3311.76 of the Revised Code.

Sec. 3313.483. (A) A board of education, upon the adoption of a resolution stating that it may be financially unable to open on the day or to remain open for instruction on all days set forth in its adopted school calendar and pay all obligated expenses, or the superintendent of public instruction upon the issuance of written notification under division (B) of section 3313.489 of the Revised Code, shall request the auditor of state to determine whether such situation exists. The auditor shall deliver a copy of each request from a board of education to the superintendent of public instruction. In the case of a school district not under a fiscal emergency pursuant to Chapter 3316. of the Revised Code the auditor shall not issue a

finding under this section until written notification is received from the superintendent pursuant to section 3313.487 of the Revised Code.

(B) If the auditor of state finds that the board of education has attempted to avail itself to the fullest extent authorized by law of all lawful revenue sources available to it except those authorized by section 5705.21 of the Revised Code, the auditor shall certify that finding to the superintendent of public instruction and the state board of education and shall certify the operating deficit the district will have at the end of the fiscal year if it commences or continues operating its instructional program in accordance with its adopted school calendar and pays all obligated expenses.

(C) No board of education may delay the opening of its schools or close its schools for financial reasons. Upon the request of the superintendent of public instruction, the attorney general shall seek injunctive relief and any other relief required to enforce this prohibition in the court of common pleas of Franklin county. The court of common pleas of Franklin county has exclusive original jurisdiction over all such actions.

(D) Upon the receipt of any certification of an operating deficit from the auditor of state, a board of education shall make application to a commercial bank, underwriter, or other prospective lender or purchaser of its obligations for a loan in an amount sufficient to enable the district to open or remain open for instruction on all days set forth in its adopted school calendar but not to exceed the amount of the deficit certified.

(E)(1) Any board of education that has applied for and been denied a loan from a commercial bank, underwriter, or other prospective lender or purchaser of its obligations pursuant to division (D) of this section shall submit to the superintendent of public instruction a plan for implementing reductions in the school district's budget; apply for a loan from a commercial bank, underwriter, or other prospective lender or purchaser of its obligations in an amount not to exceed its certified deficit; and provide the superintendent such information as the superintendent requires concerning its application for such a loan. The board of education of a school district declared to be under a fiscal watch pursuant to division (A) of section 3316.03 of the Revised Code may, upon approval of the superintendent, utilize the financial plan required by section 3316.04 of the Revised Code, or applicable parts thereof, as the plan required under this division. The board of education of a school district declared to be under a fiscal emergency pursuant to division (B) of section 3316.03 of the Revised Code may utilize the financial recovery plan for the district, or applicable parts thereof, as the plan required under this division. Except for the plan of a school district under a fiscal emergency, the superintendent shall evaluate,

make recommendations concerning, and approve or disapprove each plan. When a plan is submitted, the superintendent shall immediately notify the members of the general assembly whose legislative districts include any or all of the territory of the school district submitting the plan.

(2) The superintendent shall submit to the controlling board a copy of each plan the superintendent approves, or each plan submitted by a district under a fiscal emergency pursuant to division (B) of section 3316.03 of the Revised Code, and the general terms of each proposed loan, and shall make recommendations regarding the plan and whether a proposed loan to the board of education should be approved for payment as provided in division (E)(3) of this section. The controlling board shall approve or disapprove the plan and the proposed loan presented to it by the superintendent. In the case of a district not under a fiscal emergency pursuant to division (B) of section 3316.03 of the Revised Code, the controlling board may require a board of education to implement the superintendent's recommendations for expenditure reductions or impose other requirements. Loan repayments shall be in accordance with a schedule approved by the superintendent, except that the principal amount of the loan shall be payable in monthly, semiannual, or annual installments of principal and interest that are substantially equal principal and interest installments. Except as otherwise provided in division (E)(2) of this section, repayment shall be made no later than the fifteenth day of June of the second fiscal year following the approval of the loan. A school district with a certified deficit in excess of either twenty-five million dollars or fifteen per cent of the general fund expenditures of the district during the fiscal year shall repay the loan no later than the fifteenth day of June of the tenth fiscal year following the approval of the loan. In deciding whether to approve or disapprove a proposed loan, the controlling board shall consider the deficit certified by the auditor of state pursuant to this section. A board of education that has an outstanding loan approved pursuant to this section with a repayment date of more than two fiscal years after the date of approval of such loan may not apply for another loan with such a repayment date until the outstanding loan has been repaid.

(3) If a board of education has submitted and received controlling board approval of a plan and proposed loan in accordance with this section, the superintendent of public instruction shall report to the controlling board the actual amounts loaned to the board of education. Such board of education shall request the superintendent to pay any funds the board of education would otherwise receive pursuant to ~~sections 3317.022 to 3317.025~~ Chapter 3306 of the Revised Code first directly to the holders of the board of

education's notes, or an agent thereof, such amounts as are specified under the terms of the loan. Such payments shall be made only from and to the extent of money appropriated by the general assembly for purposes of such sections. No note or other obligation of the board of education under the loan constitutes an obligation nor a debt or a pledge of the faith, credit, or taxing power of the state, and the holder or owner of such note or obligation has no right to have taxes levied by the general assembly for the payment of such note or obligation, and such note or obligation shall contain a statement to that effect.

(4) Pursuant to the terms of such a loan, a board of education may issue its notes in anticipation of the collection of its voted levies for current expenses or its receipt of such state funds or both. Such notes shall be issued in accordance with division (E) of section 133.10 of the Revised Code and constitute Chapter 133. securities to the extent such division and the otherwise applicable provisions of Chapter 133. of the Revised Code are not inconsistent with this section, provided that in any event sections 133.24 and 5705.21 and divisions (A), (B), (C), and (E)(2) of section 133.10 of the Revised Code do not apply to such notes.

(5) Notwithstanding section 133.36 or 3313.17, any other section of the Revised Code, or any other provision of law, a board of education that has received a loan under this section may not declare bankruptcy, so long as any portion of such loan remains unpaid.

(F) Under this section and sections 3313.4810 and 3313.4811, "board of education" or "district board" includes the financial planning and supervision commission of a school district under a fiscal emergency pursuant to Chapter 3316. of the Revised Code where such commission chooses to exercise the powers and duties otherwise required of the district board of education under this section and sections 3313.4810 and 3313.4811 of the Revised Code.

Sec. 3313.53. (A) As used in this section:

(1) "Licensed individual" means an individual who holds a valid educator license, certificate, or permit issued by the state board of education under section 3319.22, 3319.26, or 3319.27, ~~3319.302, or 3319.304~~ of the Revised Code.

(2) "Nonlicensed individual" means an individual who does not hold a valid educator license, certificate, or permit issued by the state board of education under section 3319.22, 3319.26, or 3319.27, ~~3319.302, or 3319.304~~ of the Revised Code.

(B) The board of education of any city, exempted village, or local school district may establish and maintain in connection with the public

school systems:

(1) Manual training, industrial arts, domestic science, and commercial departments;

(2) Agricultural, industrial, vocational, and trades schools.

Such board may pay from the public school funds, as other school expenses are paid, the expenses of establishing and maintaining such departments and schools and of directing, supervising, and coaching the pupil-activity programs in music, language, arts, speech, government, athletics, and any others directly related to the curriculum.

(C) The board of education of any city, exempted village, or local school district may employ a nonlicensed individual to direct, supervise, or coach a pupil-activity program as long as that individual holds a valid pupil-activity program permit issued by the state board of education under division (A) of section 3319.303 of the Revised Code.

(D)(1) Except as provided in division (D)(2) of this section, a nonlicensed individual who holds a valid pupil-activity program permit may be employed under division (C) of this section only after the school district's board of education adopts a resolution stating that it has offered such position to those employees of the district who are licensed individuals and no such employee qualified to fill the position has accepted it, and has then advertised the position as available to any licensed individual who is qualified to fill it and who is not employed by the board, and no such person has applied for and accepted the position.

(2) A board of education may renew the contract of any nonlicensed individual, currently employed by the board under division (C) of this section for one or more years, without first offering the position held by that individual to employees of the district who are licensed individuals or advertising the position as available to any qualified licensed individuals who are not currently employed by the board as otherwise required under division (D)(1) of this section.

(E) A nonlicensed individual employed under this section is a nonteaching employee and is not an educational assistant as defined in section 3319.088 of the Revised Code. A nonlicensed individual may direct, supervise, or coach a pupil-activity program under this section as long as that pupil-activity program does not include any class or course required or offered for credit toward a pupil's promotion to the next grade or for graduation, or any activity conducted as a part of or required for such a class or course. A nonlicensed individual employed under this section may perform only the duties of the director, supervisor, or coach of the pupil-activity program for which the nonlicensed individual is employed.

(F) The board shall fix the compensation of each nonlicensed individual employed under this section, which shall be the same amount as the position was or would be offered to the district's licensed employees, and execute a written contract with the nonlicensed individual for a term not to exceed one year. The contract shall specify the compensation, duration, and other terms of employment, and the compensation shall not be reduced unless such reduction is a part of a uniform plan affecting the entire district.

If the state board suspends, revokes, or limits the pupil-activity program permit of a nonlicensed individual, the school district board may terminate or suspend the employment contract of that individual. Otherwise, no contract issued under this section shall be terminated or suspended except pursuant to the procedure established by division (C) of section 3319.081 of the Revised Code.

Sec. 3313.532. (A) Any person twenty-two or more years of age and enrolled in an adult high school continuation program established pursuant to section 3313.531 of the Revised Code may request the board of education operating the program to conduct an evaluation in accordance with division (C) of this section.

(B) Any applicant to a board of education for a diploma of adult education under division (B) of section 3313.611 of the Revised Code may request the board to conduct an evaluation in accordance with division (C) of this section.

(C) Upon the request of any person pursuant to division (A) or (B) of this section, the board of education to which the request is made shall evaluate the person to determine whether the person is disabled, in accordance with rules adopted by the state board of education. If the evaluation indicates that the person is disabled, the board shall determine whether to excuse the person from taking any of the ~~tests~~ assessments required by division (B) of section 3301.0710 of the Revised Code as a requirement for receiving a diploma under section 3313.611 of the Revised Code. The board may require the person to take an alternate assessment in place of any test from which the person is so excused.

Sec. 3313.536. (A) The board of education of each city, exempted village, and local school district and the governing authority of each chartered nonpublic school shall adopt a comprehensive school safety plan for each school building under the board's or governing authority's control. The board or governing authority shall examine the environmental conditions and operations of each building to determine potential hazards to student and staff safety and shall propose operating changes to promote the prevention of potentially dangerous problems and circumstances. In

developing the plan for each building, the board or governing authority shall involve community law enforcement and safety officials, parents of students who are assigned to the building, and teachers and nonteaching employees who are assigned to the building. The board or governing authority shall consider incorporating remediation strategies into the plan for any building where documented safety problems have occurred.

The board or governing authority shall incorporate into the plan both of the following:

(1) A protocol for addressing serious threats to the safety of school property, students, employees, or administrators;

(2) A protocol for responding to any emergency events that do occur and that compromise the safety of school property, students, employees, or administrators.

Each protocol shall include procedures deemed appropriate by the board or governing authority for responding to threats and emergency events, respectively, including such things as notification of appropriate law enforcement personnel, calling upon specified emergency response personnel for assistance, and informing parents of affected students. Prior to the opening day of each school year, the board or governing authority shall inform each student enrolled in the school and the student's parent of the parental notification procedures included in the protocol.

(B) The board or governing authority shall update the safety plan at least once every three years and whenever a major modification to the building requires changes in the procedures outlined in the plan.

(C) The board or governing authority shall file a copy of the current safety plan and building blueprint with each law enforcement agency that has jurisdiction over the school building and, upon request, the fire department that serves the political subdivision in which the school building is located. The board or governing authority also shall file a copy of the current safety plan and a floor plan of the building, but not a building blueprint, with the attorney general, who shall post that information on the Ohio law enforcement gateway or its successor.

Copies of safety plans, building blueprints, and floor plans shall be filed as described in this division not later than the ninety-first day after ~~the effective date of this amendment~~ March 30, 2007. If a board or governing authority revises a safety plan, building blueprint, or floor plan after the initial filing, the board or governing authority shall file copies of the revised safety plan, building blueprint, or floor plan in the manner described in this division not later than the ninety-first day after the revision is adopted.

Copies of the safety plan and building blueprint are not a public record

pursuant to section 149.433 of the Revised Code.

Notwithstanding section 149.433 of the Revised Code, a building floor plan filed with the attorney general pursuant to this division is not a public record to the extent it is a record kept by the attorney general. This paragraph does not affect the status of a floor plan kept as a record by another public office.

The board or governing authority, each law enforcement agency and fire department to which copies of the safety plan and building blueprint are provided, and the attorney general shall keep the copies in a secure place.

(D) The board or governing authority shall grant access to each school building under its control to law enforcement personnel to enable the personnel to hold training sessions for responding to threats and emergency events affecting the building, provided that the access occurs outside of student instructional hours and an employee of the board or governing authority is present in the building during the training sessions.

Sec. 3313.55. The board of education of any school district in which is located a state, district, county, or municipal hospital for children with epilepsy or any public institution, except state institutions for the care and treatment of delinquent, unstable, or socially maladjusted children, shall make provision for the education of all educable children therein; except that in the event another school district within the same county or an adjoining county is the source of sixty per cent or more of the children in said hospital or institution, the board of that school district shall make provision for the education of all the children therein. In any case in which a board provides educational facilities under this section, the board that provides the facilities shall be entitled to all moneys authorized for the attendance of pupils as provided in Chapter 3306. or 3317. of the Revised Code, tuition as provided in section 3317.08 of the Revised Code, and such additional compensation as is provided for crippled children in sections 3323.01 to 3323.12 of the Revised Code. Any board that provides the educational facilities for children in county or municipal institutions established for the care and treatment of children who are delinquent, unstable, or socially maladjusted shall not be entitled to any moneys provided for crippled children in sections 3323.01 to 3323.12 of the Revised Code.

Sec. 3313.60. Notwithstanding division (D) of section 3311.52 of the Revised Code, divisions (A) to (E) of this section do not apply to any cooperative education school district established pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code.

(A) The board of education of each city and exempted village school

district, the governing board of each educational service center, and the board of each cooperative education school district established pursuant to section 3311.521 of the Revised Code shall prescribe a curriculum for all schools under their control. Except as provided in division (E) of this section, in any such curriculum there shall be included the study of the following subjects:

(1) The language arts, including reading, writing, spelling, oral and written English, and literature;

(2) Geography, the history of the United States and of Ohio, and national, state, and local government in the United States, including a balanced presentation of the relevant contributions to society of men and women of African, Mexican, Puerto Rican, and American Indian descent as well as other ethnic and racial groups in Ohio and the United States;

(3) Mathematics;

(4) Natural science, including instruction in the conservation of natural resources;

(5) Health education, which shall include instruction in:

(a) The nutritive value of foods, including natural and organically produced foods, the relation of nutrition to health, the use and effects of food additives;

(b) The harmful effects of and legal restrictions against the use of drugs of abuse, alcoholic beverages, and tobacco;

(c) Venereal disease education, except that upon written request of the student's parent or guardian, a student shall be excused from taking instruction in venereal disease education;

(d) In grades kindergarten through six, instruction in personal safety and assault prevention, except that upon written request of the student's parent or guardian, a student shall be excused from taking instruction in personal safety and assault prevention.

(6) Physical education;

(7) The fine arts, including music;

(8) First aid, including a training program in cardiopulmonary resuscitation, safety, and fire prevention, except that upon written request of the student's parent or guardian, a student shall be excused from taking instruction in cardiopulmonary resuscitation.

(B) Except as provided in division (E) of this section, every school or school district shall include in the requirements for promotion from the eighth grade to the ninth grade one year's course of study of American history. A board may waive this requirement for academically accelerated students who, in accordance with procedures adopted by the board, are able

to demonstrate mastery of essential concepts and skills of the eighth grade American history course of study.

(C) Except as provided in division (E) of this section, every high school shall include in the requirements for graduation from any curriculum one unit of American history and government, including a study of the constitutions of the United States and of Ohio.

(D) Except as provided in division (E) of this section, basic instruction in geography, United States history, the government of the United States, the government of the state of Ohio, local government in Ohio, the Declaration of Independence, the United States Constitution, and the Constitution of the state of Ohio shall be required before pupils may participate in courses involving the study of social problems, economics, foreign affairs, United Nations, world government, socialism and communism.

(E) For each cooperative education school district established pursuant to section 3311.521 of the Revised Code and each city, exempted village, and local school district that has territory within such a cooperative district, the curriculum adopted pursuant to divisions (A) to (D) of this section shall only include the study of the subjects that apply to the grades operated by each such school district. The curriculums for such schools, when combined, shall provide to each student of these districts all of the subjects required under divisions (A) to (D) of this section.

(F) The board of education of any cooperative education school district established pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code shall prescribe a curriculum for the subject areas and grade levels offered in any school under its control.

(G) Upon the request of any parent or legal guardian of a student, the board of education of any school district shall permit the parent or guardian to promptly examine, with respect to the parent's or guardian's own child:

(1) Any survey or questionnaire, prior to its administration to the child;

(2) Any textbook, workbook, software, video, or other instructional materials being used by the district in connection with the instruction of the child;

(3) Any completed and graded test taken or survey or questionnaire filled out by the child;

(4) Copies of the statewide academic standards and each model curriculum developed pursuant to section 3301.079 of the Revised Code, which copies shall be available at all times during school hours in each district school building.

Sec. 3313.602. (A) The board of education of each city, local, exempted

village, and joint vocational school district shall adopt a policy specifying whether or not oral recitation of the pledge of allegiance to the flag shall be a part of the school's program and, if so, establishing a time and manner for the recitation. However, no board of education shall prohibit a classroom teacher from providing in the teacher's classroom reasonable periods of time for the oral recitation of the pledge of allegiance to the flag. The policy adopted under this division, and a teacher who includes recitation of the pledge in the classroom, shall not require any student to participate in the recitation and shall prohibit the intimidation of any student by other students or staff aimed at coercing participation.

No board of education or employee of a city, local, exempted village, or joint vocational school district shall alter the words used in the oral recitation of the pledge of allegiance to the flag from the words set forth in 4 U.S.C. 4.

(B) In the development of its graded course of study, the board of education of each city and exempted village school district and the governing board of each educational service center shall ensure that the principles of democracy and ethics are emphasized and discussed wherever appropriate in all parts of the curriculum for grades kindergarten through twelve.

(C) Each city, local, exempted village, and joint vocational school board shall adopt policies that encourage all certificated and noncertificated employees to be cognizant of their roles in instilling ethical principles and democratic ideals in all district pupils.

(D) The board of education of each city, local, joint vocational, chartered community, and exempted village school district, and the Cleveland scholarship and tutoring program, shall require each district school to devote time on or about Veterans' day to an observance that conveys the meaning and significance of that day. The amount of time each school devotes to this observance shall be at least one hour or, in schools that schedule class periods of less than one hour, at least one standard class period. The board shall determine the specific activities to constitute the observance in each school in the district after consultation with the school's administrators.

Sec. 3313.603. (A) As used in this section:

(1) "One unit" means a minimum of one hundred twenty hours of course instruction, except that for a laboratory course, "one unit" means a minimum of one hundred fifty hours of course instruction.

(2) "One-half unit" means a minimum of sixty hours of course instruction, except that for physical education courses, "one-half unit"

means a minimum of one hundred twenty hours of course instruction.

(B) Beginning September 15, 2001, except as required in division (C) of this section and division (C) of section 3313.614 of the Revised Code, the requirements for graduation from every high school shall include twenty units earned in grades nine through twelve and shall be distributed as follows:

- (1) English language arts, four units;
- (2) Health, one-half unit;
- (3) Mathematics, three units;
- (4) Physical education, one-half unit;
- (5) Science, two units until September 15, 2003, and three units thereafter, which at all times shall include both of the following:
 - (a) Biological sciences, one unit;
 - (b) Physical sciences, one unit.
- (6) Social studies, three units, which shall include both of the following:
 - (a) American history, one-half unit;
 - (b) American government, one-half unit.
- (7) Elective units, seven units until September 15, 2003, and six units thereafter.

Each student's electives shall include at least one unit, or two half units, chosen from among the areas of business/technology, fine arts, and/or foreign language.

(C) Beginning with students who enter ninth grade for the first time on or after July 1, 2010, except as provided in divisions (D) to (F) of this section, the requirements for graduation from every public and chartered nonpublic high school shall include twenty units that are designed to prepare students for the workforce and college. The units shall be distributed as follows:

- (1) English language arts, four units;
- (2) Health, one-half unit;
- (3) Mathematics, four units, which shall include one unit of algebra II or the equivalent of algebra II;
- (4) Physical education, one-half unit;
- (5) Science, three units with inquiry-based laboratory experience that engages students in asking valid scientific questions and gathering and analyzing information, which shall include the following, or their equivalent:
 - (a) Physical sciences, one unit;
 - (b) Life sciences, one unit;
 - (c) Advanced study in one or more of the following sciences, one unit:

- (i) Chemistry, physics, or other physical science;
 - (ii) Advanced biology or other life science;
 - (iii) Astronomy, physical geology, or other earth or space science.
- (6) Social studies, three units, which shall include both of the following:
- (a) American history, one-half unit;
 - (b) American government, one-half unit.

Each school shall integrate the study of economics and financial literacy, as expressed in the social studies academic content standards adopted by the state board of education under division (A)(1) of section 3301.079 of the Revised Code and the academic content standards for financial literacy and entrepreneurship adopted under division (A)(2) of that section, into one or more existing social studies credits required under division (C)(6) of this section, or into the content of another class, so that every high school student receives instruction in those concepts. In developing the curriculum required by this paragraph, schools shall use available public-private partnerships and resources and materials that exist in business, industry, and through the centers for economics education at institutions of higher education in the state.

(7) Five units consisting of one or any combination of foreign language, fine arts, business, career-technical education, family and consumer sciences, technology, agricultural education, or English language arts, mathematics, science, or social studies courses not otherwise required under division (C) of this section.

Ohioans must be prepared to apply increased knowledge and skills in the workplace and to adapt their knowledge and skills quickly to meet the rapidly changing conditions of the twenty-first century. National studies indicate that all high school graduates need the same academic foundation, regardless of the opportunities they pursue after graduation. The goal of Ohio's system of elementary and secondary education is to prepare all students for and seamlessly connect all students to success in life beyond high school graduation, regardless of whether the next step is entering the workforce, beginning an apprenticeship, engaging in post-secondary training, serving in the military, or pursuing a college degree.

The Ohio core curriculum is the standard expectation for all students entering ninth grade for the first time at a public or chartered nonpublic high school on or after July 1, 2010. A student may satisfy this expectation through a variety of methods, including, but not limited to, integrated, applied, career-technical, and traditional coursework.

Whereas teacher quality is essential for student success in completing the Ohio core curriculum, the general assembly shall appropriate funds for

strategic initiatives designed to strengthen schools' capacities to hire and retain highly qualified teachers in the subject areas required by the curriculum. Such initiatives are expected to require an investment of \$120,000,000 over five years.

Stronger coordination between high schools and institutions of higher education is necessary to prepare students for more challenging academic endeavors and to lessen the need for academic remediation in college, thereby reducing the costs of higher education for Ohio's students, families, and the state. The state board of education; and the chancellor of the Ohio board of regents; ~~and the partnership for continued learning~~ shall develop policies to ensure that only in rare instances will students who complete the Ohio core curriculum require academic remediation after high school.

School districts, community schools, and chartered nonpublic schools shall integrate technology into learning experiences whenever practicable across the curriculum in order to maximize efficiency, enhance learning, and prepare students for success in the technology-driven twenty-first century. Districts and schools may use distance and web-based course delivery as a method of providing or augmenting all instruction required under this division, including laboratory experience in science. Districts and schools shall whenever practicable utilize technology access and electronic learning opportunities provided by the eTech Ohio commission, the Ohio learning network, education technology centers, public television stations, and other public and private providers.

(D) Except as provided in division (E) of this section, a student who enters ninth grade on or after July 1, 2010, and before July 1, 2014, may qualify for graduation from a public or chartered nonpublic high school even though the student has not completed the Ohio core curriculum prescribed in division (C) of this section if all of the following conditions are satisfied:

(1) After the student has attended high school for two years, as determined by the school, the student and the student's parent, guardian, or custodian sign and file with the school a written statement asserting the parent's, guardian's, or custodian's consent to the student's graduating without completing the Ohio core curriculum and acknowledging that one consequence of not completing the Ohio core curriculum is ineligibility to enroll in most state universities in Ohio without further coursework.

(2) The student and parent, guardian, or custodian fulfill any procedural requirements the school stipulates to ensure the student's and parent's, guardian's, or custodian's informed consent and to facilitate orderly filing of statements under division (D)(1) of this section.

(3) The student and the student's parent, guardian, or custodian and a

representative of the student's high school jointly develop an individual career plan for the student that specifies the student matriculating to a two-year degree program, acquiring a business and industry credential, or entering an apprenticeship.

(4) The student's high school provides counseling and support for the student related to the plan developed under division (D)(3) of this section during the remainder of the student's high school experience.

(5) The student successfully completes, at a minimum, the curriculum prescribed in division (B) of this section.

The ~~partnership for continued learning~~ department of education, in collaboration with the ~~department of education and the~~ chancellor of the Ohio board of regents, shall analyze student performance data to determine if there are mitigating factors that warrant extending the exception permitted by division (D) of this section to high school classes beyond those entering ninth grade before July 1, 2014. The ~~partnership~~ department shall submit its findings and any recommendations not later than August 1, 2014, to the speaker and minority leader of the house of representatives, the president and minority leader of the senate, the chairpersons and ranking minority members of the standing committees of the house of representatives and the senate that consider education legislation, the state board of education, and the superintendent of public instruction.

(E) Each school district and chartered nonpublic school retains the authority to require an even more rigorous minimum curriculum for high school graduation than specified in division (B) or (C) of this section. A school district board of education, through the adoption of a resolution, or the governing authority of a chartered nonpublic school may stipulate any of the following:

(1) A minimum high school curriculum that requires more than twenty units of academic credit to graduate;

(2) An exception to the district's or school's minimum high school curriculum that is comparable to the exception provided in division (D) of this section but with additional requirements, which may include a requirement that the student successfully complete more than the minimum curriculum prescribed in division (B) of this section;

(3) That no exception comparable to that provided in division (D) of this section is available.

(F) A student enrolled in a dropout prevention and recovery program, which program has received a waiver from the department of education, may qualify for graduation from high school by successfully completing a competency-based instructional program administered by the dropout

prevention and recovery program in lieu of completing the Ohio core curriculum prescribed in division (C) of this section. The department shall grant a waiver to a dropout prevention and recovery program, within sixty days after the program applies for the waiver, if the program meets all of the following conditions:

(1) The program serves only students not younger than sixteen years of age and not older than twenty-one years of age.

(2) The program enrolls students who, at the time of their initial enrollment, either, or both, are at least one grade level behind their cohort age groups or experience crises that significantly interfere with their academic progress such that they are prevented from continuing their traditional programs.

(3) The program requires students to attain at least the applicable score designated for each of the ~~tests~~ assessments prescribed under division (B)(1) of section 3301.0710 of the Revised Code or, to the extent prescribed by rule of the state board of education under division (E)(6) of section 3301.0712 of the Revised Code, division (B)(2) of that section.

(4) The program develops an individual career plan for the student that specifies the student's matriculating to a two-year degree program, acquiring a business and industry credential, or entering an apprenticeship.

(5) The program provides counseling and support for the student related to the plan developed under division (F)(4) of this section during the remainder of the student's high school experience.

(6) The program requires the student and the student's parent, guardian, or custodian to sign and file, in accordance with procedural requirements stipulated by the program, a written statement asserting the parent's, guardian's, or custodian's consent to the student's graduating without completing the Ohio core curriculum and acknowledging that one consequence of not completing the Ohio core curriculum is ineligibility to enroll in most state universities in Ohio without further coursework.

(7) Prior to receiving the waiver, the program has submitted to the department an instructional plan that demonstrates how the academic content standards adopted by the state board of education under section 3301.079 of the Revised Code will be taught and assessed.

If the department does not act either to grant the waiver or to reject the program application for the waiver within sixty days as required under this section, the waiver shall be considered to be granted.

(G) Every high school may permit students below the ninth grade to take advanced work ~~for~~. If a high school so permits, it shall award high school credit. A high school for successful completion of the advanced work

and shall count such advanced work toward the graduation requirements of division (B) or (C) of this section if the advanced work was both:

(1) Taught by a person who possesses a license or certificate issued under section 3301.071, 3319.22, or 3319.222 of the Revised Code that is valid for teaching high school;

(2) Designated by the board of education of the city, local, or exempted village school district, the board of the cooperative education school district, or the governing authority of the chartered nonpublic school as meeting the high school curriculum requirements.

Each high school shall record on the student's high school transcript all high school credit awarded under division (G) of this section. In addition, if the student completed a seventh- or eighth-grade fine arts course described in division (K) of this section and the course qualified for high school credit under that division, the high school shall record that course on the student's high school transcript.

(H) The department shall make its individual academic career plan available through its Ohio career information system web site for districts and schools to use as a tool for communicating with and providing guidance to students and families in selecting high school courses.

(I) Units earned in English language arts, mathematics, science, and social studies that are delivered through integrated academic and career-technical instruction are eligible to meet the graduation requirements of division (B) or (C) of this section.

(J) The state board of education, in consultation with the chancellor of the Ohio board of regents ~~and the partnership for continued learning~~, shall adopt a statewide plan implementing methods for students to earn units of high school credit based on a demonstration of subject area competency, instead of or in combination with completing hours of classroom instruction. The state board shall adopt the plan not later than March 31, 2009, and commence phasing in the plan during the 2009-2010 school year. The plan shall include a standard method for recording demonstrated proficiency on high school transcripts. Each school district, community school, and chartered nonpublic school shall comply with the state board's plan adopted under this division and award units of high school credit in accordance with the plan. The state board may adopt existing methods for earning high school credit based on a demonstration of subject area competency as necessary prior to the 2009-2010 school year.

(K) This division does not apply to students who qualify for graduation from high school under division (D) or (F) of this section, or to students pursuing a career-technical instructional track as determined by the school

district board of education or the chartered nonpublic school's governing authority. Nevertheless, the general assembly encourages such students to consider enrolling in a fine arts course as an elective.

Beginning with students who enter ninth grade for the first time on or after July 1, 2010, each student enrolled in a public or chartered nonpublic high school shall complete two semesters or the equivalent of fine arts to graduate from high school. The coursework may be completed in any of grades seven to twelve. Each student who completes a fine arts course in grade seven or eight may elect to count that course toward the five units of electives required for graduation under division (C)(7) of this section, if the course satisfied the requirements of division (G) of this section. In that case, the high school shall award the student high school credit for the course and count the course toward the five units required under division (C)(7) of this section. If the course in grade seven or eight did not satisfy the requirements of division (G) of this section, the high school shall not award the student high school credit for the course but shall count the course toward the two semesters or the equivalent of fine arts required by this division.

(L) Notwithstanding anything to the contrary in this section, the board of education of each school district and the governing authority of each chartered nonpublic school may adopt a policy to excuse from the high school physical education requirement each student who, during high school, has participated in interscholastic athletics, marching band, or cheerleading for at least two full seasons. If the board or authority adopts such a policy, the board or authority shall not require the student to complete any physical education course as a condition to graduate. However, the student shall be required to complete one-half unit, consisting of at least sixty hours of instruction, in another course of study.

Sec. 3313.605. (A) As used in this section:

(1) "Civic responsibility" means the patriotic and ethical duties of all citizens to take an active role in society and to consider the interests and concerns of other individuals in the community.

(2) "Volunteerism" means nonprofit activity in the United States, the benefits and limitations of nonprofit activities, and the presence and function of nonprofit civic and charitable organizations in the United States.

(3) "Community service" means a service performed through educational institutions, government agencies, nonprofit organizations, social service agencies, and philanthropies and generally designed to provide direct experience with people or project planning, with the goal of improving the quality of life for the community. Such activities may include but are not limited to tutoring, literacy training, neighborhood improvement,

encouraging interracial and multicultural understanding, promoting ideals of patriotism, increasing environmental safety, assisting the elderly or disabled, and providing mental health care, housing, drug abuse prevention programs, and other philanthropic programs, particularly for disadvantaged or low-income persons.

(B) ~~Any~~ The board of education of each city, local, exempted village, or ~~and joint vocational school district board of education may, the governing authority of each community school established under Chapter 3314. of the Revised Code, and the governing body of each STEM school established under Chapter 3326. of the Revised Code may~~ include community service education in ~~the its~~ educational program ~~of the district by adopting a resolution to that effect.~~ A governing board of an educational service center, upon the request of a local school district board of education, may provide a community service education program for the local district pursuant to this section. ~~Any board implementing~~ If a board, governing authority, or governing body includes community service education in its education program, the board, governing authority, or governing body shall do both of the following:

(1) Establish a community service advisory committee. The committee shall provide recommendations to the board, governing authority, or governing body regarding a community service plan for students ~~in all grades of the schools under control of the board~~ and shall oversee and assist in the implementation of the plan adopted by the board, governing authority, or governing body under division (B)(2) of this section. Each board, governing authority, or governing body shall determine the membership and organization of its advisory committee and may designate an existing committee established for another purpose to serve as the community service advisory committee; however, each such committee shall include two or more students and shall include or consult with at least one person employed in the field of volunteer management who devotes at least fifty per cent of employment hours to coordinating volunteerism among community organizations. The committee members may include representatives of parents, teachers, administrators, other educational institutions, business, government, nonprofit organizations, veterans organizations, social service agencies, religious organizations, and philanthropies.

(2) Develop and implement a community service plan ~~for students in all grades of the schools under control of the board.~~ To assist in establishing its plan, the board, governing authority, or governing body shall consult with and may contract with one or more local or regional organizations with

experience in volunteer program development and management. Each community service plan adopted under this division shall be based upon the recommendations of the advisory committee and shall provide for all of the following:

- (a) Education of students in the value of community service and its contributions to the history of this state and this nation;
- (b) Identification of opportunities for students to provide community service;
- (c) Encouragement of students to provide community service;
- (d) Integration of community service opportunities into the curriculum;
- (e) A community service instructional program for teachers, including strategies for the teaching of community service education, for the discovery of community service opportunities, and for the motivation of students to become involved in community service.

Plans shall be reviewed periodically by the advisory committee and, if necessary, revised by the board, governing authority, or governing body at least once every five years.

~~Plans shall emphasize community service opportunities that can most effectively use the skills of students, such as tutoring or literacy programs.~~ Plans shall provide for students to perform services under the plan that will not supplant the hiring of, result in the displacement of, or impair any existing employment contract of any particular employee of any private or governmental entity for which the services are performed. The plan shall provide for any entity utilizing a student to perform community service under the plan to verify to the board that the student does not supplant the hiring of, displace, or impair the employment contract of any particular employee of the entity.

Upon adoption, a board, governing authority, or governing body shall submit a copy of its plan to the department of education. Each city and exempted village board of education and each governing board of a service center shall include a copy of its plan in any course of study adopted under section 3313.60 of the Revised Code that is required to be submitted for approval to the state board for review. A joint vocational school district board of education shall submit a copy of its plan to the state board for review when required to do so by the state board. A local board shall forward its plan to the educational service center governing board for inclusion in the governing board's course of study. ~~By December 1, 1992, and periodically thereafter, the~~ The department of education periodically shall review all plans and publish those plans that could serve as models for other school districts ~~or~~, educational service centers, community schools, or

STEM schools.

(C) ~~A~~ Under this section, a board integrating community service education into the curriculum, governing authority, or governing body may only grant high school credit for a community service education course if approximately half of the course is devoted to classroom study of such matters as civic responsibility, the history of volunteerism, and community service training and approximately half of the course is devoted to community service.

Each board, governing authority, or governing body shall determine which specific activities will serve to fulfill the required hours of community service.

(D) The superintendent of public instruction shall develop guidelines for the development and implementation of a rubric to evaluate and rate community service education projects for use by districts, governing authorities, and governing boards that adopt a community service education plan.

(E) The state superintendent shall adopt rules for granting a student special certification, special recognition on a diploma, or special notification in the student's record upon the student's successful completion of an approved community service project.

The district board, governing authority, or governing body shall use a rubric developed in accordance with division (D) of this section to determine whether a community service project warrants recognition on a student's diploma under this division.

Sec. 3313.608. (A) Beginning with students who enter third grade in the school year that starts July 1, ~~2003~~ 2009, for any student who attains a score in the range designated under division (A)(2)~~(e)~~(c) of section 3301.0710 of the Revised Code on the ~~test~~ assessment prescribed under that section to measure skill in ~~reading~~ English language arts expected at the end of third grade, each school district, in accordance with the policy adopted under section 3313.609 of the Revised Code, shall do one of the following:

(1) Promote the student to fourth grade if the student's principal and reading teacher agree that other evaluations of the student's skill in reading demonstrate that the student is academically prepared to be promoted to fourth grade;

(2) Promote the student to fourth grade but provide the student with intensive intervention services in fourth grade;

(3) Retain the student in third grade.

(B)(1) To assist students in meeting this third grade guarantee established by this section, each school district shall adopt policies and

procedures with which it shall annually assess the reading skills of each student at the end of first and second grade and identify students who are reading below their grade level. If the diagnostic assessment to measure ~~reading~~ English language arts ability for the appropriate grade level has been developed in accordance with division (D)(1) of section 3301.079 of the Revised Code, each school district shall use such diagnostic assessment to identify such students, except that any district to which division (E) of section 3301.0715 of the Revised Code applies may use another assessment to identify such students. The policies and procedures shall require the students' classroom teachers to be involved in the assessment and the identification of students reading below grade level. The district shall notify the parent or guardian of each student whose reading skills are below grade level and, in accordance with division (C) of this section, provide intervention services to each student reading below grade level. Such intervention services shall include instruction in intensive, systematic phonetics pursuant to rules adopted by the state board of education.

(2) For each student entering third grade after July 1, ~~2003~~ 2009, who does not attain by the end of the third grade at least a score in the range designated under division (A)(2)(~~e~~)(b) of section 3301.0710 of the Revised Code on the ~~test~~ assessment prescribed under that section to measure skill in ~~reading~~ English language arts expected at the end of third grade, the district also shall offer intense remediation services during the summer following third grade.

(C) For each student required to be offered intervention services under this section, the district shall involve the student's parent or guardian and classroom teacher in developing the intervention strategy, and shall offer to the parent or guardian the opportunity to be involved in the intervention services.

(D) Any summer remediation services funded in whole or in part by the state and offered by school districts to students under this section shall meet the following conditions:

(1) The remediation methods are based on reliable educational research.

(2) The school districts conduct ~~testing~~ assessment before and after students participate in the program to facilitate monitoring results of the remediation services.

(3) The parents of participating students are involved in programming decisions.

(4) The services are conducted in a school building or community center and not on an at-home basis.

(E) This section does not create a new cause of action or a substantive

legal right for any person.

Sec. 3313.6013. (A) As used in this section, "dual enrollment program" means a program that enables a student to earn credit toward a degree from an institution of higher education while enrolled in high school or that enables a student to complete coursework while enrolled in high school that may earn credit toward a degree from an institution of higher education upon the student's attainment of a specified score on an examination covering the coursework. Dual enrollment programs may include any of the following:

(1) The post-secondary enrollment options program established under Chapter 3365. of the Revised Code;

(2) Advanced placement courses;

(3) Any similar program established pursuant to an agreement between a school district or chartered nonpublic high school and an institution of higher education.

(B) Each city, local, exempted village, and joint vocational school district and each chartered nonpublic high school shall provide students enrolled in grades nine through twelve with the opportunity to participate in a dual enrollment program. For this purpose, each school district and chartered nonpublic high school shall offer at least one dual enrollment program in accordance with division (B)(1) or (2) of this section, as applicable.

(1) A city, local, or exempted village school district meets the requirements of this division through its mandatory participation in the post-secondary enrollment options program established under Chapter 3365. of the Revised Code. However, a city, local, or exempted village school district may offer any other dual enrollment program, in addition to the post-secondary enrollment options program, and each joint vocational school district shall offer at least one other dual enrollment program, to students in good standing, as defined by the partnership for continued learning under section 3301.42 of the Revised Code as it existed prior to the effective date of this amendment or as subsequently defined by the department of education.

(2) A chartered nonpublic high school that elects to participate in the post-secondary enrollment options program established under Chapter 3365. of the Revised Code meets the requirements of this division. Each chartered nonpublic high school that elects not to participate in the post-secondary enrollment options program instead shall offer at least one other dual enrollment program to students in good standing, as defined by the partnership for continued learning under section 3301.42 of the Revised

Code as it existed prior to the effective date of this amendment or as subsequently defined by the department of education.

(C) Each school district and each chartered nonpublic high school shall provide information about the dual enrollment programs offered by the district or school to all students enrolled in grades eight through eleven.

Sec. 3313.6015. The board of education of each city, exempted village, and local school district shall adopt a resolution describing how the district will address college and career readiness and financial literacy in its curriculum for grade seven or eight and for any other grades in which the board determines that those subjects should be addressed. The board shall submit a copy of the resolution to the department of education.

Sec. 3313.61. (A) A diploma shall be granted by the board of education of any city, exempted village, or local school district that operates a high school to any person to whom all of the following apply:

(1) The person has successfully completed the curriculum in any high school or the individualized education program developed for the person by any high school pursuant to section 3323.08 of the Revised Code, or has qualified under division (D) or (F) of section 3313.603 of the Revised Code, provided that no school district shall require a student to remain in school for any specific number of semesters or other terms if the student completes the required curriculum early;

(2) Subject to section 3313.614 of the Revised Code, the person has met the assessment requirements of division (A)(2)(a) or (b) of this section, as applicable.

(a) If the person entered the ninth grade prior to the date prescribed by rule of the state board of education under division (E)(2) of section 3301.0712 of the Revised Code, the person either:

~~(a)~~(i) Has attained at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the ~~tests~~ assessments required by that division unless the person was excused from taking any such ~~test~~ assessment pursuant to section 3313.532 of the Revised Code or unless division (H) or (L) of this section applies to the person;

~~(b)~~(ii) Has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code.

(b) If the person entered the ninth grade on or after the date prescribed by rule of the state board under division (E)(2) of section 3301.0712 of the Revised Code, the person has attained on the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code at least the required passing composite score, designated under division (C)(1) of section 3301.0712 of the Revised Code, except to the extent that

the person is excused from some portion of that assessment system pursuant to section 3313.532 of the Revised Code or division (H) or (L) of this section.

(3) The person is not eligible to receive an honors diploma granted pursuant to division (B) of this section.

Except as provided in divisions (C), (E), (J), and (L) of this section, no diploma shall be granted under this division to anyone except as provided under this division.

(B) In lieu of a diploma granted under division (A) of this section, an honors diploma shall be granted, in accordance with rules of the state board of education, by any such district board to anyone who accomplishes all of the following:

(1) Successfully completes the curriculum in any high school or the individualized education program developed for the person by any high school pursuant to section 3323.08 of the Revised Code;

(2) Subject to section 3313.614 of the Revised Code, has met the assessment requirements of division (B)(2)(a) or (b) of this section, as applicable.

(a) If the person entered the ninth grade prior to the date prescribed by rule of the state board of education under division (E)(2) of section 3301.0712 of the Revised Code, the person either:

~~(a)(i)~~ Has attained at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the tests assessments required by that division;

~~(b)(ii)~~ Has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code.

(b) If the person entered the ninth grade on or after the date prescribed by rule of the state board under division (E)(2) of section 3301.0712 of the Revised Code, the person has attained on the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code at least the required passing composite score, designated under division (C)(1) of section 3301.0712 of the Revised Code.

(3) Has met additional criteria established by the state board for the granting of such a diploma.

An honors diploma shall not be granted to a student who is subject to the Ohio core curriculum prescribed in division (C) of section 3313.603 of the Revised Code but elects the option of division (D) or (F) of that section. Except as provided in divisions (C), (E), and (J) of this section, no honors diploma shall be granted to anyone failing to comply with this division and no more than one honors diploma shall be granted to any student under this

division.

The state board shall adopt rules prescribing the granting of honors diplomas under this division. These rules may prescribe the granting of honors diplomas that recognize a student's achievement as a whole or that recognize a student's achievement in one or more specific subjects or both. The rules may prescribe the granting of an honors diploma recognizing technical expertise for a career-technical student. In any case, the rules shall designate two or more criteria for the granting of each type of honors diploma the board establishes under this division and the number of such criteria that must be met for the granting of that type of diploma. The number of such criteria for any type of honors diploma shall be at least one less than the total number of criteria designated for that type and no one or more particular criteria shall be required of all persons who are to be granted that type of diploma.

(C) Any ~~such~~ district board administering any of the ~~tests~~ assessments required by section 3301.0710 ~~or 3301.0712~~ of the Revised Code to any person requesting to take such ~~test~~ assessment pursuant to division (B)(8)(b) of section 3301.0711 of the Revised Code shall award a diploma to such person if the person attains at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the ~~tests~~ assessments administered and if the person has previously attained the applicable scores on all the other ~~tests~~ assessments required by division (B)(1) of that section or has been exempted or excused from attaining the applicable score on any such ~~test~~ assessment pursuant to division (H) or (L) of this section or from taking any such ~~test~~ assessment pursuant to section 3313.532 of the Revised Code.

(D) Each diploma awarded under this section shall be signed by the president and treasurer of the issuing board, the superintendent of schools, and the principal of the high school. Each diploma shall bear the date of its issue, be in such form as the district board prescribes, and be paid for out of the district's general fund.

(E) A person who is a resident of Ohio and is eligible under state board of education minimum standards to receive a high school diploma based in whole or in part on credits earned while an inmate of a correctional institution operated by the state or any political subdivision thereof, shall be granted such diploma by the correctional institution operating the programs in which such credits were earned, and by the board of education of the school district in which the inmate resided immediately prior to the inmate's placement in the institution. The diploma granted by the correctional institution shall be signed by the director of the institution, and by the

person serving as principal of the institution's high school and shall bear the date of issue.

(F) Persons who are not residents of Ohio but who are inmates of correctional institutions operated by the state or any political subdivision thereof, and who are eligible under state board of education minimum standards to receive a high school diploma based in whole or in part on credits earned while an inmate of the correctional institution, shall be granted a diploma by the correctional institution offering the program in which the credits were earned. The diploma granted by the correctional institution shall be signed by the director of the institution and by the person serving as principal of the institution's high school and shall bear the date of issue.

(G) The state board of education shall provide by rule for the administration of the ~~tests~~ assessments required by section 3301.0710 of the Revised Code to inmates of correctional institutions.

(H) Any person to whom all of the following apply shall be exempted from attaining the applicable score on the ~~test~~ assessment in social studies designated under division (B)(1) of section 3301.0710 of the Revised Code, any social studies end-of-course examination required under division (B)(2) of that section if such an exemption is prescribed by rule of the state board under division (E)(4) of section 3301.0712 of the Revised Code, or the test in citizenship designated under former division (B) of section 3301.0710 of the Revised Code as it existed prior to September 11, 2001:

- (1) The person is not a citizen of the United States;
- (2) The person is not a permanent resident of the United States;
- (3) The person indicates no intention to reside in the United States after the completion of high school.

(I) Notwithstanding division (D) of section 3311.19 and division (D) of section 3311.52 of the Revised Code, this section and section 3311.611 of the Revised Code do not apply to the board of education of any joint vocational school district or any cooperative education school district established pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code.

(J) Upon receipt of a notice under division (D) of section 3325.08 of the Revised Code that a student has received a diploma under that section, the board of education receiving the notice may grant a high school diploma under this section to the student, except that such board shall grant the student a diploma if the student meets the graduation requirements that the student would otherwise have had to meet to receive a diploma from the district. The diploma granted under this section shall be of the same type the

notice indicates the student received under section 3325.08 of the Revised Code.

(K) As used in this division, "limited English proficient student" has the same meaning as in division (C)(3) of section 3301.0711 of the Revised Code.

Notwithstanding division (C)(3) of section 3301.0711 of the Revised Code, no limited English proficient student who has not either attained the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the ~~tests~~ assessments required by that division, or attained the composite score designated for the assessments required by division (B)(2) of that section, shall be awarded a diploma under this section.

(L) Any student described by division (A)(1) of this section may be awarded a diploma without attaining the applicable scores designated on the ~~tests~~ assessments prescribed under division (B) of section 3301.0710 of the Revised Code provided an individualized education program specifically exempts the student from attaining such scores. This division does not negate the requirement for such a student to take all such ~~tests~~ assessments or alternate assessments required by division (C)(1) of section 3301.0711 of the Revised Code for the purpose of assessing student progress as required by federal law.

Sec. 3313.611. (A) The state board of education shall adopt, by rule, standards for awarding high school credit equivalent to credit for completion of high school academic and vocational education courses to applicants for diplomas under this section. The standards may permit high school credit to be granted to an applicant for any of the following:

- (1) Work experiences or experiences as a volunteer;
- (2) Completion of academic, vocational, or self-improvement courses offered to persons over the age of twenty-one by a chartered public or nonpublic school;
- (3) Completion of academic, vocational, or self-improvement courses offered by an organization, individual, or educational institution other than a chartered public or nonpublic school;
- (4) Other life experiences considered by the board to provide knowledge and learning experiences comparable to that gained in a classroom setting.

(B) The board of education of any city, exempted village, or local school district that operates a high school shall grant a diploma of adult education to any applicant if all of the following apply:

- (1) The applicant is a resident of the district;
- (2) The applicant is over the age of twenty-one and has not been issued

a diploma as provided in section 3313.61 of the Revised Code;

(3) Subject to section 3313.614 of the Revised Code, the applicant has met the assessment requirements of division (B)(3)(a) or (b) of this section, as applicable.

(a) Prior to the date prescribed by rule of the state board under division (E)(3) of section 3301.0712 of the Revised Code, the applicant either:

~~(a)(i)~~ Has attained the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all of the ~~tests~~ assessments required by that division or was excused or exempted from any such ~~test~~ assessment pursuant to section 3313.532 or was exempted from attaining the applicable score on any such ~~test~~ assessment pursuant to division (H) or (L) of section 3313.61 of the Revised Code;

~~(b)(ii)~~ Has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code.

(b) On or after the date prescribed by rule of the state board under division (E)(3) of section 3301.0712 of the Revised Code, has attained on the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code at least the required passing composite score, designated under division (C)(1) of section 3301.0712 of the Revised Code, except and only to the extent that the applicant is excused from some portion of that assessment system pursuant to section 3313.532 of the Revised Code or division (H) or (L) of section 3313.61 of the Revised Code.

(4) The district board determines, in accordance with the standards adopted under division (A) of this section, that the applicant has attained sufficient high school credits, including equivalent credits awarded under such standards, to qualify as having successfully completed the curriculum required by the district for graduation.

(C) If a district board determines that an applicant is not eligible for a diploma under division (B) of this section, it shall inform the applicant of the reason the applicant is ineligible and shall provide a list of any courses required for the diploma for which the applicant has not received credit. An applicant may reapply for a diploma under this section at any time.

(D) If a district board awards an adult education diploma under this section, the president and treasurer of the board and the superintendent of schools shall sign it. Each diploma shall bear the date of its issuance, be in such form as the district board prescribes, and be paid for from the district's general fund, except that the state board may by rule prescribe standard language to be included on each diploma.

(E) As used in this division, "limited English proficient student" has the same meaning as in division (C)(3) of section 3301.0711 of the Revised

Code.

Notwithstanding division (C)(3) of section 3301.0711 of the Revised Code, no limited English proficient student who has not either attained the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the ~~tests~~ assessments required by that division, or attained the composite score designated for the assessments required by division (B)(2) of that section, shall be awarded a diploma under this section.

Sec. 3313.612. (A) No nonpublic school chartered by the state board of education shall grant ~~any~~ a high school diploma to any person unless, subject to section 3313.614 of the Revised Code, the person has met the assessment requirements of division (A)(1) or (2) of this section, as applicable.

(1) If the person entered the ninth grade prior to the date prescribed by rule of the state board under division (E)(2) of section 3301.0712 of the Revised Code, the person has attained, ~~subject to section 3313.614 of the Revised Code~~ at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the ~~tests~~ assessments required by that division, or has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code.

(2) If the person entered the ninth grade on or after the date prescribed by rule of the state board under division (E)(2) of section 3301.0712 of the Revised Code, the person has attained on the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code at least the required passing composite score, designated under division (C)(1) of section 3301.0712 of the Revised Code.

(B) This section does not apply to either of the following:

(1) Any person with regard to any ~~test~~ assessment from which the person was excused pursuant to division (C)(1)(c) of section 3301.0711 of the Revised Code;

(2) Any person with regard to the social studies ~~test~~ assessment under division (B)(1) of section 3301.0710 of the Revised Code, any social studies end-of-course examination required under division (B)(2) of that section if such an exemption is prescribed by rule of the state board of education under division (E)(4) of section 3301.0712 of the Revised Code, or the citizenship test under former division (B) of section 3301.0710 of the Revised Code as it existed prior to September 11, 2001, if all of the following apply:

- (a) The person is not a citizen of the United States;
- (b) The person is not a permanent resident of the United States;

(c) The person indicates no intention to reside in the United States after completion of high school.

(C) As used in this division, "limited English proficient student" has the same meaning as in division (C)(3) of section 3301.0711 of the Revised Code.

Notwithstanding division (C)(3) of section 3301.0711 of the Revised Code, no limited English proficient student who has not either attained the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the tests assessments required by that division, or attained the composite score designated for the assessments required by division (B)(2) of that section, shall be awarded a diploma under this section.

Sec. 3313.614. (A) As used in this section, a person "fulfills the curriculum requirement for a diploma" at the time one of the following conditions is satisfied:

(1) The person successfully completes the high school curriculum of a school district, a community school, a chartered nonpublic school, or a correctional institution.

(2) The person successfully completes the individualized education program developed for the person under section 3323.08 of the Revised Code.

(3) A board of education issues its determination under section 3313.611 of the Revised Code that the person qualifies as having successfully completed the curriculum required by the district.

(B) This division specifies the ~~testing~~ assessment requirements that must be fulfilled as a condition toward granting high school diplomas under sections 3313.61, 3313.611, 3313.612, and 3325.08 of the Revised Code.

(1) A person who fulfills the curriculum requirement for a diploma before September 15, 2000, is not required to pass any proficiency test or achievement test in science as a condition to receiving a diploma.

(2) A person who began ninth grade prior to July 1, 2003, is not required to pass the Ohio graduation test prescribed under division (B)(1) of section 3301.0710 or any assessment prescribed under division (B)(2) of that section in any subject as a condition to receiving a diploma once the person has passed the ninth grade proficiency test in the same subject, so long as the person passed the ninth grade proficiency test prior to September 15, 2008. However, any such person who passes the Ohio graduation test in any subject prior to passing the ninth grade proficiency test in the same subject shall be deemed to have passed the ninth grade proficiency test in that subject as a condition to receiving a diploma. For this purpose, the ninth

grade proficiency test in citizenship substitutes for the Ohio graduation test in social studies. If a person began ninth grade prior to July 1, 2003, but does not pass a ninth grade proficiency test or the Ohio graduation test in a particular subject before September 15, 2008, and passage of a test in that subject is a condition for the person to receive a diploma, the person must pass the Ohio graduation test instead of the ninth grade proficiency test in that subject to receive a diploma.

(3) A person who begins ninth grade on or after July 1, 2003, in a school district, community school, or chartered nonpublic school is not eligible to receive a diploma based on passage of ninth grade proficiency tests. Each such person who begins ninth grade prior to the date prescribed by the state board of education under division (E)(5) of section 3301.0712 of the Revised Code must pass Ohio graduation tests to meet the ~~testing~~ assessment requirements applicable to that person as a condition to receiving a diploma.

(4) A person who begins ninth grade on or after the date prescribed by the state board of education under division (E)(5) of section 3301.0712 of the Revised Code is not eligible to receive a diploma based on passage of the Ohio graduation tests. Each such person must attain on the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code at least the required passing composite score, designated under division (C)(1) of section 3301.0712 of the Revised Code.

(C) This division specifies the curriculum requirement that shall be completed as a condition toward granting high school diplomas under sections 3313.61, 3313.611, 3313.612, and 3325.08 of the Revised Code.

(1) A person who is under twenty-two years of age when the person fulfills the curriculum requirement for a diploma shall complete the curriculum required by the school district or school issuing the diploma for the first year that the person originally enrolled in high school, except for a person who qualifies for graduation from high school under either division (D) or (F) of section 3313.603 of the Revised Code.

(2) Once a person fulfills the curriculum requirement for a diploma, the person is never required, as a condition of receiving a diploma, to meet any different curriculum requirements that take effect pending the person's passage of proficiency tests or achievement tests or assessments, including changes mandated by section 3313.603 of the Revised Code, the state board, a school district board of education, or a governing authority of a community school or chartered nonpublic school.

Sec. 3313.615. This section shall apply to diplomas awarded after September 15, 2006, to students who are required to take the five Ohio

graduation tests prescribed by division (B)(1) of section 3301.0710 of the Revised Code.

(A) As an alternative to the requirement that a person attain the scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the ~~tests~~ assessments required under that division in order to be eligible for a high school diploma or an honors diploma under sections 3313.61, 3313.612, or 3325.08 of the Revised Code or for a diploma of adult education under section 3313.611 of the Revised Code, a person who has attained at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all but one of the ~~tests~~ assessments required by that division and from which the person was not excused or exempted, pursuant to division (L) of section 3313.61, division (B)(1) of section 3313.612, or section 3313.532 of the Revised Code, may be awarded a diploma or honors diploma if the person has satisfied all of the following conditions:

(1) On the one ~~test~~ assessment required under division (B)(1) of section 3301.0710 of the Revised Code for which the person failed to attain the designated score, the person missed that score by ten points or less;

(2) Has a ninety-seven per cent school attendance rate in each of the last four school years, excluding any excused absences;

(3) Has not been expelled from school under section 3313.66 of the Revised Code in any of the last four school years;

(4) Has a grade point average of at least 2.5 out of 4.0, or its equivalent as designated in rules adopted by the state board of education, in the subject area of the ~~test~~ assessment required under division (B)(1) of section 3301.0710 of the Revised Code for which the person failed to attain the designated score;

(5) Has completed the high school curriculum requirements prescribed in section 3313.603 of the Revised Code or has qualified under division (D) or (F) of that section;

(6) Has taken advantage of any intervention programs provided by the school district or school in the subject area described in division (A)(4) of this section and has a ninety-seven per cent attendance rate, excluding any excused absences, in any of those programs that are provided at times beyond the normal school day, school week, or school year or has received comparable intervention services from a source other than the school district or school;

(7) Holds a letter recommending graduation from each of the person's high school teachers in the subject area described in division (A)(4) of this section and from the person's high school principal.

(B) The state board of education shall establish rules designating grade point averages equivalent to the average specified in division (A)(4) of this section for use by school districts and schools with different grading systems.

(C) Any student who is exempt from attaining the applicable score designated under division (B)(1) of section 3301.0710 of the Revised Code on the Ohio graduation test in social studies pursuant to division (H) of section 3313.61 or division (B)(2) of section 3313.612 of the Revised Code shall not qualify for a high school diploma under this section, unless, notwithstanding the exemption, the student attains the applicable score on that ~~test~~ assessment. If the student attains the applicable score on that ~~test~~ assessment, the student may qualify for a diploma under this section in the same manner as any other student who is required to take the five Ohio graduation tests prescribed by division (B)(1) of section 3301.0710 of the Revised Code.

Sec. 3313.64. (A) As used in this section and in section 3313.65 of the Revised Code:

(1)(a) Except as provided in division (A)(1)(b) of this section, "parent" means either parent, unless the parents are separated or divorced or their marriage has been dissolved or annulled, in which case "parent" means the parent who is the residential parent and legal custodian of the child. When a child is in the legal custody of a government agency or a person other than the child's natural or adoptive parent, "parent" means the parent with residual parental rights, privileges, and responsibilities. When a child is in the permanent custody of a government agency or a person other than the child's natural or adoptive parent, "parent" means the parent who was divested of parental rights and responsibilities for the care of the child and the right to have the child live with the parent and be the legal custodian of the child and all residual parental rights, privileges, and responsibilities.

(b) When a child is the subject of a power of attorney executed under sections 3109.51 to 3109.62 of the Revised Code, "parent" means the grandparent designated as attorney in fact under the power of attorney. When a child is the subject of a caretaker authorization affidavit executed under sections 3109.64 to 3109.73 of the Revised Code, "parent" means the grandparent that executed the affidavit.

(2) "Legal custody," "permanent custody," and "residual parental rights, privileges, and responsibilities" have the same meanings as in section 2151.011 of the Revised Code.

(3) "School district" or "district" means a city, local, or exempted village school district and excludes any school operated in an institution

maintained by the department of youth services.

(4) Except as used in division (C)(2) of this section, "home" means a home, institution, foster home, group home, or other residential facility in this state that receives and cares for children, to which any of the following applies:

(a) The home is licensed, certified, or approved for such purpose by the state or is maintained by the department of youth services.

(b) The home is operated by a person who is licensed, certified, or approved by the state to operate the home for such purpose.

(c) The home accepted the child through a placement by a person licensed, certified, or approved to place a child in such a home by the state.

(d) The home is a children's home created under section 5153.21 or 5153.36 of the Revised Code.

(5) "Agency" means all of the following:

(a) A public children services agency;

(b) An organization that holds a certificate issued by the Ohio department of job and family services in accordance with the requirements of section 5103.03 of the Revised Code and assumes temporary or permanent custody of children through commitment, agreement, or surrender, and places children in family homes for the purpose of adoption;

(c) Comparable agencies of other states or countries that have complied with applicable requirements of section 2151.39 of the Revised Code or as applicable, sections 5103.20 to 5103.22 or 5103.23 to 5103.237 of the Revised Code.

(6) A child is placed for adoption if either of the following occurs:

(a) An agency to which the child has been permanently committed or surrendered enters into an agreement with a person pursuant to section 5103.16 of the Revised Code for the care and adoption of the child.

(b) The child's natural parent places the child pursuant to section 5103.16 of the Revised Code with a person who will care for and adopt the child.

(7) "Preschool child with a disability" has the same meaning as in section 3323.01 of the Revised Code.

(8) "Child," unless otherwise indicated, includes preschool children with disabilities.

(9) "Active duty" means active duty pursuant to an executive order of the president of the United States, an act of the congress of the United States, or section 5919.29 or 5923.21 of the Revised Code.

(B) Except as otherwise provided in section 3321.01 of the Revised Code for admittance to kindergarten and first grade, a child who is at least

five but under twenty-two years of age and any preschool child with a disability shall be admitted to school as provided in this division.

(1) A child shall be admitted to the schools of the school district in which the child's parent resides.

(2) A child who does not reside in the district where the child's parent resides shall be admitted to the schools of the district in which the child resides if any of the following applies:

(a) The child is in the legal or permanent custody of a government agency or a person other than the child's natural or adoptive parent.

(b) The child resides in a home.

(c) The child requires special education.

(3) A child who is not entitled under division (B)(2) of this section to be admitted to the schools of the district where the child resides and who is residing with a resident of this state with whom the child has been placed for adoption shall be admitted to the schools of the district where the child resides unless either of the following applies:

(a) The placement for adoption has been terminated.

(b) Another school district is required to admit the child under division (B)(1) of this section.

Division (B) of this section does not prohibit the board of education of a school district from placing a child with a disability who resides in the district in a special education program outside of the district or its schools in compliance with Chapter 3323. of the Revised Code.

(C) A district shall not charge tuition for children admitted under division (B)(1) or (3) of this section. If the district admits a child under division (B)(2) of this section, tuition shall be paid to the district that admits the child as ~~follows~~ provided in divisions (C)(1) to (3) of this section, unless division (C)(4) of this section applies to the child:

(1) If the child receives special education in accordance with Chapter 3323. of the Revised Code, the school district of residence, as defined in section 3323.01 of the Revised Code, shall pay tuition for the child in accordance with section 3323.091, 3323.13, 3323.14, or 3323.141 of the Revised Code regardless of who has custody of the child or whether the child resides in a home.

(2) For a child that does not receive special education in accordance with Chapter 3323. of the Revised Code, except as otherwise provided in division (C)(2)(d) of this section, if the child is in the permanent or legal custody of a government agency or person other than the child's parent, tuition shall be paid by:

(a) The district in which the child's parent resided at the time the court

removed the child from home or at the time the court vested legal or permanent custody of the child in the person or government agency, whichever occurred first;

(b) If the parent's residence at the time the court removed the child from home or placed the child in the legal or permanent custody of the person or government agency is unknown, tuition shall be paid by the district in which the child resided at the time the child was removed from home or placed in legal or permanent custody, whichever occurred first;

(c) If a school district cannot be established under division (C)(2)(a) or (b) of this section, tuition shall be paid by the district determined as required by section 2151.362 of the Revised Code by the court at the time it vests custody of the child in the person or government agency;

(d) If at the time the court removed the child from home or vested legal or permanent custody of the child in the person or government agency, whichever occurred first, one parent was in a residential or correctional facility or a juvenile residential placement and the other parent, if living and not in such a facility or placement, was not known to reside in this state, tuition shall be paid by the district determined under division (D) of section 3313.65 of the Revised Code as the district required to pay any tuition while the parent was in such facility or placement;

(e) If the department of education has determined, pursuant to division (A)(2) of section 2151.362 of the Revised Code, that a school district other than the one named in the court's initial order, or in a prior determination of the department, is responsible to bear the cost of educating the child, the district so determined shall be responsible for that cost.

(3) If the child is not in the permanent or legal custody of a government agency or person other than the child's parent and the child resides in a home, tuition shall be paid by one of the following:

(a) The school district in which the child's parent resides;

(b) If the child's parent is not a resident of this state, the home in which the child resides.

(4) Division (C)(4) of this section applies to any child who is admitted to a school district under division (B)(2) of this section, resides in a home that is not a foster home or a home maintained by the department of youth services, receives educational services at the home in which the child resides pursuant to a contract between the home and the school district providing those services, and does not receive special education.

In the case of a child to which division (C)(4) of this section applies, the total educational cost to be paid for the child shall be determined by a formula approved by the department of education, which formula shall be

designed to calculate a per diem cost for the educational services provided to the child for each day the child is served and shall reflect the total actual cost incurred in providing those services. The department shall certify the total educational cost to be paid for the child to both the school district providing the educational services and, if different, the school district that is responsible to pay tuition for the child. The department shall deduct the certified amount from the state basic aid funds payable under Chapter 3317. of the Revised Code to the district responsible to pay tuition and shall pay that amount to the district providing the educational services to the child.

(D) Tuition required to be paid under divisions (C)(2) and (3)(a) of this section shall be computed in accordance with section 3317.08 of the Revised Code. Tuition required to be paid under division (C)(3)(b) of this section shall be computed in accordance with section 3317.081 of the Revised Code. If a home fails to pay the tuition required by division (C)(3)(b) of this section, the board of education providing the education may recover in a civil action the tuition and the expenses incurred in prosecuting the action, including court costs and reasonable attorney's fees. If the prosecuting attorney or city director of law represents the board in such action, costs and reasonable attorney's fees awarded by the court, based upon the prosecuting attorney's, director's, or one of their designee's time spent preparing and presenting the case, shall be deposited in the county or city general fund.

(E) A board of education may enroll a child free of any tuition obligation for a period not to exceed sixty days, on the sworn statement of an adult resident of the district that the resident has initiated legal proceedings for custody of the child.

(F) In the case of any individual entitled to attend school under this division, no tuition shall be charged by the school district of attendance and no other school district shall be required to pay tuition for the individual's attendance. Notwithstanding division (B), (C), or (E) of this section:

(1) All persons at least eighteen but under twenty-two years of age who live apart from their parents, support themselves by their own labor, and have not successfully completed the high school curriculum or the individualized education program developed for the person by the high school pursuant to section 3323.08 of the Revised Code, are entitled to attend school in the district in which they reside.

(2) Any child under eighteen years of age who is married is entitled to attend school in the child's district of residence.

(3) A child is entitled to attend school in the district in which either of the child's parents is employed if the child has a medical condition that may

require emergency medical attention. The parent of a child entitled to attend school under division (F)(3) of this section shall submit to the board of education of the district in which the parent is employed a statement from the child's physician certifying that the child's medical condition may require emergency medical attention. The statement shall be supported by such other evidence as the board may require.

(4) Any child residing with a person other than the child's parent is entitled, for a period not to exceed twelve months, to attend school in the district in which that person resides if the child's parent files an affidavit with the superintendent of the district in which the person with whom the child is living resides stating all of the following:

(a) That the parent is serving outside of the state in the armed services of the United States;

(b) That the parent intends to reside in the district upon returning to this state;

(c) The name and address of the person with whom the child is living while the parent is outside the state.

(5) Any child under the age of twenty-two years who, after the death of a parent, resides in a school district other than the district in which the child attended school at the time of the parent's death is entitled to continue to attend school in the district in which the child attended school at the time of the parent's death for the remainder of the school year, subject to approval of that district board.

(6) A child under the age of twenty-two years who resides with a parent who is having a new house built in a school district outside the district where the parent is residing is entitled to attend school for a period of time in the district where the new house is being built. In order to be entitled to such attendance, the parent shall provide the district superintendent with the following:

(a) A sworn statement explaining the situation, revealing the location of the house being built, and stating the parent's intention to reside there upon its completion;

(b) A statement from the builder confirming that a new house is being built for the parent and that the house is at the location indicated in the parent's statement.

(7) A child under the age of twenty-two years residing with a parent who has a contract to purchase a house in a school district outside the district where the parent is residing and who is waiting upon the date of closing of the mortgage loan for the purchase of such house is entitled to attend school for a period of time in the district where the house is being

purchased. In order to be entitled to such attendance, the parent shall provide the district superintendent with the following:

(a) A sworn statement explaining the situation, revealing the location of the house being purchased, and stating the parent's intent to reside there;

(b) A statement from a real estate broker or bank officer confirming that the parent has a contract to purchase the house, that the parent is waiting upon the date of closing of the mortgage loan, and that the house is at the location indicated in the parent's statement.

The district superintendent shall establish a period of time not to exceed ninety days during which the child entitled to attend school under division (F)(6) or (7) of this section may attend without tuition obligation. A student attending a school under division (F)(6) or (7) of this section shall be eligible to participate in interscholastic athletics under the auspices of that school, provided the board of education of the school district where the student's parent resides, by a formal action, releases the student to participate in interscholastic athletics at the school where the student is attending, and provided the student receives any authorization required by a public agency or private organization of which the school district is a member exercising authority over interscholastic sports.

(8) A child whose parent is a full-time employee of a city, local, or exempted village school district, or of an educational service center, may be admitted to the schools of the district where the child's parent is employed, or in the case of a child whose parent is employed by an educational service center, in the district that serves the location where the parent's job is primarily located, provided the district board of education establishes such an admission policy by resolution adopted by a majority of its members. Any such policy shall take effect on the first day of the school year and the effective date of any amendment or repeal may not be prior to the first day of the subsequent school year. The policy shall be uniformly applied to all such children and shall provide for the admission of any such child upon request of the parent. No child may be admitted under this policy after the first day of classes of any school year.

(9) A child who is with the child's parent under the care of a shelter for victims of domestic violence, as defined in section 3113.33 of the Revised Code, is entitled to attend school free in the district in which the child is with the child's parent, and no other school district shall be required to pay tuition for the child's attendance in that school district.

The enrollment of a child in a school district under this division shall not be denied due to a delay in the school district's receipt of any records required under section 3313.672 of the Revised Code or any other records

required for enrollment. Any days of attendance and any credits earned by a child while enrolled in a school district under this division shall be transferred to and accepted by any school district in which the child subsequently enrolls. The state board of education shall adopt rules to ensure compliance with this division.

(10) Any child under the age of twenty-two years whose parent has moved out of the school district after the commencement of classes in the child's senior year of high school is entitled, subject to the approval of that district board, to attend school in the district in which the child attended school at the time of the parental move for the remainder of the school year and for one additional semester or equivalent term. A district board may also adopt a policy specifying extenuating circumstances under which a student may continue to attend school under division (F)(10) of this section for an additional period of time in order to successfully complete the high school curriculum for the individualized education program developed for the student by the high school pursuant to section 3323.08 of the Revised Code.

(11) As used in this division, "grandparent" means a parent of a parent of a child. A child under the age of twenty-two years who is in the custody of the child's parent, resides with a grandparent, and does not require special education is entitled to attend the schools of the district in which the child's grandparent resides, provided that, prior to such attendance in any school year, the board of education of the school district in which the child's grandparent resides and the board of education of the school district in which the child's parent resides enter into a written agreement specifying that good cause exists for such attendance, describing the nature of this good cause, and consenting to such attendance.

In lieu of a consent form signed by a parent, a board of education may request the grandparent of a child attending school in the district in which the grandparent resides pursuant to division (F)(11) of this section to complete any consent form required by the district, including any authorization required by sections 3313.712, 3313.713, 3313.716, and 3313.718 of the Revised Code. Upon request, the grandparent shall complete any consent form required by the district. A school district shall not incur any liability solely because of its receipt of a consent form from a grandparent in lieu of a parent.

Division (F)(11) of this section does not create, and shall not be construed as creating, a new cause of action or substantive legal right against a school district, a member of a board of education, or an employee of a school district. This section does not affect, and shall not be construed as affecting, any immunities from defenses to tort liability created or

recognized by Chapter 2744. of the Revised Code for a school district, member, or employee.

(12) A child under the age of twenty-two years is entitled to attend school in a school district other than the district in which the child is entitled to attend school under division (B), (C), or (E) of this section provided that, prior to such attendance in any school year, both of the following occur:

(a) The superintendent of the district in which the child is entitled to attend school under division (B), (C), or (E) of this section contacts the superintendent of another district for purposes of this division;

(b) The superintendents of both districts enter into a written agreement that consents to the attendance and specifies that the purpose of such attendance is to protect the student's physical or mental well-being or to deal with other extenuating circumstances deemed appropriate by the superintendents.

While an agreement is in effect under this division for a student who is not receiving special education under Chapter 3323. of the Revised Code and notwithstanding Chapter 3327. of the Revised Code, the board of education of neither school district involved in the agreement is required to provide transportation for the student to and from the school where the student attends.

A student attending a school of a district pursuant to this division shall be allowed to participate in all student activities, including interscholastic athletics, at the school where the student is attending on the same basis as any student who has always attended the schools of that district while of compulsory school age.

(13) All school districts shall comply with the "McKinney-Vento Homeless Assistance Act," 42 U.S.C.A. 11431 et seq., for the education of homeless children. Each city, local, and exempted village school district shall comply with the requirements of that act governing the provision of a free, appropriate public education, including public preschool, to each homeless child.

When a child loses permanent housing and becomes a homeless person, as defined in 42 U.S.C.A. 11481(5), or when a child who is such a homeless person changes temporary living arrangements, the child's parent or guardian shall have the option of enrolling the child in either of the following:

(a) The child's school of origin, as defined in 42 U.S.C.A. 11432(g)(3)(C);

(b) The school that is operated by the school district in which the shelter where the child currently resides is located and that serves the geographic

area in which the shelter is located.

(14) A child under the age of twenty-two years who resides with a person other than the child's parent is entitled to attend school in the school district in which that person resides if both of the following apply:

(a) That person has been appointed, through a military power of attorney executed under section 574(a) of the "National Defense Authorization Act for Fiscal Year 1994," 107 Stat. 1674 (1993), 10 U.S.C. 1044b, or through a comparable document necessary to complete a family care plan, as the parent's agent for the care, custody, and control of the child while the parent is on active duty as a member of the national guard or a reserve unit of the armed forces of the United States or because the parent is a member of the armed forces of the United States and is on a duty assignment away from the parent's residence.

(b) The military power of attorney or comparable document includes at least the authority to enroll the child in school.

The entitlement to attend school in the district in which the parent's agent under the military power of attorney or comparable document resides applies until the end of the school year in which the military power of attorney or comparable document expires.

(G) A board of education, after approving admission, may waive tuition for students who will temporarily reside in the district and who are either of the following:

(1) Residents or domiciliaries of a foreign nation who request admission as foreign exchange students;

(2) Residents or domiciliaries of the United States but not of Ohio who request admission as participants in an exchange program operated by a student exchange organization.

(H) Pursuant to sections 3311.211, 3313.90, 3319.01, 3323.04, 3327.04, and 3327.06 of the Revised Code, a child may attend school or participate in a special education program in a school district other than in the district where the child is entitled to attend school under division (B) of this section.

(I)(1) Notwithstanding anything to the contrary in this section or section 3313.65 of the Revised Code, a child under twenty-two years of age may attend school in the school district in which the child, at the end of the first full week of October of the school year, was entitled to attend school as otherwise provided under this section or section 3313.65 of the Revised Code, if at that time the child was enrolled in the schools of the district but since that time the child or the child's parent has relocated to a new address located outside of that school district and within the same county as the child's or parent's address immediately prior to the relocation. The child may

continue to attend school in the district, and at the school to which the child was assigned at the end of the first full week of October of the current school year, for the balance of the school year. Division (I)(1) of this section applies only if both of the following conditions are satisfied:

(a) The board of education of the school district in which the child was entitled to attend school at the end of the first full week in October and of the district to which the child or child's parent has relocated each has adopted a policy to enroll children described in division (I)(1) of this section.

(b) The child's parent provides written notification of the relocation outside of the school district to the superintendent of each of the two school districts.

(2) At the beginning of the school year following the school year in which the child or the child's parent relocated outside of the school district as described in division (I)(1) of this section, the child is not entitled to attend school in the school district under that division.

(3) Any person or entity owing tuition to the school district on behalf of the child at the end of the first full week in October, as provided in division (C) of this section, shall continue to owe such tuition to the district for the child's attendance under division (I)(1) of this section for the lesser of the balance of the school year or the balance of the time that the child attends school in the district under division (I)(1) of this section.

(4) A pupil who may attend school in the district under division (I)(1) of this section shall be entitled to transportation services pursuant to an agreement between the district and the district in which the child or child's parent has relocated unless the districts have not entered into such agreement, in which case the child shall be entitled to transportation services in the same manner as a pupil attending school in the district under interdistrict open enrollment as described in division (H) of section 3313.981 of the Revised Code, regardless of whether the district has adopted an open enrollment policy as described in division (B)(1)(b) or (c) of section 3313.98 of the Revised Code.

(J) This division does not apply to a child receiving special education.

A school district required to pay tuition pursuant to division (C)(2) or (3) of this section or section 3313.65 of the Revised Code shall have an amount deducted under division (F) of section 3317.023 of the Revised Code equal to its own tuition rate for the same period of attendance. A school district entitled to receive tuition pursuant to division (C)(2) or (3) of this section or section 3313.65 of the Revised Code shall have an amount credited under division (F) of section 3317.023 of the Revised Code equal to

its own tuition rate for the same period of attendance. If the tuition rate credited to the district of attendance exceeds the rate deducted from the district required to pay tuition, the department of education shall pay the district of attendance the difference from amounts deducted from all districts' payments under division (F) of section 3317.023 of the Revised Code but not credited to other school districts under such division and from appropriations made for such purpose. The treasurer of each school district shall, by the fifteenth day of January and July, furnish the superintendent of public instruction a report of the names of each child who attended the district's schools under divisions (C)(2) and (3) of this section or section 3313.65 of the Revised Code during the preceding six calendar months, the duration of the attendance of those children, the school district responsible for tuition on behalf of the child, and any other information that the superintendent requires.

Upon receipt of the report the superintendent, pursuant to division (F) of section 3317.023 of the Revised Code, shall deduct each district's tuition obligations under divisions (C)(2) and (3) of this section or section 3313.65 of the Revised Code and pay to the district of attendance that amount plus any amount required to be paid by the state.

(K) In the event of a disagreement, the superintendent of public instruction shall determine the school district in which the parent resides.

(L) Nothing in this section requires or authorizes, or shall be construed to require or authorize, the admission to a public school in this state of a pupil who has been permanently excluded from public school attendance by the superintendent of public instruction pursuant to sections 3301.121 and 3313.662 of the Revised Code.

(M) In accordance with division (B)(1) of this section, a child whose parent is a member of the national guard or a reserve unit of the armed forces of the United States and is called to active duty, or a child whose parent is a member of the armed forces of the United States and is ordered to a temporary duty assignment outside of the district, may continue to attend school in the district in which the child's parent lived before being called to active duty or ordered to a temporary duty assignment outside of the district, as long as the child's parent continues to be a resident of that district, and regardless of where the child lives as a result of the parent's active duty status or temporary duty assignment. However, the district is not responsible for providing transportation for the child if the child lives outside of the district as a result of the parent's active duty status or temporary duty assignment.

Sec. 3313.642. (A) Except as provided in division (B) of this section

and notwithstanding the provisions of sections 3313.48 and 3313.64 of the Revised Code, the board of education of a city, exempted village, or local school district shall not be required to furnish, free of charge, to the pupils attending the public schools any materials used in a course of instruction with the exception of the necessary textbooks or electronic textbooks required to be furnished without charge pursuant to section 3329.06 of the Revised Code. The board may, however, make provision by appropriations transferred from the general fund of the district or otherwise for furnishing free of charge any materials used in a course of instruction to such pupils as it determines are in serious financial need of such materials.

(B) No board of education of a school district ~~that receives funds under section 3317.029 of the Revised Code~~ shall charge a fee to a ~~recipient of aid under Chapter 5107. or 5115. of the Revised Code~~ pupil who is eligible for a free lunch under the "National School Lunch Act," 60 Stat. 230 (1946), 42 U.S.C. 1751, as amended, and the "Child Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C. 1771, as amended, for any materials needed to enable the ~~recipient pupil~~ to participate fully in a course of instruction. The prohibition in this division against charging a fee does not apply to any fee charged for any materials needed to enable a ~~recipient pupil~~ to participate fully in extracurricular activities or in any pupil enrichment program that is not a course of instruction.

(C) Boards of education may adopt rules and regulations prescribing a schedule of fees for materials used in a course of instruction and prescribing a schedule of charges which may be imposed upon pupils for the loss, damage, or destruction of school apparatus, equipment, musical instruments, library material, textbooks, or electronic textbooks required to be furnished without charge, and for damage to school buildings, and may enforce the payment of such fees and charges by withholding the grades and credits of the pupils concerned.

Sec. 3313.6410. This section applies to any school that is operated by a school district and in which the enrolled students work primarily on assignments in nonclassroom-based learning opportunities provided via an internet- or other computer-based instructional method.

(A) Any school to which this section applies shall withdraw from the school any student who, for two consecutive school years, has failed to participate in the spring administration of any ~~test~~ assessment prescribed under section 3301.0710 or 3301.0712 of the Revised Code for the student's grade level and was not excused from the ~~test~~ assessment pursuant to division (C)(1) or (3) of section 3301.0711 of the Revised Code, regardless of whether a waiver was granted for the student under division (E) of section

3317.03 of the Revised Code. The school shall report any such student's data verification code, as assigned pursuant to section 3301.0714 of the Revised Code, to the department of education to be added to the list maintained by the department under section 3314.26 of the Revised Code.

(B) No school to which this section applies shall receive any state funds under Chapter ~~3306.~~ or 3317. of the Revised Code for any enrolled student whose data verification code appears on the list maintained by the department under section 3314.26 of the Revised Code. Notwithstanding any provision of the Revised Code to the contrary, the parent of any such student shall pay tuition to the school district that operates the school in an amount equal to the state funds the district otherwise would receive for that student, as determined by the department. A school to which this section applies may withdraw any student for whom the parent does not pay tuition as required by this division.

Sec. 3313.65. (A) As used in this section and section 3313.64 of the Revised Code:

(1) A person is "in a residential facility" if the person is a resident or a resident patient of an institution, home, or other residential facility that is:

(a) Licensed as a nursing home, residential care facility, or home for the aging by the director of health under section 3721.02 of the Revised Code ~~or licensed as a community alternative home by the director of health under section 3724.03 of the Revised Code;~~

(b) Licensed as an adult care facility by the director of health under Chapter 3722. of the Revised Code;

(c) Maintained as a county home or district home by the board of county commissioners or a joint board of county commissioners under Chapter 5155. of the Revised Code;

(d) Operated or administered by a board of alcohol, drug addiction, and mental health services under section 340.03 or 340.06 of the Revised Code, or provides residential care pursuant to contracts made under section 340.03 or 340.033 of the Revised Code;

(e) Maintained as a state institution for the mentally ill under Chapter 5119. of the Revised Code;

(f) Licensed by the department of mental health under section 5119.20 or 5119.22 of the Revised Code;

(g) Licensed as a residential facility by the department of mental retardation and developmental disabilities under section 5123.19 of the Revised Code;

(h) Operated by the veteran's administration or another agency of the United States government;

(i) The Ohio soldiers' and sailors' home.

(2) A person is "in a correctional facility" if any of the following apply:

(a) The person is an Ohio resident and is:

(i) Imprisoned, as defined in section 1.05 of the Revised Code;

(ii) Serving a term in a community-based correctional facility or a district community-based correctional facility;

(iii) Required, as a condition of parole, a post-release control sanction, a community control sanction, transitional control, or early release from imprisonment, as a condition of shock parole or shock probation granted under the law in effect prior to July 1, 1996, or as a condition of a furlough granted under the version of section 2967.26 of the Revised Code in effect prior to March 17, 1998, to reside in a halfway house or other community residential center licensed under section 2967.14 of the Revised Code or a similar facility designated by the court of common pleas that established the condition or by the adult parole authority.

(b) The person is imprisoned in a state correctional institution of another state or a federal correctional institution but was an Ohio resident at the time the sentence was imposed for the crime for which the person is imprisoned.

(3) A person is "in a juvenile residential placement" if the person is an Ohio resident who is under twenty-one years of age and has been removed, by the order of a juvenile court, from the place the person resided at the time the person became subject to the court's jurisdiction in the matter that resulted in the person's removal.

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

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

(B) If the circumstances described in division (C) of this section apply, the determination of what school district must admit a child to its schools and what district, if any, is liable for tuition shall be made in accordance with this section, rather than section 3313.64 of the Revised Code.

(C) A child who does not reside in the school district in which the child's parent resides and for whom a tuition obligation previously has not been established under division (C)(2) of section 3313.64 of the Revised Code shall be admitted to the schools of the district in which the child resides if at least one of the child's parents is in a residential or correctional facility or a juvenile residential placement and the other parent, if living and not in such a facility or placement, is not known to reside in this state.

(D) Regardless of who has custody or care of the child, whether the child resides in a home, or whether the child receives special education, if a

district admits a child under division (C) of this section, tuition shall be paid to that district as follows:

(1) If the child's parent is in a juvenile residential placement, by the district in which the child's parent resided at the time the parent became subject to the jurisdiction of the juvenile court;

(2) If the child's parent is in a correctional facility, by the district in which the child's parent resided at the time the sentence was imposed;

(3) If the child's parent is in a residential facility, by the district in which the parent resided at the time the parent was admitted to the residential facility, except that if the parent was transferred from another residential facility, tuition shall be paid by the district in which the parent resided at the time the parent was admitted to the facility from which the parent first was transferred;

(4) In the event of a disagreement as to which school district is liable for tuition under division (C)(1), (2), or (3) of this section, the superintendent of public instruction shall determine which district shall pay tuition.

(E) If a child covered by division (D) of this section receives special education in accordance with Chapter 3323. of the Revised Code, the tuition shall be paid in accordance with section 3323.13 or 3323.14 of the Revised Code. Tuition for children who do not receive special education shall be paid in accordance with division (J) of section 3313.64 of the Revised Code.

Sec. 3313.713. (A) As used in this section:

(1) "Drug" means a drug, as defined in section 4729.01 of the Revised Code, that is to be administered pursuant to the instructions of the prescriber, whether or not required by law to be sold only upon a prescription.

(2) "Federal law" means the "Individuals with Disabilities Education Act of 1997," 111 Stat. 37, 20 U.S.C. 1400, as amended.

(3) "Prescriber" has the same meaning as in section 4729.01 of the Revised Code.

(B) The board of education of each city, local, exempted village, and joint vocational school district shall, not later than one hundred twenty days after September 20, 1984, adopt a policy on the authority of its employees, when acting in situations other than those governed by sections 2305.23, 2305.231, and 3313.712 of the Revised Code, to administer drugs prescribed to students enrolled in the schools of the district. The policy shall provide either that:

(1) Except as otherwise required by federal law, no person employed by the board shall, in the course of such employment, administer any drug prescribed to any student enrolled in the schools of the district.

(2) Designated persons employed by the board are authorized to administer to a student a drug prescribed for the student. Effective July 1, 2011, only employees of the board who are licensed health professionals, or who have completed a drug administration training program conducted by a licensed health professional and considered appropriate by the board, may administer to a student a drug prescribed for the student. Except as otherwise provided by federal law, the board's policy may provide that certain drugs or types of drugs shall not be administered or that no employee, ~~or no employee without appropriate training,~~ shall use certain procedures, such as injection, to administer a drug to a student.

(C) No drug prescribed for a student shall be administered pursuant to federal law or a policy adopted under division (B) of this section until the following occur:

(1) The board, or a person designated by the board, receives a written request, signed by the parent, guardian, or other person having care or charge of the student, that the drug be administered to the student.

(2) The board, or a person designated by the board, receives a statement, signed by the prescriber, that includes all of the following information:

- (a) The name and address of the student;
- (b) The school and class in which the student is enrolled;
- (c) The name of the drug and the dosage to be administered;
- (d) The times or intervals at which each dosage of the drug is to be administered;
- (e) The date the administration of the drug is to begin;
- (f) The date the administration of the drug is to cease;
- (g) Any severe adverse reactions that should be reported to the prescriber and one or more phone numbers at which the prescriber can be reached in an emergency;
- (h) Special instructions for administration of the drug, including sterile conditions and storage.

(3) The parent, guardian, or other person having care or charge of the student agrees to submit a revised statement signed by the prescriber to the board or a person designated by the board if any of the information provided by the prescriber pursuant to division (C)(2) of this section changes.

(4) The person authorized by the board to administer the drug receives a copy of the statement required by division (C)(2) or (3) of this section.

(5) The drug is received by the person authorized to administer the drug to the student for whom the drug is prescribed in the container in which it was dispensed by the prescriber or a licensed pharmacist.

(6) Any other procedures required by the board are followed.

(D) If a drug is administered to a student, the board of education shall acquire and retain copies of the written requests required by division (C)(1) and the statements required by divisions (C)(2) and (3) of this section and shall ensure that by the next school day following the receipt of any such statement a copy is given to the person authorized to administer drugs to the student for whom the statement has been received. The board, or a person designated by the board, shall establish a location in each school building for the storage of drugs to be administered under this section and federal law. All such drugs shall be stored in that location in a locked storage place, except that drugs that require refrigeration may be kept in a refrigerator in a place not commonly used by students.

(E) No person who has been authorized by a board of education to administer a drug and has a copy of the most recent statement required by division (C)(2) or (3) of this section given to the person in accordance with division (D) of this section prior to administering the drug is liable in civil damages for administering or failing to administer the drug, unless such person acts in a manner that constitutes gross negligence or wanton or reckless misconduct.

(F) A board of education may designate a person or persons to perform any function or functions in connection with a drug policy adopted under this section either by name or by position, training, qualifications, or similar distinguishing factors.

Nothing in this section shall be construed to require a person employed by a board of education to administer a drug to a student unless the board's policy adopted in compliance with this section establishes such a requirement. A board shall not require an employee to administer a drug to a student if the employee objects, on the basis of religious convictions, to administering the drug.

A policy adopted by a board of education pursuant to this section may be changed, modified, or revised by action of the board.

Nothing in this section affects the application of section 2305.23, 2305.231, or 3313.712 of the Revised Code to the administration of emergency care or treatment to a student.

Sec. 3313.719. The board of education of each city, local, exempted village, and joint vocational school district and the governing authority of each chartered nonpublic school shall establish a written policy with respect to protecting students with peanut or other food allergies. The policy shall be developed in consultation with parents, school nurses and other school employees, school volunteers, students, and community members.

~~Sec. 3313.174~~ 3313.82. The board of education of each city and

exempted village school district and the governing board of each educational service center shall appoint a business advisory council. The council shall advise and provide recommendations to the board on matters specified by the board including, but not necessarily limited to, the delineation of employment skills and the development of curriculum to instill these skills; changes in the economy and in the job market, and the types of employment in which future jobs are most likely to be available; and suggestions for developing a working relationship among businesses, labor organizations, and educational personnel in the district or in the territory of the educational service center. Each board shall determine the membership and organization of its council. Notwithstanding division (D) of section 3311.19 and division (D) of section 3311.52 of the Revised Code, this section shall not apply to the board of education of any joint vocational school district or any cooperative education school district created pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code.

Sec. 3313.821. (A) The board of education of each school district shall appoint a family and civic engagement team. Each team shall do the following:

(1) Work with local county family and children first councils established under section 121.37 of the Revised Code to recommend to the board qualifications and responsibilities to be included in the job descriptions for school family and civic engagement coordinators;

(2) Develop five-year family and civic engagement plans;

(3) Provide annual progress reports on the development and implementation of the plan. The board shall submit the plan and annual progress reports to the county family and children first council.

(4) Advise and provide recommendations to the board on matters specified by the board.

(B) Each board shall determine the membership and organization of its family and civic engagement team, provided that it shall include parents, community representatives, health and human service representatives, business representatives, and any other representatives identified by the board.

(C) Notwithstanding section 3311.055 of the Revised Code, this section does not apply to the governing board of an educational service center.

(D) The governing authority of any community school established under Chapter 3314. of the Revised Code or the governing body of any STEM school established under Chapter 3326. of the Revised Code may appoint a family and civic engagement team in accordance with this section.

Sec. 3313.822. As an alternative to appointing both a business advisory

council and a family and civic engagement team, the board of education of a city or exempted village school district may appoint one committee that functions as both. A committee appointed under this section shall perform all functions required of a business advisory council under section 3313.82 of the Revised Code and of a family and civic engagement team under section 3313.821 of the Revised Code. Each board shall determine the membership and organization of its committee, provided the membership shall comply with the requirements of division (B) of section 3313.821 of the Revised Code.

Sec. 3313.83. (A)(1) For the purpose of pooling resources, operating more cost effectively, minimizing administrative overhead, encouraging the sharing of resource development, and diminishing duplication, the boards of education of two or more city, local, or exempted village school districts each having a majority of its territory in a county with a population greater than one million two hundred thousand, by adopting identical resolutions, may enter into an agreement providing for the creation of a regional student education district for the purpose of funding the following for students enrolled in those school districts, including students diagnosed as autistic and students with special needs, and their immediate family members:

(a) Special education services;

(b) Behavioral health services for persons with special needs.

If more than eight boards of education adopt resolutions to form a regional student education district, the boards may meet at facilities of the educational service center of the county to discuss membership in the district.

(2) The territory of a regional student education district at any time shall be composed of the combined territories of the school districts that are parties to the agreement at that time. Services funded by a regional student education district shall be available to all individuals enrolled in a school district that is a part of the regional student education district and members of their immediate family.

(3) The agreement may be amended pursuant to terms and procedures mutually agreed to by the boards of education that are parties to the agreement.

(B) Each regional student education district shall be governed by a board of directors. The superintendent of each board of education that is a party to the agreement shall serve on the board of directors. The agreement shall provide for the terms of office of directors. Directors shall receive no compensation, but shall be reimbursed, from the special fund of the regional student education district, for the reasonable and necessary expenses they

incur in the performance of their duties for the district. The agreement shall provide for the conduct of the board's initial organizational meeting and for the frequency of subsequent meetings and quorum requirements. At its first meeting, the board shall designate from among its members a president and secretary in the manner provided in the agreement.

The board of directors of a regional student education district is a body corporate and politic, is capable of suing and being sued, is capable of contracting within the limits of this section and the agreement governing the district, and is capable of accepting gifts, donations, bequests, or other grants of money for use in paying its expenses. The district is a public office and its directors are public officials within the meaning of section 117.01 of the Revised Code, the board of directors is a public body within the meaning of section 121.22 of the Revised Code, and records of the board and of the district are public records within the meaning of section 149.43 of the Revised Code.

The agreement shall require the board to designate a permanent location for its offices and meeting place, and may provide for the use of such facilities and property for the provision of services by the agencies with which the board contracts under division (C) of this section.

(C)(1) To provide the services identified in division (A)(1) of this section, the board of directors of a regional student education district shall provide for the hiring of employees or shall contract with one or more entities. Except as provided in division (C)(2) of this section, any entity with which the board of directors contracts to provide the services identified in division (A)(1)(b) of this section shall be a qualified nonprofit, nationally accredited agency to which both of the following apply:

(a) The agency is licensed or certified by the departments of mental health, job and family services, and alcohol and drug addiction services.

(b) The agency provides school-based behavioral health services.

(2) The board of directors may contract with an entity that does not meet the conditions stated in division (C)(1) of this section if the services to be provided by the entity are only incidental to the services identified in division (A)(1)(b) of this section.

(3) The board of directors may levy a tax throughout the district as provided in section 5705.2111 of the Revised Code. The board of directors shall provide for the creation of a special fund to hold the proceeds of any tax levied under section 5705.2111 of the Revised Code and any gifts, donations, bequests, or other grants of money coming into the possession of the district. A regional student education district is a subdivision, and the board of directors is a governing body, within the meaning of section 135.01

of the Revised Code. The board of directors may not issue securities or otherwise incur indebtedness.

(4) The adoption or rejection by electors of a tax levy to fund a regional student education district pursuant to section 5705.2111 of the Revised Code does not alter the duty of each school district member of the regional student education district to provide special education and related services as required under Chapter 3323. of the Revised Code. On the expiration of a regional student education district levy, the state, member school districts of the regional student education district, and any other governmental entity shall not be obligated to provide replacement funding for the revenues under the expired levy. The tax levy, in whole or in part, shall not be considered a levy for current operating expenses pursuant to division (A) of section 3317.01 of the Revised Code for any of the school districts that are members of the regional student education district.

(D)(1) The agreement shall provide for the manner of appointing an individual or entity to perform the duties of fiscal officer of the regional student education district. The agreement shall specify the length of time the individual or entity shall perform those duties and whether the individual or entity may be reappointed upon the completion of a term. The fiscal officer may receive compensation for performing the duties of the position and be reimbursed for reasonable expenses of performing those duties from the regional student education district's special fund.

(2) The legal advisor of the board of directors of a regional student education district shall be the prosecuting attorney of the most populous county containing a school district that is a member of the regional student education district. The prosecuting attorney shall prosecute all actions against a member of the board of directors for malfeasance or misfeasance in office and shall be the legal counsel for the board and its members in all other actions brought by or against them and shall conduct those actions in the prosecuting attorney's official capacity. No compensation in addition to the prosecuting attorney's regular salary shall be allowed.

(E) The board of directors of a regional student education district shall procure a policy or policies of insurance insuring the board, the fiscal officer, and the legal representative against liability on account of damage or injury to persons and property. Before procuring such insurance the board shall adopt a resolution setting forth the amount of insurance to be purchased, the necessity of the insurance, and a statement of its estimated premium cost. Insurance procured pursuant to this section shall be from one or more recognized insurance companies authorized to do business in this state. The cost of the insurance shall be paid from the district's special fund.

A regional student education district is a political subdivision within the meaning of section 2744.01 of the Revised Code.

(F)(1) The board of education of a school district having a majority of its territory in the county may join an existing regional student education district by adopting a resolution requesting to join as a party to the agreement and upon approval by the boards of education that currently are parties to the agreement. If a tax is levied in the regional student education district under section 5705.2111 of the Revised Code, a board of education may join the district only after a majority of qualified electors in the school district voting on the question vote in favor of levying the tax throughout the school district. A board of education joining an existing district shall have the same powers, rights, and obligations under the agreement as other boards of education that are parties to the agreement.

(2) A board of education that is a party to an agreement under this section may withdraw the school district from a regional student education district by adopting a resolution. The withdrawal shall take effect on the date provided in the resolution. If a tax is levied in the regional student education district under section 5705.2111 of the Revised Code, the resolution shall take effect not later than the first day of January following adoption of the resolution. Beginning with the first day of January following adoption of the resolution, any tax levied under section 5705.2111 of the Revised Code shall not be levied within the territory of the withdrawing school district. Any collection of tax levied in the territory of the withdrawing school district under that section that has not been settled and distributed when the resolution takes effect shall be credited to the district's special fund.

(G) An agreement entered into under this section shall provide for the manner of the regional student education district's dissolution. The district shall cease to exist when not more than one school district remains in the district, and the levy of any tax under section 5705.2111 of the Revised Code shall not be extended on the tax lists in any tax year beginning after the dissolution of the district. The agreement shall provide that, upon dissolution of the district, any unexpended balance in the district's special fund shall be divided among the school districts that are parties to the agreement immediately before dissolution in proportion to the taxable valuation of taxable property in the districts, and credited to their respective general funds.

Sec. 3313.843. (A) Notwithstanding division (D) of section 3311.52 of the Revised Code, this section does not apply to either of the following:

- (1) Any cooperative education school district;
- (2) Any city or exempted village school district with a total student

count of thirteen thousand or more determined pursuant to section 3317.03 of the Revised Code that has not entered into one or more agreements pursuant to this section prior to July 1, 1993, unless the district's total student count did not exceed thirteen thousand at the time it entered into an initial agreement under this section.

(B) The board of education of a city or exempted village school district and the governing board of an educational service center may enter into an agreement, through adoption of identical resolutions, under which the educational service center governing board will provide services to the city or exempted village school district.

Services provided under the agreement shall be specified in the agreement, and may include any one or a combination of the following: supervisory teachers; in-service and continuing education programs for city or exempted village school district personnel; curriculum services as provided to the local school districts under the supervision of the service center governing board; research and development programs; academic instruction for which the governing board employs teachers pursuant to section 3319.02 of the Revised Code; and assistance in the provision of special accommodations and classes for students with disabilities. Services included in the agreement shall be provided to the city or exempted village district in the same manner they are provided to local school districts under the governing board's supervision, unless otherwise specified in the agreement. The city or exempted village board of education shall reimburse the educational service center governing board pursuant to section 3317.11 of the Revised Code.

(C) If an educational service center received funding under division (B) of former section 3317.11 or division (F) of section 3317.11 of the Revised Code for an agreement under this section involving a city school district whose total student count was less than thirteen thousand, the service center may continue to receive funding under that division for such an agreement in any subsequent year if the city district's total student count exceeds thirteen thousand. However, only the first thirteen thousand pupils in the formula ADM of such district shall be included in determining the amount of the per pupil subsidy the service center shall receive under division (F) of section 3317.11 of the Revised Code.

(D) ~~Any~~ If an educational service center that has received funding under division (F) of section 3317.11 of the Revised Code, or under division (B) of former section 3317.11 of the Revised Code as it existed prior to September 26, 2003, for services provided to a city or exempted village school district pursuant to an agreement entered into under this section is dissolved or is

scheduled to be dissolved under section 3311.0510 of the Revised Code, the city or exempted village school district that entered into that agreement with the service center may enter into a new agreement under this section with another service center for the same or similar services. In that case, the other service center shall receive funding under division (F) of section 3317.11 of the Revised Code for services to that district for any subsequent year that the new agreement is in force. An agreement entered into under this division shall be effective on the first day of July following the date both the service center governing board and the city or exempted village school district board approved the agreement, unless the agreement is so approved after the initial service center is dissolved, in which case the agreement shall be effective on the date that both boards have approved the agreement.

(E) Except for an agreement under division (D) of this section that is approved by the boards of the district and the new service center after the initial service center is dissolved, any agreement entered into pursuant to this section shall be valid only if a copy is filed with the department of education by the first day of the school year for which the agreement is in effect. An agreement under division (D) of this section that is approved by the boards of the district and the new service center after the initial service center is dissolved shall be valid only if a copy is filed with the department within ten days after both boards have approved the agreement.

Sec. 3313.86. The board of education of each city, exempted village, local, and joint vocational school district and the governing authority of each chartered nonpublic school periodically shall review its policies and procedures to ensure the safety of students, employees, and other persons using a school building from any known hazards in the building or on building grounds that, in the judgment of the board or governing authority, pose an immediate risk to health or safety. The board or governing authority shall further ensure that its policies and procedures comply with all federal laws and regulations regarding health and safety applicable to school buildings.

Sec. 3313.976. (A) No private school may receive scholarship payments from parents pursuant to section 3313.979 of the Revised Code until the chief administrator of the private school registers the school with the superintendent of public instruction. The state superintendent shall register any school that meets the following requirements:

(1) The school is located within the boundaries of the pilot project school district;

(2) The school indicates in writing its commitment to follow all requirements for a state-sponsored scholarship program specified under

sections 3313.974 to 3313.979 of the Revised Code, including, but not limited to, the requirements for admitting students pursuant to section 3313.977 of the Revised Code;

(3) The school meets all state minimum standards for chartered nonpublic schools in effect on July 1, 1992, except that the state superintendent at the superintendent's discretion may register nonchartered nonpublic schools meeting the other requirements of this division;

(4) The school does not discriminate on the basis of race, religion, or ethnic background;

(5) The school enrolls a minimum of ten students per class or a sum of at least twenty-five students in all the classes offered;

(6) The school does not advocate or foster unlawful behavior or teach hatred of any person or group on the basis of race, ethnicity, national origin, or religion;

(7) The school does not provide false or misleading information about the school to parents, students, or the general public;

(8) For students in grades kindergarten through eight, the school agrees not to charge any tuition to low-income families receiving ninety per cent of the scholarship amount through the scholarship program, pursuant to division (A) of section 3313.978 of the Revised Code, in excess of ten per cent of the scholarship amount established pursuant to division (C)(1) of section 3313.978 of the Revised Code, excluding any increase described in division (C)(2) of that section. The school shall permit any such tuition, at the discretion of the parent, to be satisfied by the low-income family's provision of in-kind contributions or services.

(9) For students in grades kindergarten through eight, the school agrees not to charge any tuition to low-income families receiving a seventy-five per cent scholarship amount through the scholarship program, pursuant to division (A) of section 3313.978 of the Revised Code, in excess of the difference between the actual tuition charge of the school and seventy-five per cent of the scholarship amount established pursuant to division (C)(1) of section 3313.978 of the Revised Code, excluding any increase described in division (C)(2) of that section. The school shall permit such tuition, at the discretion of the parent, to be satisfied by the low-income family's provision of in-kind contributions or services.

(10) The school agrees not to charge any tuition to families of students in grades nine through twelve receiving a scholarship in excess of the actual tuition charge of the school less seventy-five or ninety per cent of the scholarship amount established pursuant to division (C)(1) of section 3313.978 of the Revised Code, as applicable, excluding any increase

described in division (C)(2) of that section.

(11) Notwithstanding division (K) of section 3301.0711 of the Revised Code, the school annually administers the assessments prescribed by section 3301.0710 of the Revised Code to each scholarship student enrolled in the school in accordance with section 3301.0711 of the Revised Code and reports to the department of education the results of each such assessment administered to each scholarship student.

(B) The state superintendent shall revoke the registration of any school if, after a hearing, the superintendent determines that the school is in violation of any of the provisions of division (A) of this section.

(C) Any public school located in a school district adjacent to the pilot project district may receive scholarship payments on behalf of parents pursuant to section 3313.979 of the Revised Code if the superintendent of the district in which such public school is located notifies the state superintendent prior to the first day of March that the district intends to admit students from the pilot project district for the ensuing school year pursuant to section 3327.06 of the Revised Code.

(D) Any parent wishing to purchase tutorial assistance from any person or governmental entity pursuant to the pilot project program under sections 3313.974 to 3313.979 of the Revised Code shall apply to the state superintendent. The state superintendent shall approve providers who appear to possess the capability of furnishing the instructional services they are offering to provide.

Sec. 3313.978. (A) Annually by the first day of November, the superintendent of public instruction shall notify the pilot project school district of the number of initial scholarships that the state superintendent will be awarding in each of grades kindergarten through eight.

The state superintendent shall provide information about the scholarship program to all students residing in the district, shall accept applications from any such students until such date as shall be established by the state superintendent as a deadline for applications, and shall establish criteria for the selection of students to receive scholarships from among all those applying prior to the deadline, which criteria shall give preference to students from low-income families. For each student selected, the state superintendent shall also determine whether the student qualifies for seventy-five or ninety per cent of the scholarship amount. Students whose family income is at or above two hundred per cent of the maximum income level established by the state superintendent for low-income families shall qualify for seventy-five per cent of the scholarship amount and students whose family income is below two hundred per cent of that maximum

income level shall qualify for ninety per cent of the scholarship amount. The state superintendent shall notify students of their selection prior to the fifteenth day of January and whether they qualify for seventy-five or ninety per cent of the scholarship amount.

(1) A student receiving a pilot project scholarship may utilize it at an alternative public school by notifying the district superintendent, at any time before the beginning of the school year, of the name of the public school in an adjacent school district to which the student has been accepted pursuant to section 3327.06 of the Revised Code.

(2) A student may decide to utilize a pilot project scholarship at a registered private school in the district if all of the following conditions are met:

(a) By the fifteenth day of February of the preceding school year, or at any time prior to the start of the school year, the parent makes an application on behalf of the student to a registered private school.

(b) The registered private school notifies the parent and the state superintendent as follows that the student has been admitted:

(i) By the fifteenth day of March of the preceding school year if the student filed an application by the fifteenth day of February and was admitted by the school pursuant to division (A) of section 3313.977 of the Revised Code;

(ii) Within one week of the decision to admit the student if the student is admitted pursuant to division (C) of section 3313.977 of the Revised Code.

(c) The student actually enrolls in the registered private school to which the student was first admitted or in another registered private school in the district or in a public school in an adjacent school district.

(B) The state superintendent shall also award in any school year tutorial assistance grants to a number of students equal to the number of students who receive scholarships under division (A) of this section. Tutorial assistance grants shall be awarded solely to students who are enrolled in the public schools of the district in a grade level covered by the pilot project. Tutorial assistance grants may be used solely to obtain tutorial assistance from a provider approved pursuant to division (D) of section 3313.976 of the Revised Code.

All students wishing to obtain tutorial assistance grants shall make application to the state superintendent by the first day of the school year in which the assistance will be used. The state superintendent shall award assistance grants in accordance with criteria the superintendent shall establish. For each student awarded a grant, the state superintendent shall also determine whether the student qualifies for seventy-five or ninety per

cent of the grant amount and so notify the student. Students whose family income is at or above two hundred per cent of the maximum income level established by the state superintendent for low-income families shall qualify for seventy-five per cent of the grant amount and students whose family income is below two hundred per cent of that maximum income level shall qualify for ninety per cent of the grant amount.

(C)(1) In the case of basic scholarships for students in grades kindergarten through eight, the scholarship amount shall not exceed the lesser of the tuition charges of the alternative school the scholarship recipient attends or three thousand dollars before fiscal year 2007 and three thousand four hundred fifty dollars in fiscal year 2007 and thereafter.

In the case of basic scholarships for students in grades nine through twelve, the scholarship amount shall not exceed the lesser of the tuition charges of the alternative school the scholarship recipient attends or two thousand seven hundred dollars before fiscal year 2007 and three thousand four hundred fifty dollars in fiscal year 2007 and thereafter.

(2) The state superintendent shall provide for an increase in the basic scholarship amount in the case of any student who is a mainstreamed student with a disability and shall further increase such amount in the case of any separately educated student with a disability. Such increases shall take into account the instruction, related services, and transportation costs of educating such students.

(3) In the case of tutorial assistance grants, the grant amount shall not exceed the lesser of the provider's actual charges for such assistance or:

(a) Before fiscal year 2007, a percentage established by the state superintendent, not to exceed twenty per cent, of the amount of the pilot project school district's average basic scholarship amount;

(b) In fiscal year 2007 and thereafter, four hundred dollars.

(4) No scholarship or tutorial assistance grant shall be awarded unless the state superintendent determines that twenty-five or ten per cent, as applicable, of the amount specified for such scholarship or grant pursuant to division (C)(1), (2), or (3) of this section will be furnished by a political subdivision, a private nonprofit or for profit entity, or another person. Only seventy-five or ninety per cent of such amounts, as applicable, shall be paid from state funds pursuant to section 3313.979 of the Revised Code.

(D)(1) Annually by the first day of November, the state superintendent shall estimate the maximum per-pupil scholarship amounts for the ensuing school year. The state superintendent shall make this estimate available to the general public at the offices of the district board of education together with the forms required by division (D)(2) of this section.

(2) Annually by the fifteenth day of January, the chief administrator of each registered private school located in the pilot project district and the principal of each public school in such district shall complete a parental information form and forward it to the president of the board of education. The parental information form shall be prescribed by the department of education and shall provide information about the grade levels offered, the numbers of students, tuition amounts, achievement test results, and any sectarian or other organizational affiliations.

(E)(1) Only for the purpose of administering the pilot project scholarship program, the department may request from any of the following entities the data verification code assigned under division (D)(2) of section 3301.0714 of the Revised Code to any student who is seeking a scholarship under the program:

(a) The school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code;

(b) If applicable, the community school in which the student is enrolled;

(c) The independent contractor engaged to create and maintain data verification codes.

(2) Upon a request by the department under division (E)(1) of this section for the data verification code of a student seeking a scholarship or a request by the student's parent for that code, the school district or community school shall submit that code to the department or parent in the manner specified by the department. If the student has not been assigned a code, because the student will be entering kindergarten during the school year for which the scholarship is sought, the district shall assign a code to that student and submit the code to the department or parent by a date specified by the department. If the district does not assign a code to the student by the specified date, the department shall assign a code to the student.

The department annually shall submit to each school district the name and data verification code of each student residing in the district who is entering kindergarten, who has been awarded a scholarship under the program, and for whom the department has assigned a code under this division.

(3) The department shall not release any data verification code that it receives under division (E) of this section to any person except as provided by law.

(F) Any document relative to the pilot project scholarship program that the department holds in its files that contains both a student's name or other personally identifiable information and the student's data verification code

shall not be a public record under section 149.43 of the Revised Code.

(G)(1) The department annually shall compile the scores attained by scholarship students enrolled in registered private schools on the assessments administered to the students pursuant to division (A)(11) of section 3313.976 of the Revised Code. The scores shall be aggregated as follows:

(a) By school district, which shall include all scholarship students residing in the pilot project school district who are enrolled in a registered private school and were required to take an assessment pursuant to division (A)(11) of section 3313.976 of the Revised Code;

(b) By registered private school, which shall include all scholarship students enrolled in that school who were required to take an assessment pursuant to division (A)(11) of section 3313.976 of the Revised Code.

(2) The department shall disaggregate the student performance data described in division (G)(1) of this section according to the following categories:

(a) Age;

(b) Race and ethnicity;

(c) Gender;

(d) Students who have participated in the scholarship program for three or more years;

(e) Students who have participated in the scholarship program for more than one year and less than three years;

(f) Students who have participated in the scholarship program for one year or less;

(g) Economically disadvantaged students.

(3) The department shall post the student performance data required under divisions (G)(1) and (2) of this section on its web site and shall include that data in the information about the scholarship program provided to students under division (A) of this section. In reporting student performance data under this division, the department shall not include any data that is statistically unreliable or that could result in the identification of individual students. For this purpose, the department shall not report performance data for any group that contains less than ten students.

(4) The department shall provide the parent of each scholarship student enrolled in a registered private school with information comparing the student's performance on the assessments administered pursuant to division (A)(11) of section 3313.976 of the Revised Code with the average performance of similar students enrolled in the building operated by the pilot project school district that the scholarship student would otherwise

attend. In calculating the performance of similar students, the department shall consider age, grade, race and ethnicity, gender, and socioeconomic status.

Sec. 3313.98. Notwithstanding division (D) of section 3311.19 and division (D) of section 3311.52 of the Revised Code, the provisions of this section and sections 3313.981 to 3313.983 of the Revised Code that apply to a city school district do not apply to a joint vocational or cooperative education school district unless expressly specified.

(A) As used in this section and sections 3313.981 to 3313.983 of the Revised Code:

(1) "Parent" means either of the natural or adoptive parents of a student, except under the following conditions:

(a) When the marriage of the natural or adoptive parents of the student has been terminated by a divorce, dissolution of marriage, or annulment or the natural or adoptive parents of the student are living separate and apart under a legal separation decree and the court has issued an order allocating the parental rights and responsibilities with respect to the student, "parent" means the residential parent as designated by the court except that "parent" means either parent when the court issues a shared parenting decree.

(b) When a court has granted temporary or permanent custody of the student to an individual or agency other than either of the natural or adoptive parents of the student, "parent" means the legal custodian of the child.

(c) When a court has appointed a guardian for the student, "parent" means the guardian of the student.

(2) "Native student" means a student entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in a district adopting a resolution under this section.

(3) "Adjacent district" means a city, exempted village, or local school district having territory that abuts the territory of a district adopting a resolution under this section.

(4) "Adjacent district student" means a student entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in an adjacent district.

(5) "Adjacent district joint vocational student" means an adjacent district student who enrolls in a city, exempted village, or local school district pursuant to this section and who also enrolls in a joint vocational school district that does not contain the territory of the district for which that student is a native student and does contain the territory of the city, exempted village, or local district in which the student enrolls.

(6) "Formula amount" has the same meaning as in section 3317.02 of

the Revised Code.

(7) "Adjusted formula amount" means the sum of the formula amount plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code for fiscal year 2009.

(8) "Poverty line" means the poverty line established by the director of the United States office of management and budget as revised by the director of the office of community services in accordance with section 673(2) of the "Community Services Block Grant Act," 95 Stat. 1609, 42 U.S.C.A. 9902, as amended.

(9) "IEP" has the same meaning as in section 3323.01 of the Revised Code.

(10) "Other district" means a city, exempted village, or local school district having territory outside of the territory of a district adopting a resolution under this section.

(11) "Other district student" means a student entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in an other district.

(12) "Other district joint vocational student" means a student who is enrolled in any city, exempted village, or local school district and who also enrolls in a joint vocational school district that does not contain the territory of the district for which that student is a native student in accordance with a policy adopted under section 3313.983 of the Revised Code.

(B)(1) The board of education of each city, local, and exempted village school district shall adopt a resolution establishing for the school district one of the following policies:

(a) A policy that entirely prohibits the enrollment of students from adjacent districts or other districts, other than students for whom tuition is paid in accordance with section 3317.08 of the Revised Code;

(b) A policy that permits enrollment of students from all adjacent districts in accordance with policy statements contained in the resolution;

(c) A policy that permits enrollment of students from all other districts in accordance with policy statements contained in the resolution.

(2) A policy permitting enrollment of students from adjacent or from other districts, as applicable, shall provide for all of the following:

(a) Application procedures, including deadlines for application and for notification of students and the superintendent of the applicable district whenever an adjacent or other district student's application is approved.

(b) Procedures for admitting adjacent or other district applicants free of any tuition obligation to the district's schools, including, but not limited to:

(i) The establishment of district capacity limits by grade level, school

building, and education program;

(ii) A requirement that all native students wishing to be enrolled in the district will be enrolled and that any adjacent or other district students previously enrolled in the district shall receive preference over first-time applicants;

(iii) Procedures to ensure that an appropriate racial balance is maintained in the district schools.

(C) Except as provided in section 3313.982 of the Revised Code, the procedures for admitting adjacent or other district students, as applicable, shall not include:

(1) Any requirement of academic ability, or any level of athletic, artistic, or other extracurricular skills;

(2) Limitations on admitting applicants because of disability, except that a board may refuse to admit a student receiving services under Chapter 3323. of the Revised Code, if the services described in the student's IEP are not available in the district's schools;

(3) A requirement that the student be proficient in the English language;

(4) Rejection of any applicant because the student has been subject to disciplinary proceedings, except that if an applicant has been suspended or expelled by the student's district for ten consecutive days or more in the term for which admission is sought or in the term immediately preceding the term for which admission is sought, the procedures may include a provision denying admission of such applicant.

(D)(1) Each school board permitting only enrollment of adjacent district students shall provide information about the policy adopted under this section, including the application procedures and deadlines, to the superintendent and the board of education of each adjacent district and, upon request, to the parent of any adjacent district student.

(2) Each school board permitting enrollment of other district students shall provide information about the policy adopted under this section, including the application procedures and deadlines, upon request, to the board of education of any other school district or to the parent of any student anywhere in the state.

(E) Any school board shall accept all credits toward graduation earned in adjacent or other district schools by an adjacent or other district student or a native student.

(F)(1) No board of education may adopt a policy discouraging or prohibiting its native students from applying to enroll in the schools of an adjacent or any other district that has adopted a policy permitting such enrollment, except that:

(a) A district may object to the enrollment of a native student in an adjacent or other district in order to maintain an appropriate racial balance.

(b) The board of education of a district receiving funds under 64 Stat. 1100 (1950), 20 U.S.C.A. 236 et seq., as amended, may adopt a resolution objecting to the enrollment of its native students in adjacent or other districts if at least ten per cent of its students are included in the determination of the United States secretary of education made under section 20 U.S.C.A. 238(a).

(2) If a board objects to enrollment of native students under this division, any adjacent or other district shall refuse to enroll such native students unless tuition is paid for the students in accordance with section 3317.08 of the Revised Code. An adjacent or other district enrolling such students may not receive funding for those students in accordance with section 3313.981 of the Revised Code.

(G) The state board of education shall monitor school districts to ensure compliance with this section and the districts' policies. The board may adopt rules requiring uniform application procedures, deadlines for application, notification procedures, and record-keeping requirements for all school boards that adopt policies permitting the enrollment of adjacent or other district students, as applicable. If the state board adopts such rules, no school board shall adopt a policy that conflicts with those rules.

(H) A resolution adopted by a board of education under this section that entirely prohibits the enrollment of students from adjacent and from other school districts does not abrogate any agreement entered into under section 3313.841 or 3313.92 of the Revised Code or any contract entered into under section 3313.90 of the Revised Code between the board of education adopting the resolution and the board of education of any adjacent or other district or prohibit these boards of education from entering into any such agreement or contract.

(I) Nothing in this section shall be construed to permit or require the board of education of a city, exempted village, or local school district to exclude any native student of the district from enrolling in the district.

Sec. 3313.981. (A) The state board of education shall adopt rules requiring all of the following:

(1) The board of education of each city, exempted village, and local school district to annually report to the department of education all of the following:

(a) The number of adjacent district or other district students, as applicable, and adjacent district or other district joint vocational students, as applicable, enrolled in the district and the number of native students enrolled in adjacent or other districts, in accordance with a policy adopted under

division (B) of section 3313.98 of the Revised Code;

(b) Each adjacent district or other district student's or adjacent district or other district joint vocational student's date of enrollment in the district;

(c) The full-time equivalent number of adjacent district or other district students enrolled in vocational education programs or classes described in division (A) of section 3317.014 of the Revised Code and the full-time equivalent number of such students enrolled in vocational education programs or classes described in division (B) of that section;

(d) Each native student's date of enrollment in an adjacent or other district.

(2) The board of education of each joint vocational school district to annually report to the department all of the following:

(a) The number of adjacent district or other district joint vocational students, as applicable, enrolled in the district;

(b) The full-time equivalent number of adjacent district or other district joint vocational students enrolled in vocational education programs or classes described in division (A) of section 3317.014 of the Revised Code and the full-time equivalent number of such students enrolled in vocational education programs or classes described in division (B) of that section;

(c) For each adjacent district or other district joint vocational student, the city, exempted village, or local school district in which the student is also enrolled.

(3) Prior to the first full school week in October each year, the superintendent of each city, local, or exempted village school district that admits adjacent district or other district students or adjacent district or other district joint vocational students in accordance with a policy adopted under division (B) of section 3313.98 of the Revised Code to notify each adjacent or other district where those students are entitled to attend school under section 3313.64 or 3313.65 of the Revised Code of the number of the adjacent or other district's native students who are enrolled in the superintendent's district under the policy.

The rules shall provide for the method of counting students who are enrolled for part of a school year in an adjacent or other district or as an adjacent district or other district joint vocational student.

(B) From the payments made to a city, exempted village, or local school district under Chapter ~~3317.~~ 3306. of the Revised Code, the department of education shall annually subtract both of the following:

(1) An amount equal to the number of the district's native students reported under division (A)(1) of this section who are enrolled in adjacent or other school districts pursuant to policies adopted by such districts under

division (B) of section 3313.98 of the Revised Code multiplied by the adjusted formula amount ~~for the district~~;

(2) The excess costs computed in accordance with division (E) of this section for any such native students receiving special education and related services in adjacent or other school districts or as an adjacent district or other district joint vocational student;

(3) For the full-time equivalent number of the district's native students reported under division (A)(1)(c) or (2)(b) of this section as enrolled in vocational education programs or classes described in section 3317.014 of the Revised Code, an amount equal to the formula amount times the applicable multiple prescribed by that section.

(C) To the payments made to a city, exempted village, or local school district under Chapter ~~3317.~~ 3306. of the Revised Code, the department of education shall annually add all of the following:

(1) An amount equal to the adjusted formula amount ~~for the district~~ multiplied by the remainder obtained by subtracting the number of adjacent district or other district joint vocational students from the number of adjacent district or other district students enrolled in the district, as reported under division (A)(1) of this section;

(2) The excess costs computed in accordance with division (E) of this section for any adjacent district or other district students, except for any adjacent or other district joint vocational students, receiving special education and related services in the district;

(3) For the full-time equivalent number of the adjacent or other district students who are not adjacent district or other district joint vocational students and are reported under division (A)(1)(c) of this section as enrolled in vocational education programs or classes described in section 3317.014 of the Revised Code, an amount equal to the formula amount times the applicable multiple prescribed by that section;

(4) An amount equal to the number of adjacent district or other district joint vocational students reported under division (A)(1) of this section multiplied by an amount equal to twenty per cent of the adjusted formula amount ~~for the district~~.

(D) To the payments made to a joint vocational school district ~~under Chapter 3317. of the Revised Code~~, the department of education shall add, for each adjacent district or other district joint vocational student reported under division (A)(2) of this section, both of the following:

(1) ~~An amount equal to the~~ The adjusted formula amount ~~of the city, exempted village, or local school district in which the student is also enrolled~~;

(2) An amount equal to the full-time equivalent number of students reported pursuant to division (A)(2)(b) of this section times the formula amount times the applicable multiple prescribed by section 3317.014 of the Revised Code.

(E)(1) A city, exempted village, or local school board providing special education and related services to an adjacent or other district student in accordance with an IEP shall, pursuant to rules of the state board, compute the excess costs to educate such student as follows:

(a) Subtract the adjusted formula amount ~~for the district~~ from the actual costs to educate the student;

(b) From the amount computed under division (E)(1)(a) of this section subtract the amount of any funds received by the district under Chapter ~~3317.~~ 3306. of the Revised Code to provide special education and related services to the student.

(2) The board shall report the excess costs computed under this division to the department of education.

(3) If any student for whom excess costs are computed under division (E)(1) of this section is an adjacent or other district joint vocational student, the department of education shall add the amount of such excess costs to the payments made under Chapter ~~3317.~~ 3306. of the Revised Code to the joint vocational school district enrolling the student.

(F) As provided in division (D)(1)(b) of section 3317.03 of the Revised Code, no joint vocational school district shall count any adjacent or other district joint vocational student enrolled in the district in its formula ADM certified under section 3317.03 of the Revised Code.

(G) No city, exempted village, or local school district shall receive a payment under division (C) of this section for a student, and no joint vocational school district shall receive a payment under division (D) of this section for a student, if for the same school year that student is counted in the district's formula ADM certified under section 3317.03 of the Revised Code.

(H) Upon request of a parent, and provided the board offers transportation to native students of the same grade level and distance from school under section 3327.01 of the Revised Code, a city, exempted village, or local school board enrolling an adjacent or other district student shall provide transportation for the student within the boundaries of the board's district, except that the board shall be required to pick up and drop off a nonhandicapped student only at a regular school bus stop designated in accordance with the board's transportation policy. Pursuant to rules of the state board of education, such board may reimburse the parent from funds

received under ~~division (D) of section 3317.022~~ 3306.12 of the Revised Code for the reasonable cost of transportation from the student's home to the designated school bus stop if the student's family has an income below the federal poverty line.

Sec. 3314.012. (A) Within ninety days of September 28, 1999, the superintendent of public instruction shall appoint representatives of the department of education, including employees who work with the education management information system and employees of the office of community schools established by section 3314.11 of the Revised Code, to a committee to develop report card models for community schools. The director of the legislative office of education oversight shall also appoint representatives to the committee. The committee shall design model report cards appropriate for the various types of community schools approved to operate in the state. Sufficient models shall be developed to reflect the variety of grade levels served and the missions of the state's community schools. All models shall include both financial and academic data. The initial models shall be developed by March 31, 2000.

(B) The department of education shall issue an annual report card for each community school, regardless of how long the school has been in operation. The report card shall report the academic and financial performance of the school utilizing one of the models developed under division (A) of this section. The report card shall include all information applicable to school buildings under division (A) of section 3302.03 of the Revised Code ~~and section 3302.032 of the Revised Code~~. The ratings a community school receives under section 3302.03 of the Revised Code for its first two full school years shall not be considered toward automatic closure of the school under section 3314.35 of the Revised Code or any other matter that is based on report card ratings.

(C) Upon receipt of a copy of a contract between a sponsor and a community school entered into under this chapter, the department of education shall notify the community school of the specific model report card that will be used for that school.

(D) Report cards shall be distributed to the parents of all students in the community school, to the members of the board of education of the school district in which the community school is located, and to any person who requests one from the department.

~~(E) No report card shall be issued for any community school under this section until the school has been open for instruction for two full school years.~~

Sec. 3314.015. (A) The department of education shall be responsible for

the oversight of any and all sponsors of the community schools established under this chapter and shall provide technical assistance to schools and sponsors in their compliance with applicable laws and the terms of the contracts entered into under section 3314.03 of the Revised Code and in the development and start-up activities of those schools. In carrying out its duties under this section, the department shall do all of the following:

(1) In providing technical assistance to proposing parties, governing authorities, and sponsors, conduct training sessions and distribute informational materials;

(2) Approve entities to be sponsors of community schools ~~and monitor;~~

(3) Monitor the effectiveness of ~~those~~ any and all sponsors in their oversight of the schools with which they have contracted;

~~(3)~~(4) By December thirty-first of each year, issue a report to the governor, the speaker of the house of representatives, the president of the senate, and the chairpersons of the house and senate committees principally responsible for education matters regarding the effectiveness of academic programs, operations, and legal compliance and of the financial condition of all community schools established under this chapter and on the performance of community school sponsors;

~~(4)~~(5) From time to time, make legislative recommendations to the general assembly designed to enhance the operation and performance of community schools.

(B)(1) ~~No~~ Except as provided in sections 3314.021 and 3314.027 of the Revised Code, no entity listed in division (C)(1) of section 3314.02 of the Revised Code shall enter into a preliminary agreement under division (C)(2) of section 3314.02 of the Revised Code until it has received approval from the department of education to sponsor community schools under this chapter and has entered into a written agreement with the department regarding the manner in which the entity will conduct such sponsorship. The department shall adopt in accordance with Chapter 119. of the Revised Code rules containing criteria, procedures, and deadlines for processing applications for such approval, for oversight of sponsors, for revocation of the approval of sponsors, and for entering into written agreements with sponsors. The rules shall require an entity to submit evidence of the entity's ability and willingness to comply with the provisions of division (D) of section 3314.03 of the Revised Code. The rules also shall require entities approved as sponsors on and after June 30, 2005, to demonstrate a record of financial responsibility and successful implementation of educational programs. If an entity seeking approval on or after June 30, 2005, to sponsor community schools in this state sponsors or operates schools in another

state, at least one of the schools sponsored or operated by the entity must be comparable to or better than the performance of Ohio schools in need of continuous improvement under section 3302.03 of the Revised Code, as determined by the department.

An entity that sponsors community schools may enter into preliminary agreements and sponsor schools as follows, provided each school and the contract for sponsorship meets the requirements of this chapter:

(a) An entity that sponsored fifty or fewer schools that were open for operation as of May 1, 2005, may sponsor not more than fifty schools.

(b) An entity that sponsored more than fifty but not more than seventy-five schools that were open for operation as of May 1, 2005, may sponsor not more than the number of schools the entity sponsored that were open for operation as of May 1, 2005.

(c) Until June 30, 2006, an entity that sponsored more than seventy-five schools that were open for operation as of May 1, 2005, may sponsor not more than the number of schools the entity sponsored that were open for operation as of May 1, 2005. After June 30, 2006, such an entity may sponsor not more than seventy-five schools.

Upon approval of an entity to be a sponsor under this division, the department shall notify the entity of the number of schools the entity may sponsor.

The limit imposed on an entity to which division (B)(1) of this section applies shall be decreased by one for each school sponsored by the entity that permanently closes.

If at any time an entity exceeds the number of schools it may sponsor under this division, the department shall assist the schools in excess of the entity's limit in securing new sponsors. If a school is unable to secure a new sponsor, the department shall assume sponsorship of the school in accordance with division (C) of this section. Those schools for which another sponsor or the department assumes sponsorship shall be the schools that most recently entered into contracts with the entity under section 3314.03 of the Revised Code.

(2) The department of education shall determine, pursuant to criteria adopted by rule of the department, whether the mission proposed to be specified in the contract of a community school to be sponsored by a state university board of trustees or the board's designee under division (C)(1)(e) of section 3314.02 of the Revised Code complies with the requirements of that division. Such determination of the department is final.

(3) The department of education shall determine, pursuant to criteria adopted by rule of the department, if any tax-exempt entity under section

501(c)(3) of the Internal Revenue Code that is proposed to be a sponsor of a community school is an education-oriented entity for purpose of satisfying the condition prescribed in division (C)(1)(f)(iii) of section 3314.02 of the Revised Code. Such determination of the department is final.

(C) If at any time the state board of education finds that a sponsor is not in compliance or is no longer willing to comply with its contract with any community school or with the department's rules for sponsorship, the state board or designee shall conduct a hearing in accordance with Chapter 119. of the Revised Code on that matter. If after the hearing, the state board or designee has confirmed the original finding, the department of education may revoke the sponsor's approval to sponsor community schools and may assume the sponsorship of any schools with which the sponsor has contracted until the earlier of the expiration of two school years or until a new sponsor as described in division (C)(1) of section 3314.02 of the Revised Code is secured by the school's governing authority. The department may extend the term of the contract in the case of a school for which it has assumed sponsorship under this division as necessary to accommodate the term of the department's authorization to sponsor the school specified in this division.

(D) The decision of the department to disapprove an entity for sponsorship of a community school or to revoke approval for such sponsorship, ~~as provided in~~ under division (C) of this section, may be appealed by the entity in accordance with section 119.12 of the Revised Code.

(E) The department shall adopt procedures for use by a community school governing authority and sponsor when the school permanently closes and ceases operation, which shall include at least procedures for data reporting to the department, handling of student records, distribution of assets in accordance with section 3314.074 of the Revised Code, and other matters related to ceasing operation of the school.

(F) In carrying out its duties under this chapter, the department shall not impose requirements on community schools or their sponsors that are not permitted by law or duly adopted rules.

Sec. 3314.016. (A) After June 30, 2007, a new start-up school may be established under this chapter only if the school's governing authority enters into a contract with an operator that manages other schools in the United States that perform at a level higher than academic watch. The governing authority of the community school may sign a contract with an operator only if the operator has fewer contracts with the governing authorities of new start-up schools established under this chapter after June 30, 2007, than the

number of schools managed by the operator in the United States that perform at a level higher than academic watch, as determined by the department of education. However, the governing authority shall not contract with an operator that currently manages any community schools in Ohio for which the department issues annual report cards under section 3314.012 of the Revised Code, unless the latest report card issued for at least one of those schools designates a performance rating under section 3302.03 of the Revised Code of in need of continuous improvement or higher.

(B) Notwithstanding division (A) of this section, the governing authority of a start-up school sponsored by an entity described in divisions (C)(1)(b) to (f) of section 3314.02 of the Revised Code may establish one additional school serving the same grade levels and providing the same educational program as the current start-up school and may open that additional school in the 2007-2008 school year, if both of the following conditions are met:

(1) The governing authority entered into another contract with the same sponsor or a different sponsor described in divisions (C)(1)(b) to (f) of section 3314.02 of the Revised Code and filed a copy of that contract with the superintendent of public instruction prior to March 15, 2006.

(2) The governing authority's current school satisfies all of the following conditions:

(a) The school currently is rated as excellent or effective pursuant to section 3302.03 of the Revised Code.

(b) The school made adequate yearly progress, as defined in section 3302.01 of the Revised Code, for the previous school year.

(c) The school has been in operation for at least four school years.

(d) The school is not managed by an operator.

(C) Notwithstanding division (A) of this section, the governing authority of a start-up school sponsored by the big eight school district in which the school is located may establish one additional start-up school that is located in the same school district and that provides a general educational program to students in any or all of grades kindergarten through five to facilitate their transition to the current start-up school, and may open the additional start-up school in the 2009-2010 school year, if both of the following conditions are met:

(1) The governing authority enters into another contract with the same sponsor and files a copy of the contract with the superintendent of public instruction prior to March 15, 2009.

(2) The governing authority's current school satisfies all of the following

conditions:

(a) The school provided instruction to students for eleven months in the previous school year.

(b) The school has been in operation for at least two school years.

(c) The school qualified to be rated in need of continuous improvement or higher pursuant to section 3302.03 of the Revised Code for its first school year of operation, even though the department of education did not issue a report card for the school for that school year.

Sec. 3314.02. (A) As used in this chapter:

(1) "Sponsor" means an entity listed in division (C)(1) of this section, which has been approved by the department of education to sponsor community schools and with which the governing authority of the proposed community school enters into a contract pursuant to this section.

(2) "Pilot project area" means the school districts included in the territory of the former community school pilot project established by former Section 50.52 of Am. Sub. H.B. No. 215 of the 122nd general assembly.

(3) "Challenged school district" means any of the following:

(a) A school district that is part of the pilot project area;

(b) A school district that is either in a state of academic emergency or in a state of academic watch under section 3302.03 of the Revised Code;

(c) A big eight school district.

(4) "Big eight school district" means a school district that for fiscal year 1997 had both of the following:

(a) A percentage of children residing in the district and participating in the predecessor of Ohio works first greater than thirty per cent, as reported pursuant to section 3317.10 of the Revised Code;

(b) An average daily membership greater than twelve thousand, as reported pursuant to former division (A) of section 3317.03 of the Revised Code.

(5) "New start-up school" means a community school other than one created by converting all or part of an existing public school or educational service center building, as designated in the school's contract pursuant to division (A)(17) of section 3314.03 of the Revised Code.

(6) "Urban school district" means one of the state's twenty-one urban school districts as defined in division (O) of section 3317.02 of the Revised Code as that section existed prior to July 1, 1998.

(7) "Internet- or computer-based community school" means a community school established under this chapter in which the enrolled students work primarily from their residences on assignments in nonclassroom-based learning opportunities provided via an internet- or other

computer-based instructional method that does not rely on regular classroom instruction or via comprehensive instructional methods that include internet-based, other computer-based, and noncomputer-based learning opportunities.

(B) Any person or group of individuals may initially propose under this division the conversion of all or a portion of a public school or a building operated by an educational service center to a community school. The proposal shall be made to the board of education of the city, local, ~~or~~ exempted village, or joint vocational school district in which the public school is proposed to be converted or, in the case of the conversion of a building operated by an educational service center, to the governing board of the service center. Upon receipt of a proposal, a board may enter into a preliminary agreement with the person or group proposing the conversion of the public school or service center building, indicating the intention of the board to support the conversion to a community school. A proposing person or group that has a preliminary agreement under this division may proceed to finalize plans for the school, establish a governing authority for the school, and negotiate a contract with the board. Provided the proposing person or group adheres to the preliminary agreement and all provisions of this chapter, the board shall negotiate in good faith to enter into a contract in accordance with section 3314.03 of the Revised Code and division (C) of this section.

(C)(1) Any person or group of individuals may propose under this division the establishment of a new start-up school to be located in a challenged school district. The proposal may be made to any of the following entities:

(a) The board of education of the district in which the school is proposed to be located;

(b) The board of education of any joint vocational school district with territory in the county in which is located the majority of the territory of the district in which the school is proposed to be located;

(c) The board of education of any other city, local, or exempted village school district having territory in the same county where the district in which the school is proposed to be located has the major portion of its territory;

(d) The governing board of any educational service center, as long as the proposed school will be located in a county within the territory of the service center or in a county contiguous to such county;

(e) A sponsoring authority designated by the board of trustees of any of the thirteen state universities listed in section 3345.011 of the Revised Code

or the board of trustees itself as long as a mission of the proposed school to be specified in the contract under division (A)(2) of section 3314.03 of the Revised Code and as approved by the department of education under division (B)(2) of section 3314.015 of the Revised Code will be the practical demonstration of teaching methods, educational technology, or other teaching practices that are included in the curriculum of the university's teacher preparation program approved by the state board of education;

(f) Any qualified tax-exempt entity under section 501(c)(3) of the Internal Revenue Code as long as all of the following conditions are satisfied:

(i) The entity has been in operation for at least five years prior to applying to be a community school sponsor.

(ii) The entity has assets of at least five hundred thousand dollars and a demonstrated record of financial responsibility.

(iii) The department of education has determined that the entity is an education-oriented entity under division (B)(3) of section 3314.015 of the Revised Code and the entity has a demonstrated record of successful implementation of educational programs.

(iv) The entity is not a community school.

Any entity described in division (C)(1) of this section may enter into a preliminary agreement pursuant to division (C)(2) of this section with the proposing person or group.

(2) A preliminary agreement indicates the intention of an entity described in division (C)(1) of this section to sponsor the community school. A proposing person or group that has such a preliminary agreement may proceed to finalize plans for the school, establish a governing authority as described in division (E) of this section for the school, and negotiate a contract with the entity. Provided the proposing person or group adheres to the preliminary agreement and all provisions of this chapter, the entity shall negotiate in good faith to enter into a contract in accordance with section 3314.03 of the Revised Code.

(3) A new start-up school that is established in a school district while that district is either in a state of academic emergency or in a state of academic watch under section 3302.03 of the Revised Code may continue in existence once the school district is no longer in a state of academic emergency or academic watch, provided there is a valid contract between the school and a sponsor.

(4) A copy of every preliminary agreement entered into under this division shall be filed with the superintendent of public instruction.

(D) A majority vote of the board of a sponsoring entity and a majority

vote of the members of the governing authority of a community school shall be required to adopt a contract and convert the public school or educational service center building to a community school or establish the new start-up school. Beginning September 29, 2005, adoption of the contract shall occur not later than the fifteenth day of March, and signing of the contract shall occur not later than the fifteenth day of May, prior to the school year in which the school will open. The governing authority shall notify the department of education when the contract has been signed. Subject to sections 3314.013, 3314.014, 3314.016, and 3314.017 of the Revised Code, an unlimited number of community schools may be established in any school district provided that a contract is entered into for each community school pursuant to this chapter.

(E)(1) As used in this division, "immediate relatives" are limited to spouses, children, parents, grandparents, siblings, and in-laws.

Each new start-up community school established under this chapter shall be under the direction of a governing authority which shall consist of a board of not less than five individuals.

No person shall serve on the governing authority or operate the community school under contract with the governing authority so long as the person owes the state any money or is in a dispute over whether the person owes the state any money concerning the operation of a community school that has closed.

(2) No person shall serve on the governing authorities of more than two start-up community schools at the same time.

(3) No present or former member, or immediate relative of a present or former member, of the governing authority of any community school established under this chapter shall be an owner, employee, or consultant of any nonprofit or for-profit operator of a community school, unless at least one year has elapsed since the conclusion of the person's membership.

(F)(1) A new start-up school that is established prior to August 15, 2003, in an urban school district that is not also a big-eight school district may continue to operate after that date and the contract between the school's governing authority and the school's sponsor may be renewed, as provided under this chapter, after that date, but no additional new start-up schools may be established in such a district unless the district is a challenged school district as defined in this section as it exists on and after that date.

(2) A community school that was established prior to June 29, 1999, and is located in a county contiguous to the pilot project area and in a school district that is not a challenged school district may continue to operate after that date, provided the school complies with all provisions of this chapter.

The contract between the school's governing authority and the school's sponsor may be renewed, but no additional start-up community school may be established in that district unless the district is a challenged school district.

(3) Any educational service center that, on June 30, 2007, sponsors a community school that is not located in a county within the territory of the service center or in a county contiguous to such county may continue to sponsor that community school on and after June 30, 2007, and may renew its contract with the school. However, the educational service center shall not enter into a contract with any additional community school unless the school is located in a county within the territory of the service center or in a county contiguous to such county.

Sec. 3314.021. (A) This section applies to any entity that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code and that satisfies the conditions specified in divisions (C)(1)(f)(ii) and (iii) of section 3314.02 of the Revised Code but does not satisfy the condition specified in division (C)(1)(f)(i) of that section.

(B) Notwithstanding division (C)(1)(f)(i) of section 3314.02 of the Revised Code, an entity described in division (A) of this section may do both of the following without obtaining the department of education's initial approval of its sponsorship under ~~division~~ divisions (A)(2) and (B)(1) of section 3314.015 of the Revised Code:

(1) Succeed the board of trustees of a state university located in the pilot project area or that board's designee as the sponsor of a community school established under this chapter;

(2) Continue to sponsor that school in conformance with the terms of the contract between the board of trustees or its designee and the governing authority of the community school and renew that contract as provided in division (E) of section 3314.03 of the Revised Code.

(C) The entity that succeeds the board of trustees or the board's designee as sponsor of a community school under division (B) of this section also may enter into contracts to sponsor other community schools located in any challenged school district, without obtaining the department's initial approval of its sponsorship of those schools under ~~division~~ divisions (A)(2) and (B)(1) of section 3314.015 of the Revised Code, and not subject to the restriction of division (A)(7) of section 3314.013 of the Revised Code, as long as the contracts conform with and the entity complies with all other requirements of this chapter.

(D) Regardless of the entity's authority to sponsor community schools without the initial approval of the department, the entity is under the

continuing oversight of the department in accordance with rules adopted under section 3314.015 of the Revised Code.

~~Sec. 6 3314.027. The State Board of Education shall continue to sponsor any community school for which it has entered into a contract at the time of the effective date of this section until the earlier of the expiration of two school years or until a new sponsor, as described in division (C)(1) of section 3314.02 of the Revised Code, as amended by this act, is secured by the school's governing authority. The State Board shall not thereafter sponsor any community school except as provided in division (C) of section 3314.015 of the Revised Code. The State Board may extend the term of any existing contract with a community school governing authority only as necessary to accommodate the term of the Board's authorization to sponsor the school as specified in this section.~~

Notwithstanding the requirement for initial approval of sponsorship by the Department ~~department of Education~~ education prescribed in ~~division divisions (A)(2) and (B)(1) of section 3314.015 of the Revised Code, as enacted by this act,~~ and any geographical restriction or mission requirement prescribed in division (C)(1) of section 3314.02 of the Revised Code, ~~as amended by this act,~~ an entity ~~other than the State Board of Education~~ that has entered into a contract to sponsor a community school on ~~the effective date of this section~~ April 8, 2003, may continue to sponsor the school in conformance with the terms of that contract as long as the entity complies with all other sponsorship provisions of ~~Chapter 3314. of the Revised Code as amended by this act~~ this chapter. Such an entity also may enter into new contracts to sponsor community schools after ~~the effective date of this section~~ April 8, 2003, and need not be approved by the ~~Department of Education~~ department for such sponsorship, as otherwise required under ~~division divisions (A)(2) and (B)(1) of section 3314.015 of the Revised Code, as enacted by this act,~~ as long as the contracts conform to and the entity complies with all other provisions of ~~Chapter 3314. of the Revised Code as amended by this act~~ this chapter.

Regardless of the entity's authority to sponsor community schools without the initial approval of the department, each entity described in this section is under the continuing oversight of the department in accordance with rules adopted under section 3314.015 of the Revised Code.

Sec. 3314.028. Notwithstanding any provision of this chapter to the contrary, beginning in the 2009-2010 school year, a community school that meets the following conditions may operate from the facility in which the school was located in the 2008-2009 school year and shall not be required to locate to another school district:

(A) The school was located in the facility for at least the three school years prior to the 2009-2010 school year.

(B) The school's sponsor is a school district that is adjacent to the school district in which the school is located.

(C) The school's education program emphasizes serving students identified as gifted under Chapter 3324. of the Revised Code.

(D) The school has been rated in need of continuous improvement or higher under section 3302.03 of the Revised Code for the previous three school years.

Sec. 3314.03. A copy of every contract entered into under this section shall be filed with the superintendent of public instruction.

(A) Each contract entered into between a sponsor and the governing authority of a community school shall specify the following:

(1) That the school shall be established as either of the following:

(a) A nonprofit corporation established under Chapter 1702. of the Revised Code, if established prior to April 8, 2003;

(b) A public benefit corporation established under Chapter 1702. of the Revised Code, if established after April 8, 2003;

(2) The education program of the school, including the school's mission, the characteristics of the students the school is expected to attract, the ages and grades of students, and the focus of the curriculum;

(3) The academic goals to be achieved and the method of measurement that will be used to determine progress toward those goals, which shall include the statewide achievement ~~tests~~ assessments;

(4) Performance standards by which the success of the school will be evaluated by the sponsor;

(5) The admission standards of section 3314.06 of the Revised Code and, if applicable, section 3314.061 of the Revised Code;

(6)(a) Dismissal procedures;

(b) A requirement that the governing authority adopt an attendance policy that includes a procedure for automatically withdrawing a student from the school if the student without a legitimate excuse fails to participate in one hundred five consecutive hours of the learning opportunities offered to the student.

(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;

(8) Requirements for financial audits by the auditor of state. The contract shall require financial records of the school to be maintained in the same manner as are financial records of school districts, pursuant to rules of the auditor of state, ~~and the audits.~~ Audits shall be conducted in accordance

with section 117.10 of the Revised Code.

(9) The facilities to be used and their locations;

(10) Qualifications of teachers, including a requirement that the school's classroom teachers be licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code, except that a community school may engage noncertificated persons to teach up to twelve hours per week pursuant to section 3319.301 of the Revised Code;

(11) That the school will comply with the following requirements:

(a) The school will provide learning opportunities to a minimum of twenty-five students for a minimum of nine hundred twenty hours per school year.

(b) The governing authority will purchase liability insurance, or otherwise provide for the potential liability of the school.

(c) The school will be nonsectarian in its programs, admission policies, employment practices, and all other operations, and will not be operated by a sectarian school or religious institution.

(d) The school will comply with sections 9.90, 9.91, 109.65, 121.22, 149.43, 2151.357, 2151.421, 2313.18, 3301.0710, 3301.0711, 3301.0712, 3301.0715, 3313.472, 3313.50, 3313.536, 3313.608, 3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.643, 3313.648, 3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.718, 3313.719, 3313.80, 3313.86, 3313.96, 3319.073, 3319.321, 3319.39, 3319.391, 3319.41, 3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and Chapters 117., 1347., 2744., 3365., 3742., 4112., 4123., 4141., and 4167. of the Revised Code as if it were a school district and will comply with section 3301.0714 of the Revised Code in the manner specified in section 3314.17 of the Revised Code.

(e) The school shall comply with Chapter 102. and section 2921.42 of the Revised Code.

(f) The school will comply with sections 3313.61, 3313.611, and 3313.614 of the Revised Code, except that for students who enter ninth grade for the first time before July 1, 2010, the requirement in sections 3313.61 and 3313.611 of the Revised Code that a person must successfully complete the curriculum in any high school prior to receiving a high school diploma may be met by completing the curriculum adopted by the governing authority of the community school rather than the curriculum specified in Title XXXIII of the Revised Code or any rules of the state board of education. Beginning with students who enter ninth grade for the first time on or after July 1, 2010, the requirement in sections 3313.61 and 3313.611

of the Revised Code that a person must successfully complete the curriculum of a high school prior to receiving a high school diploma shall be met by completing the Ohio core curriculum prescribed in division (C) of section 3313.603 of the Revised Code, unless the person qualifies under division (D) or (F) of that section. Each school shall comply with the plan for awarding high school credit based on demonstration of subject area competency, adopted by the state board of education under division (J) of section 3313.603 of the Revised Code.

(g) The school governing authority will submit within four months after the end of each school year a report of its activities and progress in meeting the goals and standards of divisions (A)(3) and (4) of this section and its financial status to the sponsor and the parents of all students enrolled in the school.

(h) The school, unless it is an internet- or computer-based community school, will comply with section 3313.801 of the Revised Code as if it were a school district.

(12) Arrangements for providing health and other benefits to employees;

(13) The length of the contract, which shall begin at the beginning of an academic year. No contract shall exceed five years unless such contract has been renewed pursuant to division (E) of this section.

(14) The governing authority of the school, which shall be responsible for carrying out the provisions of the contract;

(15) A financial plan detailing an estimated school budget for each year of the period of the contract and specifying the total estimated per pupil expenditure amount for each such year. The plan shall specify for each year the base formula amount that will be used for purposes of funding calculations under section 3314.08 of the Revised Code. This base formula amount for any year shall not exceed the formula amount defined under section 3317.02 of the Revised Code. The plan may also specify for any year a percentage figure to be used for reducing the per pupil amount of the subsidy calculated pursuant to section 3317.029 of the Revised Code the school is to receive that year under section 3314.08 of the Revised Code.

(16) Requirements and procedures regarding the disposition of employees of the school in the event the contract is terminated or not renewed pursuant to section 3314.07 of the Revised Code;

(17) Whether the school is to be created by converting all or part of an existing public school or educational service center building or is to be a new start-up school, and if it is a converted public school or service center building, specification of any duties or responsibilities of an employer that the board of education or service center governing board that operated the

school or building before conversion is delegating to the governing authority of the community school with respect to all or any specified group of employees provided the delegation is not prohibited by a collective bargaining agreement applicable to such employees;

(18) Provisions establishing procedures for resolving disputes or differences of opinion between the sponsor and the governing authority of the community school;

(19) A provision requiring the governing authority to adopt a policy regarding the admission of students who reside outside the district in which the school is located. That policy shall comply with the admissions procedures specified in sections 3314.06 and 3314.061 of the Revised Code and, at the sole discretion of the authority, shall do one of the following:

(a) Prohibit the enrollment of students who reside outside the district in which the school is located;

(b) Permit the enrollment of students who reside in districts adjacent to the district in which the school is located;

(c) Permit the enrollment of students who reside in any other district in the state.

(20) A provision recognizing the authority of the department of education to take over the sponsorship of the school in accordance with the provisions of division (C) of section 3314.015 of the Revised Code;

(21) A provision recognizing the sponsor's authority to assume the operation of a school under the conditions specified in division (B) of section 3314.073 of the Revised Code;

(22) A provision recognizing both of the following:

(a) The authority of public health and safety officials to inspect the facilities of the school and to order the facilities closed if those officials find that the facilities are not in compliance with health and safety laws and regulations;

(b) The authority of the department of education as the community school oversight body to suspend the operation of the school under section 3314.072 of the Revised Code if the department has evidence of conditions or violations of law at the school that pose an imminent danger to the health and safety of the school's students and employees and the sponsor refuses to take such action;

(23) A description of the learning opportunities that will be offered to students including both classroom-based and non-classroom-based learning opportunities that is in compliance with criteria for student participation established by the department under division (L)(2) of section 3314.08 of the Revised Code;

(24) The school will comply with sections 3302.04 and 3302.041 of the Revised Code, except that any action required to be taken by a school district pursuant to those sections shall be taken by the sponsor of the school. However, the sponsor shall not be required to take any action described in division (F) of section 3302.04 of the Revised Code.

(25) Beginning in the 2006-2007 school year, the school will open for operation not later than the thirtieth day of September each school year, unless the mission of the school as specified under division (A)(2) of this section is solely to serve dropouts. In its initial year of operation, if the school fails to open by the thirtieth day of September, or within one year after the adoption of the contract pursuant to division (D) of section 3314.02 of the Revised Code if the mission of the school is solely to serve dropouts, the contract shall be void.

(B) The community school shall also submit to the sponsor a comprehensive plan for the school. The plan shall specify the following:

(1) The process by which the governing authority of the school will be selected in the future;

(2) The management and administration of the school;

(3) If the community school is a currently existing public school or educational service center building, alternative arrangements for current public school students who choose not to attend the converted school and for teachers who choose not to teach in the school or building after conversion;

(4) The instructional program and educational philosophy of the school;

(5) Internal financial controls.

(C) A contract entered into under section 3314.02 of the Revised Code between a sponsor and the governing authority of a community school may provide for the community school governing authority to make payments to the sponsor, which is hereby authorized to receive such payments as set forth in the contract between the governing authority and the sponsor. The total amount of such payments for oversight and monitoring of the school shall not exceed three per cent of the total amount of payments for operating expenses that the school receives from the state.

(D) The contract shall specify the duties of the sponsor which shall be in accordance with the written agreement entered into with the department of education under division (B) of section 3314.015 of the Revised Code and shall include the following:

(1) Monitor the community school's compliance with all laws applicable to the school and with the terms of the contract;

(2) Monitor and evaluate the academic and fiscal performance and the

organization and operation of the community school on at least an annual basis;

(3) Report on an annual basis the results of the evaluation conducted under division (D)(2) of this section to the department of education and to the parents of students enrolled in the community school;

(4) Provide technical assistance to the community school in complying with laws applicable to the school and terms of the contract;

(5) Take steps to intervene in the school's operation to correct problems in the school's overall performance, declare the school to be on probationary status pursuant to section 3314.073 of the Revised Code, suspend the operation of the school pursuant to section 3314.072 of the Revised Code, or terminate the contract of the school pursuant to section 3314.07 of the Revised Code as determined necessary by the sponsor;

(6) Have in place a plan of action to be undertaken in the event the community school experiences financial difficulties or closes prior to the end of a school year.

(E) Upon the expiration of a contract entered into under this section, the sponsor of a community school may, with the approval of the governing authority of the school, renew that contract for a period of time determined by the sponsor, but not ending earlier than the end of any school year, if the sponsor finds that the school's compliance with applicable laws and terms of the contract and the school's progress in meeting the academic goals prescribed in the contract have been satisfactory. Any contract that is renewed under this division remains subject to the provisions of sections 3314.07, 3314.072, and 3314.073 of the Revised Code.

(F) If a community school fails to open for operation within one year after the contract entered into under this section is adopted pursuant to division (D) of section 3314.02 of the Revised Code or permanently closes prior to the expiration of the contract, the contract shall be void and the school shall not enter into a contract with any other sponsor. A school shall not be considered permanently closed because the operations of the school have been suspended pursuant to section 3314.072 of the Revised Code. Any contract that becomes void under this division shall not count toward any statewide limit on the number of such contracts prescribed by section 3314.013 of the Revised Code.

Sec. 3314.08. ~~(A)~~ The deductions under division (C) and the payments under division (D) of this section for fiscal years 2010 and 2011 shall be made in accordance with section 3314.088 of the Revised Code.

(A) As used in this section:

(1) "Base formula amount" means the amount specified as such in a

community school's financial plan for a school year pursuant to division (A)(15) of section 3314.03 of the Revised Code.

(2) "IEP" has the same meaning as in section 3323.01 of the Revised Code.

(3) "Applicable special education weight" means the multiple specified in section 3317.013 of the Revised Code for a disability described in that section.

(4) "Applicable vocational education weight" means:

(a) For a student enrolled in vocational education programs or classes described in division (A) of section 3317.014 of the Revised Code, the multiple specified in that division;

(b) For a student enrolled in vocational education programs or classes described in division (B) of section 3317.014 of the Revised Code, the multiple specified in that division.

(5) "Entitled to attend school" means entitled to attend school in a district under section 3313.64 or 3313.65 of the Revised Code.

(6) A community school student is "included in the poverty student count" of a school district if the student is entitled to attend school in the district and the student's family receives assistance under the Ohio works first program.

(7) "Poverty-based assistance reduction factor" means the percentage figure, if any, for reducing the per pupil amount of poverty-based assistance a community school is entitled to receive pursuant to divisions (D)(5) to (9) of this section in any year, as specified in the school's financial plan for the year pursuant to division (A)(15) of section 3314.03 of the Revised Code.

(8) "All-day kindergarten" has the same meaning as in section 3317.029 of the Revised Code.

(9) "State education aid" has the same meaning as in section 5751.20 of the Revised Code.

(B) The state board of education shall adopt rules requiring both of the following:

(1) The board of education of each city, exempted village, and local school district to annually report the number of students entitled to attend school in the district who are enrolled in grades one through twelve in a community school established under this chapter, the number of students entitled to attend school in the district who are enrolled in kindergarten in a community school, the number of those kindergartners who are enrolled in all-day kindergarten in their community school, and for each child, the community school in which the child is enrolled.

(2) The governing authority of each community school established

under this chapter to annually report all of the following:

(a) The number of students enrolled in grades one through twelve and the number of students enrolled in kindergarten in the school who are not receiving special education and related services pursuant to an IEP;

(b) The number of enrolled students in grades one through twelve and the number of enrolled students in kindergarten, who are receiving special education and related services pursuant to an IEP;

(c) The number of students reported under division (B)(2)(b) of this section receiving special education and related services pursuant to an IEP for a disability described in each of divisions (A) to (F) of section 3317.013 of the Revised Code;

(d) The full-time equivalent number of students reported under divisions (B)(2)(a) and (b) of this section who are enrolled in vocational education programs or classes described in each of divisions (A) and (B) of section 3317.014 of the Revised Code that are provided by the community school;

(e) Twenty per cent of the number of students reported under divisions (B)(2)(a) and (b) of this section who are not reported under division (B)(2)(d) of this section but who are enrolled in vocational education programs or classes described in each of divisions (A) and (B) of section 3317.014 of the Revised Code at a joint vocational school district under a contract between the community school and the joint vocational school district and are entitled to attend school in a city, local, or exempted village school district whose territory is part of the territory of the joint vocational district;

(f) The number of enrolled preschool children with disabilities receiving special education services in a state-funded unit;

(g) The community school's base formula amount;

(h) For each student, the city, exempted village, or local school district in which the student is entitled to attend school;

(i) Any poverty-based assistance reduction factor that applies to a school year.

(C) From the state education aid calculated for a city, exempted village, or local school district and, if necessary, from the payment made to the district under sections 321.24 and 323.156 of the Revised Code, the department of education shall annually subtract the sum of the amounts described in divisions (C)(1) to (9) of this section. However, when deducting payments on behalf of students enrolled in internet- or computer-based community schools, the department shall deduct only those amounts described in divisions (C)(1) and (2) of this section. Furthermore, the aggregate amount deducted under this division shall not exceed the sum

of the district's state education aid and its payment under sections 321.24 and 323.156 of the Revised Code.

(1) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the number of the district's students reported under divisions (B)(2)(a), (b), and (e) of this section who are enrolled in grades one through twelve, and one-half the number of students reported under those divisions who are enrolled in kindergarten, in that community school is multiplied by the sum of the base formula amount of that community school plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code.

(2) The sum of the amounts calculated under divisions (C)(2)(a) and (b) of this section:

(a) For each of the district's students reported under division (B)(2)(c) of this section as enrolled in a community school in grades one through twelve and receiving special education and related services pursuant to an IEP for a disability described in section 3317.013 of the Revised Code, the product of the applicable special education weight times the community school's base formula amount;

(b) For each of the district's students reported under division (B)(2)(c) of this section as enrolled in kindergarten in a community school and receiving special education and related services pursuant to an IEP for a disability described in section 3317.013 of the Revised Code, one-half of the amount calculated as prescribed in division (C)(2)(a) of this section.

(3) For each of the district's students reported under division (B)(2)(d) of this section for whom payment is made under division (D)(4) of this section, the amount of that payment;

(4) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the number of the district's students enrolled in that community school who are included in the district's poverty student count is multiplied by the per pupil amount of poverty-based assistance the school district receives that year pursuant to division (C) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of that community school. The per pupil amount of that aid for the district shall be calculated by the department.

(5) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount of aid received under division (E) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor

of the community school, is multiplied by the sum of the following:

(a) The number of the district's students reported under division (B)(2)(a) of this section who are enrolled in grades one to three in that community school and who are not receiving special education and related services pursuant to an IEP;

(b) One-half of the district's students who are enrolled in all-day or any other kindergarten class in that community school and who are not receiving special education and related services pursuant to an IEP;

(c) One-half of the district's students who are enrolled in all-day kindergarten in that community school and who are not receiving special education and related services pursuant to an IEP.

The district's per pupil amount of aid under division (E) of section 3317.029 of the Revised Code is the quotient of the amount the district received under that division divided by the district's kindergarten through third grade ADM, as defined in that section.

(6) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount received under division (F) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of that community school, is multiplied by the number of the district's students enrolled in the community school who are identified as limited-English proficient.

(7) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount received under division (G) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of that community school, is multiplied by the sum of the following:

(a) The number of the district's students enrolled in grades one through twelve in that community school;

(b) One-half of the number of the district's students enrolled in kindergarten in that community school.

The district's per pupil amount under division (G) of section 3317.029 of the Revised Code is the district's amount per teacher calculated under division (G)(1) or (2) of that section divided by 17.

(8) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount received under divisions (H) and (I) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of that community school, is multiplied by the sum of the following:

(a) The number of the district's students enrolled in grades one through

twelve in that community school;

(b) One-half of the number of the district's students enrolled in kindergarten in that community school.

The district's per pupil amount under divisions (H) and (I) of section 3317.029 of the Revised Code is the amount calculated under each division divided by the district's formula ADM, as defined in section 3317.02 of the Revised Code.

(9) An amount equal to the per pupil state parity aid funding calculated for the school district under either division (C) or (D) of section 3317.0217 of the Revised Code multiplied by the sum of the number of students in grades one through twelve, and one-half of the number of students in kindergarten, who are entitled to attend school in the district and are enrolled in a community school as reported under division (B)(1) of this section.

(D) The department shall annually pay to a community school established under this chapter the sum of the amounts described in divisions (D)(1) to (10) of this section. However, the department shall calculate and pay to each internet- or computer-based community school only the amounts described in divisions (D)(1) to (3) of this section. Furthermore, the sum of the payments to all community schools under divisions (D)(1), (2), and (4) to (10) of this section for the students entitled to attend school in any particular school district shall not exceed the sum of that district's state education aid and its payment under sections 321.24 and 323.156 of the Revised Code. If the sum of the payments calculated under those divisions for the students entitled to attend school in a particular school district exceeds the sum of that district's state education aid and its payment under sections 321.24 and 323.156 of the Revised Code, the department shall calculate and apply a proration factor to the payments to all community schools under those divisions for the students entitled to attend school in that district.

(1) Subject to section 3314.085 of the Revised Code, an amount equal to the sum of the amounts obtained when the number of students enrolled in grades one through twelve, plus one-half of the kindergarten students in the school, reported under divisions (B)(2)(a), (b), and (e) of this section who are not receiving special education and related services pursuant to an IEP for a disability described in section 3317.013 of the Revised Code is multiplied by the sum of the community school's base formula amount plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code.

(2) Prior to fiscal year 2007, the greater of the amount calculated under

division (D)(2)(a) or (b) of this section, and in fiscal year 2007 and thereafter, the amount calculated under division (D)(2)(b) of this section:

(a) The aggregate amount that the department paid to the community school in fiscal year 1999 for students receiving special education and related services pursuant to IEPs, excluding federal funds and state disadvantaged pupil impact aid funds;

(b) The sum of the amounts calculated under divisions (D)(2)(b)(i) and (ii) of this section:

(i) For each student reported under division (B)(2)(c) of this section as enrolled in the school in grades one through twelve and receiving special education and related services pursuant to an IEP for a disability described in section 3317.013 of the Revised Code, the following amount:

(the school's base formula amount plus
the per pupil amount of the base funding supplements specified in
divisions (C)(1) to (4) of section 3317.012 of the Revised Code)
+ (the applicable special education weight X the
community school's base formula amount);

(ii) For each student reported under division (B)(2)(c) of this section as enrolled in kindergarten and receiving special education and related services pursuant to an IEP for a disability described in section 3317.013 of the Revised Code, one-half of the amount calculated under the formula prescribed in division (D)(2)(b)(i) of this section.

(3) An amount received from federal funds to provide special education and related services to students in the community school, as determined by the superintendent of public instruction.

(4) For each student reported under division (B)(2)(d) of this section as enrolled in vocational education programs or classes that are described in section 3317.014 of the Revised Code, are provided by the community school, and are comparable as determined by the superintendent of public instruction to school district vocational education programs and classes eligible for state weighted funding under section 3317.014 of the Revised Code, an amount equal to the applicable vocational education weight times the community school's base formula amount times the percentage of time the student spends in the vocational education programs or classes.

(5) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the number of that district's students enrolled in the community school who are included in the district's poverty student count is multiplied by the per pupil amount of poverty-based assistance that school district receives that year pursuant to division (C) of section 3317.029 of the

Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school. The per pupil amount of aid shall be determined as described in division (C)(4) of this section.

(6) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount of aid received under division (E) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school, is multiplied by the sum of the following:

(a) The number of the district's students reported under division (B)(2)(a) of this section who are enrolled in grades one to three in that community school and who are not receiving special education and related services pursuant to an IEP;

(b) One-half of the district's students who are enrolled in all-day or any other kindergarten class in that community school and who are not receiving special education and related services pursuant to an IEP;

(c) One-half of the district's students who are enrolled in all-day kindergarten in that community school and who are not receiving special education and related services pursuant to an IEP.

The district's per pupil amount of aid under division (E) of section 3317.029 of the Revised Code shall be determined as described in division (C)(5) of this section.

(7) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the number of that district's students enrolled in the community school who are identified as limited-English proficient is multiplied by the district's per pupil amount received under division (F) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school.

(8) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount received under division (G) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school, is multiplied by the sum of the following:

(a) The number of the district's students enrolled in grades one through twelve in that community school;

(b) One-half of the number of the district's students enrolled in kindergarten in that community school.

The district's per pupil amount under division (G) of section 3317.029

of the Revised Code shall be determined as described in division (C)(7) of this section.

(9) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount received under divisions (H) and (I) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school, is multiplied by the sum of the following:

(a) The number of the district's students enrolled in grades one through twelve in that community school;

(b) One-half of the number of the district's students enrolled in kindergarten in that community school.

The district's per pupil amount under divisions (H) and (I) of section 3317.029 of the Revised Code shall be determined as described in division (C)(8) of this section.

(10) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount of state parity aid funding calculated under either division (C) or (D) of section 3317.0217 of the Revised Code is multiplied by the sum of the number of that district's students enrolled in grades one through twelve, and one-half of the number of that district's students enrolled in kindergarten, in the community school as reported under division (B)(2)(a) and (b) of this section.

(E)(1) If a community school's costs for a fiscal year for a student receiving special education and related services pursuant to an IEP for a disability described in divisions (B) to (F) of section 3317.013 of the Revised Code exceed the threshold catastrophic cost for serving the student as specified in division (C)(3)(b) of section 3317.022 of the Revised Code, the school may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the community school an amount equal to the school's costs for the student in excess of the threshold catastrophic costs.

(2) The community school shall only report under division (E)(1) of this section, and the department shall only pay for, the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

(F) A community school may apply to the department of education for preschool children with disabilities or gifted unit funding the school would receive if it were a school district. Upon request of its governing authority, a community school that received unit funding as a school district-operated school before it became a community school shall retain any units awarded to it as a school district-operated school provided the school continues to meet eligibility standards for the unit.

A community school shall be considered a school district and its governing authority shall be considered a board of education for the purpose of applying to any state or federal agency for grants that a school district may receive under federal or state law or any appropriations act of the general assembly. The governing authority of a community school may apply to any private entity for additional funds.

(G) A board of education sponsoring a community school may utilize local funds to make enhancement grants to the school or may agree, either as part of the contract or separately, to provide any specific services to the community school at no cost to the school.

(H) A community school may not levy taxes or issue bonds secured by tax revenues.

(I) No community school shall charge tuition for the enrollment of any student.

(J)(1)(a) A community school may borrow money to pay any necessary and actual expenses of the school in anticipation of the receipt of any portion of the payments to be received by the school pursuant to division (D) of this section. The school may issue notes to evidence such borrowing. The proceeds of the notes shall be used only for the purposes for which the anticipated receipts may be lawfully expended by the school.

(b) A school may also borrow money for a term not to exceed fifteen years for the purpose of acquiring facilities.

(2) Except for any amount guaranteed under section 3318.50 of the Revised Code, the state is not liable for debt incurred by the governing authority of a community school.

(K) For purposes of determining the number of students for which divisions (D)(5) and (6) of this section applies in any school year, a community school may submit to the department of job and family services, no later than the first day of March, a list of the students enrolled in the school. For each student on the list, the community school shall indicate the student's name, address, and date of birth and the school district where the student is entitled to attend school. Upon receipt of a list under this division, the department of job and family services shall determine, for each school

district where one or more students on the list is entitled to attend school, the number of students residing in that school district who were included in the department's report under section 3317.10 of the Revised Code. The department shall make this determination on the basis of information readily available to it. Upon making this determination and no later than ninety days after submission of the list by the community school, the department shall report to the state department of education the number of students on the list who reside in each school district who were included in the department's report under section 3317.10 of the Revised Code. In complying with this division, the department of job and family services shall not report to the state department of education any personally identifiable information on any student.

(L) The department of education shall adjust the amounts subtracted and paid under divisions (C) and (D) of this section to reflect any enrollment of students in community schools for less than the equivalent of a full school year. The state board of education within ninety days after April 8, 2003, shall adopt in accordance with Chapter 119. of the Revised Code rules governing the payments to community schools under this section and section 3314.13 of the Revised Code including initial payments in a school year and adjustments and reductions made in subsequent periodic payments to community schools and corresponding deductions from school district accounts as provided under divisions (C) and (D) of this section and section 3314.13 of the Revised Code. For purposes of this section and section 3314.13 of the Revised Code:

(1) A student shall be considered enrolled in the community school for any portion of the school year the student is participating at a college under Chapter 3365. of the Revised Code.

(2) A student shall be considered to be enrolled in a community school during a school year for the period of time beginning on the later of the date on which the school both has received documentation of the student's enrollment from a parent and the student has commenced participation in learning opportunities as defined in the contract with the sponsor, or thirty days prior to the date on which the student is entered into the education management information system established under section 3301.0714 of the Revised Code. For purposes of applying this division and ~~division~~ divisions (L)(3) and (4) of this section to a community school student, "learning opportunities" shall be defined in the contract, which shall describe both classroom-based and non-classroom-based learning opportunities and shall be in compliance with criteria and documentation requirements for student participation which shall be established by the department. Any student's

instruction time in non-classroom-based learning opportunities shall be certified by an employee of the community school. A student's enrollment shall be considered to cease on the date on which any of the following occur:

(a) The community school receives documentation from a parent terminating enrollment of the student.

(b) The community school is provided documentation of a student's enrollment in another public or private school.

(c) The community school ceases to offer learning opportunities to the student pursuant to the terms of the contract with the sponsor or the operation of any provision of this chapter.

(3) The department shall determine each community school student's percentage of full-time equivalency based on the percentage of learning opportunities offered by the community school to that student, reported either as number of hours or number of days, is of the total learning opportunities offered by the community school to a student who attends for the school's entire school year. However, no internet- or computer-based community school shall be credited for any time a student spends participating in learning opportunities beyond ten hours within any period of twenty-four consecutive hours. Whether it reports hours or days of learning opportunities, each community school shall offer not less than nine hundred twenty hours of learning opportunities during the school year.

(4) With respect to the calculation of full-time equivalency under division (L)(3) of this section, the department shall waive the number of hours or days of learning opportunities not offered to a student because the community school was closed during the school year due to disease epidemic, hazardous weather conditions, inoperability of school buses or other equipment necessary to the school's operation, damage to a school building, or other temporary circumstances due to utility failure rendering the school building unfit for school use, so long as the school was actually open for instruction with students in attendance during that school year for not less than the minimum number of hours required by this chapter. The department shall treat the school as if it were open for instruction with students in attendance during the hours or days waived under this division.

(M) The department of education shall reduce the amounts paid under division (D) of this section to reflect payments made to colleges under division (B) of section 3365.07 of the Revised Code or through alternative funding agreements entered into under rules adopted under section 3365.12 of the Revised Code.

(N)(1) No student shall be considered enrolled in any internet- or

computer-based community school or, if applicable to the student, in any community school that is required to provide the student with a computer pursuant to division (C) of section 3314.22 of the Revised Code, unless both of the following conditions are satisfied:

(a) The student possesses or has been provided with all required hardware and software materials and all such materials are operational so that the student is capable of fully participating in the learning opportunities specified in the contract between the school and the school's sponsor as required by division (A)(23) of section 3314.03 of the Revised Code;

(b) The school is in compliance with division (A) of section 3314.22 of the Revised Code, relative to such student.

(2) In accordance with policies adopted jointly by the superintendent of public instruction and the auditor of state, the department shall reduce the amounts otherwise payable under division (D) of this section to any community school that includes in its program the provision of computer hardware and software materials to any student, if such hardware and software materials have not been delivered, installed, and activated for each such student in a timely manner or other educational materials or services have not been provided according to the contract between the individual community school and its sponsor.

The superintendent of public instruction and the auditor of state shall jointly establish a method for auditing any community school to which this division pertains to ensure compliance with this section.

The superintendent, auditor of state, and the governor shall jointly make recommendations to the general assembly for legislative changes that may be required to assure fiscal and academic accountability for such schools.

(O)(1) If the department determines that a review of a community school's enrollment is necessary, such review shall be completed and written notice of the findings shall be provided to the governing authority of the community school and its sponsor within ninety days of the end of the community school's fiscal year, unless extended for a period not to exceed thirty additional days for one of the following reasons:

(a) The department and the community school mutually agree to the extension.

(b) Delays in data submission caused by either a community school or its sponsor.

(2) If the review results in a finding that additional funding is owed to the school, such payment shall be made within thirty days of the written notice. If the review results in a finding that the community school owes moneys to the state, the following procedure shall apply:

(a) Within ten business days of the receipt of the notice of findings, the community school may appeal the department's determination to the state board of education or its designee.

(b) The board or its designee shall conduct an informal hearing on the matter within thirty days of receipt of such an appeal and shall issue a decision within fifteen days of the conclusion of the hearing.

(c) If the board has enlisted a designee to conduct the hearing, the designee shall certify its decision to the board. The board may accept the decision of the designee or may reject the decision of the designee and issue its own decision on the matter.

(d) Any decision made by the board under this division is final.

(3) If it is decided that the community school owes moneys to the state, the department shall deduct such amount from the school's future payments in accordance with guidelines issued by the superintendent of public instruction.

~~(Q)~~(P) The department shall not subtract from a school district's state aid account under division (C) of this section and shall not pay to a community school under division (D) of this section any amount for any of the following:

(1) Any student who has graduated from the twelfth grade of a public or nonpublic high school;

(2) Any student who is not a resident of the state;

(3) Any student who was enrolled in the community school during the previous school year when ~~tests~~ assessments were administered under section 3301.0711 of the Revised Code but did not take one or more of the ~~tests~~ assessments required by that section and was not excused pursuant to division (C)(1) or (3) of that section, unless the superintendent of public instruction grants the student a waiver from the requirement to take the ~~test~~ assessment and a parent is not paying tuition for the student pursuant to section 3314.26 of the Revised Code. The superintendent may grant a waiver only for good cause in accordance with rules adopted by the state board of education.

(4) Any student who has attained the age of twenty-two years, except for veterans of the armed services whose attendance was interrupted before completing the recognized twelve-year course of the public schools by reason of induction or enlistment in the armed forces and who apply for enrollment in a community school not later than four years after termination of war or their honorable discharge. If, however, any such veteran elects to enroll in special courses organized for veterans for whom tuition is paid under federal law, or otherwise, the department shall not subtract from a

school district's state aid account under division (C) of this section and shall not pay to a community school under division (D) of this section any amount for that veteran.

Sec. 3314.085. (A) In each fiscal year beginning in fiscal year 2007, each internet- or computer-based community school shall spend for pupil instruction at least the amount per pupil designated in division (B)(1) of section 3317.012 of the Revised Code as the amount for base classroom teachers. For this purpose, expenditures for pupil instruction include expenditures for teachers, curriculum, academic materials ~~other than~~, computers, software, and any other instructional purposes designated in the rules adopted under this section. Expenditures to provide the computer hardware and filtering software required by sections 3314.21 and 3314.22 of the Revised Code ~~do not~~ qualify as pupil instruction for purposes of this section.

(B) Beginning in fiscal year 2007, each internet- or computer-based community school annually shall report data to the department of education concerning its expenditures for pupil instruction. Each school shall report the data in the form and manner required by the department.

(C) If the department determines, after offering the school an opportunity for a hearing in accordance with Chapter 119. of the Revised Code, that an internet- or computer-based community school has failed in any fiscal year to comply with division (A) or (B) of this section, the department shall assess a fine against the school equivalent to the greater of the following:

(1) Five per cent of the total state payments to the school under this chapter for the fiscal year in which the failure occurred;

(2) The difference between the amount the department determines the school was required to have spent for pupil instruction and the amount the department determines the school actually spent for pupil instruction.

The department's methods of collecting the fine may include withholding state payments under this chapter in the current or subsequent fiscal year.

The department may cancel a fine it has imposed under this section if the school submits a plan for coming into compliance with the requirements of this section that the department approves, and the school demonstrates to the department's satisfaction that it is implementing the plan.

(D) The superintendent of public instruction shall adopt rules in accordance with Chapter 119. of the Revised Code specifying expenditures that qualify as expenditures for pupil instruction for purposes of this section.

Sec. 3314.087. (A) As used in this section:

(1) "Career-technical program" means vocational programs or classes described in division (A) or (B) of section 3317.014 of the Revised Code in which a student is enrolled.

(2) "Formula ADM," "category one or two vocational education ADM," and "FTE basis" have the same meanings as in section 3317.02 of the Revised Code.

(3) "Resident school district" means the city, exempted village, or local school district in which a student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(B) Notwithstanding anything to the contrary in this chapter or Chapter 3306. or 3317. of the Revised Code, a student enrolled in a community school may simultaneously enroll in the career-technical program operated by the student's resident school district. On an FTE basis, the student's resident school district shall count the student in the category one or two vocational education ADM for the proportion of the time the student is enrolled in the district's career-technical program and, accordingly, the department of education shall calculate funds under ~~Chapter~~ Chapters 3306. and 3317. for the district attributable to the student for the proportion of time the student attends the career-technical program. The community school shall count the student in its enrollment report under section 3314.08 of the Revised Code and shall report to the department the proportion of time that the student attends classes at the community school. The department shall pay the community school and deduct from the student's resident school district the amount computed for the student under section 3314.08 of the Revised Code in proportion to the fraction of the time on an FTE basis that the student attends classes at the community school. "Full-time equivalency" for a community school student, as defined in division (L) of section 3314.08 of the Revised Code, does not apply to the student.

Sec. 3314.088. (A) For purposes of applying sections 3314.08 and 3314.13 of the Revised Code to fiscal years 2010 and 2011:

(1) The base formula amount for community schools for fiscal year 2010 is \$5,718 and for fiscal year 2011 is \$5,703. These respective amounts shall be applied wherein sections 3314.08 and 3314.13 of the Revised Code the base formula amount is specified, except for deducting and paying amounts for special education weighted funding and vocational education weighted funding.

(2) The base funding supplements under section 3317.012 of the Revised Code shall be deemed in each year to be the amounts specified in that section for fiscal year 2009.

(3) Special education additional weighted funding shall be calculated by multiplying the applicable weight specified in section 3317.013 of the Revised Code for fiscal year 2009 times \$5,732.

(4) Vocational education additional weighted funding shall be calculated by multiplying the applicable weight specified in section 3317.014 of the Revised Code for fiscal year 2009 times \$5,732.

(5) The per pupil amounts paid to a school district under sections 3317.029 and 3317.0217 of the Revised Code shall be deemed to be the respective per pupil amounts paid under those sections to that district for fiscal year 2009.

(6) A community school may receive all-day kindergarten payments under section 3314.13 of the Revised Code only for all-day kindergarten students who are entitled to attend school in school districts that, for fiscal year 2009, met the eligibility requirements of division (D) of section 3317.029 of the Revised Code. For students entitled to attend school in such school districts that actually received payment for all-day kindergarten for fiscal year 2009, the payments to community schools under section 3314.13 of the Revised Code shall be deducted from the school district's state education aid. For students entitled to attend school in such school districts that did not receive payment for all-day kindergarten for fiscal year 2009, the payments to community schools under section 3314.13 of the Revised Code shall be paid out of the funds appropriated under appropriation item 200550, foundation funding, as appropriated in section 265.10 of Am. Sub. H.B. 1 of the 128th General Assembly. As used in this division, "entitled to attend school" has the same meaning as in section 3314.08 of the Revised Code.

(B) For purposes of applying section 3314.085 of the Revised Code to fiscal years 2010 and 2011, the minimum per pupil expenditure required for pupil instruction under that section is \$2,931, which equals the minimum amount required by that section for fiscal year 2009.

Sec. 3314.091. (A) A school district is not required to provide transportation for any native student enrolled in a community school if the district board of education has entered into an agreement with the community school's governing authority that designates the community school as responsible for providing or arranging for the transportation of the district's native students to and from the community school. For any such agreement to be effective, it must be certified by the superintendent of public instruction as having met all of the following requirements:

(1) It is submitted to the department of education by a deadline which shall be established by the department.

(2) In accordance with divisions (C)(1) and (2) of this section, it specifies qualifications, such as residing a minimum distance from the school, for students to have their transportation provided or arranged.

(3) The transportation provided by the community school is subject to all provisions of the Revised Code and all rules adopted under the Revised Code pertaining to pupil transportation.

(4) The sponsor of the community school also has signed the agreement.

(B)(1) For the school year that begins on July 1, 2007, a school district is not required to provide transportation for any native student enrolled in a community school, if the community school during the previous school year transported the students enrolled in the school or arranged for the students' transportation, even if that arrangement consisted of having parents transport their children to and from the school, but did not enter into an agreement to transport or arrange for transportation for those students under division (A) of this section, and if the governing authority of the community school by July 15, 2007, submits written notification to the district board of education stating that the governing authority is accepting responsibility for providing or arranging for the transportation of the district's native students to and from the community school.

(2) For any school year subsequent to the school year that begins on July 1, 2007, a school district is not required to provide transportation for any native student enrolled in a community school if the governing authority of the community school, by the thirty-first day of January of the previous school year, submits written notification to the district board of education stating that the governing authority is accepting responsibility for providing or arranging for the transportation of the district's native students to and from the community school. If the governing authority of the community school has previously accepted responsibility for providing or arranging for the transportation of a district's native students to and from the community school, under division (B)(1) or (2) of this section, and has since relinquished that responsibility under division (B)(3) of this section, the governing authority shall not accept that responsibility again unless the district board consents to the governing authority's acceptance of that responsibility.

(3) A governing authority's acceptance of responsibility under division (B)(1) or (2) of this section shall cover an entire school year, and shall remain in effect for subsequent school years unless the governing authority submits written notification to the district board that the governing authority is relinquishing the responsibility. However, a governing authority shall not relinquish responsibility for transportation before the end of a school year,

and shall submit the notice relinquishing responsibility by the thirty-first day of January, in order to allow the school district reasonable time to prepare transportation for its native students enrolled in the school.

(C)(1) A community school governing authority that enters into an agreement under division (A) of this section, or that accepts responsibility under division (B) of this section, shall provide or arrange transportation free of any charge for each of its enrolled students who is required to be transported under section 3327.01 of the Revised Code or who would otherwise be transported by the school district under the district's transportation policy. The governing authority shall report to the department of education the number of students transported or for whom transportation is arranged under this section in accordance with rules adopted by the state board of education.

(2) The governing authority may provide or arrange transportation for any other enrolled student who is not eligible for transportation in accordance with division (C)(1) of this section and may charge a fee for such service up to the actual cost of the service.

(3) Notwithstanding anything to the contrary in division (C)(1) or (2) of this section, a community school governing authority shall provide or arrange transportation free of any charge for any disabled student enrolled in the school for whom the student's individualized education program developed under Chapter 3323. of the Revised Code specifies transportation.

(D)(1) If a school district board and a community school governing authority elect to enter into an agreement under division (A) of this section, the department of education shall make payments to the community school according to the terms of the agreement for each student actually transported under division (C)(1) of this section.

If a community school governing authority accepts transportation responsibility under division (B) of this section, the department shall make payments to the community school for each student actually transported or for whom transportation is arranged by the community school under division (C)(1) of this section, calculated as follows:

(a) For any fiscal year which the general assembly has specified that transportation payments to school districts be based on an across-the-board percentage of the district's payment for the previous school year, the per pupil payment to the community school shall be the following quotient:

(i) The total amount calculated for the school district in which the child is entitled to attend school for student transportation other than transportation of children with disabilities; divided by

(ii) The number of students included in the district's transportation

ADM for the current fiscal year, as reported under division (B)(13) of section 3317.03 of the Revised Code, plus the number of students enrolled in the community school not counted in the district's transportation ADM who are transported under division (B)(1) or (2) of this section.

(b) For any fiscal year which the general assembly has specified that the transportation payments to school districts be calculated in accordance with ~~division (D) of section 3317.022~~ 3306.12 of the Revised Code and any rules of the state board of education implementing that ~~division~~ section, the payment to the community school shall be the amount so calculated that otherwise would be paid to the school district in which the student is entitled to attend school by the method of transportation the district would have used. The community school, however, is not required to use the same method to transport that student.

As used in this division "entitled to attend school" means entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(2) The department shall deduct the payment under division (D)(1) of this section from the state education aid, as defined in section 3314.08 of the Revised Code, and, if necessary, the payment under sections 321.14 and 323.156 of the Revised Code, that is otherwise paid to the school district in which the student enrolled in the community school is entitled to attend school. The department shall include the number of the district's native students for whom payment is made to a community school under division (D)(1) of this section in the calculation of the district's transportation payment under ~~division (D) of section 3317.022~~ 3306.12 of the Revised Code and the operating appropriations act.

(3) A community school shall be paid under division (D)(1) of this section only for students who are eligible as specified in section 3327.01 of the Revised Code and division (C)(1) of this section, and whose transportation to and from school is actually provided, who actually utilized transportation arranged, or for whom a payment in lieu of transportation is made by the community school's governing authority. To qualify for the payments, the community school shall report to the department, in the form and manner required by the department, data on the number of students transported or whose transportation is arranged, the number of miles traveled, cost to transport, and any other information requested by the department.

(4) A community school shall use payments received under this section solely to pay the costs of providing or arranging for the transportation of students who are eligible as specified in section 3327.01 of the Revised Code and division (C)(1) of this section, which may include payments to a

parent, guardian, or other person in charge of a child in lieu of transportation.

(E) Except when arranged through payment to a parent, guardian, or person in charge of a child, transportation provided or arranged for by a community school pursuant to an agreement under this section is subject to all provisions of the Revised Code, and all rules adopted under the Revised Code, pertaining to the construction, design, equipment, and operation of school buses and other vehicles transporting students to and from school. The drivers and mechanics of the vehicles are subject to all provisions of the Revised Code, and all rules adopted under the Revised Code, pertaining to drivers and mechanics of such vehicles. The community school also shall comply with sections 3313.201, 3327.09, and 3327.10 of the Revised Code, division (B) of section 3327.16 of the Revised Code and, subject to division (C)(1) of this section, sections 3327.01 and 3327.02 of the Revised Code, as if it were a school district.

Sec. 3314.10. (A)(1) The governing authority of any community school established under this chapter may employ teachers and nonteaching employees necessary to carry out its mission and fulfill its contract.

(2) Except as provided under division (A)(3) of this section, employees hired under this section may organize and collectively bargain pursuant to Chapter 4117. of the Revised Code. Notwithstanding division (D)(1) of section 4117.06 of the Revised Code, a unit containing teaching and nonteaching employees employed under this section shall be considered an appropriate unit. As applicable, employment under this section is subject to either Chapter 3307. or 3309. of the Revised Code.

(3) If a school is created by converting all or part of an existing public school rather than by establishment of a new start-up school, at the time of conversion, the employees of the community school shall remain part of any collective bargaining unit in which they were included immediately prior to the conversion and shall remain subject to any collective bargaining agreement for that unit in effect on the first day of July of the year in which the community school initially begins operation and shall be subject to any subsequent collective bargaining agreement for that unit, unless a petition is certified as sufficient under division (A)(6) of this section with regard to those employees. Any new employees of the community school shall also be included in the unit to which they would have been assigned had not the conversion taken place and shall be subject to the collective bargaining agreement for that unit unless a petition is certified as sufficient under division (A)(6) of this section with regard to those employees.

Notwithstanding division (B) of section 4117.01 of the Revised Code,

the board of education of a school district and not the governing authority of a community school shall be regarded, for purposes of Chapter 4117. of the Revised Code, as the "public employer" of the employees of a conversion community school subject to a collective bargaining agreement pursuant to division (A)(3) of this section unless a petition is certified under division (A)(6) of this section with regard to those employees. Only on and after the effective date of a petition certified as sufficient under division (A)(6) of this section shall division (A)(2) of this section apply to those employees of that community school and only on and after the effective date of that petition shall Chapter 4117. of the Revised Code apply to the governing authority of that community school with regard to those employees.

(4) Notwithstanding sections 4117.03 to 4117.18 of the Revised Code and Section 4 of Amended Substitute Senate Bill No. 133 of the 115th general assembly, the employees of a conversion community school who are subject to a collective bargaining agreement pursuant to division (A)(3) of this section shall cease to be subject to that agreement and all subsequent agreements pursuant to that division and shall cease to be part of the collective bargaining unit that is subject to that and all subsequent agreements, if a majority of the employees of that community school who are subject to that collective bargaining agreement sign and submit to the state employment relations board a petition requesting all of the following:

(a) That all the employees of the community school who are subject to that agreement be removed from the bargaining unit that is subject to that agreement and be designated by the state employment relations board as a new and separate bargaining unit for purposes of Chapter 4117. of the Revised Code;

(b) That the employee organization certified as the exclusive representative of the employees of the bargaining unit from which the employees are to be removed be certified as the exclusive representative of the new and separate bargaining unit for purposes of Chapter 4117. of the Revised Code;

(c) That the governing authority of the community school be regarded as the "public employer" of these employees for purposes of Chapter 4117. of the Revised Code.

(5) Notwithstanding sections 4117.03 to 4117.18 of the Revised Code and Section 4 of Amended Substitute Senate Bill No. 133 of the 115th general assembly, the employees of a conversion community school who are subject to a collective bargaining agreement pursuant to division (A)(3) of this section shall cease to be subject to that agreement and all subsequent agreements pursuant to that division, shall cease to be part of the collective

bargaining unit that is subject to that and all subsequent agreements, and shall cease to be represented by any exclusive representative of that collective bargaining unit, if a majority of the employees of the community school who are subject to that collective bargaining agreement sign and submit to the state employment relations board a petition requesting all of the following:

(a) That all the employees of the community school who are subject to that agreement be removed from the bargaining unit that is subject to that agreement;

(b) That any employee organization certified as the exclusive representative of the employees of that bargaining unit be decertified as the exclusive representative of the employees of the community school who are subject to that agreement;

(c) That the governing authority of the community school be regarded as the "public employer" of these employees for purposes of Chapter 4117. of the Revised Code.

(6) Upon receipt of a petition under division (A)(4) or (5) of this section, the state employment relations board shall check the sufficiency of the signatures on the petition. If the signatures are found sufficient, the board shall certify the sufficiency of the petition and so notify the parties involved, including the board of education, the governing authority of the community school, and any exclusive representative of the bargaining unit. The changes requested in a certified petition shall take effect on the first day of the month immediately following the date on which the sufficiency of the petition is certified under division (A)(6) of this section.

(B)(1) The board of education of each city, local, and exempted village school district sponsoring a community school and the governing board of each educational service center in which a community school is located shall adopt a policy that provides a leave of absence of at least three years to each teacher or nonteaching employee of the district or service center who is employed by a conversion or new start-up community school sponsored by the district or located in the district or center for the period during which the teacher or employee is continuously employed by the community school. The policy shall also provide that any teacher or nonteaching employee may return to employment by the district or service center if the teacher or employee leaves or is discharged from employment with the community school for any reason, unless, in the case of a teacher, the board of the district or service center determines that the teacher was discharged for a reason for which the board would have sought to discharge the teacher under section 3319.16 of the Revised Code, in which case the board may

proceed to discharge the teacher utilizing the procedures of that section. Upon termination of such a leave of absence, any seniority that is applicable to the person shall be calculated to include all of the following: all employment by the district or service center prior to the leave of absence; all employment by the community school during the leave of absence; and all employment by the district or service center after the leave of absence. The policy shall also provide that if any teacher holding valid certification returns to employment by the district or service center upon termination of such a leave of absence, the teacher shall be restored to the previous position and salary or to a position and salary similar thereto. If, as a result of teachers returning to employment upon termination of such leaves of absence, a school district or educational service center reduces the number of teachers it employs, it shall make such reductions in accordance with section 3319.17 or, if applicable, 3319.171 of the Revised Code.

Unless a collective bargaining agreement providing otherwise is in effect for an employee of a conversion community school pursuant to division (A)(3) of this section, an employee on a leave of absence pursuant to this division shall remain eligible for any benefits that are in addition to benefits under Chapter 3307. or 3309. of the Revised Code provided by the district or service center to its employees provided the employee pays the entire cost associated with such benefits, except that personal leave and vacation leave cannot be accrued for use as an employee of a school district or service center while in the employ of a community school unless the district or service center board adopts a policy expressly permitting this accrual.

(2) While on a leave of absence pursuant to division (B)(1) of this section, a conversion community school shall permit a teacher to use sick leave accrued while in the employ of the school district from which the leave of absence was taken and prior to commencing such leave. If a teacher who is on such a leave of absence uses sick leave so accrued, the cost of any salary paid by the community school to the teacher for that time shall be reported to the department of education. The cost of employing a substitute teacher for that time shall be paid by the community school. The department of education shall add amounts to the payments made to a community school under this chapter as necessary to cover the cost of salary reported by a community school as paid to a teacher using sick leave so accrued pursuant to this section. The department shall subtract the amounts of any payments made to community schools under this division from payments made to such sponsoring school district under ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code.

A school district providing a leave of absence and employee benefits to a person pursuant to this division is not liable for any action of that person while the person is on such leave and employed by a community school.

Sec. 3314.13. ~~(A)~~ Payments and deductions under this section for fiscal years 2010 and 2011 shall be made in accordance with section 3314.088 of the Revised Code.

(A) As used in this section:

(1) "All-day kindergarten" has the same meaning as in section 3317.029 of the Revised Code.

(2) "Formula amount" has the same meaning as in section 3317.02 of the Revised Code.

(B) Except as provided in division (C) of this section, the department of education annually shall pay each community school established under this chapter one-half of the formula amount for each student to whom both of the following apply:

(1) The student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code in a school district that is eligible to receive a payment under division (D) of section 3317.029 of the Revised Code if it provides all-day kindergarten;

(2) The student is reported by the community school as enrolled in all-day kindergarten at the community school.

(C) The department shall make no payments under this section to any internet- or computer-based community school.

(D) If a student for whom payment is made under division (B) of this section is entitled to attend school in a district that receives any payment for all-day kindergarten under division (D) of section 3317.029 of the Revised Code, the department shall deduct the payment to the community school under this section from the amount paid that school district under that division. If that school district does not receive payment for all-day kindergarten under that division because it does not provide all-day kindergarten, the department shall pay the community school from state funds appropriated generally for poverty-based assistance to school districts.

(E) The department shall adjust the amounts deducted from school districts and paid to community schools under this section to reflect any enrollments of students in all-day kindergarten in community schools for less than the equivalent of a full school year.

Sec. 3314.19. The sponsor of each community school annually shall provide the following assurances in writing to the department of education not later than ten business days prior to the opening of the school:

(A) That a current copy of the contract between the sponsor and the

governing authority of the school entered into under section 3314.03 of the Revised Code has been filed with the state office of community schools established under section 3314.11 of the Revised Code and that any subsequent modifications to that contract will be filed with the office;

(B) That the school has submitted to the sponsor a plan for providing special education and related services to students with disabilities and has demonstrated the capacity to provide those services in accordance with Chapter 3323. of the Revised Code and federal law;

(C) That the school has a plan and procedures for administering the achievement ~~tests~~ and diagnostic assessments prescribed by sections 3301.0710, ~~3301.0712~~, and 3301.0715 of the Revised Code;

(D) That school personnel have the necessary training, knowledge, and resources to properly use and submit information to all databases maintained by the department for the collection of education data, including the education management information system established under section 3301.0714 of the Revised Code in accordance with methods and timelines established under section 3314.17 of the Revised Code;

(E) That all required information about the school has been submitted to the Ohio education directory system or any successor system;

(F) That the school will enroll at least the minimum number of students required by division (A)(11)(a) of section 3314.03 of the Revised Code in the school year for which the assurances are provided;

(G) That all classroom teachers are licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code, except for noncertificated persons engaged to teach up to twelve hours per week pursuant to section 3319.301 of the Revised Code;

(H) That the school's fiscal officer is in compliance with section 3314.011 of the Revised Code;

(I) That the school has complied with sections 3319.39 and 3319.391 of the Revised Code with respect to all employees and that the school has conducted a criminal records check of each of its governing authority members;

(J) That the school holds all of the following:

(1) Proof of property ownership or a lease for the facilities used by the school;

(2) A certificate of occupancy;

(3) Liability insurance for the school, as required by division (A)(11)(b) of section 3314.03 of the Revised Code, that the sponsor considers sufficient to indemnify the school's facilities, staff, and governing authority against risk;

- (4) A satisfactory health and safety inspection;
- (5) A satisfactory fire inspection;
- (6) A valid food permit, if applicable.

(K) That the sponsor has conducted a pre-opening site visit to the school for the school year for which the assurances are provided;

(L) That the school has designated a date it will open for the school year for which the assurances are provided that is in compliance with division (A)(25) of section 3314.03 of the Revised Code;

(M) That the school has met all of the sponsor's requirements for opening and any other requirements of the sponsor.

Sec. 3314.25. Each internet- or computer-based community school shall provide its students a location within a fifty-mile radius of the student's residence at which to complete the statewide achievement tests and diagnostic assessments prescribed under sections 3301.079 and 3301.0710, and 3301.0712 of the Revised Code.

Sec. 3314.26. (A) Each internet- or computer-based community school shall withdraw from the school any student who, for two consecutive school years, has failed to participate in the spring administration of any test assessment prescribed under section 3301.0710 or 3301.0712 of the Revised Code for the student's grade level and was not excused from the test assessment pursuant to division (C)(1) or (3) of section 3301.0711 of the Revised Code, regardless of whether a waiver was granted for the student under division ~~(Q)~~(P)(3) of section 3314.08 of the Revised Code. The school shall report any such student's data verification code, as assigned pursuant to section 3301.0714 of the Revised Code, to the department of education. The department shall maintain a list of all data verification codes reported under this division and section 3313.6410 of the Revised Code and provide that list to each internet- or computer-based community school and to each school to which section 3313.6410 of the Revised Code applies.

(B) No internet- or computer-based community school shall receive any state funds under this chapter for any enrolled student whose data verification code appears on the list maintained by the department under division (A) of this section.

Notwithstanding any provision of the Revised Code to the contrary, the parent of any such student shall pay tuition to the internet- or computer-based community school in an amount equal to the state funds the school otherwise would receive for that student, as determined by the department. An internet- or computer-based community school may withdraw any student for whom the parent does not pay tuition as required by this division.

Sec. 3314.35. (A)(1) Except as provided in division (A)~~(2)~~(3) of this section, this section applies to any community school that meets one of the following criteria after July 1, 2008, but before July 1, 2009:

(a) The school does not offer a grade level higher than three and has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for four consecutive school years.

(b) The school satisfies all of the following conditions:

(i) The school offers any of grade levels four to eight but does not offer a grade level higher than nine.

(ii) The school has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for three consecutive school years.

(iii) For two of those school years, the school showed less than one standard year of academic growth in either reading or mathematics, as determined by the department of education in accordance with rules adopted under division (A) of section 3302.021 of the Revised Code.

(c) The school satisfies all of the following conditions:

(i) The school offers any of grade levels ten to twelve.

(ii) The school has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for three consecutive school years.

(iii) For two of those school years, the school showed less than two standard years of academic growth in either reading or mathematics, as determined by the department in accordance with rules adopted under division (A) of section 3302.021 of the Revised Code.

(2) Except as provided in division (A)(3) of this section, this section applies to any community school that meets one of the following criteria after July 1, 2009:

(a) The school does not offer a grade level higher than three and has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for three of the four most recent school years.

(b) The school satisfies all of the following conditions:

(i) The school offers any of grade levels four to eight but does not offer a grade level higher than nine.

(ii) The school has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for two of the three most recent school years.

(iii) In at least two of the three most recent school years, the school showed less than one standard year of academic growth in either reading or mathematics, as determined by the department in accordance with rules

adopted under division (A) of section 3302.021 of the Revised Code.

(c) The school offers any of grade levels ten to twelve and has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for three of the four most recent school years.

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

(a) Any community school in which a majority of the students are enrolled in a dropout prevention and recovery program that is operated by the school and that has been granted a waiver under section 3314.36 of the Revised Code;

(b) Any community school in which a majority of the enrolled students are children with disabilities receiving special education and related services in accordance with Chapter 3323. of the Revised Code.

(B) Any community school to which this section applies shall permanently close at the conclusion of the school year in which the school first becomes subject to this section. The sponsor and governing authority of the school shall comply with all procedures for closing a community school adopted by the department under division (E) of section 3314.015 of the Revised Code. The governing authority of the school shall not enter into a contract with any other sponsor under section 3314.03 of the Revised Code after the school closes.

(C) Not later than July 1, 2008, the department shall determine the feasibility of using the value-added progress dimension, as defined in section 3302.01 of the Revised Code, as a factor in evaluating the academic performance of community schools described in division (A)(1)(c)(i) of this section. Notwithstanding divisions (A)(1)(c)(ii) and (iii) of this section, if the department determines that using the value-added progress dimension to evaluate community schools described in division (A)(1)(c)(i) of this section is not feasible, a community school described in that division shall be required to permanently close under this section only if it has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for four consecutive school years.

Sec. 3314.36. (A) Section 3314.35 of the Revised Code does not apply to any community school in which a majority of the students are enrolled in a dropout prevention and recovery program that is operated by the school and that has been granted a waiver by the department of education. The department shall grant a waiver to a dropout prevention and recovery program, within sixty days after the program applies for the waiver, if the program meets all of the following conditions:

(1) The program serves only students not younger than sixteen years of age and not older than twenty-one years of age.

(2) The program enrolls students who, at the time of their initial enrollment, either, or both, are at least one grade level behind their cohort age groups or experience crises that significantly interfere with their academic progress such that they are prevented from continuing their traditional programs.

(3) The program requires students to attain at least the applicable score designated for each of the ~~tests~~ assessments prescribed under division (B)(1) of section 3301.0710 of the Revised Code or, to the extent prescribed by rule of the state board of education under division (E)(6) of section 3301.0712 of the Revised Code, division (B)(2) of that section.

(4) The program develops an individual career plan for the student that specifies the student's matriculating to a two-year degree program, acquiring a business and industry credential, or entering an apprenticeship.

(5) The program provides counseling and support for the student related to the plan developed under division (A)(4) of this section during the remainder of the student's high school experience.

(6) Prior to receiving the waiver, the program has submitted to the department an instructional plan that demonstrates how the academic content standards adopted by the state board of education under section 3301.079 of the Revised Code will be taught and assessed.

If the department does not act either to grant the waiver or to reject the program application for the waiver within sixty days as required under this section, the waiver shall be considered to be granted.

(B) Notwithstanding division (A) of this section, the department shall not grant a waiver to any community school that did not qualify for a waiver under this section when it initially began operations, unless the state board of education approves the waiver.

Sec. 3314.44. (A) If a community school established under this chapter closes for any reason, the chief administrative officer of the school at the time the school closes shall in good faith take all reasonable steps necessary to collect and assemble in an orderly manner the educational records of each student who is or has been enrolled in the school so that those records may be transmitted in accordance with this division. The chief administrative officer shall transmit the records within seven business days of the school closing to the student's school district of residence.

(B) No person required to collect, assemble, and transmit student records under division (A) of this section shall fail to comply with that division.

(C) Whoever violates division (B) of this section is guilty of a misdemeanor in the third degree.

Sec. 3315.37. The board of education of a school district may establish a teacher education loan program and may expend school funds for the program. The program shall be for the purpose of making loans to students who are residents of the school district or graduates of schools in the school district, who are enrolled in teacher preparation programs at institutions approved by the ~~state board~~ chancellor of the Ohio board of regents pursuant to section ~~3319.23~~ 3333.048 of the Revised Code, and who indicate an intent to teach in the school district providing the loan. The district board may forgive the obligation to repay any or all of the principal and interest on the loan if the borrower teaches in that school district.

The district board shall adopt rules establishing eligibility criteria, application procedures, procedures for review of applications, loan amounts, interest, repayment schedules, conditions under which principal and interest obligations incurred under the program will be forgiven, and any other matter incidental to the operation of the program.

The board may contract with a private, nonprofit foundation, one or more institutions of higher education, or other educational agencies to administer the program.

The receipt of a loan under this section does not affect a student's eligibility for assistance, or the amount of such assistance, granted under section 3315.33, 3333.12, 3333.122, 3333.22, 3333.26, ~~3333.27~~, 5910.04, or 5919.34 of the Revised Code, but the board's rules may provide for taking such assistance into consideration when determining a student's eligibility for a loan under this section.

Sec. 3316.041. (A) Notwithstanding any provision of Chapter 133. or sections 3313.483 to 3313.4811 of the Revised Code, and subject to the approval of the superintendent of public instruction, a school district that is in a state of fiscal watch declared under section 3316.03 of the Revised Code may restructure or refinance loans obtained or in the process of being obtained under section 3313.483 of the Revised Code if all of the following requirements are met:

(1) The operating deficit certified for the school district for the current or preceding fiscal year under section 3313.483 of the Revised Code exceeds fifteen per cent of the district's general revenue fund for the fiscal year preceding the year for which the certification of the operating deficit is made.

(2) The school district voters have, during the period of the fiscal watch, approved the levy of a tax under section 718.09, 718.10, 5705.194, 5705.21, or 5748.02 of the Revised Code that is not a renewal or replacement levy, or a levy under section 5705.199 of the Revised Code, and that will provide

new operating revenue.

(3) The board of education of the school district has adopted or amended the financial plan required by section 3316.04 of the Revised Code to reflect the restructured or refinanced loans, and sets forth the means by which the district will bring projected operating revenues and expenditures, and projected debt service obligations, into balance for the life of any such loan.

(B) Subject to the approval of the superintendent of public instruction, the school district may issue securities to evidence the restructuring or refinancing authorized by this section. Such securities may extend the original period for repayment not to exceed ten years, and may alter the frequency and amount of repayments, interest or other financing charges, and other terms or agreements under which the loans were originally contracted, provided the loans received under sections 3313.483 of the Revised Code are repaid from funds the district would otherwise receive under ~~sections 3317.022 to 3317.025~~ Chapter 3306, of the Revised Code, as required under division (E)(3) of section 3313.483 of the Revised Code. Securities issued for the purpose of restructuring or refinancing under this section shall be repaid in equal payments and at equal intervals over the term of the debt and are not eligible to be included in any subsequent proposal to restructure or refinance.

(C) Unless the district is declared to be in a state of fiscal emergency under division (D) of section 3316.04 of the Revised Code, a school district shall remain in a state of fiscal watch for the duration of the repayment period of any loan restructured or refinanced under this section.

Sec. 3316.06. (A) Within one hundred twenty days after the first meeting of a school district financial planning and supervision commission, the commission shall adopt a financial recovery plan regarding the school district for which the commission was created. During the formulation of the plan, the commission shall seek appropriate input from the school district board and from the community. This plan shall contain the following:

(1) Actions to be taken to:

(a) Eliminate all fiscal emergency conditions declared to exist pursuant to division (B) of section 3316.03 of the Revised Code;

(b) Satisfy any judgments, past-due accounts payable, and all past-due and payable payroll and fringe benefits;

(c) Eliminate the deficits in all deficit funds, except that any prior year deficits in the textbook and instructional materials fund established pursuant to section 3315.17 of the Revised Code and the capital and maintenance fund established pursuant to section 3315.18 of the Revised Code shall be

forgiven;

(d) Restore to special funds any moneys from such funds that were used for purposes not within the purposes of such funds, or borrowed from such funds by the purchase of debt obligations of the school district with the moneys of such funds, or missing from the special funds and not accounted for, if any;

(e) Balance the budget, avoid future deficits in any funds, and maintain on a current basis payments of payroll, fringe benefits, and all accounts;

(f) Avoid any fiscal emergency condition in the future;

(g) Restore the ability of the school district to market long-term general obligation bonds under provisions of law applicable to school districts generally.

(2) The management structure that will enable the school district to take the actions enumerated in division (A)(1) of this section. The plan shall specify the level of fiscal and management control that the commission will exercise within the school district during the period of fiscal emergency, and shall enumerate respectively, the powers and duties of the commission and the powers and duties of the school board during that period. The commission may elect to assume any of the powers and duties of the school board it considers necessary, including all powers related to personnel, curriculum, and legal issues in order to successfully implement the actions described in division (A)(1) of this section.

(3) The target dates for the commencement, progress upon, and completion of the actions enumerated in division (A)(1) of this section and a reasonable period of time expected to be required to implement the plan. The commission shall prepare a reasonable time schedule for progress toward and achievement of the requirements for the plan, and the plan shall be consistent with that time schedule.

(4) The amount and purpose of any issue of debt obligations that will be issued, together with assurances that any such debt obligations that will be issued will not exceed debt limits supported by appropriate certifications by the fiscal officer of the school district and the county auditor. Debt obligations issued pursuant to section 133.301 of the Revised Code shall include assurances that such debt shall be in an amount not to exceed the amount certified under division (B) of such section. If the commission considers it necessary in order to maintain or improve educational opportunities of pupils in the school district, the plan may include a proposal to restructure or refinance outstanding debt obligations incurred by the board under section 3313.483 of the Revised Code contingent upon the approval, during the period of the fiscal emergency, by district voters of a

tax levied under section 718.09, 718.10, 5705.194, 5705.21, 5748.02, or 5748.08 of the Revised Code that is not a renewal or replacement levy, or a levy under section 5705.199 of the Revised Code, and that will provide new operating revenue. Notwithstanding any provision of Chapter 133. or sections 3313.483 to 3313.4811 of the Revised Code, following the required approval of the district voters and with the approval of the commission, the school district may issue securities to evidence the restructuring or refinancing. Those securities may extend the original period for repayment, not to exceed ten years, and may alter the frequency and amount of repayments, interest or other financing charges, and other terms of agreements under which the debt originally was contracted, at the discretion of the commission, provided that any loans received pursuant to section 3313.483 of the Revised Code shall be paid from funds the district would otherwise receive under ~~sections 3317.022 to 3317.025~~ Chapter 3306. of the Revised Code, as required under division (E)(3) of section 3313.483 of the Revised Code. The securities issued for the purpose of restructuring or refinancing the debt shall be repaid in equal payments and at equal intervals over the term of the debt and are not eligible to be included in any subsequent proposal for the purpose of restructuring or refinancing debt under this section.

(B) Any financial recovery plan may be amended subsequent to its adoption. Each financial recovery plan shall be updated annually.

(C) Each school district financial planning and supervision commission shall submit the financial recovery plan it adopts or updates under this section to the state superintendent of public instruction for approval immediately following its adoption or updating. The state superintendent shall evaluate the plan and either approve or disapprove it within thirty calendar days from the date of its submission. If the plan is disapproved, the state superintendent shall recommend modifications that will render it acceptable. No financial planning and supervision commission shall implement a financial recovery plan that is adopted or updated on or after April 10, 2001, unless the state superintendent has approved it.

Sec. 3316.20. (A)(1) The school district solvency assistance fund is hereby created in the state treasury, to consist of such amounts designated for the purposes of the fund by the general assembly. The fund shall be used to provide assistance and grants to school districts to enable them to remain solvent and to pay ~~unforeseeable~~ unforeseeable expenses of a temporary or emergency nature that they are unable to pay from existing resources.

(2) There is hereby created within the fund an account known as the school district shared resource account, which shall consist of money

appropriated to it by the general assembly. The money in the account shall be used solely for solvency assistance to school districts that have been declared under division (B) of section 3316.03 of the Revised Code to be in a state of fiscal emergency.

(3) There is hereby created within the fund an account known as the catastrophic expenditures account, which shall consist of money appropriated to the account by the general assembly plus all investment earnings of the fund. Money in the account shall be used solely for the following:

(a) Solvency assistance to school districts that have been declared under division (B) of section 3316.03 of the Revised Code to be in a state of fiscal emergency, in the event that all money in the shared resource account is utilized for solvency assistance;

(b) Grants to school districts under division (C) of this section.

(B) Solvency assistance payments under division (A)(2) or (3)(a) of this section shall be made from the fund by the superintendent of public instruction in accordance with rules adopted by the director of budget and management, after consulting with the superintendent, specifying approval criteria and procedures necessary for administering the fund.

The fund shall be reimbursed for any solvency assistance amounts paid under division (A)(2) or (3)(a) of this section not later than the end of the second fiscal year following the fiscal year in which the solvency assistance payment was made. If not made directly by the school district, such reimbursement shall be made by the director of budget and management from the amounts the school district would otherwise receive pursuant to ~~sections 3317.022 to 3317.025~~ Chapter 3306 of the Revised Code, or from any other funds appropriated for the district by the general assembly. Reimbursements shall be credited to the respective account from which the solvency assistance paid to the district was deducted.

(C) The superintendent of public instruction may make recommendations, and the controlling board may grant money from the catastrophic expenditures account to any school district that suffers an unforeseen catastrophic event that severely depletes the district's financial resources. The superintendent shall make recommendations for the grants in accordance with rules adopted by the director of budget and management, after consulting with the superintendent. A school district shall not be required to repay any grant awarded to the district under this division, unless the district receives money from this state or a third party, including an agency of the government of the United States, specifically for the purpose of compensating the district for revenue lost or expenses incurred as a result

of the unforeseen catastrophic event. If a school district receives a grant from the catastrophic expenditures account on the basis of the same circumstances for which an adjustment or recomputation is authorized under section 3317.025, 3317.026, 3317.027, 3317.028, 3317.0210, or 3317.0211 of the Revised Code, the department of education shall reduce the adjustment or recomputation by an amount not to exceed the total amount of the grant, and an amount equal to the reduction shall be transferred, from the funding source from which the adjustment or recomputation would be paid, to the catastrophic expenditures account. Any adjustment or recomputation under such sections that is in excess of the total amount of the grant shall be paid to the school district.

Sec. 3317.01. As used in this section and section 3317.011 of the Revised Code, "school district," unless otherwise specified, means any city, local, exempted village, joint vocational, or cooperative education school district and any educational service center.

This chapter shall be administered by the state board of education. The superintendent of public instruction shall calculate the amounts payable to each school district and shall certify the amounts payable to each eligible district to the treasurer of the district as provided by this chapter. As soon as possible after such amounts are calculated, the superintendent shall certify to the treasurer of each school district the district's adjusted charge-off increase, as defined in section 5705.211 of the Revised Code. No moneys shall be distributed pursuant to this chapter without the approval of the controlling board.

The state board of education shall, in accordance with appropriations made by the general assembly, meet the financial obligations of this chapter.

~~Annually, the department of education shall calculate and report to each school district the district's total state and local funds for providing an adequate basic education to the district's nondisabled students, utilizing the determination in section 3317.012 of the Revised Code. In addition, the department shall calculate and report separately for each school district the district's total state and local funds for providing an adequate education for its students with disabilities, utilizing the determinations in both sections 3317.012 and 3317.013 of the Revised Code.~~

~~Not later than the thirty first day of August of each fiscal year, the department of education shall provide to each school district and county MR/DD board a preliminary estimate of the amount of funding that the department calculates the district will receive under each of divisions (C)(1) and (4) of section 3317.022 of the Revised Code. No later than the first day of December of each fiscal year, the department shall update that~~

~~preliminary estimate.~~

Moneys distributed pursuant to this chapter shall be calculated and paid on a fiscal year basis, beginning with the first day of July and extending through the thirtieth day of June. The moneys appropriated for each fiscal year shall be distributed ~~at least monthly~~ periodically to each school district unless otherwise provided for. The state board shall submit a yearly distribution plan to the controlling board at its first meeting in July. The state board shall submit any proposed midyear revision of the plan to the controlling board in January. Any year-end revision of the plan shall be submitted to the controlling board in June. If moneys appropriated for each fiscal year are distributed other than monthly, such distribution shall be on the same basis for each school district.

~~The total amounts paid each month shall constitute, as nearly as possible, one-twelfth of the total amount payable for the entire year.~~

~~Until fiscal year 2007, payments made during the first six months of the fiscal year may be based on an estimate of the amounts payable for the entire year. Payments made in the last six months shall be based on the final calculation of the amounts payable to each school district for that fiscal year. Payments made in the last six months may be adjusted, if necessary, to correct the amounts distributed in the first six months, and to reflect enrollment increases when such are at least three per cent.~~

~~Beginning in fiscal year 2007, payments shall be calculated to reflect the biannual reporting of average daily membership. In fiscal year 2007 and in each fiscal year thereafter, annualized periodic payments for each school district shall be based on the district's final student counts verified by the superintendent of public instruction based on reports under section 3317.03 of the Revised Code, as adjusted, if so ordered, under division (K) of that section, as follows:~~

~~the sum of one-half of the number of students verified
and adjusted for the first full week in October
plus one-half of the average of the numbers
verified and adjusted for the first full week
in October and for the first full week in February~~

Except as otherwise provided, payments under this chapter shall be made only to those school districts in which:

(A) The school district, except for any educational service center and any joint vocational or cooperative education school district, levies for current operating expenses at least twenty mills. Levies for joint vocational or cooperative education school districts or county school financing districts, limited to or to the extent apportioned to current expenses, shall be

included in this qualification requirement. School district income tax levies under Chapter 5748. of the Revised Code, limited to or to the extent apportioned to current operating expenses, shall be included in this qualification requirement to the extent determined by the tax commissioner under division (D) of section 3317.021 of the Revised Code.

(B) The school year next preceding the fiscal year for which such payments are authorized meets the requirement of section 3313.48 or 3313.481 of the Revised Code, with regard to the minimum number of days or hours school must be open for instruction with pupils in attendance, for individualized parent-teacher conference and reporting periods, and for professional meetings of teachers. This requirement shall be waived by the superintendent of public instruction if it had been necessary for a school to be closed because of disease epidemic, hazardous weather conditions, inoperability of school buses or other equipment necessary to the school's operation, damage to a school building, or other temporary circumstances due to utility failure rendering the school building unfit for school use, provided that for those school districts operating pursuant to section 3313.48 of the Revised Code the number of days the school was actually open for instruction with pupils in attendance and for individualized parent-teacher conference and reporting periods is not less than one hundred seventy-five, or for those school districts operating on a trimester plan the number of days the school was actually open for instruction with pupils in attendance not less than seventy-nine days in any trimester, for those school districts operating on a quarterly plan the number of days the school was actually open for instruction with pupils in attendance not less than fifty-nine days in any quarter, or for those school districts operating on a pentamester plan the number of days the school was actually open for instruction with pupils in attendance not less than forty-four days in any pentamester. However, for fiscal year 2012, the superintendent shall waive two fewer such days for the 2010-2011 school year.

A school district shall not be considered to have failed to comply with this division or section 3313.481 of the Revised Code because schools were open for instruction but either twelfth grade students were excused from attendance for up to three days or only a portion of the kindergarten students were in attendance for up to three days in order to allow for the gradual orientation to school of such students.

The superintendent of public instruction shall waive the requirements of this section with reference to the minimum number of days or hours school must be in session with pupils in attendance for the school year succeeding the school year in which a board of education initiates a plan of operation

pursuant to section 3313.481 of the Revised Code. The minimum requirements of this section shall again be applicable to such a district beginning with the school year commencing the second July succeeding the initiation of one such plan, and for each school year thereafter.

A school district shall not be considered to have failed to comply with this division or section 3313.48 or 3313.481 of the Revised Code because schools were open for instruction but the length of the regularly scheduled school day, for any number of days during the school year, was reduced by not more than two hours due to hazardous weather conditions.

(C) The school district has on file, and is paying in accordance with, a teachers' salary schedule which complies with section 3317.13 of the Revised Code.

A board of education or governing board of an educational service center which has not conformed with other law and the rules pursuant thereto, shall not participate in the distribution of funds authorized by sections 3317.022 to 3317.0211, 3317.11, 3317.16, 3317.17, and 3317.19 of the Revised Code, except for good and sufficient reason established to the satisfaction of the state board of education and the state controlling board.

All funds allocated to school districts under this chapter, except those specifically allocated for other purposes, shall be used to pay current operating expenses only.

Sec. 3317.011. On or before the ~~third Wednesday~~ last day of each month, the department of education shall certify to the director of budget and management for payment, for each county:

(A)(1) That portion of the allocation of money under sections 3317.022 to 3317.0211, 3317.11, 3317.16, 3317.17, and 3317.19 of the Revised Code that is required to be paid in that month to each school district located wholly within the county subsequent to the deductions described in division (A)(2) of this section; and

(2) The amounts deducted from such allocation under sections 3307.31 and 3309.51 of the Revised Code for payment directly to the school employees and state teachers retirement systems under such sections.

(B) If the district is located in more than one county, an apportionment of the amounts that would otherwise be certified under division (A) of this section. The amounts apportioned to the county shall equal the amounts certified under division (A) of this section times the percentage of the district's resident pupils who reside both in the district and in the county, based on the average daily membership reported under division (A) of section 3317.03 of the Revised Code in October of the prior fiscal year.

Sec. 3317.013. Except for a preschool child with a disability for whom a

scholarship has been awarded under section 3310.41 of the Revised Code, this section does not apply to preschool children with disabilities.

Analysis of special education cost data has resulted in a finding that the average special education additional cost per pupil, including the costs of related services, can be expressed as a multiple of the base cost per pupil calculated under section 3317.012 of the Revised Code. The multiples for the following categories of special education programs, as these programs are defined for purposes of Chapter 3323. of the Revised Code, and adjusted as provided in this section, are as follows:

(A) A multiple of 0.2892 for students whose primary or only identified disability is a speech and language disability, as this term is defined pursuant to Chapter 3323. of the Revised Code;

(B) A multiple of 0.3691 for students identified as specific learning disabled or developmentally disabled, as these terms are defined pursuant to Chapter 3323. of the Revised Code, or as having an other health impairment-minor;

(C) A multiple of 1.7695 for students identified as hearing disabled, vision impaired, or severe behavior disabled, as these terms are defined pursuant to Chapter 3323. of the Revised Code;

(D) A multiple of 2.3646 for students identified as orthopedically disabled, as this term is defined pursuant to Chapter 3323. of the Revised Code, or as having an other health impairment-major;

(E) A multiple of 3.1129 for students identified as having multiple disabilities, as this term is defined pursuant to Chapter 3323. of the Revised Code;

(F) A multiple of 4.7342 for students identified as autistic, having traumatic brain injuries, or as both visually and hearing impaired, as these terms are defined pursuant to Chapter 3323. of the Revised Code.

In fiscal years 2008 ~~and~~, 2009, 2010, and 2011, the multiples specified in divisions (A) to (F) of this section shall be adjusted by multiplying them by 0.90.

Not later than the thirtieth day of December in 2007, 2008, and 2009, the department of education shall submit to the office of budget and management a report that specifies for each city, local, exempted village, and joint vocational school district the fiscal year allocation of the state and local shares of special education and related services additional weighted funding and federal special education funds passed through to the district.

Sec. 3317.018. (A) The department of education shall make no calculations or payments under Chapter 3317. of the Revised Code for any fiscal year except as prescribed in this section.

(B) School districts shall report student enrollment data as prescribed by section 3317.03 of the Revised Code, which data the department shall use to make payments under Chapters 3306. and 3317. of the Revised Code.

(C) The tax commissioner shall report data regarding tax valuation and receipts for school districts as prescribed by sections 3317.015, 3317.021, 3317.025, 3317.026, 3317.027, 3317.028, 3317.0210, 3317.0211, and 3317.08 and by division (M) of section 3317.02 of the Revised Code, which data the department shall use to make payments under Chapters 3306. and 3317. of the Revised Code.

(D) Unless otherwise specified by another provision of law, in addition to the payments prescribed by Chapter 3306. of the Revised Code, the department shall continue to make payments to or adjustments for school districts in fiscal years after fiscal year 2009 under the following provisions of Chapter 3317. of the Revised Code:

(1) The catastrophic cost reimbursement under division (C)(3) of section 3317.022 of the Revised Code. No other payments shall be made under that section.

(2) All payments or adjustments under section 3317.023 of the Revised Code, except no payments or adjustments shall be made under divisions (B), (C), and (D) of that section.

(3) All payments or adjustments under section 3317.024 of the Revised Code, except no payments or adjustments shall be made under divisions (F), (L), and (N) of that section.

(4) All payments and adjustments under sections 3317.025, 3317.026, 3317.027, 3317.028, 3317.0210, and 3317.0211 of the Revised Code;

(5) Payments under section 3317.04 of the Revised Code;

(6) Unit payments under sections 3317.05, 3317.051, 3317.052, and 3317.053 of the Revised Code, except that no units for gifted funding are authorized after fiscal year 2009.

(7) Payments under sections 3317.06, 3317.063, and 3317.064 of the Revised Code;

(8) Payments under section 3317.07 of the Revised Code;

(9) Payments to educational service centers under section 3317.11 of the Revised Code;

(10) The catastrophic cost reimbursement under division (E) of section 3317.16 of the Revised Code and excess cost reimbursements under division (G) of that section. No other payments shall be made under that section;

(11) Payments under section 3317.17 of the Revised Code;

(12) Adjustments under section 3317.18 of the Revised Code;

(13) Payments to cooperative education school districts under section

3317.19 of the Revised Code:

(14) Payments to county MR/DD boards under section 3317.20 of the Revised Code;

(15) Payments to state institutions for weighted special education funding under section 3317.201 of the Revised Code.

(E) Sections 3317.016 and 3317.017 shall not apply to fiscal years after fiscal year 2009.

(F) This section does not affect the provisions of sections 3317.031, 3317.032, 3317.033, 3317.035, 3317.061, 3317.08, 3317.081, 3317.082, 3317.09, 3317.12, 3317.13, 3317.14, 3317.15, 3317.50, 3317.51, 3317.62, 3317.63, and 3317.64 of the Revised Code.

Sec. 3317.02. As used in this chapter:

(A) Unless otherwise specified, "school district" means city, local, and exempted village school districts.

(B) "Formula amount" means ~~the base cost for the fiscal year specified in division (B)(4) of section 3317.012 of the Revised Code \$5,732 for fiscal year 2010 and fiscal year 2011.~~

(C) "FTE basis" means a count of students based on full-time equivalency, in accordance with rules adopted by the department of education pursuant to section 3317.03 of the Revised Code. In adopting its rules under this division, the department shall provide for counting any student in category one, two, three, four, five, or six special education ADM or in category one or two vocational education ADM in the same proportion the student is counted in formula ADM.

(D) "Formula ADM" means, for a city, local, or exempted village school district, ~~the final number verified by the superintendent of public instruction, based on the number reported pursuant to division (A) of section 3317.03 of the Revised Code, as adjusted, if so ordered, under division (K) of that section~~ "formula ADM" as defined in section 3306.02 of the Revised Code. "Formula ADM" means, for a joint vocational school district, the final number verified by the superintendent of public instruction, based on the number reported pursuant to division (D) of section 3317.03 of the Revised Code, as adjusted, if so ordered, under division (K) of that section. ~~Beginning in fiscal year 2007, for payments in which formula ADM is a factor, the formula ADM for each school district for the fiscal year is the sum of one half of the number verified and adjusted for October of that fiscal year plus one half of the average of the numbers verified and adjusted for October and February of that fiscal year. For purposes of the calculation of payments to or adjustments for a city, exempted village, local, or joint vocational school district under this chapter or under Chapter 3306. of the~~

Revised Code, calculations required under Chapter 3318. of the Revised Code, or adjustments required under Chapter 3365. of the Revised Code, the department of education shall use the district's formula ADM for the previous fiscal year, unless the district's average daily membership reported and verified for the current fiscal year is at least two per cent greater than the formula ADM reported for the previous fiscal year, in which case the department shall use the district's formula ADM for the current fiscal year.

(E) "Three-year average formula ADM" means the average of formula ADMs for the preceding three fiscal years.

(F)(1) "Category one special education ADM" means the average daily membership of children with disabilities receiving special education services for the disability specified in division ~~(A)(D)(1)~~ of section ~~3317.013~~ 3306.02 of the Revised Code and reported under division (B)(5) or (D)(2)(b) of section 3317.03 of the Revised Code. ~~Beginning in fiscal year 2007, the district's category one special education ADM for a fiscal year is the sum of one half of the number reported for October of that fiscal year plus one half of the average of the numbers reported for October and February of that fiscal year.~~

(2) "Category two special education ADM" means the average daily membership of children with disabilities receiving special education services for those disabilities specified in division ~~(B)(D)(2)~~ of section ~~3317.013~~ 3306.02 of the Revised Code and reported under division (B)(6) or (D)(2)(c) of section 3317.03 of the Revised Code. ~~Beginning in fiscal year 2007, the district's category two special education ADM for a fiscal year is the sum of one half of the number reported for October of that fiscal year plus one half of the average of the numbers reported for October and February of that fiscal year.~~

(3) "Category three special education ADM" means the average daily membership of students receiving special education services for those disabilities specified in division ~~(C)(D)(3)~~ of section ~~3317.013~~ 3306.02 of the Revised Code, and reported under division (B)(7) or (D)(2)(d) of section 3317.03 of the Revised Code. ~~Beginning in fiscal year 2007, the district's category three special education ADM for a fiscal year is the sum of one half of the number reported for October of that fiscal year plus one half of the average of the numbers reported for October and February of that fiscal year.~~

(4) "Category four special education ADM" means the average daily membership of students receiving special education services for those disabilities specified in division (D)(4) of section ~~3317.013~~ 3306.02 of the Revised Code and reported under division (B)(8) or (D)(2)(e) of section

3317.03 of the Revised Code. ~~Beginning in fiscal year 2007, the district's category four special education ADM for a fiscal year is the sum of one half of the number reported for October of that fiscal year plus one half of the average of the numbers reported for October and February of that fiscal year.~~

(5) "Category five special education ADM" means the average daily membership of students receiving special education services for the disabilities specified in division ~~(E)(D)(5)~~ of section ~~3317.013~~ 3306.02 of the Revised Code and reported under division (B)(9) or (D)(2)(f) of section 3317.03 of the Revised Code. ~~Beginning in fiscal year 2007, the district's category five special education ADM for a fiscal year is the sum of one half of the number reported for October of that fiscal year plus one half of the average of the numbers reported for October and February of that fiscal year.~~

(6) "Category six special education ADM" means the average daily membership of students receiving special education services for the disabilities specified in division ~~(F)(D)(6)~~ of section ~~3317.013~~ 3306.02 of the Revised Code and reported under division (B)(10) or (D)(2)(g) of section 3317.03 of the Revised Code. ~~Beginning in fiscal year 2007, the district's category six special education ADM for a fiscal year is the sum of one half of the number reported for October of that fiscal year plus one half of the average of the numbers reported for October and February of that fiscal year.~~

(7) "Category one vocational education ADM" means the average daily membership of students receiving vocational education services described in division (A) of section 3317.014 of the Revised Code and reported under division (B)(11) or (D)(2)(h) of section 3317.03 of the Revised Code. ~~Beginning in fiscal year 2007, the district's category one vocational education ADM for a fiscal year is the sum of one half of the number reported for October of that fiscal year plus one half of the average of the numbers reported for October and February of that fiscal year.~~

(8) "Category two vocational education ADM" means the average daily membership of students receiving vocational education services described in division (B) of section 3317.014 of the Revised Code and reported under division (B)(12) or (D)(2)(i) of section 3317.03 of the Revised Code. ~~Beginning in fiscal year 2007, the district's category two vocational education ADM for a fiscal year is the sum of one half of the number reported for October of that fiscal year plus one half of the average of the numbers reported for October and February of that fiscal year.~~

(G) "Preschool child with a disability" means a child with a disability,

as defined in section 3323.01 of the Revised Code, who is at least age three but is not of compulsory school age, as defined in section 3321.01 of the Revised Code, and who is not currently enrolled in kindergarten.

(H) "County MR/DD board" means a county board of mental retardation and developmental disabilities.

(I) "Recognized valuation" means the amount calculated for a school district pursuant to section 3317.015 of the Revised Code.

(J) "Transportation ADM" means the number of children reported under division (B)(13) of section 3317.03 of the Revised Code.

(K) "Average efficient transportation use cost per student" means a statistical representation of transportation costs as calculated under division (D)(2) of section 3317.022 of the Revised Code.

(L) "Taxes charged and payable" means the taxes charged and payable against real and public utility property after making the reduction required by section 319.301 of the Revised Code, plus the taxes levied against tangible personal property.

(M) "Total taxable value" means the sum of the amounts certified for a city, local, exempted village, or joint vocational school district under divisions (A)(1) and (2) of section 3317.021 of the Revised Code.

(N) "Tax exempt value" of a school district means the amount certified for a school district under division (A)(4) of section 3317.021 of the Revised Code.

(O) "Potential value" of a school district means the recognized valuation of a school district plus the tax exempt value of the district.

(P) "District median income" means the median Ohio adjusted gross income certified for a school district. On or before the first day of July of each year, the tax commissioner shall certify to the department of education and the office of budget and management for each city, exempted village, and local school district the median Ohio adjusted gross income of the residents of the school district determined on the basis of tax returns filed for the second preceding tax year by the residents of the district.

(Q) "Statewide median income" means the median district median income of all city, exempted village, and local school districts in the state.

(R) "Income factor" for a city, exempted village, or local school district means the quotient obtained by dividing that district's median income by the statewide median income.

(S) "Medically fragile child" means a child to whom all of the following apply:

(1) The child requires the services of a doctor of medicine or osteopathic medicine at least once a week due to the instability of the child's

medical condition.

(2) The child requires the services of a registered nurse on a daily basis.

(3) The child is at risk of institutionalization in a hospital, skilled nursing facility, or intermediate care facility for the mentally retarded.

(T) A child may be identified as having an "other health impairment-major" if the child's condition meets the definition of "other health impaired" established in rules adopted by the state board of education prior to July 1, 2001, and if either of the following apply:

(1) The child is identified as having a medical condition that is among those listed by the superintendent of public instruction as conditions where a substantial majority of cases fall within the definition of "medically fragile child." The superintendent of public instruction shall issue an initial list no later than September 1, 2001.

(2) The child is determined by the superintendent of public instruction to be a medically fragile child. A school district superintendent may petition the superintendent of public instruction for a determination that a child is a medically fragile child.

(U) A child may be identified as having an "other health impairment-minor" if the child's condition meets the definition of "other health impaired" established in rules adopted by the state board of education prior to July 1, 2001, but the child's condition does not meet either of the conditions specified in division (T)(1) or (2) of this section.

(V) "State education aid" has the same meaning as in section 5751.20 of the Revised Code.

(W) "Property exemption value" means zero in fiscal year 2006, and in fiscal year 2007 and each fiscal year thereafter, the amount certified for a school district under divisions (A)(6) and (7) of section 3317.021 of the Revised Code.

(X) "Internet- or computer-based community school" has the same meaning as in section 3314.02 of the Revised Code.

(Y) "State share percentage" has the same meaning as in section 3306.02 of the Revised Code.

Sec. 3317.021. ~~(A)~~ The information certified under this section shall be used to calculate payments under this chapter and Chapter 3306. of the Revised Code.

(A) On or before the first day of June of each year, the tax commissioner shall certify to the department of education and the office of budget and management the information described in divisions (A)(1) to ~~(8)(7)~~ of this section for each city, exempted village, and local school district, and the information required by divisions (A)(1) and (2) of this

section for each joint vocational school district, and it shall be used, along with the information certified under division (B) of this section, in making the computations for the district under ~~sections 3317.022, 3317.0216, and 3317.0217 or section 3317.16~~ this chapter and Chapter 3306, of the Revised Code.

(1) The taxable value of real and public utility real property in the school district subject to taxation in the preceding tax year, by class and by county of location.

(2) The taxable value of tangible personal property, including public utility personal property, subject to taxation by the district for the preceding tax year.

(3)(a) The total property tax rate and total taxes charged and payable for the current expenses for the preceding tax year and the total property tax rate and the total taxes charged and payable to a joint vocational district for the preceding tax year that are limited to or to the extent apportioned to current expenses.

(b) The portion of the amount of taxes charged and payable reported for each city, local, and exempted village school district under division (A)(3)(a) of this section attributable to a joint vocational school district.

(4) The value of all real and public utility real property in the school district exempted from taxation minus both of the following:

(a) The value of real and public utility real property in the district owned by the United States government and used exclusively for a public purpose;

(b) The value of real and public utility real property in the district exempted from taxation under Chapter 725. or 1728. or section 3735.67, 5709.40, 5709.41, 5709.62, 5709.63, 5709.632, 5709.73, or 5709.78 of the Revised Code.

(5) The total federal adjusted gross income of the residents of the school district, based on tax returns filed by the residents of the district, for the most recent year for which this information is available.

(6) The sum of the school district compensation value as indicated on the list of exempted property for the preceding tax year under section 5713.08 of the Revised Code as if such property had been assessed for taxation that year and the other compensation value for the school district, minus the amounts described in divisions (A)(6)(c) to (i) of this section. The portion of school district compensation value or other compensation value attributable to an incentive district exemption may be subtracted only once even if that incentive district satisfies more than one of the criteria in divisions (A)(6)(c) to (i) of this section.

(a) "School district compensation value" means the aggregate value of

real property in the school district exempted from taxation pursuant to an ordinance or resolution adopted under division (C) of section 5709.40, division (C) of section 5709.73, or division (B) of section 5709.78 of the Revised Code to the extent that the exempted value results in the charging of payments in lieu of taxes required to be paid to the school district under division (D)(1) or (2) of section 5709.40, division (D) of section 5709.73, or division (C) of section 5709.78 of the Revised Code.

(b) "Other compensation value" means the quotient that results from dividing (i) the dollar value of compensation received by the school district during the preceding tax year pursuant to division (B), (C), or (D) of section 5709.82 of the Revised Code and the amounts received pursuant to an agreement as specified in division (D)(2) of section 5709.40, division (D) of section 5709.73, or division (C) of section 5709.78 of the Revised Code to the extent those amounts were not previously reported or included in division (A)(6)(a) of this section, and so that any such amount is reported only once under division (A)(6)(b) of this section, in relation to exemptions from taxation granted pursuant to an ordinance or resolution adopted under division (C) of section 5709.40, division (C) of section 5709.73, or division (B) of section 5709.78 of the Revised Code, by (ii) the real property tax rate in effect for the preceding tax year for nonresidential/agricultural real property after making the reductions required by section 319.301 of the Revised Code.

(c) The portion of school district compensation value or other compensation value that was exempted from taxation pursuant to such an ordinance or resolution for the preceding tax year, if the ordinance or resolution is adopted prior to January 1, 2006, and the legislative authority or board of township trustees or county commissioners, prior to January 1, 2006, executes a contract or agreement with a developer, whether for-profit or not-for-profit, with respect to the development of a project undertaken or to be undertaken and identified in the ordinance or resolution, and upon which parcels such project is being, or will be, undertaken;

(d) The portion of school district compensation value that was exempted from taxation for the preceding tax year and for which payments in lieu of taxes for the preceding tax year were provided to the school district under division (D)(1) of section 5709.40 of the Revised Code.

(e) The portion of school district compensation value that was exempted from taxation for the preceding tax year pursuant to such an ordinance or resolution, if and to the extent that, on or before April 1, 2006, the fiscal officer of the municipal corporation that adopted the ordinance, or of the township or county that adopted the resolution, certifies and provides

appropriate supporting documentation to the tax commissioner and the director of development that, based on hold-harmless provisions in any agreement between the school district and the legislative authority of the municipal corporation, board of township trustees, or board of county commissioners that was entered into on or before June 1, 2005, the ability or obligation of the municipal corporation, township, or county to repay bonds, notes, or other financial obligations issued or entered into prior to January 1, 2006, will be impaired, including obligations to or of any other body corporate and politic with whom the legislative authority of the municipal corporation or board of township trustees or county commissioners has entered into an agreement pertaining to the use of service payments derived from the improvements exempted;

(f) The portion of school district compensation value that was exempted from taxation for the preceding tax year pursuant to such an ordinance or resolution, if the ordinance or resolution is adopted prior to January 1, 2006, in a municipal corporation with a population that exceeds one hundred thousand, as shown by the most recent federal decennial census, that includes a major employment center and that is adjacent to historically distressed neighborhoods, if the legislative authority of the municipal corporation that exempted the property prepares an economic analysis that demonstrates that all taxes generated within the incentive district accruing to the state by reason of improvements constructed within the district during its existence exceed the amount the state pays the school district under section 3317.022 of the Revised Code attributable to such property exemption from the school district's recognized valuation. The analysis shall be submitted to and approved by the department of development prior to January 1, 2006, and the department shall not unreasonably withhold approval.

(g) The portion of school district compensation value that was exempted from taxation for the preceding tax year under such an ordinance or resolution, if the ordinance or resolution is adopted prior to January 1, 2006, and if service payments have been pledged to be used for mixed-use riverfront entertainment development in any county with a population that exceeds six hundred thousand, as shown by the most recent federal decennial census;

(h) The portion of school district compensation value that was exempted from taxation for the preceding tax year under such an ordinance or resolution, if, prior to January 1, 2006, the legislative authority of a municipal corporation, board of township trustees, or board of county commissioners has pledged service payments for a designated transportation capacity project approved by the transportation review advisory council

under Chapter 5512. of the Revised Code;

(i) The portion of school district compensation value that was exempted from taxation for the preceding tax year under such an ordinance or resolution if the legislative authority of a municipal corporation, board of township trustees, or board of county commissioners have, by January 1, 2006, pledged proceeds for designated transportation improvement projects that involve federal funds for which the proceeds are used to meet a local share match requirement for such funding.

As used in division (A)(6) of this section, "project" has the same meaning as in section 5709.40 of the Revised Code.

(7) The aggregate value of real property in the school district for which an exemption from taxation is granted by an ordinance or resolution adopted on or after January 1, 2006, under Chapter 725. or 1728., sections 3735.65 to 3735.70, or section 5709.62, 5709.63, 5709.632, 5709.84, or 5709.88 of the Revised Code, as indicated on the list of exempted property for the preceding tax year under section 5713.08 of the Revised Code and as if such property had been assessed for taxation that year, minus the product determined by multiplying (a) the aggregate value of the real property in the school district exempted from taxation for the preceding tax year under any of the chapters or sections specified in this division, by (b) a fraction, the numerator of which is the difference between (i) the amount of anticipated revenue such school district would have received for the preceding tax year if the real property exempted from taxation had not been exempted from taxation and (ii) the aggregate amount of payments in lieu of taxes on the exempt real property for the preceding tax year and other compensation received for the preceding tax year by the school district pursuant to any agreements entered into on or after January 1, 2006, under section 5709.82 of the Revised Code between the school district and the legislative authority of a political subdivision that acted under the authority of a chapter or statute specified in this division, that were entered into in relation to such exemption, and the denominator of which is the amount of anticipated revenue such school district would have received in the preceding fiscal year if the real property exempted from taxation had not been exempted.

~~(8) For each school district receiving payments under division (B) or (C) of section 3317.0216 of the Revised Code during the current fiscal year, as included on the most recent list of such districts sent to the tax commissioner under division (F) of that section, the following:~~

~~(a) The portion of the total amount of taxes charged and payable for current expenses certified under division (A)(3)(a) of this section that is attributable to each new levy approved and charged in the preceding tax~~

~~year and the respective tax rate of each of those new levies;~~

~~(b) The portion of the total taxes collected for current expenses under a school district income tax adopted pursuant to section 5748.03 or 5748.08 of the Revised Code, as certified under division (A)(2) of section 3317.08 of the Revised Code, that is attributable to each new school district income tax first effective in the current taxable year or in the preceding taxable year.~~

(B) On or before the first day of May each year, the tax commissioner shall certify to the department of education and the office of budget and management the total taxable real property value of railroads and, separately, the total taxable tangible personal property value of all public utilities for the preceding tax year, by school district and by county of location.

(C) If a public utility has properly and timely filed a petition for reassessment under section 5727.47 of the Revised Code with respect to an assessment issued under section 5727.23 of the Revised Code affecting taxable property apportioned by the tax commissioner to a school district, the taxable value of public utility tangible personal property included in the certification under divisions (A)(2) and (B) of this section for the school district shall include only the amount of taxable value on the basis of which the public utility paid tax for the preceding year as provided in division (B)(1) or (2) of section 5727.47 of the Revised Code.

(D) If on the basis of the information certified under division (A) of this section, the department determines that any district fails in any year to meet the qualification requirement specified in division (A)(1) of section 3306.01 and division (A) of section 3317.01 of the Revised Code, the department shall immediately request the tax commissioner to determine the extent to which any school district income tax levied by the district under Chapter 5748. of the Revised Code shall be included in meeting that requirement. Within five days of receiving such a request from the department, the tax commissioner shall make the determination required by this division and report the quotient obtained under division (D)(3) of this section to the department and the office of budget and management. This quotient represents the number of mills that the department shall include in determining whether the district meets the qualification requirement of division (A)(1) of section 3306.01 and division (A) of section 3317.01 of the Revised Code.

The tax commissioner shall make the determination required by this division as follows:

(1) Multiply one mill times the total taxable value of the district as determined in divisions (A)(1) and (2) of this section;

(2) Estimate the total amount of tax liability for the current tax year under taxes levied by Chapter 5748. of the Revised Code that are apportioned to current operating expenses of the district, excluding any income tax receipts allocated for the project cost, debt service, or maintenance set-aside associated with a state-assisted classroom facilities project as authorized by section 3318.052 of the Revised Code;

(3) Divide the amount estimated under division (D)(2) of this section by the product obtained under division (D)(1) of this section.

(E)(1) On or before June 1, 2006, and the first day of April of each year thereafter, the director of development shall report to the department of education, the tax commissioner, and the director of budget and management the total amounts of payments received by each city, local, exempted village, or joint vocational school district for the preceding tax year pursuant to division (D) of section 5709.40, division (D) of section 5709.73, division (C) of section 5709.78, or division (B)(1), (B)(2), (C), or (D) of section 5709.82 of the Revised Code in relation to exemptions from taxation granted pursuant to an ordinance adopted by the legislative authority of a municipal corporation under division (C) of section 5709.40 of the Revised Code, or a resolution adopted by a board of township trustees or board of county commissioners under division (C) of section 5709.73 or division (B) of section 5709.78 of the Revised Code, respectively. On or before April 1, 2006, and the first day of March of each year thereafter, the treasurer of each city, local, exempted village, or joint vocational school district that has entered into such an agreement shall report to the director of development the total amounts of such payments the district received for the preceding tax year as provided in this section. The state board of education, in accordance with sections 3319.31 and 3319.311 of the Revised Code, may suspend or revoke the license of a treasurer found to have willfully reported erroneous, inaccurate, or incomplete data under this division.

(2) On or before April 1, 2007, and the first day of April of each year thereafter, the director of development shall report to the department of education, the tax commissioner, and the director of budget and management the total amounts of payments received by each city, local, exempted village, or joint vocational school district for the preceding tax year pursuant to divisions (B), (C), and (D) of section 5709.82 of the Revised Code in relation to exemptions from taxation granted pursuant to ordinances or resolutions adopted on or after January 1, 2006, under Chapter 725. or 1728., sections 3735.65 to 3735.70, or section 5709.62, 5709.63, 5709.632, 5709.84, or 5709.88 of the Revised Code. On or before March 1, 2007, and the first day of March of each year thereafter, the treasurer of

each city, local, exempted village, or joint vocational school district that has entered into such an agreement shall report to the director of development the total amounts of such payments the district received for the preceding tax year as provided by this section. The state board of education, in accordance with sections 3319.31 and 3319.311 of the Revised Code, may suspend or revoke the license of a treasurer found to have willfully reported erroneous, inaccurate, or incomplete data under this division.

Sec. 3317.022. (A)(1) The department of education shall compute and distribute state base cost funding to each eligible school district for the fiscal year, using the information obtained under section 3317.021 of the Revised Code in the calendar year in which the fiscal year begins, according to the following formula:

$$\begin{aligned} & \{[\text{the formula amount X (formula ADM +} \\ & \quad \text{preschool scholarship ADM)}] + \\ & \quad \text{the sum of the base funding supplements} \\ & \quad \text{prescribed in divisions (C)(1) to (4)} \\ & \quad \text{of section 3317.012 of the Revised Code} \} - \\ & \quad [.023 \times (\text{the sum of recognized valuation} \\ & \quad \text{and property exemption value)}] + \\ & \quad \text{the amounts calculated for the district under} \\ & \quad \text{sections 3317.029 and 3317.0217 of the Revised Code} \end{aligned}$$

If the difference obtained is a negative number, the district's computation shall be zero.

(2)(a) For each school district for which the tax exempt value of the district equals or exceeds twenty-five per cent of the potential value of the district, the department of education shall calculate the difference between the district's tax exempt value and twenty-five per cent of the district's potential value.

(b) For each school district to which division (A)(2)(a) of this section applies, the department shall adjust the recognized valuation used in the calculation under division (A)(1) of this section by subtracting from it the amount calculated under division (A)(2)(a) of this section.

(B) As used in this section:

(1) The "total special education weight" for a district means the sum of the following amounts:

(a) The district's category one special education ADM multiplied by the multiple specified in division (A) of section 3317.013 of the Revised Code;

(b) The district's category two special education ADM multiplied by the multiple specified in division (B) of section 3317.013 of the Revised Code;

(c) The district's category three special education ADM multiplied by

the multiple specified in division (C) of section 3317.013 of the Revised Code;

(d) The district's category four special education ADM multiplied by the multiple specified in division (D) of section 3317.013 of the Revised Code;

(e) The district's category five special education ADM multiplied by the multiple specified in division (E) of section 3317.013 of the Revised Code;

(f) The district's category six special education ADM multiplied by the multiple specified in division (F) of section 3317.013 of the Revised Code.

(2) ~~"State share percentage" means the percentage calculated for a district as follows:~~

~~(a) Calculate the state base cost funding amount for the district for the fiscal year under division (A) of this section. If the district would not receive any state base cost funding for that year under that division, the district's state share percentage is zero.~~

~~(b) If the district would receive state base cost funding under that division, divide that amount by an amount equal to the following:~~

~~(the formula amount X formula ADM) +~~

~~the sum of the base funding supplements~~

~~prescribed in divisions (C)(1) to (4)~~

~~of section 3317.012 of the Revised Code +~~

~~the sum of the amounts calculated for the district under~~

~~sections 3317.029 and 3317.0217 of the Revised Code~~

~~The resultant number is the district's state share percentage.~~

~~(3) "Related services" includes:~~

(a) Child study, special education supervisors and coordinators, speech and hearing services, adaptive physical development services, occupational or physical therapy, teacher assistants for children with disabilities whose disabilities are described in division (B) of section 3317.013 or division (F)(3) of section 3317.02 of the Revised Code, behavioral intervention, interpreter services, work study, nursing services, and specialized integrative services as those terms are defined by the department;

(b) Speech and language services provided to any student with a disability, including any student whose primary or only disability is a speech and language disability;

(c) Any related service not specifically covered by other state funds but specified in federal law, including but not limited to, audiology and school psychological services;

(d) Any service included in units funded under former division (O)(1) of section 3317.024 of the Revised Code;

(e) Any other related service needed by children with disabilities in

accordance with their individualized education programs.

~~(4)~~(3) The "total vocational education weight" for a district means the sum of the following amounts:

(a) The district's category one vocational education ADM multiplied by the multiple specified in division (A) of section 3317.014 of the Revised Code;

(b) The district's category two vocational education ADM multiplied by the multiple specified in division (B) of section 3317.014 of the Revised Code.

~~(5)~~(4) "Preschool scholarship ADM" means the number of preschool children with disabilities reported under division (B)(3)(h) of section 3317.03 of the Revised Code.

(C)(1) The department shall compute and distribute state special education and related services additional weighted costs funds to each school district in accordance with the following formula:

The district's state share percentage X
the formula amount for the year for which
the aid is calculated X the district's
total special education weight

(2) The attributed local share of special education and related services additional weighted costs equals:

(1 - the district's state share percentage) X the district's
total special education weight X the formula amount

(3)(a) The department shall compute and pay in accordance with this division additional state aid to school districts for students in categories two through six special education ADM. If a district's costs for the fiscal year for a student in its categories two through six special education ADM exceed the threshold catastrophic cost for serving the student, the district may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the district an amount equal to the sum of the following:

(i) One-half of the district's costs for the student in excess of the threshold catastrophic cost;

(ii) The product of one-half of the district's costs for the student in excess of the threshold catastrophic cost multiplied by the district's state share percentage.

(b) For purposes of division (C)(3)(a) of this section, the threshold catastrophic cost for serving a student equals:

(i) For a student in the school district's category two, three, four, or five special education ADM, twenty-seven thousand three hundred seventy-five dollars ~~in fiscal years 2008 and 2009~~;

(ii) For a student in the district's category six special education ADM, thirty-two thousand eight hundred fifty dollars ~~in fiscal years 2008 and 2009~~.

(c) The district shall only report under division (C)(3)(a) of this section, and the department shall only pay for, the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

(4)(a) As used in this division, the "personnel allowance" means thirty thousand dollars in fiscal years 2008 and 2009.

(b) For the provision of speech language pathology services to students, including students who do not have individualized education programs prepared for them under Chapter 3323. of the Revised Code, and for no other purpose, the department of education shall pay each school district an amount calculated under the following formula:

$$\frac{(\text{formula ADM divided by } 2000) \times \text{the personnel allowance}}{\text{the state share percentage}}$$

(5) In any fiscal year, a school district shall spend for purposes that the department designates as approved for special education and related services expenses at least the amount calculated as follows:

$$\frac{(\text{formula amount} \times \text{the sum of categories one through six special education ADM})}{(\text{total special education weight} \times \text{formula amount})}$$

The purposes approved by the department for special education expenses shall include, but shall not be limited to, identification of children with disabilities, compliance with state rules governing the education of children with disabilities and prescribing the continuum of program options for children with disabilities, provision of speech language pathology services, and the portion of the school district's overall administrative and overhead costs that are attributable to the district's special education student population.

The scholarships deducted from the school district's account under section 3310.41 of the Revised Code shall be considered to be an approved special education and related services expense for the purpose of the school district's compliance with division (C)(5) of this section.

The department shall require school districts to report data annually to allow for monitoring compliance with division (C)(5) of this section. The department shall annually report to the governor and the general assembly the amount of money spent by each school district for special education and related services.

(6) In any fiscal year, a school district shall spend for the provision of speech language pathology services not less than the sum of the amount calculated under division (C)(1) of this section for the students in the district's category one special education ADM and the amount calculated under division (C)(4) of this section.

(D)(1) As used in this division:

(a) "Daily bus miles per student" equals the number of bus miles traveled per day, divided by transportation base.

(b) "Transportation base" equals total student count as defined in section 3301.011 of the Revised Code, minus the number of students enrolled in units for preschool children with disabilities, plus the number of nonpublic school students included in transportation ADM.

(c) "Transported student percentage" equals transportation ADM divided by transportation base.

(d) "Transportation cost per student" equals total operating costs for board-owned or contractor-operated school buses divided by transportation base.

(2) Analysis of student transportation cost data has resulted in a finding that an average efficient transportation use cost per student can be calculated by means of a regression formula that has as its two independent variables the number of daily bus miles per student and the transported student percentage. For fiscal year 1998 transportation cost data, the average efficient transportation use cost per student is expressed as follows:

$$51.79027 + (139.62626 \times \text{daily bus miles per student}) + \\ (116.25573 \times \text{transported student percentage})$$

The department of education shall annually determine the average efficient transportation use cost per student in accordance with the principles stated in division (D)(2) of this section, updating the intercept and regression coefficients of the regression formula modeled in this division, based on an annual statewide analysis of each school district's daily bus miles per student, transported student percentage, and transportation cost per student data. The department shall conduct the annual update using data, including daily bus miles per student, transported student percentage, and transportation cost per student data, from the prior fiscal year. The department shall notify the office of budget and management of such update

by the fifteenth day of February of each year.

(3) In addition to funds paid under divisions (A), (C), and (E) of this section, each district with a transported student percentage greater than zero shall receive a payment equal to a percentage of the product of the district's transportation base from the prior fiscal year times the annually updated average efficient transportation use cost per student, times an inflation factor of two and eight-tenths per cent to account for the one-year difference between the data used in updating the formula and calculating the payment and the year in which the payment is made. The percentage shall be the following percentage of that product specified for the corresponding fiscal year:

FISCAL YEAR	PERCENTAGE
2000	52.5%
2001	55%
2002	57.5%
2003 and thereafter	The greater of 60% or the district's state share percentage

The payments made under division (D)(3) of this section each year shall be calculated based on all of the same prior year's data used to update the formula.

(4) In addition to funds paid under divisions (D)(2) and (3) of this section, a school district shall receive a rough road subsidy if both of the following apply:

- (a) Its county rough road percentage is higher than the statewide rough road percentage, as those terms are defined in division (D)(5) of this section;
- (b) Its district student density is lower than the statewide student density, as those terms are defined in that division.

(5) The rough road subsidy paid to each district meeting the qualifications of division (D)(4) of this section shall be calculated in accordance with the following formula:

$$\begin{aligned} & (\text{per rough mile subsidy} \times \text{total rough road miles}) \\ & \times \text{density multiplier} \end{aligned}$$

where:

(a) "Per rough mile subsidy" equals the amount calculated in accordance with the following formula:

$$0.75 - \{0.75 \times [(\text{maximum rough road percentage} - \text{county rough road percentage}) / (\text{maximum rough road percentage} - \text{statewide rough road percentage})]\}$$

(i) "Maximum rough road percentage" means the highest county rough road percentage in the state.

(ii) "County rough road percentage" equals the percentage of the mileage of state, municipal, county, and township roads that is rated by the department of transportation as type A, B, C, E2, or F in the county in which the school district is located or, if the district is located in more than one county, the county to which it is assigned for purposes of determining its cost-of-doing-business factor.

(iii) "Statewide rough road percentage" means the percentage of the statewide total mileage of state, municipal, county, and township roads that is rated as type A, B, C, E2, or F by the department of transportation.

(b) "Total rough road miles" means a school district's total bus miles traveled in one year times its county rough road percentage.

(c) "Density multiplier" means a figure calculated in accordance with the following formula:

$$1 - \left[\frac{\text{minimum student density} - \text{district student density}}{\text{minimum student density} - \text{statewide student density}} \right]$$

(i) "Minimum student density" means the lowest district student density in the state.

(ii) "District student density" means a school district's transportation base divided by the number of square miles in the district.

(iii) "Statewide student density" means the sum of the transportation bases for all school districts divided by the sum of the square miles in all school districts.

(6) In addition to funds paid under divisions (D)(2) to (5) of this section, each district shall receive in accordance with rules adopted by the state board of education a payment for students transported by means other than board-owned or contractor-operated buses and whose transportation is not funded under division (G) of section 3317.024 of the Revised Code. The rules shall include provisions for school district reporting of such students.

(E)(1) The department shall compute and distribute state vocational education additional weighted costs funds to each school district in accordance with the following formula:

$$\frac{\text{state share percentage} \times \text{the formula amount}}{\text{total vocational education weight}}$$

In any fiscal year, a school district receiving funds under division (E)(1) of this section shall spend those funds only for the purposes that the department designates as approved for vocational education expenses. Vocational educational expenses approved by the department shall include only expenses connected to the delivery of career-technical programming to

career-technical students. The department shall require the school district to report data annually so that the department may monitor the district's compliance with the requirements regarding the manner in which funding received under division (E)(1) of this section may be spent.

(2) The department shall compute for each school district state funds for vocational education associated services in accordance with the following formula:

state share percentage X .05 X the formula amount X

the sum of categories one and two vocational education ADM

In any fiscal year, a school district receiving funds under division (E)(2) of this section, or through a transfer of funds pursuant to division (L) of section 3317.023 of the Revised Code, shall spend those funds only for the purposes that the department designates as approved for vocational education associated services expenses, which may include such purposes as apprenticeship coordinators, coordinators for other vocational education services, vocational evaluation, and other purposes designated by the department. The department may deny payment under division (E)(2) of this section to any district that the department determines is not operating those services or is using funds paid under division (E)(2) of this section, or through a transfer of funds pursuant to division (L) of section 3317.023 of the Revised Code, for other purposes.

(F) The actual local share in any fiscal year for the combination of special education and related services additional weighted costs funding calculated under division (C)(1) of this section, transportation funding calculated under divisions (D)(2) and (3) of this section, and vocational education and associated services additional weighted costs funding calculated under divisions (E)(1) and (2) of this section shall not exceed for any school district the product of three and three-tenths mills times the district's recognized valuation. The department annually shall pay each school district as an excess cost supplement any amount by which the sum of the district's attributed local shares for that funding exceeds that product. For purposes of calculating the excess cost supplement:

(1) The attributed local share for special education and related services additional weighted costs funding is the amount specified in division (C)(2) of this section.

(2) The attributed local share of transportation funding equals the difference of the total amount calculated for the district using the formula developed under division (D)(2) of this section minus the actual amount paid to the district after applying the percentage specified in division (D)(3) of this section.

(3) The attributed local share of vocational education and associated services additional weighted costs funding is the amount determined as follows:

(1 - state share percentage) X
 [(total vocational education weight X
 the formula amount) + the payment under
 division (E)(2) of this section]

Sec. 3317.023. (A) ~~Notwithstanding section 3317.022 of the Revised Code, the~~ The amounts required to be paid to a district under this chapter and Chapter 3306. of the Revised Code shall be adjusted by the amount of the computations made under divisions (B) to (N) of this section. The department of education shall not make payments or adjustments under divisions (B), (C), and (D) of this section for any fiscal year after fiscal year 2009.

As used in this section:

(1) "Classroom teacher" means a licensed employee who provides direct instruction to pupils, excluding teachers funded from money paid to the district from federal sources; educational service personnel; and vocational and special education teachers.

(2) "Educational service personnel" shall not include such specialists funded from money paid to the district from federal sources or assigned full-time to vocational or special education students and classes and may only include those persons employed in the eight specialist areas in a pattern approved by the department of education under guidelines established by the state board of education.

(3) "Annual salary" means the annual base salary stated in the state minimum salary schedule for the performance of the teacher's regular teaching duties that the teacher earns for services rendered for the first full week of October of the fiscal year for which the adjustment is made under division (C) of this section. It shall not include any salary payments for supplemental teachers contracts.

(4) "Regular student population" means the formula ADM plus the number of students reported as enrolled in the district pursuant to division (A)(1) of section 3313.981 of the Revised Code; minus the number of students reported under division (A)(2) of section 3317.03 of the Revised Code; minus the FTE of students reported under division (B)(6), (7), (8), (9), (10), (11), or (12) of that section who are enrolled in a vocational education class or receiving special education; and minus twenty per cent of the students enrolled concurrently in a joint vocational school district.

(5) ~~"State share percentage" has the same meaning as in section~~

~~3317.022 of the Revised Code.~~

~~(6)~~ "VEPD" means a school district or group of school districts designated by the department of education as being responsible for the planning for and provision of vocational education services to students within the district or group.

~~(7)~~(6) "Lead district" means a school district, including a joint vocational school district, designated by the department as a VEPD, or designated to provide primary vocational education leadership within a VEPD composed of a group of districts.

(B) If the district employs less than one full-time equivalent classroom teacher for each twenty-five pupils in the regular student population in any school district, deduct the sum of the amounts obtained from the following computations:

(1) Divide the number of the district's full-time equivalent classroom teachers employed by one twenty-fifth;

(2) Subtract the quotient in (1) from the district's regular student population;

(3) Multiply the difference in (2) by seven hundred fifty-two dollars.

(C) If a positive amount, add one-half of the amount obtained by multiplying the number of full-time equivalent classroom teachers by:

(1) The mean annual salary of all full-time equivalent classroom teachers employed by the district at their respective training and experience levels minus;

(2) The mean annual salary of all such teachers at their respective levels in all school districts receiving payments under this section.

The number of full-time equivalent classroom teachers used in this computation shall not exceed one twenty-fifth of the district's regular student population. In calculating the district's mean salary under this division, those full-time equivalent classroom teachers with the highest training level shall be counted first, those with the next highest training level second, and so on, in descending order. Within the respective training levels, teachers with the highest years of service shall be counted first, the next highest years of service second, and so on, in descending order.

(D) This division does not apply to a school district that has entered into an agreement under division (A) of section 3313.42 of the Revised Code. Deduct the amount obtained from the following computations if the district employs fewer than five full-time equivalent educational service personnel, including elementary school art, music, and physical education teachers, counselors, librarians, visiting teachers, school social workers, and school nurses for each one thousand pupils in the regular student population:

(1) Divide the number of full-time equivalent educational service personnel employed by the district by five one-thousandths;

(2) Subtract the quotient in (1) from the district's regular student population;

(3) Multiply the difference in (2) by ninety-four dollars.

(E) If a local school district, or a city or exempted village school district to which a governing board of an educational service center provides services pursuant to section 3313.843 of the Revised Code, deduct the amount of the payment required for the reimbursement of the governing board under section 3317.11 of the Revised Code.

(F)(1) If the district is required to pay to or entitled to receive tuition from another school district under division (C)(2) or (3) of section 3313.64 or section 3313.65 of the Revised Code, or if the superintendent of public instruction is required to determine the correct amount of tuition and make a deduction or credit under section 3317.08 of the Revised Code, deduct and credit such amounts as provided in division (J) of section 3313.64 or section 3317.08 of the Revised Code.

(2) For each child for whom the district is responsible for tuition or payment under division (A)(1) of section 3317.082 or section 3323.091 of the Revised Code, deduct the amount of tuition or payment for which the district is responsible.

(G) If the district has been certified by the superintendent of public instruction under section 3313.90 of the Revised Code as not in compliance with the requirements of that section, deduct an amount equal to ten per cent of the amount computed for the district under ~~section 3317.022~~ Chapter 3306, of the Revised Code.

(H) If the district has received a loan from a commercial lending institution for which payments are made by the superintendent of public instruction pursuant to division (E)(3) of section 3313.483 of the Revised Code, deduct an amount equal to such payments.

(I)(1) If the district is a party to an agreement entered into under division (D), (E), or (F) of section 3311.06 or division (B) of section 3311.24 of the Revised Code and is obligated to make payments to another district under such an agreement, deduct an amount equal to such payments if the district school board notifies the department in writing that it wishes to have such payments deducted.

(2) If the district is entitled to receive payments from another district that has notified the department to deduct such payments under division (I)(1) of this section, add the amount of such payments.

(J) If the district is required to pay an amount of funds to a cooperative

education district pursuant to a provision described by division (B)(4) of section 3311.52 or division (B)(8) of section 3311.521 of the Revised Code, deduct such amounts as provided under that provision and credit those amounts to the cooperative education district for payment to the district under division (B)(1) of section 3317.19 of the Revised Code.

(K)(1) If a district is educating a student entitled to attend school in another district pursuant to a shared education contract, compact, or cooperative education agreement other than an agreement entered into pursuant to section 3313.842 of the Revised Code, credit to that educating district on an FTE basis both of the following:

(a) An amount equal to the ~~sum of the~~ formula amount ~~plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code.~~

(b) An amount equal to the current formula amount times the state share percentage times any multiple applicable to the student pursuant to section ~~3317.013 or 3317.014~~ 3306.11 of the Revised Code.

(2) Deduct any amount credited pursuant to division (K)(1) of this section from amounts paid to the school district in which the student is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.

(3) If the district is required by a shared education contract, compact, or cooperative education agreement to make payments to an educational service center, deduct the amounts from payments to the district and add them to the amounts paid to the service center pursuant to section 3317.11 of the Revised Code.

(L)(1) If a district, including a joint vocational school district, is a lead district of a VEPD, credit to that district the amounts calculated for all the school districts within that VEPD pursuant to division (E)(2) of section 3317.022 of the Revised Code.

(2) Deduct from each appropriate district that is not a lead district, the amount attributable to that district that is credited to a lead district under division (L)(1) of this section.

(M) If the department pays a joint vocational school district under division (G)(4) of section 3317.16 of the Revised Code for excess costs of providing special education and related services to a student with a disability, as calculated under division (G)(2) of that section, the department shall deduct the amount of that payment from the city, local, or exempted village school district that is responsible as specified in that section for the excess costs.

(N)(1) If the district reports an amount of excess cost for special

education services for a child under division (C) of section 3323.14 of the Revised Code, the department shall pay that amount to the district.

(2) If the district reports an amount of excess cost for special education services for a child under division (C) of section 3323.14 of the Revised Code, the department shall deduct that amount from the district of residence of that child.

Sec. 3317.024. ~~In addition to the moneys paid to eligible school districts pursuant to section 3317.022 of the Revised Code, moneys appropriated for the education programs in divisions (A) to (I), (K), (L), and (N) of this section shall be distributed to school districts meeting the requirements of section 3317.01 of the Revised Code; in the case of divisions (G) and (L) of this section, to educational service centers as provided in section 3317.11 of the Revised Code; in the case of divisions (D) and (J) of this section, to county MR/DD boards; in the case of division (N) of this section, to joint vocational school districts; in the case of division (H) of this section, to cooperative education school districts; and in the case of division (M) of this section, to the institutions defined under section 3317.082 of the Revised Code providing elementary or secondary education programs to children other than children receiving special education under section 3323.091 of the Revised Code. The following shall be distributed monthly, quarterly, or annually as may be determined by the state board of education, except that the department of education shall not make payments under divisions (F), (L), and (N) of this section for any fiscal year after fiscal year 2009:~~

(A) An amount for each island school district and each joint state school district for the operation of each high school and each elementary school maintained within such district and for capital improvements for such schools. Such amounts shall be determined on the basis of standards adopted by the state board of education.

(B) An amount for each school district operating classes for children of migrant workers who are unable to be in attendance in an Ohio school during the entire regular school year. The amounts shall be determined on the basis of standards adopted by the state board of education, except that payment shall be made only for subjects regularly offered by the school district providing the classes.

(C) An amount for each school district with guidance, testing, and counseling programs approved by the state board of education. The amount shall be determined on the basis of standards adopted by the state board of education.

(D) An amount for the emergency purchase of school buses as provided for in section 3317.07 of the Revised Code;

(E) An amount for each school district required to pay tuition for a child in an institution maintained by the department of youth services pursuant to section 3317.082 of the Revised Code, provided the child was not included in the calculation of the district's average daily membership for the preceding school year.

(F) An amount for adult basic literacy education for each district participating in programs approved by the state board of education. The amount shall be determined on the basis of standards adopted by the state board of education.

(G) An amount for the approved cost of transporting eligible pupils with disabilities attending a special education program approved by the department of education whom it is impossible or impractical to transport by regular school bus in the course of regular route transportation provided by the district or service center. No district or service center is eligible to receive a payment under this division for the cost of transporting any pupil whom it transports by regular school bus and who is included in the district's transportation ADM. The state board of education shall establish standards and guidelines for use by the department of education in determining the approved cost of such transportation for each district or service center.

(H) An amount to each school district, including each cooperative education school district, pursuant to section 3313.81 of the Revised Code to assist in providing free lunches to needy children and an amount to assist needy school districts in purchasing necessary equipment for food preparation. The amounts shall be determined on the basis of rules adopted by the state board of education.

(I) An amount to each school district, for each pupil attending a chartered nonpublic elementary or high school within the district. The amount shall equal the amount appropriated for the implementation of section 3317.06 of the Revised Code divided by the average daily membership in grades kindergarten through twelve in nonpublic elementary and high schools within the state as determined during the first full week in October of each school year.

(J) An amount for each county MR/DD board, distributed on the basis of standards adopted by the state board of education, for the approved cost of transportation required for children attending special education programs operated by the county MR/DD board under section 3323.09 of the Revised Code;

(K) An amount for each school district that establishes a mentor teacher program that complies with rules of the state board of education. No school district shall be required to establish or maintain such a program in any year

unless sufficient funds are appropriated to cover the district's total costs for the program.

(L) An amount to each school district or educational service center for the total number of gifted units approved pursuant to section 3317.05 of the Revised Code. The amount for each such unit shall be the sum of the minimum salary for the teacher of the unit, calculated on the basis of the teacher's training level and years of experience pursuant to the salary schedule prescribed in the version of section 3317.13 of the Revised Code in effect prior to July 1, 2001, plus fifteen per cent of that minimum salary amount, plus two thousand six hundred seventy-eight dollars.

(M) An amount to each institution defined under section 3317.082 of the Revised Code providing elementary or secondary education to children other than children receiving special education under section 3323.091 of the Revised Code. This amount for any institution in any fiscal year shall equal the total of all tuition amounts required to be paid to the institution under division (A)(1) of section 3317.082 of the Revised Code.

(N) A grant to each school district and joint vocational school district that operates a "graduation, reality, and dual-role skills" (GRADS) program for pregnant and parenting students that is approved by the department. The amount of the payment shall be the district's state share percentage, as defined in section 3317.022 or 3317.16 of the Revised Code, times the GRADS personnel allowance times the full-time-equivalent number of GRADS teachers approved by the department. The GRADS personnel allowance is \$47,555 in fiscal years 2008 and 2009. The GRADS program shall include instruction on adoption as an option for unintended pregnancies.

The state board of education or any other board of education or governing board may provide for any resident of a district or educational service center territory any educational service for which funds are made available to the board by the United States under the authority of public law, whether such funds come directly or indirectly from the United States or any agency or department thereof or through the state or any agency, department, or political subdivision thereof.

Sec. 3317.025. On or before the first day of June of each year, the tax commissioner shall certify the following information to the department of education and the office of budget and management, for each school district in which the value of the property described under division (A) of this section exceeds one per cent of the taxable value of all real and tangible personal property in the district or in which is located tangible personal property designed for use or used in strip mining operations, whose taxable

value exceeds five million dollars, and the taxes upon which the district is precluded from collecting by virtue of legal proceedings to determine the value of such property:

(A) The total taxable value of all property in the district owned by a public utility or railroad that has filed a petition for reorganization under the "Bankruptcy Act," 47 Stat. 1474 (1898), 11 U.S.C. 205, as amended, and all tangible personal property in the district designed for use or used in strip mining operations whose taxable value exceeds five million dollars upon which have not been paid in full on or before the first day of April of that calendar year all real and tangible personal property taxes levied for the preceding calendar year and which the district was precluded from collecting by virtue of proceedings under section 205 of said act or by virtue of legal proceedings to determine the tax liability of such strip mining equipment;

(B) The percentage of the total operating taxes charged and payable for school district purposes levied against such valuation for the preceding calendar year that have not been paid by such date;

(C) The product obtained by multiplying the value certified under division (A) of this section by the percentage certified under division (B) of this section. If the value certified under division (A) of this section includes taxable property owned by a public utility or railroad that has filed a petition for reorganization under the bankruptcy act, the amount used in making the calculation under this division shall be reduced by one per cent of the total value of all real and tangible personal property in the district or the value of the utility's or railroad's property, whichever is less.

Upon receipt of the certification, the department shall recompute the payments required under ~~section 3317.022~~ Chapter 3306, of the Revised Code in the manner the payments would have been computed if:

(1) The amount certified under division (C) of this section was not subject to taxation by the district and was not included in the certification made under division (A)(1), (A)(2), or (D) of section 3317.021 of the Revised Code.

(2) The amount of taxes charged and payable and unpaid and used to make the computation under division (B) of this section had not been levied and had not been used in the computation required by division (B) of section 3317.021 of the Revised Code. The department shall pay the district that amount in the ensuing fiscal year in lieu of the amounts computed under ~~section 3317.022~~ Chapter 3306, of the Revised Code.

If a school district received a grant from the catastrophic expenditures account pursuant to division (C) of section 3316.20 of the Revised Code on

the basis of the same circumstances for which a recomputation is made under this section, the amount of the recomputation shall be reduced and transferred in accordance with division (C) of section 3316.20 of the Revised Code.

Sec. 3317.0210. (A) As used in this section:

(1) "Bankruptcy Reform Act" means the "Bankruptcy Reform Act of 1978," 92 Stat. 2558, 11 U.S.C. 301, as amended.

(2) "Chapter 11 corporation" means a corporation, company, or other business organization that has filed a petition for reorganization under Chapter 11 of the "Bankruptcy Reform Act," 92 Stat. 2626, 11 U.S.C. 1101, as amended.

(3) "Uncollectable taxes" means property taxes payable in a calendar year by a Chapter 11 corporation on its property that a school district is precluded from collecting by virtue of proceedings under the Bankruptcy Reform Act.

(4) "Basic state aid" means the state aid calculated for a school district under ~~section 3317.022~~ Chapter 3306 of the Revised Code.

(5) "Effective value" means the amount obtained by multiplying the total taxable value certified in a calendar year under section 3317.021 of the Revised Code by a fraction, the numerator of which is the total taxes charged and payable in that calendar year exclusive of the uncollectable taxes payable in that year, and the denominator of which is the total taxes charged and payable in that year.

(6) "Total taxes charged and payable" has the same meaning given "taxes charged and payable" in section 3317.02 of the Revised Code.

(B)(1) Between the first day of January and the first day of February of any year, a school district shall notify the department of education if it has uncollectable taxes payable in the preceding calendar year from one Chapter 11 corporation.

(2) The department shall verify whether the district has such uncollectable taxes from such a corporation, and if the district does, shall immediately request the tax commissioner to certify the district's total taxes charged and payable in the preceding calendar year, and the tax commissioner shall certify that information to the department within thirty days after receiving the request. For the purposes of this section, taxes are payable in the calendar year that includes the day prescribed by law for their payment, including any lawful extension thereof.

(C) Upon receiving the certification from the tax commissioner, the department shall determine whether the amount of uncollectable taxes from the corporation equals at least one per cent of the total taxes charged and

payable as certified by the tax commissioner. If it does, the department shall compute the district's effective value and shall recompute the basic state aid payable to the district for the current fiscal year using the effective value in lieu of the total taxable value used to compute the basic state aid for the current fiscal year. The difference between the basic state aid amount originally computed for the district for the current fiscal year and the recomputed amount shall be paid to the district from the lottery profits education fund before the end of the current fiscal year.

(D) Except as provided in division (E) of this section, amounts received by a school district under division (C) of this section shall be repaid to the department of education in any future year to the extent the district receives payments of uncollectable taxes in such future year. The district shall notify the department of any amount owed under this division.

(E) If a school district received a grant from the catastrophic expenditures account pursuant to division (C) of section 3316.20 of the Revised Code on the basis of the same circumstances for which a recomputation is made under this section, the amount of the recomputation shall be reduced and transferred in accordance with division (C) of section 3316.20 of the Revised Code.

Sec. 3317.0211. (A) As used in this section:

(1) "Port authority" means any port authority as defined in section 4582.01 or 4582.21 of the Revised Code.

(2) "Real property" includes public utility real property and "personal property" includes public utility personal property.

(3) "Uncollected taxes" means property taxes charged and payable against the property of a port authority for a tax year that a school district has not collected.

(4) "Basic state aid" means the state aid calculated for a school district under ~~section 3317.022~~ Chapter 3306 of the Revised Code.

(5) "Effective value" means the sum of the effective residential/agricultural real property value, the effective nonresidential/agricultural real property value, and the effective personal value.

(6) "Effective residential/agricultural real property value" means, for a tax year, the amount obtained by multiplying the value for that year of residential/agricultural real property subject to taxation in the district by a fraction, the numerator of which is the total taxes charged and payable for that year against the residential/agricultural real property subject to taxation in the district, exclusive of the uncollected taxes for that year on all real property subject to taxation in the district, and the denominator of which is

the total taxes charged and payable for that year against the residential/agricultural real property subject to taxation in the district.

(7) "Effective nonresidential/agricultural real property value" means, for a tax year, the amount obtained by multiplying the value for that year of nonresidential/agricultural real property subject to taxation in the district by a fraction, the numerator of which is the total taxes charged and payable for that year against the nonresidential/agricultural real property subject to taxation in the district, exclusive of the uncollected taxes for that year on all real property subject to taxation in the district, and the denominator of which is the total taxes charged and payable for that year against the nonresidential/agricultural real property subject to taxation in the district.

(8) "Effective personal value" means, for a tax year, the amount obtained by multiplying the value for that year certified under division (A)(2) of section 3317.021 of the Revised Code by a fraction, the numerator of which is the total taxes charged and payable for that year against personal property subject to taxation in the district, exclusive of the uncollected taxes for that year on that property, and the denominator of which is the total taxes charged and payable for that year against personal property subject to taxation in the district.

(9) "Nonresidential/agricultural real property value" means, for a tax year, the sum of the values certified for a school district for that year under division (B)(2)(a) of this section, and "residential/agricultural real property value" means, for a tax year, the sum of the values certified for a school district under division (B)(2)(b) of this section.

(10) "Taxes charged and payable against real property" means the taxes charged and payable against that property after making the reduction required by section 319.301 of the Revised Code.

(11) "Total taxes charged and payable" has the same meaning given "taxes charged and payable" in section 3317.02 of the Revised Code.

(B)(1) By the first day of August of any calendar year, a school district shall notify the department of education if it has any uncollected taxes from one port authority for the second preceding tax year whose taxes charged and payable represent at least one-half of one per cent of the district's total taxes charged and payable for that tax year.

(2) The department shall verify whether the district has such uncollected taxes by the first day of September, and if the district does, shall immediately request the county auditor of each county in which the school district has territory to certify the following information concerning the district's property values and taxes for the second preceding tax year, and each such auditor shall certify that information to the department within

thirty days of receiving the request:

(a) The value of the property subject to taxation in the district that was classified as nonresidential/agricultural real property pursuant to section 5713.041 of the Revised Code, and the taxes charged and payable on that property; and

(b) The value of the property subject to taxation in the district that was classified as residential/agricultural real property under section 5713.041 of the Revised Code.

(C) By the fifteenth day of November, the department shall compute the district's effective nonresidential/agricultural real property value, effective residential/agricultural real property value, effective personal value, and effective value, and shall determine whether the school district's effective value for the second preceding tax year is at least one per cent less than its total value for that year certified under divisions (A)(1) and (2) of section 3317.021 of the Revised Code. If it is, the department shall recompute the basic state aid payable to the district for the immediately preceding fiscal year using the effective value in lieu of the amounts previously certified under section 3317.021 of the Revised Code. The difference between the original basic state aid amount computed for the district for the preceding fiscal year and the recomputed amount shall be paid to the district from the lottery profits education fund before the end of the current fiscal year.

(D) Except as provided in division (E) of this section, amounts received by a school district under division (C) of this section shall be repaid to the department of education in any future year to the extent the district receives payments of uncollectable taxes in such future year. The department shall notify a district of any amount owed under this division.

(E) If a school district received a grant from the catastrophic expenditures account pursuant to division (C) of section 3316.20 of the Revised Code on the basis of the same circumstances for which a recomputation is made under this section, the amount of the recomputation shall be reduced and transferred in accordance with division (C) of section 3316.20 of the Revised Code.

Sec. 3317.0216. (A) As used in this section:

(1) "Total taxes charged and payable for current expenses" means the sum of ~~the~~:

(a) The taxes charged and payable as certified under division (A)(3)(a) of section 3317.021 of the Revised Code ~~less any amounts reported under division (A)(3)(b) of that section, and the; plus~~

(b) The tax distribution for the preceding year under any school district income tax levied by the district pursuant to Chapter 5748. of the Revised

Code to the extent the revenue from the income tax is allocated or apportioned to current expenses, excluding the amount allocated or apportioned for the project cost, debt service, or maintenance set-aside associated with a state-assisted classroom facilities project as authorized by section 3318.052 of the Revised Code.

(2) "Charge-off amount" means two and three-tenths per cent multiplied by (the sum of recognized valuation and property exemption value).

(3) Until fiscal year 2003, the "actual local share of special education, transportation, and vocational education funding" for any school district means the sum of the district's attributed local shares described in divisions (F)(1) to (3) of section 3317.022 of the Revised Code. Beginning in fiscal year 2003, the "actual local share of special education, transportation, and vocational education funding" means that sum minus the amount of any excess cost supplement payment calculated for the district under division (F) of section 3317.022 of the Revised Code.

(B) Upon receiving the certifications under section 3317.021 of the Revised Code, the department of education shall determine for each city, local, and exempted village school district whether the district's charge-off amount is greater than the district's total taxes charged and payable for current expenses, and if the charge-off amount is greater, shall pay the district the amount of the difference. A payment shall not be made to any school district for which the computation under division (A) of section 3317.022 of the Revised Code equals zero.

(C)(1) If a district's charge-off amount is equal to or greater than its total taxes charged and payable for current expenses, the department shall, in addition to the payment required under division (B) of this section, pay the district the amount of its actual local share of special education, transportation, and vocational education funding.

(2) If a district's charge-off amount is less than its total taxes charged and payable for current expenses, the department shall pay the district any amount by which its actual local share of special education, transportation, and vocational education funding exceeds its total taxes charged and payable for current expenses minus its charge-off amount.

(D) If a school district that received a payment under division (B) or (C) of this section in the prior fiscal year is ineligible for payment under those divisions in the current fiscal year, the department shall determine if the ineligibility is the result of a property tax or income tax levy approved by the district's voters to take effect in tax year 2005 or thereafter. If the department determines that is the case, and calculates that the levy causing the ineligibility exceeded by at least one mill the equivalent millage of the

prior year's payment under divisions (B) and (C) of this section, the department shall make a payment to the district for the first three years that the district loses eligibility for payment under divisions (B) and (C) of this section, as follows:

(1) In the first year of ineligibility, the department shall pay the district seventy-five per cent of the amount it last paid the district under divisions (B) and (C) of this section.

(2) In the second year of ineligibility, the department shall pay the district fifty per cent of the amount it last paid the district under those divisions.

(3) In the third year of ineligibility, the department shall pay the district twenty-five per cent of the amount it last paid the district under those divisions.

(E) A district that receives payment under division (D) of this section and subsequently qualifies for payment under division (B) or (C) of this section is ineligible for future payments under division (D) of this section.

(F) To enable the department of education to make the determinations and to calculate payments under division (D) of this section, on March 30, 2006, and on or before the first day of March of each year thereafter, the department shall send to the tax commissioner a list of school districts receiving payments under division (B) or (C) of this section for the current fiscal year. On or before the first day of the following June, the tax commissioner shall certify to the department of education for those school districts the information required by division (A)(8) of section 3317.021 of the Revised Code.

Sec. 3317.03. ~~Notwithstanding divisions (A)(1), (B)(1), and (C) of this section, except as provided in division (A)(2)(h) of this section, any student enrolled in kindergarten more than half time shall be reported as one-half student under this section.~~ The information certified and verified under this section shall be used to calculate payments under this chapter and Chapter 3306. of the Revised Code.

(A) The superintendent of each city, local, and exempted village school district and of each educational service center shall, for the schools under the superintendent's supervision, certify to the state board of education on or before the fifteenth day of October in each year for the first full school week in October the average daily membership of students receiving services from schools under the superintendent's supervision, and the numbers of other students entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code the superintendent is required to report under this section, so that the department of education can calculate the

~~district's formula ADM. Beginning in fiscal year 2007, each superintendent also shall certify to the state board, for the schools under the superintendent's supervision, the formula ADM for the first full week in February.~~ If a school under the superintendent's supervision is closed for one or more days during that week due to hazardous weather conditions or other circumstances described in the first paragraph of division (B) of section 3317.01 of the Revised Code, the superintendent may apply to the superintendent of public instruction for a waiver, under which the superintendent of public instruction may exempt the district superintendent from certifying the ~~formula ADM~~ average daily membership for that school for that week and specify an alternate week for certifying the ~~formula ADM~~ average daily membership of that school.

The ~~formula ADM shall consist of the~~ average daily membership during such week shall consist of the sum of the following:

(1) On an FTE basis, the number of students in grades kindergarten through twelve receiving any educational services from the district, except that the following categories of students shall not be included in the determination:

- (a) Students enrolled in adult education classes;
- (b) Adjacent or other district students enrolled in the district under an open enrollment policy pursuant to section 3313.98 of the Revised Code;
- (c) Students receiving services in the district pursuant to a compact, cooperative education agreement, or a contract, but who are entitled to attend school in another district pursuant to section 3313.64 or 3313.65 of the Revised Code;
- (d) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code;
- (e) Students receiving services in the district through a scholarship awarded under section 3310.41 of the Revised Code.

(2) On an FTE basis, ~~except as provided in division (A)(2)(h) of this section,~~ the number of students entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code, but receiving educational services in grades kindergarten through twelve from one or more of the following entities:

- (a) A community school pursuant to Chapter 3314. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school;
- (b) An alternative school pursuant to sections 3313.974 to 3313.979 of the Revised Code as described in division (I)(2)(a) or (b) of this section;
- (c) A college pursuant to Chapter 3365. of the Revised Code, except

when the student is enrolled in the college while also enrolled in a community school pursuant to Chapter 3314. or a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code;

(d) An adjacent or other school district under an open enrollment policy adopted pursuant to section 3313.98 of the Revised Code;

(e) An educational service center or cooperative education district;

(f) Another school district under a cooperative education agreement, compact, or contract;

(g) A chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code;

(h) An alternative public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code. ~~Each such scholarship student who is enrolled in kindergarten shall be counted as one full-time equivalent student.~~

As used in this section, "alternative public provider" and "registered private provider" have the same meanings as in section 3310.41 of the Revised Code.

(i) A science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school.

(3) ~~Twenty per cent of the~~ The number of students enrolled in a joint vocational school district or under a vocational education compact, excluding any students entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code who are enrolled in another school district through an open enrollment policy as reported under division (A)(2)(d) of this section and then enroll in a joint vocational school district or under a vocational education compact;

(4) The number of children with disabilities, other than preschool children with disabilities, entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code who are placed by the district with a county MR/DD board, minus the number of such children placed with a county MR/DD board in fiscal year 1998. If this calculation produces a negative number, the number reported under division (A)(4) of this section shall be zero.

~~(5) Beginning in fiscal year 2007, in the case of the report submitted for the first full week in February, or the alternative week if specified by the superintendent of public instruction, the number of students reported under division (A)(1) or (2) of this section for the first full week of the preceding~~

~~October but who since that week have received high school diplomas.~~

(B) To enable the department of education to obtain the data needed to complete the calculation of payments pursuant to this chapter and Chapter 3306. of the Revised Code, in addition to the ~~formula-ADM average daily membership~~, each superintendent shall report separately the following student counts for the same week for which ~~formula-ADM average daily membership~~ is certified:

(1) The total average daily membership in regular learning day classes included in the report under division (A)(1) or (2) of this section for each of the individual grades kindergarten, ~~and each of grades one~~ through twelve in schools under the superintendent's supervision;

(2) The number of all preschool children with disabilities enrolled as of the first day of December in classes in the district that are eligible for approval under division (B) of section 3317.05 of the Revised Code and the number of those classes, which shall be reported not later than the fifteenth day of December, in accordance with rules adopted under that section;

(3) The number of children entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code who are:

(a) Participating in a pilot project scholarship program established under sections 3313.974 to 3313.979 of the Revised Code as described in division (I)(2)(a) or (b) of this section;

(b) Enrolled in a college under Chapter 3365. of the Revised Code, except when the student is enrolled in the college while also enrolled in a community school pursuant to Chapter 3314. or a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code;

(c) Enrolled in an adjacent or other school district under section 3313.98 of the Revised Code;

(d) Enrolled in a community school established under Chapter 3314. of the Revised Code that is not an internet- or computer-based community school as defined in section 3314.02 of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school;

(e) Enrolled in an internet- or computer-based community school, as defined in section 3314.02 of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school;

(f) Enrolled in a chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code;

(g) Enrolled in kindergarten through grade twelve in an alternative

public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code;

(h) Enrolled as a preschool child with a disability in an alternative public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code;

(i) Participating in a program operated by a county MR/DD board or a state institution;

(j) Enrolled in a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school.

(4) The number of pupils enrolled in joint vocational schools;

(5) The average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for the category one disability described in division ~~(A)(D)(1)~~ of section ~~3317.013~~ 3306.02 of the Revised Code;

(6) The average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for category two disabilities described in division ~~(B)(D)(2)~~ of section ~~3317.013~~ 3306.02 of the Revised Code;

(7) The average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for category three disabilities described in division ~~(C)(D)(3)~~ of section ~~3317.013~~ 3306.02 of the Revised Code;

(8) The average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for category four disabilities described in division (D)(4) of section ~~3317.013~~ 3306.02 of the Revised Code;

(9) The average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for the category five disabilities described in division ~~(E)(D)(5)~~ of section ~~3317.013~~ 3306.02 of the Revised Code;

(10) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) and under division (B)(3)(h) of this section receiving special education services for category six disabilities described in division ~~(F)(D)(6)~~ of section ~~3317.013~~ 3306.02 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code;

(11) The average daily membership of pupils reported under division

(A)(1) or (2) of this section enrolled in category one vocational education programs or classes, described in division (A) of section 3317.014 of the Revised Code, operated by the school district or by another district, other than a joint vocational school district, or by an educational service center, excluding any student reported under division (B)(3)(e) of this section as enrolled in an internet- or computer-based community school, notwithstanding division (C) of section 3317.02 of the Revised Code and division (C)(3) of this section;

(12) The average daily membership of pupils reported under division (A)(1) or (2) of this section enrolled in category two vocational education programs or services, described in division (B) of section 3317.014 of the Revised Code, operated by the school district or another school district, other than a joint vocational school district, or by an educational service center, excluding any student reported under division (B)(3)(e) of this section as enrolled in an internet- or computer-based community school, notwithstanding division (C) of section 3317.02 of the Revised Code and division (C)(3) of this section;

Beginning with fiscal year 2010, vocational education ADM shall not be used to calculate a district's funding but shall be reported under divisions (B)(11) and (12) of this section for statistical purposes.

(13) The average number of children transported by the school district on board-owned or contractor-owned and -operated buses, reported in accordance with rules adopted by the department of education;

(14)(a) The number of children, other than preschool children with disabilities, the district placed with a county MR/DD board in fiscal year 1998;

(b) The number of children with disabilities, other than preschool children with disabilities, placed with a county MR/DD board in the current fiscal year to receive special education services for the category one disability described in division ~~(A)(D)(1)~~ of section ~~3317.013~~ 3306.02 of the Revised Code;

(c) The number of children with disabilities, other than preschool children with disabilities, placed with a county MR/DD board in the current fiscal year to receive special education services for category two disabilities described in division ~~(B)(D)(2)~~ of section ~~3317.013~~ 3306.02 of the Revised Code;

(d) The number of children with disabilities, other than preschool children with disabilities, placed with a county MR/DD board in the current fiscal year to receive special education services for category three disabilities described in division ~~(C)(D)(3)~~ of section ~~3317.013~~ 3306.02 of

the Revised Code;

(e) The number of children with disabilities, other than preschool children with disabilities, placed with a county MR/DD board in the current fiscal year to receive special education services for category four disabilities described in division (D)(4) of section ~~3347.013~~ 3306.02 of the Revised Code;

(f) The number of children with disabilities, other than preschool children with disabilities, placed with a county MR/DD board in the current fiscal year to receive special education services for the category five disabilities described in division ~~(F)(D)(5)~~ of section ~~3347.013~~ 3306.02 of the Revised Code;

(g) The number of children with disabilities, other than preschool children with disabilities, placed with a county MR/DD board in the current fiscal year to receive special education services for category six disabilities described in division ~~(F)(D)(6)~~ of section ~~3347.013~~ 3306.02 of the Revised Code.

~~(C)(1) Except as otherwise provided in this section for kindergarten students, the~~ The average daily membership in divisions (B)(1) to (12) of this section shall be based upon the number of full-time equivalent students. The state board of education shall adopt rules defining full-time equivalent students and for determining the average daily membership therefrom for the purposes of divisions (A), (B), and (D) of this section. Each student enrolled in kindergarten shall be counted as one full-time equivalent student regardless of whether the student is enrolled in a part-day or all-day kindergarten class.

(2) A student enrolled in a community school established under Chapter 3314. or a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code shall be counted in the formula ADM and, if applicable, the category one, two, three, four, five, or six special education ADM of the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code for the same proportion of the school year that the student is counted in the enrollment of the community school or the science, technology, engineering, and mathematics school for purposes of section 3314.08 or 3326.33 of the Revised Code. Notwithstanding the number of students reported pursuant to division (B)(3)(d), (e), or (j) of this section, the department may adjust the formula ADM of a school district to account for students entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code who are enrolled in a community school or a science, technology, engineering, and mathematics school for only a portion

of the school year.

(3) No child shall be counted as more than a total of one child in the sum of the average daily memberships of a school district under division (A), divisions (B)(1) to (12), or division (D) of this section, except as follows:

(a) A child with a disability described in division (D) of section 3317.013 3306.02 of the Revised Code may be counted both in formula ADM and in category one, two, three, four, five, or six special education ADM and, if applicable, in category one or two vocational education ADM. As provided in division (C) of section 3317.02 of the Revised Code, such a child shall be counted in category one, two, three, four, five, or six special education ADM in the same proportion that the child is counted in formula ADM.

(b) A child enrolled in vocational education programs or classes described in section 3317.014 of the Revised Code may be counted both in formula ADM and category one or two vocational education ADM and, if applicable, in category one, two, three, four, five, or six special education ADM. Such a child shall be counted in category one or two vocational education ADM in the same proportion as the percentage of time that the child spends in the vocational education programs or classes.

(4) Based on the information reported under this section, the department of education shall determine the total student count, as defined in section 3301.011 of the Revised Code, for each school district.

(D)(1) The superintendent of each joint vocational school district shall certify to the superintendent of public instruction on or before the fifteenth day of October in each year for the first full school week in October the formula ADM, for purposes of section 3318.42 of the Revised Code and for any other purpose prescribed by law for which "formula ADM" of the joint vocational district is a factor. ~~Beginning in fiscal year 2007, each superintendent also shall certify to the state superintendent the formula ADM for the first full week in February.~~ If a school operated by the joint vocational school district is closed for one or more days during that week due to hazardous weather conditions or other circumstances described in the first paragraph of division (B) of section 3317.01 of the Revised Code, the superintendent may apply to the superintendent of public instruction for a waiver, under which the superintendent of public instruction may exempt the district superintendent from certifying the formula ADM for that school for that week and specify an alternate week for certifying the formula ADM of that school.

The formula ADM, except as otherwise provided in this division, shall

consist of the average daily membership during such week, on an FTE basis, of the number of students receiving any educational services from the district, including students enrolled in a community school established under Chapter 3314. or a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code who are attending the joint vocational district under an agreement between the district board of education and the governing authority of the community school or the governing body of the science, technology, engineering, and mathematics school and are entitled to attend school in a city, local, or exempted village school district whose territory is part of the territory of the joint vocational district. ~~Beginning in fiscal year 2007, in the case of the report submitted for the first week in February, or the alternative week if specified by the superintendent of public instruction, the superintendent of the joint vocational school district may include the number of students reported under division (D)(1) of this section for the first full week of the preceding October but who since that week have received high school diplomas.~~

The following categories of students shall not be included in the determination made under division (D)(1) of this section:

- (a) Students enrolled in adult education classes;
- (b) Adjacent or other district joint vocational students enrolled in the district under an open enrollment policy pursuant to section 3313.98 of the Revised Code;
- (c) Students receiving services in the district pursuant to a compact, cooperative education agreement, or a contract, but who are entitled to attend school in a city, local, or exempted village school district whose territory is not part of the territory of the joint vocational district;
- (d) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code.

~~(2) To enable the department of education to obtain the data needed to complete the calculation of payments pursuant to this chapter, in~~ In addition to the formula ADM, each superintendent shall report separately the average daily membership included in the report under division (D)(1) of this section for each of the following categories of students for the same week for which formula ADM is certified:

- (a) Students enrolled in each individual grade included in the joint vocational district schools;
- (b) Children with disabilities receiving special education services for the category one disability described in division ~~(A)(C)(D)~~(1) of section ~~3317.013~~ 3306.02 of the Revised Code;

(c) Children with disabilities receiving special education services for the category two disabilities described in division ~~(B)~~(D)(2) of section ~~3317.013~~ 3306.02 of the Revised Code;

(d) Children with disabilities receiving special education services for category three disabilities described in division ~~(C)~~(D)(3) of section ~~3317.013~~ 3306.02 of the Revised Code;

(e) Children with disabilities receiving special education services for category four disabilities described in division (D)(4) of section ~~3317.013~~ 3306.02 of the Revised Code;

(f) Children with disabilities receiving special education services for the category five disabilities described in division ~~(E)~~(D)(5) of section ~~3317.013~~ 3306.02 of the Revised Code;

(g) Children with disabilities receiving special education services for category six disabilities described in division ~~(F)~~(D)(6) of section ~~3317.013~~ 3306.02 of the Revised Code;

(h) Students receiving category one vocational education services, described in division (A) of section 3317.014 of the Revised Code;

(i) Students receiving category two vocational education services, described in division (B) of section 3317.014 of the Revised Code.

The superintendent of each joint vocational school district shall also indicate the city, local, or exempted village school district in which each joint vocational district pupil is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.

(E) In each school of each city, local, exempted village, joint vocational, and cooperative education school district there shall be maintained a record of school membership, which record shall accurately show, for each day the school is in session, the actual membership enrolled in regular day classes. For the purpose of determining average daily membership, the membership figure of any school shall not include any pupils except those pupils described by division (A) of this section. The record of membership for each school shall be maintained in such manner that no pupil shall be counted as in membership prior to the actual date of entry in the school and also in such manner that where for any cause a pupil permanently withdraws from the school that pupil shall not be counted as in membership from and after the date of such withdrawal. There shall not be included in the membership of any school any of the following:

(1) Any pupil who has graduated from the twelfth grade of a public or nonpublic high school;

(2) Any pupil who is not a resident of the state;

(3) Any pupil who was enrolled in the schools of the district during the

previous school year when ~~tests~~ assessments were administered under section 3301.0711 of the Revised Code but did not take one or more of the ~~tests~~ assessments required by that section and was not excused pursuant to division (C)(1) or (3) of that section;

(4) Any pupil who has attained the age of twenty-two years, except for veterans of the armed services whose attendance was interrupted before completing the recognized twelve-year course of the public schools by reason of induction or enlistment in the armed forces and who apply for reenrollment in the public school system of their residence not later than four years after termination of war or their honorable discharge.

If, however, any veteran described by division (E)(4) of this section elects to enroll in special courses organized for veterans for whom tuition is paid under the provisions of federal laws, or otherwise, that veteran shall not be included in average daily membership.

Notwithstanding division (E)(3) of this section, the membership of any school may include a pupil who did not take ~~a test~~ an assessment required by section 3301.0711 of the Revised Code if the superintendent of public instruction grants a waiver from the requirement to take the ~~test~~ assessment to the specific pupil and a parent is not paying tuition for the pupil pursuant to section 3313.6410 of the Revised Code. The superintendent may grant such a waiver only for good cause in accordance with rules adopted by the state board of education.

Except as provided in divisions (B)(2) and (F) of this section, the average daily membership figure of any local, city, exempted village, or joint vocational school district shall be determined by dividing the figure representing the sum of the number of pupils enrolled during each day the school of attendance is actually open for instruction during the week for which the ~~formula ADM~~ average daily membership is being certified by the total number of days the school was actually open for instruction during that week. For purposes of state funding, "enrolled" persons are only those pupils who are attending school, those who have attended school during the current school year and are absent for authorized reasons, and those children with disabilities currently receiving home instruction.

The average daily membership figure of any cooperative education school district shall be determined in accordance with rules adopted by the state board of education.

(F)(1) If the formula ADM for the first full school week in February is at least three per cent greater than that certified for the first full school week in the preceding October, the superintendent of schools of any city, exempted village, or joint vocational school district or educational service

center shall certify such increase to the superintendent of public instruction. Such certification shall be submitted no later than the fifteenth day of February. For the balance of the fiscal year, beginning with the February payments, the superintendent of public instruction shall use the increased formula ADM in calculating or recalculating the amounts to be allocated in accordance with section 3317.022 or 3317.16 of the Revised Code. In no event shall the superintendent use an increased membership certified to the superintendent after the fifteenth day of February. Division (F)(1) of this section does not apply after fiscal year 2006.

(2) If on the first school day of April the total number of classes or units for preschool children with disabilities that are eligible for approval under division (B) of section 3317.05 of the Revised Code exceeds the number of units that have been approved for the year under that division, the superintendent of schools of any city, exempted village, or cooperative education school district or educational service center shall make the certifications required by this section for that day. If the department determines additional units can be approved for the fiscal year within any limitations set forth in the acts appropriating moneys for the funding of such units, the department shall approve additional units for the fiscal year on the basis of such average daily membership. For each unit so approved, the department shall pay an amount computed in the manner prescribed in section 3317.052 or 3317.19 and section 3317.053 of the Revised Code.

(3) If a student attending a community school under Chapter 3314. or a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code is not included in the formula ADM certified for the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code, the department of education shall adjust the formula ADM of that school district to include the student in accordance with division (C)(2) of this section, and shall recalculate the school district's payments under this chapter and Chapter 3306. of the Revised Code for the entire fiscal year on the basis of that adjusted formula ADM. This requirement applies regardless of whether the student was enrolled, as defined in division (E) of this section, in the community school or the science, technology, engineering, and mathematics school during the week for which the formula ADM is being certified.

(4) If a student awarded an educational choice scholarship is not included in the formula ADM of the school district from which the department deducts funds for the scholarship under section 3310.08 of the Revised Code, the department shall adjust the formula ADM of that school district to include the student to the extent necessary to account for the

deduction, and shall recalculate the school district's payments under this chapter ~~and Chapter 3306. of the Revised Code~~ for the entire fiscal year on the basis of that adjusted formula ADM. This requirement applies regardless of whether the student was enrolled, as defined in division (E) of this section, in the chartered nonpublic school, the school district, or a community school during the week for which the formula ADM is being certified.

(G)(1)(a) The superintendent of an institution operating a special education program pursuant to section 3323.091 of the Revised Code shall, for the programs under such superintendent's supervision, certify to the state board of education, in the manner prescribed by the superintendent of public instruction, both of the following:

(i) The average daily membership of all children with disabilities other than preschool children with disabilities receiving services at the institution for each category of disability described in divisions ~~(A) to (F)~~ (D)(1) to (6) of section ~~3317.013~~ 3306.02 of the Revised Code;

(ii) The average daily membership of all preschool children with disabilities in classes or programs approved annually by the department of education for unit funding under section 3317.05 of the Revised Code.

(b) The superintendent of an institution with vocational education units approved under division (A) of section 3317.05 of the Revised Code shall, for the units under the superintendent's supervision, certify to the state board of education the average daily membership in those units, in the manner prescribed by the superintendent of public instruction.

(2) The superintendent of each county MR/DD board that maintains special education classes under section 3317.20 of the Revised Code or units approved pursuant to section 3317.05 of the Revised Code shall do both of the following:

(a) Certify to the state board, in the manner prescribed by the board, the average daily membership in classes under section 3317.20 of the Revised Code for each school district that has placed children in the classes;

(b) Certify to the state board, in the manner prescribed by the board, the number of all preschool children with disabilities enrolled as of the first day of December in classes eligible for approval under division (B) of section 3317.05 of the Revised Code, and the number of those classes.

(3)(a) If on the first school day of April the number of classes or units maintained for preschool children with disabilities by the county MR/DD board that are eligible for approval under division (B) of section 3317.05 of the Revised Code is greater than the number of units approved for the year under that division, the superintendent shall make the certification required

by this section for that day.

(b) If the department determines that additional classes or units can be approved for the fiscal year within any limitations set forth in the acts appropriating moneys for the funding of the classes and units described in division (G)(3)(a) of this section, the department shall approve and fund additional units for the fiscal year on the basis of such average daily membership. For each unit so approved, the department shall pay an amount computed in the manner prescribed in sections 3317.052 and 3317.053 of the Revised Code.

(H) Except as provided in division (I) of this section, when any city, local, or exempted village school district provides instruction for a nonresident pupil whose attendance is unauthorized attendance as defined in section 3327.06 of the Revised Code, that pupil's membership shall not be included in that district's membership figure used in the calculation of that district's formula ADM or included in the determination of any unit approved for the district under section 3317.05 of the Revised Code. The reporting official shall report separately the average daily membership of all pupils whose attendance in the district is unauthorized attendance, and the membership of each such pupil shall be credited to the school district in which the pupil is entitled to attend school under division (B) of section 3313.64 or section 3313.65 of the Revised Code as determined by the department of education.

(I)(1) A city, local, exempted village, or joint vocational school district admitting a scholarship student of a pilot project district pursuant to division (C) of section 3313.976 of the Revised Code may count such student in its average daily membership.

(2) In any year for which funds are appropriated for pilot project scholarship programs, a school district implementing a state-sponsored pilot project scholarship program that year pursuant to sections 3313.974 to 3313.979 of the Revised Code may count in average daily membership:

(a) All children residing in the district and utilizing a scholarship to attend kindergarten in any alternative school, as defined in section 3313.974 of the Revised Code;

(b) All children who were enrolled in the district in the preceding year who are utilizing a scholarship to attend any such alternative school.

(J) The superintendent of each cooperative education school district shall certify to the superintendent of public instruction, in a manner prescribed by the state board of education, the applicable average daily memberships for all students in the cooperative education district, also indicating the city, local, or exempted village district where each pupil is

entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(K) If the superintendent of public instruction determines that a component of the ~~formula-ADM~~ average daily membership certified or reported by a district superintendent, or other reporting entity, is not correct, the superintendent of public instruction may order that the formula ADM used for the purposes of payments under any section of Title XXXIII of the Revised Code be adjusted in the amount of the error.

Sec. 3317.031. A membership record shall be kept by grade level in each city, local, exempted village, joint vocational, and cooperative education school district and such a record shall be kept by grade level in each educational service center that provides academic instruction to pupils, classes for pupils with disabilities, or any other direct instructional services to pupils. Such membership record shall show the following information for each pupil enrolled: Name, date of birth, name of parent, date entered school, date withdrawn from school, days present, days absent, and the number of days school was open for instruction while the pupil was enrolled. At the end of the school year this membership record shall show the total days present, the total days absent, and the total days due for all pupils in each grade. Such membership record shall show the pupils that are transported to and from school and it shall also show the pupils that are transported living within one mile of the school attended. This membership record shall also show any other information prescribed by the state board of education.

This membership record shall be kept intact for at least five years and shall be made available to the state board of education or its representative in making an audit of the average daily membership or the transportation of the district or educational service center. The membership records of local school districts shall be filed at the close of each school year in the office of the educational service center superintendent.

The state board of education may withhold any money due any school district or educational service center under ~~sections 3317.022 to 3317.0211, 3317.11, 3317.16, 3317.17, or 3317.19~~ this chapter and Chapter 3306. of the Revised Code until it has satisfactory evidence that the board of education or educational service center governing board has fully complied with all of the provisions of this section.

Nothing in this section shall require any person to release, or to permit access to, public school records in violation of section 3319.321 of the Revised Code.

Sec. 3317.04. The amount paid to school districts in each fiscal year

under ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code shall not be less than the following:

(A) In the case of a district created under section 3311.26 or 3311.37 of the Revised Code, the amount paid shall not be less, in any of the three succeeding fiscal years following the creation, than the sum of the amounts allocated under ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code to the districts separately in the year of the creation.

(B) In the case of a school district which is transferred to another school district or districts, pursuant to section 3311.22, 3311.231, or 3311.38 of the Revised Code, the amount paid to the district accepting the transferred territory shall not be less, in any of the three succeeding fiscal years following the transfer, than the sum of the amounts allocated under ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code to the districts separately in the year of the consummation of the transfer.

Notwithstanding sections 3311.22, 3311.231, 3311.26, 3311.37, and 3311.38 of the Revised Code, the minimum guarantees prescribed by divisions (A) and (B) of this section shall not affect the amount of aid received by a school district for more than three consecutive years.

Sec. 3317.061. The superintendent of each school district, including each cooperative education and joint vocational school district and the superintendent of each educational service center, shall, on forms prescribed and furnished by the state board of education, certify to the state board of education, on or before the fifteenth day of October of each year, the name of each licensed employee employed, on an annual salary, in each school under such superintendent's supervision during the first full school week of said month of October, the number of years of recognized college training such licensed employee has completed, the college degrees from a recognized college earned by such licensed employee, the type of teaching license held by such licensed employee, the number of months such licensed employee is employed in the school district, the annual salary of such licensed employee, and such other information as the state board of education may request. For the purposes of ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code, a licensed employee is any employee in a position that requires a license issued pursuant to sections 3319.22 to 3319.31 of the Revised Code.

Pursuant to standards adopted by the state board of education, experience of vocational teachers in trade and industry shall be recognized by such board for the purpose of complying with the requirements of recognized college training provided by ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code.

Sec. 3317.063. The superintendent of public instruction, in accordance with rules adopted by the department of education, shall annually reimburse each chartered nonpublic school for the actual mandated service administrative and clerical costs incurred by such school during the preceding school year in preparing, maintaining, and filing reports, forms, and records, and in providing such other administrative and clerical services that are not an integral part of the teaching process as may be required by state law or rule or by requirements duly promulgated by city, exempted village, or local school districts. The mandated service costs reimbursed pursuant to this section shall include, but are not limited to, the preparation, filing and maintenance of forms, reports, or records and other clerical and administrative services relating to state chartering or approval of the nonpublic school, pupil attendance, pupil health and health testing, transportation of pupils, federally funded education programs, pupil appraisal, pupil progress, educator licensure, unemployment and workers' compensation, transfer of pupils, and such other education related data which are now or hereafter shall be required of such nonpublic school by state law or rule, or by requirements of the state department of education, other state agencies, or city, exempted village, or local school districts.

The reimbursement required by this section shall be for school years beginning on or after July 1, 1981.

Each nonpublic school which seeks reimbursement pursuant to this section shall submit to the superintendent of public instruction an application together with such additional reports and documents as the department of education may require. Such application, reports, and documents shall contain such information as the department of education may prescribe in order to carry out the purposes of this section. No payment shall be made until the superintendent of public instruction has approved such application.

Each nonpublic school which applies for reimbursement pursuant to this section shall maintain a separate account or system of accounts for the expenses incurred in rendering the required services for which reimbursement is sought. Such accounts shall contain such information as is required by the department of education and shall be maintained in accordance with rules adopted by the department of education.

Reimbursement payments to a nonpublic school pursuant to this section shall not exceed an amount for each school year equal to three hundred twenty-five dollars per pupil enrolled in that nonpublic school.

The superintendent of public instruction may, from time to time, examine any and all accounts and records of a nonpublic school which have

been maintained pursuant to this section in support of an application for reimbursement, for the purpose of determining the costs to such school of rendering the services for which reimbursement is sought. If after such audit it is determined that any school has received funds in excess of the actual cost of providing such services, said school shall immediately reimburse the state in such excess amount.

Any payments made to chartered nonpublic schools under this section may be disbursed without submission to and approval of the controlling board.

Sec. 3317.08. A board of education may admit to its schools a child it is not required by section 3313.64 or 3313.65 of the Revised Code to admit, if tuition is paid for the child.

Unless otherwise provided by law, tuition shall be computed in accordance with this section. A district's tuition charge for a school year shall be one of the following:

(A) For any child, except a preschool child with a disability described in division (B) of this section, the quotient obtained by dividing the sum of the amounts described in divisions (A)(1) and (2) of this section by the district's formula ADM.

(1) The district's total taxes charged and payable for current expenses for the tax year preceding the tax year in which the school year begins as certified under division (A)(3) of section 3317.021 of the Revised Code.

(2) The district's total taxes collected for current expenses under a school district income tax adopted pursuant to section 5748.03 or 5748.08 of the Revised Code that are disbursed to the district during the fiscal year, excluding any income tax receipts allocated for the project cost, debt service, or maintenance set-aside associated with a state-assisted classroom facilities project as authorized by section 3318.052 of the Revised Code. On or before the first day of June of each year, the tax commissioner shall certify the amount to be used in the calculation under this division for the next fiscal year to the department of education and the office of budget and management for each city, local, and exempted village school district that levies a school district income tax.

(B) For any preschool child with a disability not included in a unit approved under division (B) of section 3317.05 of the Revised Code, an amount computed for the school year as follows:

(1) For each type of special education service provided to the child for whom tuition is being calculated, determine the amount of the district's operating expenses in providing that type of service to all preschool children with disabilities not included in units approved under division (B) of section

3317.05 of the Revised Code;

(2) For each type of special education service for which operating expenses are determined under division (B)(1) of this section, determine the amount of such operating expenses that was paid from any state funds received under this chapter;

(3) For each type of special education service for which operating expenses are determined under division (B)(1) of this section, divide the difference between the amount determined under division (B)(1) of this section and the amount determined under division (B)(2) of this section by the total number of preschool children with disabilities not included in units approved under division (B) of section 3317.05 of the Revised Code who received that type of service;

(4) Determine the sum of the quotients obtained under division (B)(3) of this section for all types of special education services provided to the child for whom tuition is being calculated.

The state board of education shall adopt rules defining the types of special education services and specifying the operating expenses to be used in the computation under this section.

If any child for whom a tuition charge is computed under this section for any school year is enrolled in a district for only part of that school year, the amount of the district's tuition charge for the child for the school year shall be computed in proportion to the number of school days the child is enrolled in the district during the school year.

Except as otherwise provided in division (J) of section 3313.64 of the Revised Code, whenever a district admits a child to its schools for whom tuition computed in accordance with this section is an obligation of another school district, the amount of the tuition shall be certified by the treasurer of the board of education of the district of attendance, to the board of education of the district required to pay tuition for its approval and payment. If agreement as to the amount payable or the district required to pay the tuition cannot be reached, or the board of education of the district required to pay the tuition refuses to pay that amount, the board of education of the district of attendance shall notify the superintendent of public instruction. The superintendent shall determine the correct amount and the district required to pay the tuition and shall deduct that amount, if any, under division (G) of section 3317.023 of the Revised Code, from the district required to pay the tuition and add that amount to the amount allocated to the district attended under such division. The superintendent of public instruction shall send to the district required to pay the tuition an itemized statement showing such deductions at the time of such deduction.

When a political subdivision owns and operates an airport, welfare, or correctional institution or other project or facility outside its corporate limits, the territory within which the facility is located is exempt from taxation by the school district within which such territory is located, and there are school age children residing within such territory, the political subdivision owning such tax exempt territory shall pay tuition to the district in which such children attend school. The tuition for these children shall be computed as provided for in this section.

Sec. 3317.081. (A) Tuition shall be computed in accordance with this section if:

(1) The tuition is required by division (C)(3)(b) of section 3313.64 of the Revised Code; or

(2) Neither the child nor the child's parent resides in this state and tuition is required by section 3327.06 of the Revised Code.

(B) Tuition computed in accordance with this section shall equal the attendance district's tuition rate computed under section 3317.08 of the Revised Code plus the amount that district would have received for the child pursuant to Chapter 3306. and sections ~~3317.022~~, 3317.023, and 3317.025 to 3317.0211 of the Revised Code during the school year had the attendance district been authorized to count the child in its formula ADM for that school year under section 3317.03 of the Revised Code.

Sec. 3317.082. As used in this section, "institution" means a residential facility that receives and cares for children maintained by the department of youth services and that operates a school chartered by the state board of education under section 3301.16 of the Revised Code.

(A) On or before the thirty-first day of each January and July, the superintendent of each institution that during the six-month period immediately preceding each January or July provided an elementary or secondary education for any child, other than a child receiving special education under section 3323.091 of the Revised Code, shall prepare and submit to the department of education, a statement for each such child indicating the child's name, any school district responsible to pay tuition for the child as determined by the superintendent in accordance with division (C)(2) or (3) of section 3313.64 of the Revised Code, and the period of time during that six-month period that the child received an elementary or secondary education. If any school district is responsible to pay tuition for any such child, the department of education, no later than the immediately succeeding last day of February or August, as applicable, shall calculate the amount of the tuition of the district under section 3317.08 of the Revised Code for the period of time indicated on the statement and do one of the

following:

(1) If the tuition amount is equal to or less than the amount of state basic aid funds payable to the district under ~~sections 3317.022 and~~ Chapter 3306. and section 3317.023 of the Revised Code, pay to the institution submitting the statement an amount equal to the tuition amount, as provided under division (M) of section 3317.024 of the Revised Code, and deduct the tuition amount from the state basic aid funds payable to the district, as provided under division (F)(2) of section 3317.023 of the Revised Code;

(2) If the tuition amount is greater than the amount of state basic aid funds payable to the district under ~~sections 3317.022 and~~ Chapter 3306. and section 3317.023 of the Revised Code, require the district to pay to the institution submitting the statement an amount equal to the tuition amount.

(B) In the case of any disagreement about the school district responsible to pay tuition for a child pursuant to this section, the superintendent of public instruction shall make the determination in any such case in accordance with division (C)(2) or (3) of section 3313.64 of the Revised Code.

Sec. 3317.12. Any board of education participating in funds distributed under ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code shall annually adopt a salary schedule for nonteaching school employees based upon training, experience, and qualifications with initial salaries no less than the salaries in effect on October 13, 1967. Each board of education shall prepare and may amend from time to time, specifications descriptive of duties, responsibilities, requirements, and desirable qualifications of the classifications of employees required to perform the duties specified in the salary schedule. All nonteaching school employees are to be notified of the position classification to which they are assigned and the salary for the classification. The compensation of all employees working for a particular school board shall be uniform for like positions except as compensation would be affected by salary increments based upon length of service.

On the fifteenth day of October each year the salary schedule and the list of job classifications and salaries in effect on that date shall be filed by each board of education with the superintendent of public instruction. If such salary schedule and classification plan is not filed the superintendent of public instruction shall order the board to file such schedules forthwith. If this condition is not corrected within ten days after receipt of the order from the superintendent of public instruction, no money shall be distributed to the district under ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code until the superintendent has satisfactory evidence of the board of education's full compliance with such order.

Sec. 3317.16. (A) As used in this section:

~~(1) "State share percentage" means the percentage calculated for a joint vocational school district as follows:~~

~~(a) Calculate the state base cost funding amount for the district under division (B) of this section. If the district would not receive any base cost funding for that year under that division, the district's state share percentage is zero.~~

~~(b) If the district would receive base cost funding under that division, divide that base cost amount by an amount equal to the following:~~

$$\frac{\text{the formula amount X}}{\text{formula ADM}}$$

~~The resultant number is the district's state share percentage.~~

~~(2) The "total special education weight" for a joint vocational school district shall be calculated in the same manner as prescribed in division (B)(1) of section 3317.022 of the Revised Code.~~

~~(3) The "total vocational education weight" for a joint vocational school district shall be calculated in the same manner as prescribed in division (B)(4) of section 3317.022 of the Revised Code.~~

~~(4) The "total recognized valuation" of a joint vocational school district shall be determined by adding the recognized valuations of all its constituent school districts that were subject to the joint vocational school district's tax levies for both the current and preceding tax years.~~

~~(5) "Resident district" means the city, local, or exempted village school district in which a student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.~~

~~(6) "Community school" means a community school established under Chapter 3314. of the Revised Code.~~

(B) The department of education shall compute and distribute state base cost funding to each joint vocational school district for the fiscal year in accordance with the following formula:

$$\begin{aligned} & (\text{formula amount X formula ADM}) - \\ & (.0005 \text{ X total recognized valuation}) \end{aligned}$$

If the difference obtained under this division is a negative number, the district's computation shall be zero.

(C)(1) The department shall compute and distribute state vocational education additional weighted costs funds to each joint vocational school district in accordance with the following formula:

$$\frac{\text{state share percentage X formula amount X}}{\text{total vocational education weight}}$$

In each fiscal year, a joint vocational school district receiving funds

under division (C)(1) of this section shall spend those funds only for the purposes the department designates as approved for vocational education expenses. Vocational educational expenses approved by the department shall include only expenses connected to the delivery of career-technical programming to career-technical students. The department shall require the joint vocational school district to report data annually so that the department may monitor the district's compliance with the requirements regarding the manner in which funding received under division (C)(1) of this section may be spent.

(2) The department shall compute for each joint vocational school district state funds for vocational education associated services costs in accordance with the following formula:

$$\frac{\text{state share percentage} \times .05 \times \text{the formula amount}}{\text{the sum of categories one and two vocational education ADM}}$$

In any fiscal year, a joint vocational school district receiving funds under division (C)(2) of this section, or through a transfer of funds pursuant to division (L) of section 3317.023 of the Revised Code, shall spend those funds only for the purposes that the department designates as approved for vocational education associated services expenses, which may include such purposes as apprenticeship coordinators, coordinators for other vocational education services, vocational evaluation, and other purposes designated by the department. The department may deny payment under division (C)(2) of this section to any district that the department determines is not operating those services or is using funds paid under division (C)(2) of this section, or through a transfer of funds pursuant to division (L) of section 3317.023 of the Revised Code, for other purposes.

(D)(1) The department shall compute and distribute state special education and related services additional weighted costs funds to each joint vocational school district in accordance with the following formula:

$$\frac{\text{state share percentage} \times \text{formula amount}}{\text{total special education weight}}$$

(2)(a) As used in this division, the "personnel allowance" means thirty thousand dollars in fiscal years 2008 and 2009.

(b) For the provision of speech language pathology services to students, including students who do not have individualized education programs prepared for them under Chapter 3323. of the Revised Code, and for no other purpose, the department shall pay each joint vocational school district an amount calculated under the following formula:

(formula ADM divided by 2000) X the personnel allowance X state share percentage

(3) In any fiscal year, a joint vocational school district shall spend for purposes that the department designates as approved for special education and related services expenses at least the amount calculated as follows:

(formula amount X
the sum of categories one through
six special education ADM) +
(total special education weight X
formula amount)

The purposes approved by the department for special education expenses shall include, but shall not be limited to, compliance with state rules governing the education of children with disabilities, providing services identified in a student's individualized education program as defined in section 3323.01 of the Revised Code, provision of speech language pathology services, and the portion of the district's overall administrative and overhead costs that are attributable to the district's special education student population.

The department shall require joint vocational school districts to report data annually to allow for monitoring compliance with division (D)(3) of this section. The department shall annually report to the governor and the general assembly the amount of money spent by each joint vocational school district for special education and related services.

(4) In any fiscal year, a joint vocational school district shall spend for the provision of speech language pathology services not less than the sum of the amount calculated under division (D)(1) of this section for the students in the district's category one special education ADM and the amount calculated under division (D)(2) of this section.

(E)(1) If a joint vocational school district's costs for a fiscal year for a student in its categories two through six special education ADM exceed the threshold catastrophic cost for serving the student, as specified in division (C)(3)(b) of section 3317.022 of the Revised Code, the district may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all of its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the district an amount equal to the sum of the following:

- (a) One-half of the district's costs for the student in excess of the threshold catastrophic cost;
- (b) The product of one-half of the district's costs for the student in

excess of the threshold catastrophic cost multiplied by the district's state share percentage.

(2) The district shall only report under division (E)(1) of this section, and the department shall only pay for, the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

(F) Each fiscal year, the department shall pay each joint vocational school district an amount for adult technical and vocational education and specialized consultants.

(G)(1) A joint vocational school district's local share of special education and related services additional weighted costs equals:

$$(1 - \text{state share percentage}) \times \text{Total special education weight} \times \text{the formula amount}$$

(2) For each student with a disability receiving special education and related services under an individualized education program, as defined in section 3323.01 of the Revised Code, at a joint vocational district, the resident district or, if the student is enrolled in a community school, the community school shall be responsible for the amount of any costs of providing those special education and related services to that student that exceed the sum of the amount calculated for those services attributable to that student under divisions (B), (D), (E), and (G)(1) of this section.

Those excess costs shall be calculated by subtracting the sum of the following from the actual cost to provide special education and related services to the student:

- (a) The formula amount;
- (b) The product of the formula amount times the applicable multiple specified in section ~~3317.013~~ 3306.11 of the Revised Code;
- (c) Any funds paid under division (E) of this section for the student;
- (d) Any other funds received by the joint vocational school district under this chapter to provide special education and related services to the student, not including the amount calculated under division (G)(2) of this section.

(3) The board of education of the joint vocational school district may report the excess costs calculated under division (G)(2) of this section to the department of education.

(4) If the board of education of the joint vocational school district reports excess costs under division (G)(3) of this section, the department

shall pay the amount of excess cost calculated under division (G)(2) of this section to the joint vocational school district and shall deduct that amount as provided in division (G)(4)(a) or (b) of this section, as applicable:

(a) If the student is not enrolled in a community school, the department shall deduct the amount from the account of the student's resident district pursuant to division (M) of section 3317.023 of the Revised Code.

(b) If the student is enrolled in a community school, the department shall deduct the amount from the account of the community school pursuant to section 3314.083 of the Revised Code.

Sec. 3317.18. (A) As used in this section, the terms "Chapter 133. securities," "credit enhancement facilities," "debt charges," "general obligation," "legislation," "public obligations," and "securities" have the same meanings as in section 133.01 of the Revised Code.

(B) The board of education of any school district authorizing the issuance of securities under section 133.10, 133.301, or 3313.372 of the Revised Code or general obligation Chapter 133. securities may adopt legislation requesting the state department of education to approve, and enter into an agreement with the school district and the primary paying agent or fiscal agent for such securities providing for, the withholding and deposit of funds, otherwise due the district under ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code, for the payment of debt service charges on such securities.

The board of education shall deliver to the state department a copy of such resolution and any additional pertinent information the state department may require.

The department of education and the office of budget and management shall evaluate each request received from a school district under this section and the department, with the advice and consent of the director of budget and management, shall approve or deny each request based on all of the following:

(1) Whether approval of the request will enhance the marketability of the securities for which the request is made;

(2) Any other pertinent factors or limitations established in rules made under division (I) of this section, including:

(a) Current and projected obligations of funds due to the requesting school district under ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code including obligations of those funds to public obligations or relevant credit enhancement facilities under this section, Chapter 133. and section 3313.483 of the Revised Code, and under any other similar provisions of law;

(b) Whether the department of education or the office of budget and

management has any reason to believe the requesting school district will be unable to pay when due the debt charges on the securities for which the request is made.

The department may require a school district to establish schedules for the payment of all debt charges that take into account the amount and timing of anticipated distributions of funds to the district under Chapter 3317. of the Revised Code.

(C) If the department approves the request of a school district to withhold and deposit funds pursuant to this section, the department shall enter into a written agreement with the district and the primary paying agent or fiscal agent for the securities which shall provide for the withholding of funds pursuant to this section for the payment of debt charges on those securities, and may include both of the following:

(1) Provisions for certification by the district to the department, at a time prior to any date for the payment of applicable debt charges, whether the district is able to pay those debt charges when due;

(2) Requirements that the district deposit amounts for the payment of debt charges on the securities with the primary paying agent or fiscal agent for the securities prior to the date on which those debt charge payments are due to the owners or holders of the securities.

(D) Whenever a district notifies the department of education that it will be unable to pay debt charges when they are due, subject to the withholding provisions of this section, or whenever the applicable paying agent or fiscal agent notifies the department that it has not timely received from a school district the full amount needed for the payment when due of those debt charges to the holders or owners of such securities, the department shall immediately contact the school district and the paying agent or fiscal agent to confirm or determine whether the district is unable to make the required payment by the date on which it is due.

Upon demand of the treasurer of state while holding a school district obligation purchased under division (G)(1) of section 135.143 of the Revised Code, the state department of education, without a request of the school district, shall withhold and deposit funds pursuant to this section for payment of debt service charges on that obligation.

If the department confirms or determines that the district will be unable to make such payment and payment will not be made pursuant to a credit enhancement facility, the department shall promptly pay to the applicable primary paying agent or fiscal agent the lesser of the amount due for debt charges or the amount due the district for the remainder of the fiscal year under Chapter 3317. of the Revised Code. If this amount is insufficient to

pay the total amount then due the agent for the payment of debt charges, the department shall pay to the agent each fiscal year thereafter, and until the full amount due the agent for unpaid debt charges is paid in full, the lesser of the remaining amount due the agent for debt charges or the amount due the district for the fiscal year under Chapter 3317. of the Revised Code.

(E) The state department may make any payments under this division by direct deposit of funds by electronic transfer.

Any amount received by a paying agent or fiscal agent under this section shall be applied only to the payment of debt charges on the securities of the school district subject to this section or to the reimbursement to the provider of a credit enhancement facility that has paid such debt charges.

(F) To the extent a school district whose securities are subject to this section is unable to pay applicable debt charges because of the failure to collect property taxes levied for the payment of those debt charges, the district may transfer to or deposit into any fund that would have received payments under ~~Chapter 3306.~~ or 3317. of the Revised Code that were withheld under this section any such delinquent property taxes when later collected, provided that transfer or deposit shall be limited to the amounts withheld from that fund under this section.

(G) The department may make payments under this section to paying agents or fiscal agents only from and to the extent that money is appropriated by the general assembly for Chapter 3317. of the Revised Code or for the purposes of this section. No securities of a school district to which this section is made applicable constitute an obligation or a debt or a pledge of the faith, credit, or taxing power of the state, and the holders or owners of such securities have no right to have taxes levied or appropriations made by the general assembly for the payment of debt charges on those securities, and those securities, if the department requires, shall contain a statement to that effect. The agreement for or the actual withholding and payment of moneys under this section does not constitute the assumption by the state of any debt of a school district.

(H) In the case of securities subject to the withholding provisions of this section, the issuing board of education shall appoint a paying agent or fiscal agent who is not an officer or employee of the school district.

(I) The department of education, with the advice of the office of budget and management, may adopt reasonable rules not inconsistent with this section for the implementation of this section and division (B) of section 133.25 of the Revised Code as it relates to the withholding and depositing of payments under ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code to secure payment of debt charges on school district securities. Those rules

shall include criteria for the evaluation and approval or denial of school district requests for withholding under this section and limits on the obligation for the purpose of paying debt charges or reimbursing credit enhancement facilities of funds otherwise to be paid to school districts under Chapter 3317. of the Revised Code.

(J) The authority granted by this section is in addition to and not a limitation on any other authorizations granted by or pursuant to law for the same or similar purposes.

Sec. 3317.20. This section does not apply to preschool children with disabilities.

(A) As used in this section:

(1) "Applicable weight" means the multiple specified in section ~~3317.013~~ 3306.11 of the Revised Code for a disability described in that section.

(2) "Child's school district" means the school district in which a child is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.

~~(3) "State share percentage" means the state share percentage of the child's school district as defined in section 3317.022 of the Revised Code.~~

(B) Except as provided in division (C) of this section, the department shall annually pay each county MR/DD board for each child with a disability, other than a preschool child with a disability, for whom the county MR/DD board provides special education and related services an amount equal to the formula amount + (state share percentage X formula amount X the applicable weight).

(C) If any school district places with a county MR/DD board more children with disabilities than it had placed with a county MR/DD board in fiscal year 1998, the department shall not make a payment under division (B) of this section for the number of children exceeding the number placed in fiscal year 1998. The department instead shall deduct from the district's payments under this chapter and Chapter 3306. of the Revised Code, and pay to the county MR/DD board, an amount calculated in accordance with the formula prescribed in division (B) of this section for each child over the number of children placed in fiscal year 1998.

(D) The department shall calculate for each county MR/DD board receiving payments under divisions (B) and (C) of this section the following amounts:

(1) The amount received by the county MR/DD board for approved special education and related services units, other than units for preschool children with disabilities, in fiscal year 1998, divided by the total number of

children served in the units that year;

(2) The product of the quotient calculated under division (D)(1) of this section times the number of children for whom payments are made under divisions (B) and (C) of this section.

If the amount calculated under division (D)(2) of this section is greater than the total amount calculated under divisions (B) and (C) of this section, the department shall pay the county MR/DD board one hundred per cent of the difference in addition to the payments under divisions (B) and (C) of this section.

(E) Each county MR/DD board shall report to the department, in the manner specified by the department, the name of each child for whom the county MR/DD board provides special education and related services and the child's school district.

(F)(1) For the purpose of verifying the accuracy of the payments under this section, the department may request from either of the following entities the data verification code assigned under division (D)(2) of section 3301.0714 of the Revised Code to any child who is placed with a county MR/DD board:

(a) The child's school district;

(b) The independent contractor engaged to create and maintain data verification codes.

(2) Upon a request by the department under division (F)(1) of this section for the data verification code of a child, the child's school district shall submit that code to the department in the manner specified by the department. If the child has not been assigned a code, the district shall assign a code to that child and submit the code to the department by a date specified by the department. If the district does not assign a code to the child by the specified date, the department shall assign a code to the child.

The department annually shall submit to each school district the name and data verification code of each child residing in the district for whom the department has assigned a code under this division.

(3) The department shall not release any data verification code that it receives under division (F) of this section to any person except as provided by law.

(G) Any document relative to special education and related services provided by a county MR/DD board that the department holds in its files that contains both a student's name or other personally identifiable information and the student's data verification code shall not be a public record under section 149.43 of the Revised Code.

Sec. 3317.201. This section does not apply to preschool children with

disabilities.

(A) As used in this section, the "total special education weight" for an institution means the sum of the following amounts:

(1) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a disability described in division ~~(A)(D)(1)~~ of section ~~3317.013~~ 3306.02 of the Revised Code multiplied by the multiple specified in that division;

(2) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a disability described in division ~~(B)(D)(2)~~ of section ~~3317.013~~ 3306.02 of the Revised Code multiplied by the multiple specified in that division;

(3) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a disability described in division ~~(C)(D)(3)~~ of section ~~3317.013~~ 3306.02 of the Revised Code multiplied by the multiple specified in that division;

(4) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a disability described in division (D)(4) of section ~~3317.013~~ 3306.02 of the Revised Code multiplied by the multiple specified in that division;

(5) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a disability described in division ~~(E)(D)(5)~~ of section ~~3317.013~~ 3306.02 of the Revised Code multiplied by the multiple specified in that division;

(6) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a disability described in division ~~(F)(D)(6)~~ of section ~~3317.013~~ 3306.02 of the Revised Code multiplied by the multiple specified in that division.

(B) For each fiscal year, the department of education shall pay each state institution required to provide special education services under division (A) of section 3323.091 of the Revised Code an amount equal to the greater of:

(1) The formula amount times the institution's total special education weight;

(2) The aggregate amount of special education and related services unit funding the institution received for all children with disabilities other than preschool children with disabilities in fiscal year 2005 under sections 3317.052 and 3317.053 of the Revised Code, as those sections existed prior to June 30, 2005.

Sec. 3318.011. For purposes of providing assistance under sections 3318.01 to 3318.20 of the Revised Code, the department of education shall

annually do all of the following:

(A) Calculate the adjusted valuation per pupil of each city, local, and exempted village school district according to the following formula:

$$\frac{\text{The district's valuation per pupil}}{[\$30,000 \times (1 - \text{the district's income factor})]}$$

For purposes of this calculation:

(1) Except for a district with an open enrollment net gain that is ten per cent or more of its formula ADM, "valuation per pupil" for a district means its average taxable value, divided by its formula ADM for the previous fiscal year. "Valuation per pupil," for a district with an open enrollment net gain that is ten per cent or more of its formula ADM, means its average taxable value, divided by the sum of its formula ADM for the previous fiscal year plus its open enrollment net gain for the previous fiscal year.

(2) "Average Except for a tangible personal property phase-out impacted district, "average taxable value" means the average of the sum of the amounts certified for a district under divisions (A)(1) and (2) of section 3317.021 of the Revised Code in the second, third, and fourth preceding fiscal years under divisions (A)(1) and (2) of section 3317.021 of the Revised Code. For a tangible personal property phase-out impacted district, "average taxable value" means the average of the sum of the amounts certified for the district under division (A)(1) and as public utility personal property under division (A)(2) of section 3317.021 of the Revised Code in the second, third, and fourth preceding fiscal years.

(3) "Entitled to attend school" means entitled to attend school in a city, local, or exempted village school district under section 3313.64 or 3313.65 of the Revised Code.

(4) "Formula ADM" and "income factor" have the same meanings as in section 3317.02 of the Revised Code.

(5) "Native student" has the same meaning as in section 3313.98 of the Revised Code.

(6) "Open enrollment net gain" for a district means (a) the number of the students entitled to attend school in another district but who are enrolled in the schools of the district under its open enrollment policy minus (b) the number of the district's native students who are enrolled in the schools of another district under the other district's open enrollment policy, both numbers as certified to the department under section 3313.981 of the Revised Code. If the difference is a negative number, the district's "open enrollment net gain" is zero.

(7) "Open enrollment policy" means an interdistrict open enrollment policy adopted under section 3313.98 of the Revised Code.

(8) "Tangible personal property phase-out impacted district" means a school district for which the taxable value of its tangible personal property certified under division (A)(2) of section 3317.021 of the Revised Code for tax year 2005, excluding the taxable value of public utility personal property, made up twenty per cent or more of its total taxable value for tax year 2005 as certified under that section.

(B) Calculate for each district the three-year average of the adjusted valuations per pupil calculated for the district for the current and two preceding fiscal years;

(C) Rank all such districts in order of adjusted valuation per pupil from the district with the lowest three-year average adjusted valuation per pupil to the district with the highest three-year average adjusted valuation per pupil;

(D) Divide such ranking into percentiles with the first percentile containing the one per cent of school districts having the lowest three-year average adjusted valuations per pupil and the one-hundredth percentile containing the one per cent of school districts having the highest three-year average adjusted valuations per pupil;

(E) Determine the school districts that have three-year average adjusted valuations per pupil that are greater than the median three-year average adjusted valuation per pupil for all school districts in the state;

(F) On or before the first day of September, certify the information described in divisions (A) to (E) of this section to the Ohio school facilities commission.

Sec. 3318.051. (A) Any city, exempted village, or local school district that commences a project under sections 3318.01 to 3318.20, 3318.36, 3318.37, or 3318.38 of the Revised Code on or after ~~the effective date of this section~~ September 5, 2006, need not levy the tax otherwise required under division (B) of section 3318.05 of the Revised Code, if the district board of education adopts a resolution petitioning the Ohio school facilities commission to approve the transfer of money in accordance with this section and the commission approves that transfer. If so approved, the commission and the district board shall enter into an agreement under which the board, in each of twenty-three consecutive years beginning in the year in which the board and the commission enter into the project agreement under section 3318.08 of the Revised Code, shall transfer into the maintenance fund required by division (D) of section 3318.05 of the Revised Code not less than an amount equal to one-half mill for each dollar of the district's valuation unless and until the agreement to make those transfers is rescinded by the district board pursuant to division (F) of this section.

(B) On the first day of July each year, or on an alternative date

prescribed by the commission, the district treasurer shall certify to the commission and the auditor of state that the amount required for the year has been transferred. The auditor of state shall include verification of the transfer as part of any audit of the district under section 117.11 of the Revised Code. If the auditor of state finds that less than the required amount has been deposited into a district's maintenance fund, the auditor of state shall notify the district board of education in writing of that fact and require the board to deposit into the fund, within ninety days after the date of the notice, the amount by which the fund is deficient for the year. If the district board fails to demonstrate to the auditor of state's satisfaction that the board has made the deposit required in the notice, the auditor of state shall notify the department of education. At that time, the department shall withhold an amount equal to ten per cent of the district's funds calculated for the current fiscal year under ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code until the auditor of state notifies the department that the auditor of state is satisfied that the board has made the required transfer.

(C) Money transferred to the maintenance fund shall be used for the maintenance of the facilities acquired under the district's project.

(D) The transfers to the maintenance fund under this section does not affect a district's obligation to establish and maintain a capital and maintenance fund under section 3315.18 of the Revised Code.

(E) Any decision by the commission to approve or not approve the transfer of money under this section is final and not subject to appeal. The commission shall not be responsible for errors or miscalculations made in deciding whether to approve a petition to make transfers under this section.

(F) If the district board determines that it no longer can continue making the transfers agreed to under this section, the board may rescind the agreement only so long as the electors of the district have approved, in accordance with section 3318.063 of the Revised Code, the levy of a tax for the maintenance of the classroom facilities acquired under the district's project and that levy continues to be collected as approved by the electors. That levy shall be for a number of years that is equal to the difference between twenty-three years and the number of years that the district made transfers under this section and shall be at the rate of not less than one-half mill for each dollar of the district's valuation. The district board shall continue to make the transfers agreed to under this section until that levy has been approved by the electors.

Sec. 3318.061. This section applies only to school districts eligible to receive additional assistance under division (B)(2) of section 3318.04 of the Revised Code ~~and to big eight districts segmenting projects under section~~

~~3318.38 of the Revised Code.~~

The board of education of a school district in which a tax described by division (B) of section 3318.05 and levied under section 3318.06 of the Revised Code is in effect, may adopt a resolution by vote of a majority of its members to extend the term of that tax beyond the expiration of that tax as originally approved under that section. The school district board may include in the resolution a proposal to extend the term of that tax at the rate of not less than one-half mill for each dollar of valuation for a period of twenty-three years from the year in which the school district board and the Ohio school facilities commission enter into an agreement under division (B)(2) of section 3318.04 of the Revised Code or in the following year, as specified in the resolution ~~or, as applicable in the case of a district segmenting a project under section 3318.38 of the Revised Code, from the year in which the last segment is undertaken.~~ Such a resolution may be adopted at any time before such an agreement is entered into and before the tax levied pursuant to section 3318.06 of the Revised Code expires. If the resolution is combined with a resolution to issue bonds to pay the school district's portion of the basic project cost, it shall conform with the requirements of divisions (A)(1), (2), and (3) of section 3318.06 of the Revised Code, except that the resolution also shall state that the tax levy proposed in the resolution is an extension of an existing tax levied under that section. A resolution proposing an extension adopted under this section does not take effect until it is approved by a majority of electors voting in favor of the resolution at a general, primary, or special election as provided in this section.

A tax levy extended under this section is subject to the same terms and limitations to which the original tax levied under section 3318.06 of the Revised Code is subject under that section, except the term of the extension shall be as specified in this section.

The school district board shall certify a copy of the resolution adopted under this section to the proper county board of elections not later than seventy-five days before the date set in the resolution as the date of the election at which the question will be submitted to electors. The notice of the election shall conform with the requirements of division (A)(3) of section 3318.06 of the Revised Code, except that the notice also shall state that the maintenance tax levy is an extension of an existing tax levy.

The form of the ballot shall be as follows:

"Shall the existing tax levied to pay the cost of maintaining classroom facilities constructed with the proceeds of the previously issued bonds at the rate of (here insert the number of mills, which shall not be less than

one-half mill) mills per dollar of tax valuation, be extended until (here insert the year that is twenty-three years after the year in which the district and commission will enter into an agreement under division (B)(2) of section 3318.04 of the Revised Code or the following year)?

	FOR EXTENDING THE EXISTING TAX LEVY
	AGAINST EXTENDING THE EXISTING TAX LEVY

Section 3318.07 of the Revised Code applies to ballot questions under this section.

Sec. 3318.312. At the request of the superintendent of public instruction, the executive director of the Ohio school facilities commission shall advise the superintendent of demands upon and other issues related to existing classroom facilities that may arise due to new operating requirements specified in the rules adopted under section 3306.25 of the Revised Code establishing expenditure and reporting standards for operating funds paid under Chapter 3306. of the Revised Code.

Sec. 3318.36. (A)(1) As used in this section:

(a) "Ohio school facilities commission," "classroom facilities," "school district," "school district board," "net bonded indebtedness," "required percentage of the basic project costs," "basic project cost," "valuation," and "percentile" have the same meanings as in section 3318.01 of the Revised Code.

(b) "Required level of indebtedness" means five per cent of the school district's valuation for the year preceding the year in which the commission and school district enter into an agreement under division (B) of this section, plus [two one-hundredths of one per cent multiplied by (the percentile in which the district ranks minus one)].

(c) "Local resources" means any moneys generated in any manner permitted for a school district board to raise the school district portion of a project undertaken with assistance under sections 3318.01 to 3318.20 of the Revised Code.

(2) For purposes of determining ~~either~~ the required level of indebtedness, ~~as defined in division (A)(1)(b) of this section, or~~ the required percentage of the basic project costs; under division (C)(1) of this section, and priority for assistance under sections 3318.01 to 3318.20 of the Revised Code, the percentile ranking of a school district with which the commission has entered into an agreement under this section between the first day of July and the thirty-first day of August in each fiscal year is the percentile ranking calculated for that district for the immediately preceding fiscal year,

and the percentile ranking of a school district with which the commission has entered into such agreement between the first day of September and the thirtieth day of June in each fiscal year is the percentile ranking calculated for that district for the current fiscal year.

(B)(1) There is hereby established the school building assistance expedited local partnership program. Under the program, the Ohio school facilities commission may enter into an agreement with the school district board of any school district under which the school district board may proceed with the new construction or major repairs of a part of the school district's classroom facilities needs, as determined under sections 3318.01 to 3318.20 of the Revised Code, through the expenditure of local resources prior to the school district's eligibility for state assistance under those sections ~~3318.01 to 3318.20 of the Revised Code~~ and may apply that expenditure toward meeting the school district's portion of the basic project cost of the total of the school district's classroom facilities needs, as determined under sections 3318.01 to 3318.20 of the Revised Code and as recalculated under division (E) of this section, that are eligible for state assistance under sections 3318.01 to 3318.20 of the Revised Code when the school district becomes eligible for ~~such state~~ that assistance. Any school district that is reasonably expected to receive assistance under sections 3318.01 to 3318.20 of the Revised Code within two fiscal years from the date the school district adopts its resolution under division (B) of this section shall not be eligible to participate in the program established under this section.

(2) To participate in the program, a school district board shall first adopt a resolution certifying to the commission the board's intent to participate in the program.

The resolution shall specify the approximate date that the board intends to seek elector approval of any bond or tax measures or to apply other local resources to use to pay the cost of classroom facilities to be constructed under this section. The resolution may specify the application of local resources or elector-approved bond or tax measures after the resolution is adopted by the board, and in such case the board may proceed with a discrete portion of its project under this section as soon as the commission and the controlling board have approved the basic project cost of the district's classroom facilities needs as specified in division (D) of this section. The board shall submit its resolution to the commission not later than ten days after the date the resolution is adopted by the board.

The commission shall not consider any resolution that is submitted pursuant to division (B)(2) of this section, as amended by this amendment,

sooner than September 14, 2000.

(3) For purposes of determining when a district that enters into an agreement under this section becomes eligible for assistance under sections 3318.01 to 3318.20 of the Revised Code, the commission shall use the district's percentile ranking determined at the time the district entered into the agreement under this section, as prescribed by division (A)(2) of this section.

(4) Any project under this section shall comply with section 3318.03 of the Revised Code and with any specifications for plans and materials for classroom facilities adopted by the commission under section 3318.04 of the Revised Code.

~~(4)(5)~~ If a school district that enters into an agreement under this section has not begun a project applying local resources as provided for under that agreement at the time the district is notified by the commission that it is eligible to receive state assistance under sections 3318.01 to 3318.20 of the Revised Code, all assessment and agreement documents entered into under this section are void.

~~(5)(6)~~ Only construction of or repairs to classroom facilities that have been approved by the commission and have been therefore included as part of a district's basic project cost qualify for application of local resources under this section.

(C) Based on the results of ~~the~~ on-site visits and assessment ~~conducted under division (B)(2) of this section~~, the commission shall determine the basic project cost of the school district's classroom facilities needs. The commission shall determine the school district's portion of such basic project cost, which shall be the greater of:

(1) The required percentage of the basic project costs, determined based on the school district's percentile ranking;

(2) An amount necessary to raise the school district's net bonded indebtedness, as of the fiscal year the commission and the school district enter into the agreement under division (B) of this section, to within five thousand dollars of the required level of indebtedness.

(D)(1) When the commission determines the basic project cost of the classroom facilities needs of a school district and the school district's portion of that basic project cost under division (C) of this section, the project shall be conditionally approved. Such conditional approval shall be submitted to the controlling board for approval thereof. The controlling board shall forthwith approve or reject the commission's determination, conditional approval, and the amount of the state's portion of the basic project cost; however, no state funds shall be encumbered under this section. Upon

approval by the controlling board, the school district board may identify a discrete part of its classroom facilities needs, which shall include only new construction of or additions or major repairs to a particular building, to address with local resources. Upon identifying a part of the school district's basic project cost to address with local resources, the school district board may allocate any available school district moneys to pay the cost of that identified part, including the proceeds of an issuance of bonds if approved by the electors of the school district.

All local resources utilized under this division shall first be deposited in the project construction account required under section 3318.08 of the Revised Code.

(2) Unless the school district board exercises its option under division (D)(3) of this section, for a school district to qualify for participation in the program authorized under this section, one of the following conditions shall be satisfied:

(a) The electors of the school district by a majority vote shall approve the levy of taxes outside the ten-mill limitation for a period of twenty-three years at the rate of not less than one-half mill for each dollar of valuation to be used to pay the cost of maintaining the classroom facilities included in the basic project cost as determined by the commission. The form of the ballot to be used to submit the question whether to approve the tax required under this division to the electors of the school district shall be the form for an additional levy of taxes prescribed in section 3318.361 of the Revised Code, which may be combined in a single ballot question with the questions prescribed under section 5705.218 of the Revised Code.

(b) As authorized under division (C) of section 3318.05 of the Revised Code, the school district board shall earmark from the proceeds of a permanent improvement tax levied under section 5705.21 of the Revised Code, an amount equivalent to the additional tax otherwise required under division (D)(2)(a) of this section for the maintenance of the classroom facilities included in the basic project cost as determined by the commission.

(c) As authorized under section 3318.051 of the Revised Code, the school district board shall, if approved by the commission, annually transfer into the maintenance fund required under section 3318.05 of the Revised Code the amount prescribed in section 3318.051 of the Revised Code in lieu of the tax otherwise required under division (D)(2)(a) of this section for the maintenance of the classroom facilities included in the basic project cost as determined by the commission.

(d) If the school district board has rescinded the agreement to make transfers under section 3318.051 of the Revised Code, as provided under

division (F) of that section, the electors of the school district, in accordance with section 3318.063 of the Revised Code, first shall approve the levy of taxes outside the ten-mill limitation for the period specified in that section at a rate of not less than one-half mill for each dollar of valuation.

(e) The school district board shall apply the proceeds of a tax to leverage bonds as authorized under section 3318.052 of the Revised Code or dedicate a local donated contribution in the manner described in division (B) of section 3318.084 of the Revised Code in an amount equivalent to the additional tax otherwise required under division (D)(2)(a) of this section for the maintenance of the classroom facilities included in the basic project cost as determined by the commission.

(3) A school district board may opt to delay taking any of the actions described in division (D)(2) of this section until ~~such time as~~ the school district becomes eligible for state assistance under sections 3318.01 to 3318.20 of the Revised Code. In order to exercise this option, the board shall certify to the commission a resolution indicating the board's intent to do so prior to entering into an agreement under division (B) of this section.

(4) If pursuant to division (D)(3) of this section a district board opts to delay levying an additional tax until the district becomes eligible for state assistance, it shall submit the question of levying that tax to the district electors as follows:

(a) In accordance with section 3318.06 of the Revised Code if it will also be necessary pursuant to division (E) of this section to submit a proposal for approval of a bond issue;

(b) In accordance with section 3318.361 of the Revised Code if it is not necessary to also submit a proposal for approval of a bond issue pursuant to division (E) of this section.

(5) No state assistance under sections 3318.01 to 3318.20 of the Revised Code shall be released until a school district board that adopts and certifies a resolution under division (D) of this section also demonstrates to the satisfaction of the commission compliance with the provisions of division (D)(2) of this section.

Any amount required for maintenance under division (D)(2) of this section shall be deposited into a separate fund as specified in division (B) of section 3318.05 of the Revised Code.

(E)(1) If the school district becomes eligible for state assistance under sections 3318.01 to 3318.20 of the Revised Code based on its percentile ranking ~~as determined~~ under division (B)(3) of this section, the commission shall conduct a new assessment of the school district's classroom facilities needs and shall recalculate the basic project cost based on this new

assessment. The basic project cost recalculated under this division shall include the amount of expenditures made by the school district board under division (D)(1) of this section. The commission shall then recalculate the school district's portion of the new basic project cost, which shall be the percentage of the original basic project cost assigned to the school district as its portion under division (C) of this section. The commission shall deduct the expenditure of school district moneys made under division (D)(1) of this section from the school district's portion of the basic project cost as recalculated under this division. If the amount of school district resources applied by the school district board to the school district's portion of the basic project cost under this section is less than the total amount of such portion as recalculated under this division, the school district board by a majority vote of all of its members shall, if it desires to seek state assistance under sections 3318.01 to 3318.20 of the Revised Code, adopt a resolution as specified in section 3318.06 of the Revised Code to submit to the electors of the school district the question of approval of a bond issue in order to pay any additional amount of school district portion required for state assistance. Any tax levy approved under division (D) of this section satisfies the requirements to levy the additional tax under section 3318.06 of the Revised Code.

(2) If the amount of school district resources applied by the school district board to the school district's portion of the basic project cost under this section is more than the total amount of such portion as recalculated under this division, within one year after the school district's portion is recalculated under division (E)(1) of this section the commission may grant to the school district the difference between the two calculated portions, but at no time shall the commission expend any state funds on a project in an amount greater than the state's portion of the basic project cost as recalculated under this division.

Any reimbursement under this division shall be only for local resources the school district has applied toward construction cost expenditures for the classroom facilities approved by the commission, which shall not include any financing costs associated with that construction.

The school district board shall use any moneys reimbursed to the district under this division to pay off any debt service the district owes for classroom facilities constructed under its project under this section before such moneys are applied to any other purpose. However, the district board first may deposit moneys reimbursed under this division into the district's general fund or a permanent improvement fund to replace local resources the district withdrew from those funds, as long as, and to the extent that,

those local resources were used by the district for constructing classroom facilities included in the district's basic project cost.

Sec. 3318.38. (A) As used in this section, "big-eight school district" has the same meaning as in section 3314.02 of the Revised Code.

(B) There is hereby established the accelerated urban school building assistance program. Under the program, notwithstanding section 3318.02 of the Revised Code, any big-eight school district that has not been approved to receive assistance under sections 3318.01 to 3318.20 of the Revised Code by July 1, 2002, may beginning on that date apply for approval of and be approved for such assistance. Except as otherwise provided in this section, any project approved and undertaken pursuant to this section shall comply with all provisions of sections 3318.01 to 3318.20 of the Revised Code.

The Ohio school facilities commission shall provide assistance to any big-eight school district eligible for assistance under this section in the following manner:

(1) Notwithstanding section 3318.02 of the Revised Code:

(a) Not later than June 30, 2002, the commission shall conduct an on-site visit and shall assess the classroom facilities needs of each big-eight school district eligible for assistance under this section;

(b) Beginning July 1, 2002, any big-eight school district eligible for assistance under this section may apply to the commission for conditional approval of its project as determined by the assessment conducted under division (B)(1)(a) of this section. The commission may conditionally approve that project and submit it to the controlling board for approval pursuant to section 3318.04 of the Revised Code.

(2) If the controlling board approves the project of a big-eight school district eligible for assistance under this section, the commission and the school district shall enter into an agreement as prescribed in section 3318.08 of the Revised Code. Any agreement executed pursuant to this division shall include any applicable segmentation provisions as approved by the commission under division (B)(3) of this section.

(3) Notwithstanding any provision to the contrary in sections 3318.05, 3318.06, and 3318.08 of the Revised Code, a big-eight school district eligible for assistance under this section may with the approval of the commission opt to divide the project as approved under division (B)(1)(b) of this section into discrete segments to be completed sequentially. Any project divided into segments shall comply with all other provisions of sections 3318.05, 3318.06, and 3318.08 of the Revised Code except as otherwise specified in this division.

If a project is divided into segments under this division:

(a) The school district need raise only the amount equal to its proportionate share, as determined under section 3318.032 of the Revised Code, of each segment at any one time and may seek voter approval of each segment separately;

(b) The state's proportionate share, as determined under section 3318.032 of the Revised Code, of only the segment which has been approved by the school district electors or for which the district has applied a local donated contribution under section 3318.084 of the Revised Code shall be encumbered in accordance with section 3318.11 of the Revised Code. Encumbrance of additional amounts to cover the state's proportionate share of later segments shall be approved separately as they are approved by the school district electors or as the district applies a local donated contribution to the segments under section 3318.084 of the Revised Code.

~~(c) If it is necessary to levy the additional tax for maintenance under division (B) of section 3318.05 of the Revised Code with respect to any segment of the project, the district may utilize the provisions of section 3318.061 of the Revised Code to ensure that the maintenance tax extends for twenty-three years after the last segment of the project is undertaken. The school district's maintenance levy requirement, as defined in section 3318.18 of the Revised Code, shall run for twenty-three years from the date the first segment is undertaken.~~

(4) For any project under this section, the state funds reserved and encumbered and the funds provided by the school district to pay the basic project cost of any segment of the project, or of the entire project if it is not divided into segments, shall be spent on the construction and acquisition of the project simultaneously in proportion to the state's and the school district's respective shares of that basic project cost as determined under section 3318.032 of the Revised Code.

Sec. 3318.44. (A) A joint vocational school district board of education may generate the school district's portion of the basic project cost of its project under sections 3318.40 to 3318.45 of the Revised Code using any combination of the following means if lawfully employed for the acquisition of classroom facilities:

(1) The issuance of securities in accordance with Chapter 133. and section 3311.20 of the Revised Code;

(2) Local donated contributions as authorized under section 3318.084 of the Revised Code;

(3) A levy for permanent improvements under section 3311.21 or 5705.21 of the Revised Code;

(4) Bonds issued pursuant to division (B) of this section.

(B) By resolution adopted by a majority of all its members, a school district board, in order to pay all or part of the school district's portion of its basic project cost, may apply the proceeds of a tax levied under section 5705.21 of the Revised Code for general permanent improvements if the proceeds of that levy lawfully may be used for general construction, renovation, repair, or maintenance of classroom facilities to ~~leverage pay debt charges on and financing costs related to~~ bonds ~~adequate~~ issued to pay all or part of the school district portion of the basic project cost of the school district's project under sections 3318.40 to 3318.45 of the Revised Code or to generate an amount equivalent to all or part of the amount required under section 3318.43 of the Revised Code to be used for maintenance of classroom facilities acquired under the project. Bonds issued under this division shall be Chapter 133. securities, and may be issued as general obligation securities, but the issuance of the bonds shall not be subject to a vote of the electors of the school district as long as the tax proceeds earmarked for payment of the ~~service~~ debt charges on the bonds may lawfully be used for that purpose. Such bonds shall not be included in the calculation of net indebtedness under section 133.06 of the Revised Code if the resolution authorizing their issuance includes covenants to appropriate annually, from lawfully available proceeds of a property tax levied under section 5705.21 of the Revised Code, and to continue to levy that tax in amounts necessary to pay the debt charges on and financing costs related to the bonds as they become due. No property tax levied under section 5705.21 of the Revised Code that is pledged, or that the school district has covenanted to levy, collect, and appropriate annually to pay the debt charges on and financing costs related to the bonds under this section may be repealed while those bonds are outstanding. If such a tax is reduced by electors of the district or by the board of education while the bonds are outstanding, the board of education shall continue to levy and collect the tax under the authority of the original election authorizing the tax at a rate in each year that the board reasonably estimates will produce an amount in that year equal to the debt charges on the bonds in that year.

No state moneys shall be released for a project to which this division applies until the proceeds of any bonds issued under this division that are dedicated for payment of the school district's portion of the basic project cost are first deposited into the school district's project construction fund.

(C) A school district board of education may adopt a resolution proposing that any of the following questions be combined with a question specified in section 3318.45 of the Revised Code:

- (1) A bond issue question under section 133.18 of the Revised Code;

- (2) A tax levy question under section 3311.21 of the Revised Code;
- (3) A tax levy question under section 5705.21 of the Revised Code.

Any question described in divisions (C)(1) to (3) of this section that is combined with a question proposed under section 3318.45 of the Revised Code shall be for the purpose of either paying for any permanent improvement, as defined in section 133.01 of the Revised Code, or generating operating revenue specifically for the facilities acquired under the school district's project under Chapter 3318. of the Revised Code or for both to the extent such purposes are permitted by the sections of law under which each is proposed.

(D) The board of education of a joint vocational school district that receives assistance under this section may enter into an agreement for joint issuance of bonds as provided for in section 3318.085 of the Revised Code.

Sec. 3319.073. (A) The board of education of each city and exempted village school district and the governing board of each educational service center shall adopt or adapt the curriculum developed by the department of education for, or shall develop, in consultation with public or private agencies or persons involved in child abuse prevention or intervention programs, a program of in-service training for persons employed by any school district or service center to work in an elementary school as a nurse, teacher, counselor, school psychologist, or administrator in the prevention of child abuse, violence, and substance abuse and the promotion of positive youth development. Each person employed by any school district or service center to work in an elementary school as a nurse, teacher, counselor, school psychologist, or administrator shall complete at least four hours of the in-service training in the prevention of child abuse, violence, and substance abuse and the promotion of positive youth development within two years of commencing employment with the district or center, and every five years thereafter. A person who is employed by any school district or service center to work in an elementary school as a nurse, teacher, counselor, school psychologist, or administrator on the effective date of this amendment March 30, 2007, shall complete at least four hours of the in-service training required by this section within two years of the effective date of this amendment not later than March 30, 2009, and every five years thereafter. A person who is employed by any school district or service center to work in a middle or high school as a nurse, teacher, counselor, school psychologist, or administrator on the effective date of this amendment shall complete at least four hours of the in-service training not later than two years after the effective date of this amendment and every five years thereafter.

(B) Each board shall incorporate training in school safety and violence prevention into the in-service training required by division (A) of this section. For this purpose, the board shall adopt or adapt the curriculum developed by the department or shall develop its own curriculum in consultation with public or private agencies or persons involved in school safety and violence prevention programs.

Sec. 3319.08. (A) The board of education of each city, exempted village, local, and joint vocational school district and the governing board of each educational service center shall enter into written contracts for the employment and reemployment of all teachers. Contracts for the employment of teachers shall be of two types, limited contracts and continuing contracts. The board of each ~~such~~ school district or service center that authorizes compensation in addition to the base salary stated in the teachers' salary schedule for the performance of duties by a teacher that are in addition to the teacher's regular teaching duties, shall enter into a supplemental written contract with each teacher who is to perform additional duties. Such supplemental written contracts shall be limited contracts. Such written contracts and supplemental written contracts shall set forth the teacher's duties and shall specify the salaries and compensation to be paid for regular teaching duties and additional teaching duties, respectively, either or both of which may be increased but not diminished during the term for which the contract is made, except as provided in section 3319.12 of the Revised Code.

If a board adopts a motion or resolution to employ a teacher under a limited or continuing contract and the teacher accepts such employment, the failure of such parties to execute a written contract shall not void such employment contract.

(B) Teachers must be paid for all time lost when the schools in which they are employed are closed due to an epidemic or other public calamity, and for time lost due to illness or otherwise for not less than five days annually as authorized by regulations which each board shall adopt.

~~Contracts for the employment of teachers shall be of two types, limited contracts and continuing contracts.~~

~~(A)~~(C) A limited contract is:

(1) For a superintendent, a contract for such term as authorized by section 3319.01 of the Revised Code;

(2) For an assistant superintendent, principal, assistant principal, or other administrator, a contract for such term as authorized by section 3319.02 of the Revised Code;

(3) For all other teachers, a contract for a term not to exceed five years.

~~(B)~~(D) A continuing contract is a contract that remains in effect until the teacher resigns, elects to retire, or is retired pursuant to former section 3307.37 of the Revised Code, or until it is terminated or suspended and shall be granted only to the following:

(1) Any teacher holding a professional, permanent, or life teacher's certificate;

(2) Any teacher ~~holding a professional educator license~~ who meets the following conditions:

(a) The teacher was initially issued a teacher's certificate or educator license prior to January 1, 2011.

(b) The teacher holds a professional educator license issued under section 3319.22 or 3319.222 or former section 3319.22 of the Revised Code or a senior professional educator license or lead professional educator license issued under section 3319.22 of the Revised Code.

(c) The teacher has completed the applicable one of the following:

~~(a)~~(i) If the teacher did not hold a ~~masters~~ master's degree at the time of initially receiving a teacher's certificate under former law or an educator license, thirty semester hours of coursework in the area of licensure or in an area related to the teaching field since the initial issuance of such certificate or license, as specified in rules which the state board of education shall adopt;

~~(b)~~(ii) If the teacher held a ~~masters~~ master's degree at the time of initially receiving a teacher's certificate under former law or an educator license, six semester hours of graduate coursework in the area of licensure or in an area related to the teaching field since the initial issuance of such certificate or license, as specified in rules which the state board of education shall adopt.

~~This~~ (3) Any teacher who meets the following conditions:

(a) The teacher never held a teacher's certificate and was initially issued an educator license on or after January 1, 2011.

(b) The teacher holds a professional educator license, senior professional educator license, or lead professional educator license issued under section 3319.22 of the Revised Code.

(c) The teacher has held an educator license for at least seven years.

(d) The teacher has completed the applicable one of the following:

(i) If the teacher did not hold a master's degree at the time of initially receiving an educator license, thirty semester hours of coursework in the area of licensure or in an area related to the teaching field since the initial issuance of that license, as specified in rules which the state board shall adopt;

(ii) If the teacher held a master's degree at the time of initially receiving an educator license, six semester hours of graduate coursework in the area of licensure or in an area related to the teaching field since the initial issuance of that license, as specified in rules which the state board shall adopt.

(E) Division (D) of this section applies only to continuing contracts entered into on or after August 18, 1969 the effective date of this amendment. Nothing in that division shall be construed to void or otherwise affect a continuing contract entered into prior to that date.

Notwithstanding any provision to the contrary in Chapter 4117. of the Revised Code, the requirements of division (D)(3) of this section prevail over any conflicting provisions of a collective bargaining agreement entered into on or after the effective date of this amendment.

(F) Wherever the term "educator license" is used in this section without reference to a specific type of educator license, the term does not include an educator license for substitute teaching issued under section 3319.226 of the Revised Code.

Sec. 3319.081. Except as otherwise provided in division (G) of this section, in all school districts wherein the provisions of Chapter 124. of the Revised Code do not apply, the following employment contract system shall control for employees whose contracts of employment are not otherwise provided by law:

(A) Newly hired regular nonteaching school employees, including regular hourly rate and per diem employees, shall enter into written contracts for their employment which shall be for a period of not more than one year. If such employees are rehired, their subsequent contract shall be for a period of two years.

(B) After the termination of the two-year contract provided in division (A) of this section, if the contract of a nonteaching employee is renewed, the employee shall be continued in employment, and the salary provided in the contract may be increased but not reduced unless such reduction is a part of a uniform plan affecting the nonteaching employees of the entire district.

(C) The contracts as provided for in this section may be terminated by a majority vote of the board of education. Except as provided in ~~sections 3319.0810 and~~ section 3319.172 of the Revised Code, the contracts may be terminated only for violation of written rules and regulations as set forth by the board of education or for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, or any other acts of misfeasance, malfeasance, or nonfeasance. In addition to the right of the board of education to terminate the contract of an employee, the board may suspend an employee for a

definite period of time or demote the employee for the reasons set forth in this division. The action of the board of education terminating the contract of an employee or suspending or demoting the employee shall be served upon the employee by certified mail. Within ten days following the receipt of such notice by the employee, the employee may file an appeal, in writing, with the court of common pleas of the county in which such school board is situated. After hearing the appeal the common pleas court may affirm, disaffirm, or modify the action of the school board.

A violation of division (A)(7) of section 2907.03 of the Revised Code is grounds for termination of employment of a nonteaching employee under this division.

(D) All employees who have been employed by a school district where the provisions of Chapter 124. of the Revised Code do not apply, for a period of at least three years on November 24, 1967, shall hold continuing contracts of employment pursuant to this section.

(E) Any nonteaching school employee may terminate the nonteaching school employee's contract of employment thirty days subsequent to the filing of a written notice of such termination with the treasurer of the board.

(F) A person hired exclusively for the purpose of replacing a nonteaching school employee while such employee is on leave of absence granted under section 3319.13 of the Revised Code is not a regular nonteaching school employee under this section.

(G) All nonteaching employees employed pursuant to this section and Chapter 124. of the Revised Code shall be paid for all time lost when the schools in which they are employed are closed owing to an epidemic or other public calamity. Nothing in this division shall be construed as requiring payment in excess of an employee's regular wage rate or salary for any time worked while the school in which the employee is employed is officially closed for the reasons set forth in this division.

Sec. 3319.088. As used in this section, "educational assistant" means any nonteaching employee in a school district who directly assists a teacher as defined in section 3319.09 of the Revised Code, by performing duties for which a license issued pursuant to sections 3319.22 to 3319.30 of the Revised Code is not required.

(A) The state board of education shall issue educational aide permits and educational paraprofessional licenses for educational assistants and shall adopt rules for the issuance and renewal of such permits and licenses which shall be consistent with the provisions of this section. Educational aide permits and educational paraprofessional licenses may be of several types and the rules shall prescribe the minimum qualifications of education,

health, and character for the service to be authorized under each type. The prescribed minimum qualifications may require special training or educational courses designed to qualify a person to perform effectively the duties authorized under an educational aide permit or educational paraprofessional license.

(B)(1) Any application for a permit or license, or a renewal or duplicate of a permit or license, under this section shall be accompanied by the payment of a fee in the amount established under division (A) of section 3319.51 of the Revised Code. Any fees received under this division shall be paid into the state treasury to the credit of the state board of education licensure fund established under division (B) of section 3319.51 of the Revised Code.

(2) Any person applying for or holding a permit or license pursuant to this section is subject to sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code and sections 3319.31 and 3319.311 of the Revised Code.

(C) Educational assistants shall at all times while in the performance of their duties be under the supervision and direction of a teacher as defined in section 3319.09 of the Revised Code. Educational assistants may assist a teacher to whom assigned in the supervision of pupils, in assisting with instructional tasks, and in the performance of duties which, in the judgment of the teacher to whom the assistant is assigned, may be performed by a person not licensed pursuant to sections 3319.22 to 3319.30 of the Revised Code and for which a teaching license, issued pursuant to sections 3319.22 to 3319.30 of the Revised Code is not required. The duties of an educational assistant shall not include the assignment of grades to pupils. The duties of an educational ~~assistants~~ assistant need not be performed in the physical presence of the teacher to whom assigned, but the activity of an educational assistant shall at all times be under the direction of the teacher to whom assigned. The assignment of an educational assistant need not be limited to assisting a single teacher. In the event an educational assistant is assigned to assist more than one teacher the assignments shall be clearly delineated and so arranged that the educational assistant shall never be subject to simultaneous supervision or direction by more than one teacher.

Educational assistants assigned to supervise children shall, when the teacher to whom assigned is not physically present, maintain the degree of control and discipline ~~which that~~ would be maintained by the teacher, ~~but an educational assistant may not render corporal punishment.~~

~~Except when expressly permitted solely for the purposes of section 3317.029 of the Revised Code, educational~~ Educational assistants may not

be used in place of classroom teachers or other employees and any payment of compensation by boards of education to educational assistants for such services is prohibited. The ratio between the number of licensed teachers and the pupils in a school district may not be decreased by utilization of educational assistants and no grouping, or other organization of pupils, for utilization of educational assistants shall be established which is inconsistent with sound educational practices and procedures. A school district may employ up to one full time equivalent educational assistant for each six full time equivalent licensed employees of the district. Educational assistants shall not be counted as licensed employees for purposes of state support in the school foundation program and no grouping or regrouping of pupils with educational assistants may be counted as a class or unit for school foundation program purposes. Neither special courses required by the regulations of the state board of education, prescribing minimum qualifications of education for an educational assistant, nor years of service as an educational assistant shall be counted in any way toward qualifying for a teacher license, for a teacher contract of any type, or for determining placement on a salary schedule in a school district as a teacher.

(D) Educational assistants employed by a board of education shall have all rights, benefits, and legal protection available to other nonteaching employees in the school district, except that provisions of Chapter 124. of the Revised Code shall not apply to any person employed as an educational assistant, and shall be members of the school employees retirement system. Educational assistants shall be compensated according to a salary plan adopted annually by the board.

Except as provided in this section nonteaching employees shall not serve as educational assistants without first obtaining an appropriate educational aide permit or educational paraprofessional license from the state board of education. A nonteaching employee who is the holder of a valid educational aide permit or educational paraprofessional license shall neither render nor be required to render services inconsistent with the type of services authorized by the permit or license held. No person shall receive compensation from a board of education for services rendered as an educational assistant in violation of this provision.

Nonteaching employees whose functions are solely secretarial-clerical and who do not perform any other duties as educational assistants, even though they assist a teacher and work under the direction of a teacher shall not be required to hold a permit or license issued pursuant to this section. Students preparing to become licensed teachers or educational assistants shall not be required to hold an educational aide permit or paraprofessional

license for such periods of time as such students are assigned, as part of their training program, to work with a teacher in a school district. Such students shall not be compensated for such services.

Following the determination of the assignment and general job description of an educational assistant and subject to supervision by the teacher's immediate administrative officer, a teacher to whom an educational assistant is assigned shall make all final determinations of the duties to be assigned to such assistant. Teachers shall not be required to hold a license designated for being a supervisor or administrator in order to perform the necessary supervision of educational assistants.

(E) No person who is, or who has been employed as an educational assistant shall divulge, except to the teacher to whom assigned, or the administrator of the school in the absence of the teacher to whom assigned, or when required to testify in a court or proceedings, any personal information concerning any pupil in the school district which was obtained or obtainable by the educational assistant while so employed. Violation of this provision is grounds for disciplinary action or dismissal, or both.

Sec. 3319.11. (A) As used in this section:

(1) "Evaluation procedures" means the procedures adopted pursuant to division (B) of section 3319.111 of the Revised Code.

(2) "Limited contract" means a limited contract, as described in section 3319.08 of the Revised Code, that a school district board of education or governing board of an educational service center enters into with a teacher who is not eligible for continuing service status.

(3) "Extended limited contract" means a limited contract, as described in section 3319.08 of the Revised Code, that a board of education or governing board enters into with a teacher who is eligible for continuing service status.

(B) Teachers eligible for continuing service status in any city, exempted village, local, or joint vocational school district or educational service center shall be those teachers qualified as described in division ~~(B)(1) or (2)~~(D) of section 3319.08 of the Revised Code, who within the last five years have taught for at least three years in the district or center, and those teachers who, having attained continuing contract status elsewhere, have served two years in the district or center, but the board, upon the recommendation of the superintendent, may at the time of employment or at any time within such two-year period, declare any of the latter teachers eligible.

(1) Upon the recommendation of the superintendent that a teacher eligible for continuing service status be reemployed, a continuing contract shall be entered into between the board and the teacher unless the board by a three-fourths vote of its full membership rejects the recommendation of the

superintendent. If the board rejects by a three-fourths vote of its full membership the recommendation of the superintendent that a teacher eligible for continuing service status be reemployed and the superintendent makes no recommendation to the board pursuant to division (C) of this section, the board may declare its intention not to reemploy the teacher by giving the teacher written notice on or before the thirtieth day of April of its intention not to reemploy the teacher. If evaluation procedures have not been complied with pursuant to division (A) of section 3319.111 of the Revised Code or the board does not give the teacher written notice on or before the thirtieth day of April of its intention not to reemploy the teacher, the teacher is deemed reemployed under an extended limited contract for a term not to exceed one year at the same salary plus any increment provided by the salary schedule. The teacher is presumed to have accepted employment under the extended limited contract for a term not to exceed one year unless such teacher notifies the board in writing to the contrary on or before the first day of June, and an extended limited contract for a term not to exceed one year shall be executed accordingly. Upon any subsequent reemployment of the teacher only a continuing contract may be entered into.

(2) If the superintendent recommends that a teacher eligible for continuing service status not be reemployed, the board may declare its intention not to reemploy the teacher by giving the teacher written notice on or before the thirtieth day of April of its intention not to reemploy the teacher. If evaluation procedures have not been complied with pursuant to division (A) of section 3319.111 of the Revised Code or the board does not give the teacher written notice on or before the thirtieth day of April of its intention not to reemploy the teacher, the teacher is deemed reemployed under an extended limited contract for a term not to exceed one year at the same salary plus any increment provided by the salary schedule. The teacher is presumed to have accepted employment under the extended limited contract for a term not to exceed one year unless such teacher notifies the board in writing to the contrary on or before the first day of June, and an extended limited contract for a term not to exceed one year shall be executed accordingly. Upon any subsequent reemployment of a teacher only a continuing contract may be entered into.

(3) Any teacher receiving written notice of the intention of a board not to reemploy such teacher pursuant to this division is entitled to the hearing provisions of division (G) of this section.

(C)(1) If a board rejects the recommendation of the superintendent for reemployment of a teacher pursuant to division (B)(1) of this section, the superintendent may recommend reemployment of the teacher, if continuing

service status has not previously been attained elsewhere, under an extended limited contract for a term not to exceed two years, provided that written notice of the superintendent's intention to make such recommendation has been given to the teacher with reasons directed at the professional improvement of the teacher on or before the thirtieth day of April. Upon subsequent reemployment of the teacher only a continuing contract may be entered into.

(2) If a board of education takes affirmative action on a superintendent's recommendation, made pursuant to division (C)(1) of this section, of an extended limited contract for a term not to exceed two years but the board does not give the teacher written notice of its affirmative action on the superintendent's recommendation of an extended limited contract on or before the thirtieth day of April, the teacher is deemed reemployed under a continuing contract at the same salary plus any increment provided by the salary schedule. The teacher is presumed to have accepted employment under such continuing contract unless such teacher notifies the board in writing to the contrary on or before the first day of June, and a continuing contract shall be executed accordingly.

(3) A board shall not reject a superintendent's recommendation, made pursuant to division (C)(1) of this section, of an extended limited contract for a term not to exceed two years except by a three-fourths vote of its full membership. If a board rejects by a three-fourths vote of its full membership the recommendation of the superintendent of an extended limited contract for a term not to exceed two years, the board may declare its intention not to reemploy the teacher by giving the teacher written notice on or before the thirtieth day of April of its intention not to reemploy the teacher. If evaluation procedures have not been complied with pursuant to division (A) of section 3319.111 of the Revised Code or if the board does not give the teacher written notice on or before the thirtieth day of April of its intention not to reemploy the teacher, the teacher is deemed reemployed under an extended limited contract for a term not to exceed one year at the same salary plus any increment provided by the salary schedule. The teacher is presumed to have accepted employment under the extended limited contract for a term not to exceed one year unless such teacher notifies the board in writing to the contrary on or before the first day of June, and an extended limited contract for a term not to exceed one year shall be executed accordingly. Upon any subsequent reemployment of the teacher only a continuing contract may be entered into.

Any teacher receiving written notice of the intention of a board not to reemploy such teacher pursuant to this division is entitled to the hearing

provisions of division (G) of this section.

(D) A teacher eligible for continuing contract status employed under an extended limited contract pursuant to division (B) or (C) of this section, is, at the expiration of such extended limited contract, deemed reemployed under a continuing contract at the same salary plus any increment granted by the salary schedule, unless evaluation procedures have been complied with pursuant to division (A) of section 3319.111 of the Revised Code and the employing board, acting on the superintendent's recommendation that the teacher not be reemployed, gives the teacher written notice on or before the thirtieth day of April of its intention not to reemploy such teacher. A teacher who does not have evaluation procedures applied in compliance with division (A) of section 3319.111 of the Revised Code or who does not receive notice on or before the thirtieth day of April of the intention of the board not to reemploy such teacher is presumed to have accepted employment under a continuing contract unless such teacher notifies the board in writing to the contrary on or before the first day of June, and a continuing contract shall be executed accordingly.

Any teacher receiving a written notice of the intention of a board not to reemploy such teacher pursuant to this division is entitled to the hearing provisions of division (G) of this section.

(E) A limited contract may be entered into by each board with each teacher who has not been in the employ of the board for at least three years and shall be entered into, regardless of length of previous employment, with each teacher employed by the board who ~~holds a provisional, temporary, or associate license, or who holds a professional license~~ and is not eligible to be considered for a continuing contract.

Any teacher employed under a limited contract, and not eligible to be considered for a continuing contract, is, at the expiration of such limited contract, considered reemployed under the provisions of this division at the same salary plus any increment provided by the salary schedule unless evaluation procedures have been complied with pursuant to division (A) of section 3319.111 of the Revised Code and the employing board, acting upon the superintendent's written recommendation that the teacher not be reemployed, gives such teacher written notice of its intention not to reemploy such teacher on or before the thirtieth day of April. A teacher who does not have evaluation procedures applied in compliance with division (A) of section 3319.111 of the Revised Code or who does not receive notice of the intention of the board not to reemploy such teacher on or before the thirtieth day of April is presumed to have accepted such employment unless such teacher notifies the board in writing to the contrary on or before the

first day of June, and a written contract for the succeeding school year shall be executed accordingly.

Any teacher receiving a written notice of the intention of a board not to reemploy such teacher pursuant to this division is entitled to the hearing provisions of division (G) of this section.

(F) The failure of a superintendent to make a recommendation to the board under any of the conditions set forth in divisions (B) to (E) of this section, or the failure of the board to give such teacher a written notice pursuant to divisions (C) to (E) of this section shall not prejudice or prevent a teacher from being deemed reemployed under either a limited or continuing contract as the case may be under the provisions of this section. A failure of the parties to execute a written contract shall not void any automatic reemployment provisions of this section.

(G)(1) Any teacher receiving written notice of the intention of a board of education not to reemploy such teacher pursuant to division (B), (C)(3), (D), or (E) of this section may, within ten days of the date of receipt of the notice, file with the treasurer of the board a written demand for a written statement describing the circumstances that led to the board's intention not to reemploy the teacher.

(2) The treasurer of a board, on behalf of the board, shall, within ten days of the date of receipt of a written demand for a written statement pursuant to division (G)(1) of this section, provide to the teacher a written statement describing the circumstances that led to the board's intention not to reemploy the teacher.

(3) Any teacher receiving a written statement describing the circumstances that led to the board's intention not to reemploy the teacher pursuant to division (G)(2) of this section may, within five days of the date of receipt of the statement, file with the treasurer of the board a written demand for a hearing before the board pursuant to divisions (G)(4) to (6) of this section.

(4) The treasurer of a board, on behalf of the board, shall, within ten days of the date of receipt of a written demand for a hearing pursuant to division (G)(3) of this section, provide to the teacher a written notice setting forth the time, date, and place of the hearing. The board shall schedule and conclude the hearing within forty days of the date on which the treasurer of the board receives a written demand for a hearing pursuant to division (G)(3) of this section.

(5) Any hearing conducted pursuant to this division shall be conducted by a majority of the members of the board. The hearing shall be held in executive session of the board unless the board and the teacher agree to hold

the hearing in public. The superintendent, assistant superintendent, the teacher, and any person designated by either party to take a record of the hearing may be present at the hearing. The board may be represented by counsel and the teacher may be represented by counsel or a designee. A record of the hearing may be taken by either party at the expense of the party taking the record.

(6) Within ten days of the conclusion of a hearing conducted pursuant to this division, the board shall issue to the teacher a written decision containing an order affirming the intention of the board not to reemploy the teacher reported in the notice given to the teacher pursuant to division (B), (C)(3), (D), or (E) of this section or an order vacating the intention not to reemploy and expunging any record of the intention, notice of the intention, and the hearing conducted pursuant to this division.

(7) A teacher may appeal an order affirming the intention of the board not to reemploy the teacher to the court of common pleas of the county in which the largest portion of the territory of the school district or service center is located, within thirty days of the date on which the teacher receives the written decision, on the grounds that the board has not complied with this section 3319.11 or section 3319.111 of the Revised Code.

Notwithstanding section 2506.04 of the Revised Code, the court in an appeal under this division is limited to the determination of procedural errors and to ordering the correction of procedural errors and shall have no jurisdiction to order a board to reemploy a teacher, except that the court may order a board to reemploy a teacher in compliance with the requirements of division (B), (C)(3), (D), or (E) of this section when the court determines that evaluation procedures have not been complied with pursuant to division (A) of section 3319.111 of the Revised Code or the board has not given the teacher written notice on or before the thirtieth day of April of its intention not to reemploy the teacher pursuant to division (B), (C)(3), (D), or (E) of this section. Otherwise, the determination whether to reemploy or not reemploy a teacher is solely a board's determination and not a proper subject of judicial review and, except as provided in this division, no decision of a board whether to reemploy or not reemploy a teacher shall be invalidated by the court on any basis, including that the decision was not warranted by the results of any evaluation or was not warranted by any statement given pursuant to division (G)(2) of this section.

No appeal of an order of a board may be made except as specified in this division.

(H)(1) In giving a teacher any notice required by division (B), (C), (D), or (E) of this section, the board or the superintendent shall do either of the

following:

(a) Deliver the notice by personal service upon the teacher;

(b) Deliver the notice by certified mail, return receipt requested, addressed to the teacher at the teacher's place of employment and deliver a copy of the notice by certified mail, return receipt requested, addressed to the teacher at the teacher's place of residence.

(2) In giving a board any notice required by division (B), (C), (D), or (E) of this section, the teacher shall do either of the following:

(a) Deliver the notice by personal delivery to the office of the superintendent during regular business hours;

(b) Deliver the notice by certified mail, return receipt requested, addressed to the office of the superintendent and deliver a copy of the notice by certified mail, return receipt requested, addressed to the president of the board at the president's place of residence.

(3) When any notice and copy of the notice are mailed pursuant to division (H)(1)(b) or (2)(b) of this section, the notice or copy of the notice with the earlier date of receipt shall constitute the notice for the purposes of division (B), (C), (D), or (E) of this section.

(I) The provisions of this section shall not apply to any supplemental written contracts entered into pursuant to section 3319.08 of the Revised Code.

Sec. 3319.151. (A) No person shall reveal to any student any specific question that the person knows is part of ~~a test~~ an assessment to be administered under section 3301.0711 of the Revised Code or in any other way assist a pupil to cheat on such ~~a test~~ an assessment.

(B) On a finding by the state board of education, after investigation, that a school employee who holds a license issued under sections 3319.22 to 3319.31 of the Revised Code has violated division (A) of this section, the license of such teacher shall be suspended for one year. Prior to commencing an investigation, the board shall give the teacher notice of the allegation and an opportunity to respond and present a defense.

(C)(1) Violation of division (A) of this section is grounds for termination of employment of a nonteaching employee under division (C) of section 3319.081 or section 124.34 of the Revised Code.

(2) Violation of division (A) of this section is grounds for termination of a teacher contract under section 3319.16 of the Revised Code.

Sec. 3319.16. The contract of any teacher employed by the board of education of any city, exempted village, local, county, or joint vocational school district may not be terminated except ~~for gross inefficiency or immorality; for willful and persistent violations of reasonable regulations of~~

~~the board of education; or for other good and just cause. Before~~
Notwithstanding any provision to the contrary in Chapter 4117. of the Revised Code, the provisions of this section relating to the grounds for termination of the contract of a teacher prevail over any conflicting provisions of a collective bargaining agreement entered into after the effective date of this amendment.

Before terminating any contract, the employing board shall furnish the teacher a written notice signed by its treasurer of its intention to consider the termination of ~~his~~ the teacher's contract with full specification of the grounds for such consideration. The board shall not proceed with formal action to terminate the contract until after the tenth day after receipt of the notice by the teacher. Within ten days after receipt of the notice from the treasurer of the board, the teacher may file with the treasurer a written demand for a hearing before the board or before a referee, and the board shall set a time for the hearing which shall be within thirty days from the date of receipt of the written demand, and the treasurer shall give the teacher at least twenty days' notice in writing of the time and place of the hearing. If a referee is demanded by either the teacher or board, the treasurer also shall give twenty days' notice to the superintendent of public instruction. No hearing shall be held during the summer vacation without the teacher's consent. The hearing shall be private unless the teacher requests a public hearing. The hearing shall be conducted by a referee appointed pursuant to section 3319.161 of the Revised Code, if demanded; otherwise, it shall be conducted by a majority of the members of the board and shall be confined to the grounds given for the termination. The board shall provide for a complete stenographic record of the proceedings, a copy of the record to be furnished to the teacher. The board may suspend a teacher pending final action to terminate ~~his~~ the teacher's contract if, in its judgment, the character of the charges warrants such action.

Both parties may be present at such hearing, be represented by counsel, require witnesses to be under oath, cross-examine witnesses, take a record of the proceedings, and require the presence of witnesses in their behalf upon subpoena to be issued by the treasurer of the board. In case of the failure of any person to comply with a subpoena, a judge of the court of common pleas of the county in which the person resides, upon application of any interested party, shall compel attendance of the person by attachment proceedings as for contempt. Any member of the board or the referee may administer oaths to witnesses. After a hearing by a referee, the referee shall file ~~his~~ a report within ten days after the termination of the hearing. After consideration of the referee's report, the board, by a majority vote, may

accept or reject the referee's recommendation on the termination of the teacher's contract. After a hearing by the board, the board, by majority vote, may enter its determination upon its minutes. Any order of termination of a contract shall state the grounds for termination. If the decision, after hearing, is against termination of the contract, the charges and the record of the hearing shall be physically expunged from the minutes, and, if the teacher has suffered any loss of salary by reason of being suspended, ~~he~~ the teacher shall be paid ~~his~~ the teacher's full salary for the period of such suspension.

Any teacher affected by an order of termination of contract may appeal to the court of common pleas of the county in which the school is located within thirty days after receipt of notice of the entry of such order. The appeal shall be an original action in the court and shall be commenced by the filing of a complaint against the board, in which complaint the facts shall be alleged upon which the teacher relies for a reversal or modification of such order of termination of contract. Upon service or waiver of summons in that appeal, the board immediately shall transmit to the clerk of the court for filing a transcript of the original papers filed with the board, a certified copy of the minutes of the board into which the termination finding was entered, and a certified transcript of all evidence adduced at the hearing or hearings before the board or a certified transcript of all evidence adduced at the hearing or hearings before the referee, whereupon the cause shall be at issue without further pleading and shall be advanced and heard without delay. The court shall examine the transcript and record of the hearing and shall hold such additional hearings as it considers advisable, at which it may consider other evidence in addition to the transcript and record.

Upon final hearing, the court shall grant or deny the relief prayed for in the complaint as may be proper in accordance with the evidence adduced in the hearing. Such an action is a special proceeding, and either the teacher or the board may appeal from the decision of the court of common pleas pursuant to the Rules of Appellate Procedure and, to the extent not in conflict with those rules, Chapter 2505. of the Revised Code.

In any court action, the board may utilize the services of the prosecuting attorney, village solicitor, city director of law, or other chief legal officer of a municipal corporation as authorized by section 3313.35 of the Revised Code, or may employ other legal counsel.

A violation of division (A)(7) of section 2907.03 of the Revised Code is grounds for termination of a teacher contract under this section.

Sec. 3319.161. For the purpose of providing referees for the hearings required by section 3319.16 of the Revised Code, the superintendent of public instruction shall compile a list of resident electors from names that ~~he~~

the superintendent shall solicit annually from the state bar association.

Upon receipt of notice that a referee has been demanded by a teacher or by a board of education, the superintendent of public instruction shall immediately designate three persons from such list, from whom the referee to hear the matter shall be chosen, and ~~he~~ the superintendent shall immediately notify the designees, the teacher, and the board of the school district involved. If within five days of receipt of the notice, the teacher and board are unable to select a mutually agreeable designee to serve as referee, the superintendent of public instruction shall appoint one of the three designees to serve as referee. The appointment of the referee shall be entered in the minutes of the board. The referee appointed shall be paid ~~his~~ the referee's usual and customary fee for attending the hearing which shall be paid from the school district general fund upon vouchers approved by the superintendent of public instruction and presented to the treasurer of the district. No referee shall be a member of, an employee of, or teacher employed by the board of education nor related to any such person by consanguinity or marriage. ~~No person shall be appointed to hear more than two contract termination cases in any school year.~~

Sec. 3319.22. (A)(1) ~~The state board of education shall adopt rules establishing the standards and requirements for obtaining temporary, associate, provisional, and professional~~ issue the following educator licenses:

(a) A resident educator license, which shall be valid for four years, except that the state board, on a case-by-case basis, may extend the license's duration as necessary to enable the license holder to complete the Ohio teacher residency program established under section 3319.223 of the Revised Code;

(b) A professional educator license, which shall be valid for five years and shall be renewable;

(c) A senior professional educator license, which shall be valid for five years and shall be renewable;

(d) A lead professional educator license, which shall be valid for five years and shall be renewable.

(2) The state board may issue any additional educator licenses of any categories, types, and levels the board elects to provide. However, no educator license shall be required for teaching children two years old or younger.

(2)(3) The state board shall adopt rules establishing the standards and requirements for obtaining each educator license issued under this section.

(B) The rules adopted under this section shall require at least the

following standards and qualifications for the educator licenses described in division (A)(1) of this section:

(1) An applicant for a resident educator license shall hold at least a bachelor's degree from an accredited teacher preparation program.

(2) An applicant for a professional educator license shall:

(a) Hold at least a bachelor's degree from an institution of higher education accredited by a regional accrediting organization;

(b) Have successfully completed the Ohio teacher residency program established under section 3319.223 of the Revised Code, if the applicant's current or most recently issued license is a resident educator license issued under this section or an alternative resident educator license issued under section 3319.26 of the Revised Code.

(3) An applicant for a senior professional educator license shall:

(a) Hold at least a master's degree from an institution of higher education accredited by a regional accrediting organization;

(b) Have previously held a professional educator license issued under this section or section 3319.222 or under former section 3319.22 of the Revised Code;

(c) Meet the criteria for the accomplished or distinguished level of performance, as described in the standards for teachers adopted by the state board under section 3319.61 of the Revised Code.

(4) An applicant for a lead professional educator license shall:

(a) Hold at least a master's degree from an institution of higher education accredited by a regional accrediting organization;

(b) Have previously held a professional educator license or a senior professional educator license issued under this section or a professional educator license issued under section 3319.222 or former section 3319.22 of the Revised Code;

(c) Meet the criteria for the distinguished level of performance, as described in the standards for teachers adopted by the state board under section 3319.61 of the Revised Code;

(d) Either hold a valid certificate issued by the national board for professional teaching standards or meet the criteria for a master teacher or other criteria for a lead teacher adopted by the educator standards board under division (F)(4) or (5) of section 3319.61 of the Revised Code.

(C) The state board shall align the standards and qualifications for obtaining a principal license with the standards for principals adopted by the state board under section 3319.61 of the Revised Code.

(D) If the state board requires any examinations for educator licensure, the department of education shall provide the results of such examinations

received by the department to the chancellor of the Ohio board of regents, in the manner and to the extent permitted by state and federal law.

~~(B)~~(E) Any rules the state board of education adopts, amends, or rescinds for educator licenses under this section, division (D) of section 3301.07 of the Revised Code, or any other law shall be adopted, amended, or rescinded under Chapter 119. of the Revised Code except as follows:

(1) Notwithstanding division (D) of section 119.03 and division (A)(1) of section 119.04 of the Revised Code, in the case of the adoption of any rule or the amendment or rescission of any rule that necessitates institutions' offering ~~teacher~~ preparation programs for educators and other school personnel that are approved by the ~~state board of education~~ chancellor of the Ohio board of regents under section ~~3319.23~~ 3333.048 of the Revised Code to revise the curriculum of those programs, the effective date shall not be as prescribed in division (D) of section 119.03 and division (A)(1) of section 119.04 of the Revised Code. Instead, the effective date of such rules, or the amendment or rescission of such rules, shall be the date prescribed by section ~~3319.23~~ 3333.048 of the Revised Code.

(2) Notwithstanding the authority to adopt, amend, or rescind emergency rules in division (F) of section 119.03 of the Revised Code, this authority shall not apply to the state board of education with regard to rules for educator licenses.

~~(E)~~(F)(1) The rules adopted under this section establishing standards requiring additional coursework for the renewal of any educator license shall require a school district and a chartered nonpublic school to establish local professional development committees. In a nonpublic school, the chief administrative officer shall establish the committees in any manner acceptable to such officer. The committees established under this division shall determine whether coursework that a district or chartered nonpublic school teacher proposes to complete meets the requirement of the rules. The department of education shall provide technical assistance and support to committees as the committees incorporate the professional development standards adopted by the state board of education pursuant to section 3319.61 of the Revised Code into their review of coursework that is appropriate for license renewal. The rules shall establish a procedure by which a teacher may appeal the decision of a local professional development committee.

(2) In any school district in which there is no exclusive representative established under Chapter 4117. of the Revised Code, the professional development committees shall be established as described in division ~~(E)~~(F)(2) of this section.

Not later than the effective date of the rules adopted under this section, the board of education of each school district shall establish the structure for one or more local professional development committees to be operated by such school district. The committee structure so established by a district board shall remain in effect unless within thirty days prior to an anniversary of the date upon which the current committee structure was established, the board provides notice to all affected district employees that the committee structure is to be modified. Professional development committees may have a district-level or building-level scope of operations, and may be established with regard to particular grade or age levels for which an educator license is designated.

Each professional development committee shall consist of at least three classroom teachers employed by the district, one principal employed by the district, and one other employee of the district appointed by the district superintendent. For committees with a building-level scope, the teacher and principal members shall be assigned to that building, and the teacher members shall be elected by majority vote of the classroom teachers assigned to that building. For committees with a district-level scope, the teacher members shall be elected by majority vote of the classroom teachers of the district, and the principal member shall be elected by a majority vote of the principals of the district, unless there are two or fewer principals employed by the district, in which case the one or two principals employed shall serve on the committee. If a committee has a particular grade or age level scope, the teacher members shall be licensed to teach such grade or age levels, and shall be elected by majority vote of the classroom teachers holding such a license and the principal shall be elected by all principals serving in buildings where any such teachers serve. The district superintendent shall appoint a replacement to fill any vacancy that occurs on a professional development committee, except in the case of vacancies among the elected classroom teacher members, which shall be filled by vote of the remaining members of the committee so selected.

Terms of office on professional development committees shall be prescribed by the district board establishing the committees. The conduct of elections for members of professional development committees shall be prescribed by the district board establishing the committees. A professional development committee may include additional members, except that the majority of members on each such committee shall be classroom teachers employed by the district. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which a predecessor was appointed shall hold office as a member for the remainder of that term.

The initial meeting of any professional development committee, upon election and appointment of all committee members, shall be called by a member designated by the district superintendent. At this initial meeting, the committee shall select a chairperson and such other officers the committee deems necessary, and shall adopt rules for the conduct of its meetings. Thereafter, the committee shall meet at the call of the chairperson or upon the filing of a petition with the district superintendent signed by a majority of the committee members calling for the committee to meet.

(3) In the case of a school district in which an exclusive representative has been established pursuant to Chapter 4117. of the Revised Code, professional development committees shall be established in accordance with any collective bargaining agreement in effect in the district that includes provisions for such committees.

If the collective bargaining agreement does not specify a different method for the selection of teacher members of the committees, the exclusive representative of the district's teachers shall select the teacher members.

If the collective bargaining agreement does not specify a different structure for the committees, the board of education of the school district shall establish the structure, including the number of committees and the number of teacher and administrative members on each committee; the specific administrative members to be part of each committee; whether the scope of the committees will be district levels, building levels, or by type of grade or age levels for which educator licenses are designated; the lengths of terms for members; the manner of filling vacancies on the committees; and the frequency and time and place of meetings. However, in all cases, except as provided in division ~~(C)~~(F)(4) of this section, there shall be a majority of teacher members of any professional development committee, there shall be at least five total members of any professional development committee, and the exclusive representative shall designate replacement members in the case of vacancies among teacher members, unless the collective bargaining agreement specifies a different method of selecting such replacements.

(4) Whenever an administrator's coursework plan is being discussed or voted upon, the local professional development committee shall, at the request of one of its administrative members, cause a majority of the committee to consist of administrative members by reducing the number of teacher members voting on the plan.

~~(D)~~(G)(1) The department of education, educational service centers, county boards of mental retardation and developmental disabilities, regional professional development centers, special education regional resource

centers, college and university departments of education, head start programs, the eTech Ohio commission, and the Ohio education computer network may establish local professional development committees to determine whether the coursework proposed by their employees who are licensed or certificated under this section or section 3319.222 of the Revised Code, or under the former version of either section as it existed prior to the effective date of this amendment. meet the requirements of the rules adopted under this section. They may establish local professional development committees on their own or in collaboration with a school district or other agency having authority to establish them.

Local professional development committees established by county boards of mental retardation and developmental disabilities shall be structured in a manner comparable to the structures prescribed for school districts in divisions ~~(E)~~(F)(2) and (3) of this section, as shall the committees established by any other entity specified in division ~~(D)~~(G)(1) of this section that provides educational services by employing or contracting for services of classroom teachers licensed or certificated under this section or section 3319.222 of the Revised Code, or under the former version of either section as it existed prior to the effective date of this amendment. All other entities specified in division ~~(D)~~(G)(1) of this section shall structure their committees in accordance with guidelines which shall be issued by the state board.

(2) Any public agency that is not specified in division ~~(D)~~(G)(1) of this section but provides educational services and employs or contracts for services of classroom teachers licensed or certificated under this section or section 3319.222 of the Revised Code, or under the former version of either section as it existed prior to the effective date of this amendment, may establish a local professional development committee, subject to the approval of the department of education. The committee shall be structured in accordance with guidelines issued by the state board.

Sec. 3319.221. (A) The state board of education shall adopt rules establishing the standards and requirements for obtaining a school nurse license and a school nurse wellness coordinator license. At a minimum, the rules shall require that an applicant for a school nurse license be licensed as a registered nurse under Chapter 4723. of the Revised Code.

(B) If the state board requires any examinations for licensure under this section, the department of education shall provide the examination results received by the department to the chancellor of the Ohio board of regents, in the manner and to the extent permitted by state and federal law.

(C) Any rules for licenses described in this section that the state board

adopts, amends, or rescinds under this section, division (D) of section 3301.07 of the Revised Code, or any other law shall be adopted, amended, or rescinded under Chapter 119. of the Revised Code, except that the authority to adopt, amend, or rescind emergency rules under division (F) of section 119.03 of the Revised Code shall not apply to the state board with respect to rules for licenses described in this section.

(D) Any registered nurse employed by a school district in the capacity of school nurse on January 1, 1973, or any registered nurse employed by a city or general health district on January 1, 1973, to serve full-time in the capacity of school nurse in one or more school districts, shall be considered to have fulfilled the requirements for the issuance of a school nurse license under this section 3319.22 of the Revised Code.

Sec. 3319.222. (A) Notwithstanding the amendments to and repeal of statutes by the act that enacted this section, the state board of education shall accept applications for new, and renewal and upgrade of, temporary, associate, provisional, and professional educator licenses, alternative educator licenses, one-year conditional teaching permits, and school nurse licenses through December 31, 2010, and issue them on the basis of the applications received by that date in accordance with the former statutes in effect immediately prior to amendment or repeal by the act that enacted this section.

(B) A permanent teacher's certificate issued under former sections 3319.22 to 3319.31 of the Revised Code prior to October 29, 1996, or under former section 3319.222 of the Revised Code as it existed prior to the effective date of this section, shall be valid for teaching in the subject areas and grades for which the certificate was issued, except as the certificate is limited, suspended, or revoked under section 3319.31 of the Revised Code.

(C) The following certificates, permits, or licenses shall be valid until the certificate, permit, or license expires for teaching in the subject areas and grades for which the certificate, permit, or license was issued, except as the certificate, permit, or license is limited, suspended, or revoked under section 3319.31 of the Revised Code:

(1) Any professional teacher's certificate issued under former section 3319.222 of the Revised Code, as it existed prior to the effective date of this section;

(2) Any temporary, associate, provisional, or professional educator license issued under former section 3319.22 of the Revised Code, as it existed prior to the effective date of this section, or under division (A) of this section;

(3) Any alternative educator license issued under former section

3319.26 of the Revised Code, as it existed prior to the effective date of this section, or under division (A) of this section;

(4) Any one-year conditional teaching permit issued under former section 3319.302 or 3319.304 of the Revised Code, as it existed prior to the effective date of this section, or under division (A) of this section.

(D) Any school nurse license issued under former section 3319.22 of the Revised Code, as it existed prior to the effective date of this section, or under division (A) of this section shall be valid until the license expires for employment as a school nurse, except as the license is limited, suspended, or revoked under section 3319.31 of the Revised Code.

(E) Nothing in this section shall be construed to prohibit a person from applying to the state board for an educator license issued under section 3319.22 of the Revised Code, a school nurse license or a school nurse wellness coordinator license issued under section 3319.221 of the Revised Code, or an alternative resident educator license issued under section 3319.26 of the Revised Code, as the section exists on and after the effective date of this section.

(F) On and after the effective date of this section, any reference in the Revised Code to educator licensing is hereby deemed to refer also to certification or licensure under divisions (A) to (D) of this section.

Sec. 3319.223. (A) Not later than January 1, 2011, the superintendent of public instruction and the chancellor of the Ohio board of regents jointly shall establish the Ohio teacher residency program, which shall be a four-year, entry-level program for classroom teachers. The teacher residency program shall include at least the following components:

(1) Mentoring by teachers who hold a lead professional educator license issued under section 3319.22 of the Revised Code;

(2) Counseling to ensure that program participants receive needed professional development;

(3) Measures of appropriate progression through the program.

(B) The teacher residency program shall be aligned with the standards for teachers adopted by the state board of education under section 3319.61 of the Revised Code and best practices identified by the superintendent of public instruction.

(C) Each person who holds a resident educator license issued under section 3319.22 of the Revised Code or an alternative resident educator license issued under section 3319.26 of the Revised Code shall participate in the teacher residency program. Successful completion of the program shall be required to qualify any such person for a professional educator license issued under section 3319.22 of the Revised Code.

Sec. 3319.234. The teacher quality partnership, a consortium of teacher preparation programs that have been approved by the ~~state board of education~~ chancellor of the Ohio board of regents under section ~~3319.23~~ 3333.048 of the Revised Code, shall study the relationship of teacher performance on educator licensure assessments, as adopted by the state board of education under section 3319.22 of the Revised Code, to teacher effectiveness in the classroom. Not later than September 1, 2008, the partnership shall begin submitting annual data reports along with any other data on teacher effectiveness the partnership determines appropriate to the governor, the president and minority leader of the senate, the speaker and minority leader of the house of representatives, the chairpersons and ranking minority members of the standing committees of the senate and the house of representatives that consider education legislation, the superintendent of public instruction, the state board of education, and the chancellor of the Ohio board of regents, ~~and the partnership for continued learning.~~

Sec. 3319.235. (A) The standards for the preparation of teachers adopted under section ~~3319.23~~ 3333.048 of the Revised Code shall require any institution that provides a course of study for the training of teachers to ensure that graduates of such course of study are skilled at integrating educational technology in the instruction of children, as evidenced by the graduate having either demonstrated proficiency in such skills in a manner prescribed by the department of education or completed a course that includes training in such skills.

(B) The eTech Ohio commission shall establish model professional development programs to assist teachers who completed their teacher preparation prior to the effective date of division (A) of this section to become skilled at integrating educational technology in the instruction of children. The commission shall provide technical assistance to school districts wishing to establish such programs.

Sec. 3319.24. This section does not apply to any applicant for an educator license that is designed for persons specializing in teaching children in kindergarten through twelfth grade, or the equivalent, in the area of dance, drama, theater, music, visual arts, or physical education or a specialty area substantially equivalent to any of these when such applicant will be teaching children in the specialty area specified in the license.

(A) As used in this section:

(1) "Coursework in the teaching of reading" means coursework that includes training in a range of instructional strategies for teaching reading, in the assessment of reading skills, and in the diagnosis and remediation of reading difficulties;

(2) "Phonics" means the techniques and strategies used to teach children to match, blend, and translate letters of the alphabet into the sounds they represent, which techniques and strategies are systematically integrated and thoroughly practiced in a developmentally appropriate instructional program to assist the child in learning to read, write, and spell;

(3) "Course in the teaching of phonics" means a course providing the background necessary for effectively teaching and assessing phonics, phonemic awareness, and word recognition, including, but not limited to, the following topics:

(a) Phonological and morphological underpinnings of English spellings and the history thereof;

(b) The nature and role of word recognition in proficient reading;

(c) Methods and rationale for the instruction of phonemic awareness, decoding, spelling, and the application thereof in reading and writing;

(d) Methods and rationale for the assessment of phonemic awareness, decoding, spelling, and the application thereof in reading and writing;

(e) The relation of deficits in phonemic awareness, decoding, spelling, and word recognition to reading disabilities;

(4) "Phonemic awareness" means the awareness of sounds that make up spoken words and the ability to use this awareness of sounds in reading.

(B) The rules adopted under ~~division (A) of~~ section 3319.22 of the Revised Code shall require an applicant for ~~an initial provisional~~ a resident educator license designated for teaching children in grades kindergarten through six or the equivalent to have successfully completed at least six semester hours, or the equivalent, of coursework in the teaching of reading that includes at least one separate course of at least three semester hours, or the equivalent, in the teaching of phonics in the context of reading, writing, and spelling. In addition, such rules ~~shall require that such license be granted for a period of not more than two years, and shall require that the first renewal~~ subsequent issuance of such a professional educator license be contingent upon the license holder applicant having completed six additional semester hours or the equivalent of coursework in the teaching of reading. The rules shall permit a license holder an applicant to apply undergraduate coursework in order to meet such renewal this requirement for additional coursework.

Sec. 3319.25. Any teacher performance assessment entity with which the department of education or the state board of education contracts or any independent agent with whom such entity, the department, or the state board contracts to provide services as a teacher performance assessor, trainer of assessors, or assessment coordinator is not liable for damages in a civil

action concerning the actions of such entity or agent made in the conduct of a teacher performance assessment unless those actions were conducted with malicious purpose, in bad faith, or in a wanton or reckless manner.

As used in this section, "teacher performance assessment" means an assessment prescribed by the state board of education to measure the classroom performance of a teacher who is a candidate for a ~~professional educator license~~ licensure based on observations conducted by a trained assessor while the teacher is engaged in actual classroom instruction.

Sec. 3319.26. (A) The state board of education shall adopt rules establishing the standards and requirements for obtaining an alternative resident educator license for teaching in grades ~~seven~~ four to twelve, or the equivalent, in a designated subject area. However, an alternative resident educator license in the area of intervention specialist, as defined by rule of the state board, shall be valid for teaching in grades kindergarten to twelve.

~~(B)(4)~~ The superintendent of public instruction and the chancellor of the Ohio board of regents jointly shall develop an intensive pedagogical training institute to provide instruction in the principles and practices of teaching for individuals seeking an alternative resident educator license. The instruction shall cover such topics as student development and learning, pupil assessment procedures, curriculum development, classroom management, and teaching methodology.

~~(C)~~ The rules adopted under this section shall require applicants for the alternative resident educator license to satisfy the following conditions prior to issuance of the license:

~~(a)~~(1) Hold a minimum of a baccalaureate degree;

~~(b)~~(2) Successfully complete ~~three semester hours or the equivalent of college coursework in the developmental characteristics of adolescent youths and three semester hours or the equivalent in teaching methods~~ the pedagogical training institute described in division (B) of this section;

~~(c)~~(3) Pass an examination in the subject area for which application is being made.

~~(2)~~(D) An alternative resident educator license shall be valid for ~~two~~ four years ~~and shall not be renewable, except that the state board, on a case-by-case basis, may extend the license's duration as necessary to enable the license holder to complete the Ohio teacher residency program established under section 3319.223 of the Revised Code.~~

~~(3)~~(E) The rules shall require the holder of an alternative resident educator license, as a condition of continuing to hold the license, to ~~show~~ do all of the following:

(1) Participate in the Ohio teacher residency program;

(2) Show satisfactory progress in taking and successfully completing ~~within two years~~ at least twelve additional semester hours, or the equivalent, of college coursework in the principles and practices of teaching in such topics as student development and learning, pupil assessment procedures, curriculum development, classroom management, and teaching methodology;

(3) Take an assessment of professional knowledge in the second year of teaching under the license.

~~(C)~~(F) The rules shall provide for the granting of a ~~provisional~~ professional educator license to a holder of an alternative resident educator license upon successfully completing all of the following:

(1) ~~Two~~ Four years of teaching under the alternative license;

(2) The twelve semester hours, or the equivalent, of the additional college coursework described in division ~~(B)(3)~~(E)(2) of this section;

(3) The assessment of professional knowledge ~~that is required of other applicants for a provisional educator license~~ described in division (E)(3) of this section. The standards for successfully completing this assessment and the manner of conducting the assessment shall be the same as for any other ~~applicant for a provisional educator license~~ individual who is required to take the assessment pursuant to rules adopted by the state board under section 3319.22 of the Revised Code.

(4) The Ohio teacher residency program;

(5) All other requirements for a professional educator license adopted by the state board under section 3319.22 of the Revised Code.

Sec. 3319.28. (A) As used in this section, "STEM school" means a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code.

(B) Notwithstanding any other provision of the Revised Code or any rule adopted by the state board of education to the contrary, the state board shall issue a two-year provisional educator license for teaching science, technology, engineering, or mathematics in grades six through twelve in a STEM school to any applicant who meets the following conditions:

(1) Holds a bachelor's degree from an accredited institution of higher education in a field related to the subject area to be taught;

(2) Has passed an examination prescribed by the state board in the subject area to be taught.

(C) The holder of a provisional educator license issued under this section shall complete a structured apprenticeship program provided by an educational service center or a teacher preparation program approved under section ~~3319.23~~ 3333.048 of the Revised Code, in partnership with the

STEM school that employs the license holder. The apprenticeship program shall include the following:

(1) Mentoring by a teacher or administrator who regularly observes the license holder's classroom instruction, provides feedback on the license holder's teaching strategies and classroom management, and engages the license holder in discussions about methods for fostering and measuring student learning;

(2) Regularly scheduled seminars or meetings that address the following topics:

(a) The statewide academic standards adopted by the state board under section 3301.079 of the Revised Code and the importance of aligning curriculum with those standards;

(b) The achievement ~~tests~~ assessments prescribed by section 3301.0710 of the Revised Code;

(c) The school district and building accountability system established under Chapter 3302. of the Revised Code;

(d) Instructional methods and strategies;

(e) Student development;

(f) Assessing student progress and providing remediation and intervention, as necessary, to meet students' special needs;

(g) Classroom management and record keeping.

(D) After two years of teaching under a provisional educator license issued under this section, a person may apply for a five-year professional educator license in the same subject area named in the provisional license. The state board shall issue the applicant a professional educator license if the applicant meets the following conditions:

(1) The applicant completed the apprenticeship program described in division (C) of this section.

(2) The applicant receives a positive recommendation indicating that the applicant is an effective teacher from both of the following:

(a) The chief administrative officer of the STEM school that most recently employed the applicant as a classroom teacher;

(b) The educational service center or teacher preparation program administrator in charge of the apprenticeship program completed by the applicant.

(3) The applicant meets all other requirements for a professional educator license adopted by the state board under section 3319.22 of the Revised Code.

(E) The department of education shall evaluate the experiences of STEM schools with classroom teachers holding provisional educator

licenses issued under this section. The evaluation shall cover the first two school years for which licenses are issued and shall consider at least the schools' satisfaction with the teachers and the operation of the apprenticeship programs.

Sec. 3319.291. (A) The state board of education shall require each of the following persons, at the times prescribed by division (A) of this section, to ~~submit two complete sets of fingerprints and written permission that authorizes the superintendent of public instruction to forward the fingerprints to the bureau of criminal identification and investigation pursuant to division (F) of section 109.57 of the Revised Code and that authorizes that bureau to forward the fingerprints to the federal bureau of investigation for purposes of obtaining any criminal records that the federal bureau maintains on~~ undergo a criminal records check, unless the person has undergone a records check under this section or a former version of this section less than five years prior to that time.

(1) Any person initially applying for any certificate, license, or permit described in this chapter or in division (B) of section 3301.071 or in section 3301.074 of the Revised Code at the time that application is made;

(2) Any person applying for renewal of any certificate, license, or permit described in division (A)(1) of this section at the time that application is made;

(3) Any person who is teaching under a professional teaching certificate issued under former ~~section 3319.22 or under~~ section 3319.222 of the Revised Code upon a date prescribed by the state board;

(4) Any person who is teaching under a permanent teaching certificate issued under former section 3319.22 as it existed prior to October 29, 1996, or under former section 3319.222 of the Revised Code upon a date prescribed by the state board and every five years thereafter.

(B)(1) Except as otherwise provided in division (B)(2) of this section, the state board shall require each person subject to a criminal records check under this section to submit two complete sets of fingerprints and written permission that authorizes the superintendent of public instruction to forward the fingerprints to the bureau of criminal identification and investigation pursuant to division (F) of section 109.57 of the Revised Code and that authorizes that bureau to forward the fingerprints to the federal bureau of investigation for purposes of obtaining any criminal records that the federal bureau maintains on the person.

(2) If both of the following conditions apply to a person subject to a criminal records check under this section, the state board shall require the person to submit one complete set of fingerprints and written permission

that authorizes the superintendent of public instruction to forward the fingerprints to the bureau of criminal identification and investigation so that bureau may forward the fingerprints to the federal bureau of investigation for purposes of obtaining any criminal records that the federal bureau maintains on the person:

(a) Under this section or any former version of this section, the state board or the superintendent of public instruction previously requested the superintendent of the bureau of criminal identification and investigation to determine whether the bureau has any information, gathered pursuant to division (A) of section 109.57 of the Revised Code, on the person.

(b) The person presents proof that the person has been a resident of this state for the five-year period immediately prior to the date upon which the person becomes subject to a criminal records check under this section.

(C) Except as provided in division ~~(C)~~(D) of this section, prior to issuing or renewing any certificate, license, or permit for a person described in division (A)(1) or (2) of this section who is subject to a criminal records check and in the case of a person ~~required to submit fingerprints and written permission under~~ described in division (A)(3) or (4) of this section who is subject to a criminal records check, the state board or the superintendent of public instruction shall do one of the following:

(1) If the person is required to submit fingerprints and written permission under division (B)(1) of this section, request the superintendent of the bureau of criminal identification and investigation to ~~investigate and~~ determine whether the bureau has any information, gathered pursuant to division (A) of section 109.57 of the Revised Code, pertaining to ~~any the~~ person ~~submitting fingerprints and written permission under this section~~ and to obtain any criminal records that the federal bureau of investigation has on the person.

~~(C)~~(2) If the person is required to submit fingerprints and written permission under division (B)(2) of this section, request the superintendent of the bureau of criminal identification and investigation to obtain any criminal records that the federal bureau of investigation has on the person.

(D) The state board or the superintendent of public instruction may choose not to request any information about a person required by division ~~(B)~~(C) of this section if the person ~~applying for the issuance or renewal of a certificate, license, or permit described in division (A)(1) or (2) of this section or the person required to submit fingerprints and written permission under division (A)(3) or (4) of this section~~ provides proof that a criminal records check that satisfies the requirements of that division was conducted on the person as a condition of employment pursuant to section 3319.39 of

the Revised Code within the immediately preceding year. The state board or the superintendent of public instruction may accept a certified copy of records that were issued by the bureau of criminal identification and investigation and that are presented by a the person applying for the issuance or renewal of a certificate, license, or permit described in this section in lieu of requesting that information under division ~~(B)~~(C) of this section if the records were issued by the bureau within the immediately preceding year.

~~(D)~~(E)(1) If a person described in division (A)(3) or (4) of this section who is subject to a criminal records check fails to submit fingerprints and written permission by the date specified in the applicable division, and the state board or the superintendent of public instruction does not apply division ~~(C)~~(D) of this section to the person, the superintendent shall prepare a written notice stating that if the person does not submit the fingerprints and written permission within fifteen days after the date the notice was mailed, the person's professional or permanent teaching certificate will be inactivated. The superintendent shall send the notification by regular mail to the person's last known residence address or last known place of employment, as indicated in the department of education's records, or both.

If the person fails to submit the fingerprints and written permission within fifteen days after the date the notice was mailed, the superintendent of public instruction, on behalf of the state board, shall issue a written order inactivating the person's professional or permanent teaching certificate. The inactivation shall remain in effect until the person submits the fingerprints and written permission. The superintendent shall send the order by regular mail to the person's last known residence address or last known place of employment, as indicated in the department's records, or both. The order shall state the reason for the inactivation and shall explain that the inactivation remains in effect until the person complies with division ~~(A)~~(B) of this section.

The inactivation of a professional or permanent teaching certificate under division ~~(D)~~(E)(1) of this section does not constitute a suspension or revocation of the certificate by the state board under section 3319.31 of the Revised Code and the state board and the superintendent of public instruction need not provide the person with an opportunity for a hearing with respect to the inactivation.

(2) If a person whose professional or permanent teaching certificate has been inactivated under division ~~(D)~~(E)(1) of this section submits fingerprints and written permission as required by division ~~(A)~~(B) of this section, the superintendent of public instruction, on behalf of the state board, shall issue

a written order reactivating the certificate. The superintendent shall send the order to the person by regular mail.

~~(E)~~(F) Notwithstanding divisions (A) ~~and (B)~~ to (C) of this section, if a person holds more than one certificate, license, or permit described in division (A)(1) of this section, the following shall apply:

(1) If the certificates, licenses, or permits are of different durations, the person shall be subject to divisions (A)~~(2)~~ ~~and (B)~~ to (C) of this section only when applying for renewal of the certificate, license, or permit that is of the longest duration. Prior to renewing any certificate, license, or permit with a shorter duration, the state board or the superintendent of public instruction shall determine whether the department of education has received any information about the person pursuant to section 109.5721 of the Revised Code, but the person shall not be subject to ~~division~~ divisions (A)~~(2)~~ ~~or (B)~~ to (C) of this section as long as the person's certificate, license, or permit with the longest duration is valid.

(2) If the certificates, licenses, or permits are of the same duration but do not expire in the same year, the person shall designate one of the certificates, licenses, or permits as the person's primary certificate, license, or permit and shall notify the department of that designation. The person shall be subject to divisions (A)~~(2)~~ ~~and (B)~~ to (C) of this section only when applying for renewal of the person's primary certificate, license, or permit. Prior to renewing any certificate, license, or permit that is not the person's primary certificate, license, or permit, the state board or the superintendent of public instruction shall determine whether the department has received any information about the person pursuant to section 109.5721 of the Revised Code, but the person shall not be subject to ~~division~~ divisions (A)~~(2)~~ ~~or (B)~~ to (C) of this section as long as the person's primary certificate, license, or permit is valid.

(3) If the certificates, licenses, or permits are of the same duration and expire in the same year and the person applies for renewal of the certificates, licenses, or permits at the same time, the state board or the superintendent of public instruction shall request only one criminal records check of the person under division ~~(B)~~(C) of this section.

Sec. 3319.303. (A) The state board of education shall adopt rules establishing standards and requirements for obtaining a pupil-activity program permit for any individual who does not hold a valid educator license, certificate, or permit issued by the state board under section 3319.22, 3319.26, or 3319.27, ~~3319.302, or 3319.304~~ of the Revised Code. The permit issued under this section shall be valid for coaching, supervising, or directing a pupil-activity program under section 3313.53 of the Revised

Code. Subject to the provisions of section 3319.31 of the Revised Code, a permit issued under this section shall be valid for three years and shall be renewable.

(B) The state board shall adopt rules applicable to individuals who hold valid educator licenses, certificates, or permits issued by the state board under section 3319.22, 3319.26, or 3319.27, ~~3319.302, or 3319.304~~ of the Revised Code setting forth standards to assure any such individual's competence to direct, supervise, or coach a pupil-activity program. The rules adopted under this division shall not be more stringent than the standards set forth in rules applicable to individuals who do not hold such licenses, certificates, or permits adopted under division (A) of this section.

Sec. 3319.36. (A) No treasurer of a board of education or educational service center shall draw a check for the payment of a teacher for services until the teacher files with the treasurer both of the following:

(1) Such reports as are required by the state board of education, the school district board of education, or the superintendent of schools;

(2) Except for a teacher who is engaged pursuant to section 3319.301 of the Revised Code, a written statement from the city, exempted village, or local school district superintendent or the educational service center superintendent that the teacher has filed with the treasurer a legal educator license, or true copy of it, to teach the subjects or grades taught, with the dates of its validity. The state board of education shall prescribe the record and administration for such filing of educator licenses in educational service centers.

(B) Notwithstanding division (A) of this section, the treasurer may pay either of the following:

(1) Any teacher for services rendered during the first two months of the teacher's initial employment with the school district or educational service center, provided such teacher is the holder of a bachelor's degree or higher and has filed with the state board of education an application for the issuance of ~~a provisional or professional~~ an educator license described in division (A)(1) of section 3319.22 of the Revised Code.

(2) Any substitute teacher for services rendered while conditionally employed under section 3319.101 of the Revised Code.

(C) Upon notice to the treasurer given by the state board of education or any superintendent having jurisdiction that reports required of a teacher have not been made, the treasurer shall withhold the salary of the teacher until the required reports are completed and furnished.

Sec. 3319.391. This section applies to any person hired by a school district, educational service center, or chartered nonpublic school in any

position that does not require a "license" issued by the state board of education, as defined in section 3319.31 of the Revised Code, and is not for the operation of a vehicle for pupil transportation.

(A) For each person to whom this section applies who is hired on or after November 14, 2007, the employer shall request a criminal records check in accordance with section 3319.39 of the Revised Code and shall request a subsequent criminal records check by the fifth day of September every fifth year thereafter. For each person to whom this division applies who is hired prior to November 14, 2007, the employer shall request a criminal records check by a date prescribed by the department of education and shall request a subsequent criminal records check by the fifth day of September every fifth year thereafter.

(B)(1) Each request for a criminal records check under this section shall be made to the superintendent of the bureau of criminal identification and investigation in the manner prescribed in section 3319.39 of the Revised Code, except that if both of the following conditions apply to the person subject to the records check, the employer shall request the superintendent only to obtain any criminal records that the federal bureau of investigation has on the person:

(a) The employer previously requested the superintendent to determine whether the bureau of criminal identification and investigation has any information, gathered pursuant to division (A) of section 109.57 of the Revised Code, on the person in conjunction with a criminal records check requested under section 3319.39 of the Revised Code or under this section.

(b) The person presents proof that the person has been a resident of this state for the five-year period immediately prior to the date upon which the person becomes subject to a criminal records check under this section. Upon

(2) Upon receipt of a request under division (B)(1) of this section, the ~~bureau~~ superintendent shall conduct the criminal records check in accordance with section 109.572 of the Revised Code as if the request had been made under section 3319.39 of the Revised Code. However, as specified in division (B)(2) of section 109.572 of the Revised Code, if the employer requests the superintendent only to obtain any criminal records that the federal bureau of investigation has on the person for whom the request is made, the superintendent shall not conduct the review prescribed by division (B)(1) of that section.

(C) Any person who is the subject of a criminal records check under this section and has been convicted of or pleaded guilty to any offense described in division (B)(1) of section 3319.39 of the Revised Code shall not be hired or shall be released from employment, as applicable, unless the person

meets the rehabilitation standards adopted by the department under division (E) of that section.

~~Sec. 3319.41. (A)(1) Beginning September 1, 1994, and except as provided in division (C) of this section, no~~ No person employed or engaged as a teacher, principal, administrator, nonlicensed school employee, or bus driver in a public school may inflict or cause to be inflicted corporal punishment as a means of discipline upon a pupil attending such school; ~~unless the board of education of the school district in which the school is located adopts a resolution no later than September 1, 1994, to permit corporal punishment as a means of discipline and does not adopt a resolution prohibiting corporal punishment pursuant to division (B) of this section. No board shall adopt a resolution permitting corporal punishment before receiving and studying the report of the local discipline task force appointed under division (A)(2) of this section.~~

~~(2) The board of education of each city, local, exempted village, and joint vocational school district that has not adopted a rule prohibiting corporal punishment under section 3313.20 of the Revised Code prior to the effective date of this amendment shall appoint, and any board that has adopted a rule under that section prior to the effective date of this amendment may appoint, no later than April 1, 1994, a local discipline task force to conduct a study of effective discipline measures that are appropriate for that school district. Members of the task force shall include teachers, administrators, nonlicensed school employees, school psychologists, members of the medical profession, pediatricians when available, and representatives of parents' organizations.~~

~~The task force shall hold meetings regularly. All meetings of the task force shall be open to the public and at least one of the meetings shall be for the purpose of inviting public participation. The board of education shall provide public notice of any public meeting of the task force in newspapers or other periodicals of general circulation in the school district. The task force shall report its findings and recommendations in writing to the board of education no later than July 15, 1994. The task force's written report must be available for inspection by the public at the board's offices for at least five years after being submitted to the board.~~

~~(B)(1) At any time after September 1, 1996, the board of education of any city, local, exempted village, or joint vocational school district in which corporal punishment is permitted may adopt a resolution to prohibit corporal punishment. After the adoption of a resolution prohibiting corporal punishment pursuant to division (B)(1) of this section, the board of education of any city, local, exempted village, or joint vocational school~~

~~district may adopt a resolution permitting corporal punishment after complying with division (B)(3) of this section.~~

~~(2) At any time after September 1, 1998, the board of education of any city, local, exempted village, or joint vocational school district that did not adopt a resolution permitting corporal punishment as a means of discipline pursuant to division (A)(1) of this section may adopt a resolution permitting corporal punishment after complying with division (B)(3) of this section.~~

~~(3)(a) The board of education of each city, local, exempted village, and joint vocational school district that intends to adopt a resolution permitting corporal punishment as a means of discipline pursuant to division (B)(1) or (2) of this section may adopt that resolution permitting corporal punishment as a means of discipline only after receiving and studying the report of the secondary local discipline task force appointed under division (B)(3)(b) of this section.~~

~~(b) Any board of education described in division (B)(1) or (2) of this section that intends to adopt a resolution permitting corporal punishment as a means of discipline shall appoint a secondary local discipline task force to conduct a study of effective discipline measures that are appropriate for that school district. Membership on the secondary local discipline task force shall consist of the same types of persons that are required to be included as members of the local discipline task force pursuant to division (A)(2) of this section. The secondary local discipline task force shall follow the same procedures with respect to holding meetings, the provision of public notice, and the production and inspection of a written report of findings and recommendations that are applicable to the local discipline task force pursuant to division (A)(2) of this section, except that the secondary local discipline task force is not required to present its written report to the board of education on a date that is no later than July 15, 1994.~~

~~(C) The prohibition of corporal punishment by division (A) of this section or by a resolution adopted under division (B) of this section does not prohibit the use of reasonable force or restraint in accordance with division (G) of this section.~~

~~(D) If the board of education of any city, local, exempted village, or joint vocational school district does not prohibit corporal punishment on the effective date of this amendment but at any time after that date corporal punishment will be prohibited in the district pursuant to division (A)(1) or (B) of this section, the board shall do both of the following prior to the date on which the prohibition takes effect:~~

~~(1) Adopt a disciplinary policy for the district that includes alternative disciplinary measures;~~

~~(2) Consider what in-service training, if any, school district employees might need as part of implementing the policy adopted under division (D)(1) of this section.~~

~~(E)~~ A person employed or otherwise engaged as a teacher, principal, or administrator ~~by a board of education permitting corporal punishment pursuant to division (A)(1) of this section~~ or by a nonpublic school, except as otherwise provided by the governing authority of the nonpublic school, may inflict or cause to be inflicted reasonable corporal punishment upon a pupil attending the school to which the person is assigned whenever such punishment is reasonably necessary in order to preserve discipline while the student is subject to school authority.

~~(F)~~ A board of education of a school district that permits the use of corporal punishment as a means of discipline pursuant to a resolution adopted by the board pursuant to division (A)(1) of this section shall permit as part of its discipline policy the parents, guardian, or custodian of a child that is attending any school within the school district to request that corporal punishment not be used as a means of discipline on that child; upon the receipt of a request of that nature, shall ensure that an alternative disciplinary measure is applied with respect to that child; and shall include a procedure for the exercise of that option in the resolution adopted pursuant to division (A)(1) of this section.

~~(G)~~~~(C)~~ Persons employed or engaged as teachers, principals, or administrators in a school, whether public or private, and nonlicensed school employees and school bus drivers may, within the scope of their employment, use and apply such amount of force and restraint as is reasonable and necessary to quell a disturbance threatening physical injury to others, to obtain possession of weapons or other dangerous objects upon the person or within the control of the pupil, for the purpose of self-defense, or for the protection of persons or property.

Sec. 3319.51. (A) The state board of education shall annually establish the amount of the fees required to be paid for any license, certificate, or permit issued under this chapter or division (B) of section 3301.071, under sections or section 3301.074, 3319.088, 3319.29, 3319.302, and 3319.304, and under division (A) of section 3319.303 of the Revised Code. The amount of these fees shall be such that they, along with any appropriation made to the fund established under division (B) of this section, will be sufficient to cover the annual estimated cost of administering the sections of law listed requirements described under division (B) of this section.

(B) There is hereby established in the state treasury the state board of education licensure fund, which shall be used by the state board of education

solely to pay the cost of administering requirements related to the issuance and renewal of licenses, certificates, and permits described in this chapter and sections 3301.071; and 3301.074; ~~3319.088, 3319.22, 3319.29, 3319.291, 3319.301, 3319.302, 3319.303, 3319.304, and 3319.31~~ of the Revised Code. The fund shall consist of the amounts paid into the fund pursuant to division (B) of section 3301.071; and sections 3301.074; ~~3319.088, and 3319.29, 3319.302, and 3319.304, and division (A) of section 3319.303~~ of the Revised Code and any appropriations to the fund by the general assembly.

Sec. 3319.56. The department of education shall identify promising practices in Ohio and throughout the country for engaging teachers certified by the national board for professional teaching standards, and ~~other master lead teachers, as defined~~ who meet the criteria adopted by the educator standards board pursuant to section 3319.61 of the Revised Code, in ways that add value beyond their own classrooms. Practices identified by the department as promising may include placing national board certified and ~~master lead~~ lead teachers in key roles in peer review programs; having such teachers serve as coaches, mentors, and trainers for other teachers; or having such teachers develop curricula or instructional integration strategies.

Once the department has identified promising practices, the department shall inform all school districts of the practices by posting such information on the department's world wide web site.

Sec. 3319.57. (A) A grant program is hereby established under which the department of education shall award grants to assist certain schools in a city, exempted village, local, or joint vocational school district in implementing one of the following innovations:

(1) The use of instructional specialists to mentor and support classroom teachers;

(2) The use of building managers to supervise the administrative functions of school operation so that a school principal can focus on supporting instruction, providing instructional leadership, and engaging teachers as part of the instructional leadership team;

(3) The reconfiguration of school leadership structure in a manner that allows teachers to serve in leadership roles so that teachers may share the responsibility for making and implementing school decisions;

(4) The adoption of new models for restructuring the school day or school year, such as including teacher planning and collaboration time as part of the school day;

(5) The creation of smaller schools or smaller units within larger schools for the purpose of facilitating teacher collaboration to improve and advance

the professional practice of teaching;

(6) The implementation of "grow your own" recruitment strategies that are designed to assist individuals who show a commitment to education become licensed teachers, to assist experienced teachers obtain licensure in subject areas for which there is need, and to assist teachers in becoming principals;

(7) The provision of better conditions for new teachers, such as reduced teaching load and reduced class size;

(8) The provision of incentives to attract qualified mathematics, science, or special education teachers;

(9) The development and implementation of a partnership with teacher preparation programs at colleges and universities to help attract teachers qualified to teach in shortage areas;

(10) The implementation of a program to increase the cultural competency of both new and veteran teachers;

(11) The implementation of a program to increase the subject matter competency of veteran teachers.

(B) To qualify for a grant to implement one of the innovations described in division (A) of this section, a school must meet both of the following criteria:

(1) Be hard to staff, as defined by the department.

(2) Use existing school district funds for the implementation of the innovation in an amount equal to the grant amount multiplied by (1 - the district's state share percentage for the fiscal year in which the grant is awarded).

For purposes of division (B)(2) of this section, "state share percentage" ~~shall be as calculated under section 3317.022 of the Revised Code, in the case of a city, local, or exempted village school district, or as calculated under section 3317.16~~ has the same meaning as in section 3306.02 of the Revised Code, in the case of a joint vocational school district.

(C) The amount and number of grants awarded under this section shall be determined by the department based on any appropriations made by the general assembly for grants under this section.

(D) The state board of education shall adopt rules for the administration of this grant program.

Sec. 3319.60. There is hereby established the educator standards board. The board shall develop and recommend to the state board of education standards for entering and continuing in the ~~teaching and principalship~~ educator professions and standards for educator professional development. The board membership shall reflect the diversity of the state in terms of

gender, race, ethnic background, and geographic distribution.

(A) The board shall consist of the following members:

(1) The following eighteen members appointed by the state board of education ~~within sixty days of the effective date of this section:~~

~~(1) Eight~~ (a) Ten persons employed as teachers in a school district. ~~Two~~ Three persons appointed under this division shall be employed as teachers in a secondary school, two persons shall be employed as teachers in a middle school, ~~two~~ three persons shall be employed as teachers in an elementary school, one person shall be employed as a teacher in a pre-kindergarten classroom, and one person shall be a teacher who serves on a local professional development committee pursuant to section 3319.22 of the Revised Code. At least one person appointed under this division shall hold a teaching certificate or license issued by the national board for professional teaching standards. The Ohio education association shall submit a list of ~~twelve~~ fourteen nominees for these appointments and the state board shall appoint ~~six~~ seven members to the educator standards board from that list. The Ohio federation of teachers shall submit a list of ~~four~~ six nominees for these appointments and the state board shall appoint ~~two~~ three members to the educator standards board from that list. If there is an insufficient number of nominees from both lists to satisfy the membership requirements of this division, the state board shall request additional nominees who satisfy those requirements.

~~(2)~~(b) One person employed as a teacher in a chartered, nonpublic school. Stakeholder groups selected by the state board shall submit a list of two nominees for this appointment.

~~(3) Four~~ (c) Five persons employed as school administrators in a school district. ~~Of the four those five persons appointed under this division,~~ one person shall be employed as a secondary school principal, one person shall be employed as a middle school principal, one person shall be employed as an elementary school principal, one person shall be employed as a school district treasurer or business manager, and one person shall be employed as a school district superintendent. The buckeye association of school administrators shall submit a list of two nominees for the school district superintendent, the Ohio association of school business officials shall submit a list of two nominees for the school district treasurer or business manager, the Ohio association of elementary school administrators shall submit a list of two nominees for the elementary school principal, and the Ohio association of secondary school administrators shall submit a list of two nominees for the middle school principal and a list of two nominees for the secondary school principal.

~~(4)(d)~~ One person who is a member of a school district board of education. The Ohio school boards association shall submit a list of two nominees for this appointment.

~~(5)~~ Three persons employed by institutions of higher education that offer teacher preparation programs approved under section 3319.23 of the Revised Code. One person appointed under this division shall be employed by an institution of higher education that has a certificate of authorization under Chapter 1713. of the Revised Code; one person shall be employed by a state university, as defined in section 3345.011 of the Revised Code, or a university branch; and one person shall be employed by a state community college, community college, or technical college. Of the two persons appointed under this division from an institution of higher education that has a certificate of authorization under Chapter 1713. of the Revised Code and from a state university or university branch, one shall be employed in a college of education and one shall be employed in a college of arts and sciences. The chancellor of the Ohio board of regents shall submit two slates of nominees for these appointments and the state board shall appoint one slate as members of the educator standards board.

~~(6)(e)~~ One person who is a parent of a student currently enrolled in a school operated by a school district. The Ohio parent teacher association shall submit a list of two nominees for this appointment.

(2) The chancellor of the Ohio board of regents shall appoint three persons employed by institutions of higher education that offer educator preparation programs. One person shall be employed by an institution of higher education that has a certificate of authorization under Chapter 1713. of the Revised Code; one person shall be employed by a state university, as defined in section 3345.011 of the Revised Code, or a university branch; and one person shall be employed by a state community college, community college, or technical college. Of the two persons appointed from an institution of higher education that has a certificate of authorization under Chapter 1713. of the Revised Code and from a state university or university branch, one shall be employed in a college of education and one shall be employed in a college of arts and sciences.

(3) The superintendent of public instruction or a designee of the superintendent, the chancellor of the Ohio board of regents or a designee of the chancellor, and the chairpersons and the ranking minority members of the education committees of the senate and house of representatives shall serve as nonvoting, ex officio members.

~~(B) Initial terms of office for nine members shall be for two years and three years for eight members, beginning on the day all members are~~

~~appointed to the board. At the first meeting of the board, members shall draw lots to determine the length of the term each member shall serve. Thereafter terms~~ Terms of office shall be for two years. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. At the first meeting, appointed members shall select a chairperson and a vice-chairperson. Vacancies on the board shall be filled in the same manner as ~~the original prescribed for appointments~~ under division (A) of this section. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. The terms of office of members are renewable.

(C) Members shall receive no compensation for their services.

(D) The board shall establish guidelines for its operation. These guidelines shall require the creation of a standing subcommittee on higher education, and shall permit the creation of other standing subcommittees when necessary. The board shall determine the membership of any subcommittee it creates. The board may select persons who are not members of the board to participate in the deliberations of any subcommittee as representatives of stakeholder groups, but no such person shall vote on any issue before the subcommittee.

Sec. 3319.61. (A) The educator standards board, in consultation with the chancellor of the Ohio board of regents, shall do all of the following:

(1) Develop state standards for teachers and principals that reflect what teachers and principals are expected to know and be able to do at all stages of their careers. These standards shall be aligned with the statewide academic content standards for students adopted pursuant to section 3301.079 of the Revised Code, be primarily based on educator performance instead of years of experience or certain courses completed, and rely on evidence-based factors. These standards shall also be aligned with the operating standards adopted under division (D)(3) of section 3301.07 of the Revised Code.

(a) The standards for teachers shall reflect the following additional criteria:

(i) Alignment with the interstate new teacher assessment and support consortium standards;

(ii) Differentiation among novice, experienced, and advanced teachers;

(iii) Reliance on competencies that can be measured;

(iv) Reliance on content knowledge, teaching skills, discipline-specific teaching methods, and requirements for professional development;

(v) Alignment with a career-long system of professional development and evaluation that ensures teachers receive the support and training needed to achieve the teaching standards as well as reliable feedback about how well they meet the standards;

(vi) The standards under section 3301.079 of the Revised Code, including standards on collaborative learning environments and interdisciplinary, project-based, real-world learning and differentiated instruction;

(vii) The Ohio leadership framework.

(b) The standards for principals shall be aligned with the interstate school leaders licensing consortium standards.

(2) Develop standards for school district superintendents that reflect what superintendents are expected to know and be able to do at all stages of their careers. The standards shall reflect knowledge of systems theory and effective management principles and be aligned with the buckeye association of school administrators standards and the operating standards developed under division (D)(3) of section 3301.07 of the Revised Code.

(3) Develop standards for school district treasurers and business managers that reflect what treasurers and business managers are expected to know and be able to do at all stages of their careers. The standards shall reflect knowledge of systems theory and effective management principles and be aligned with the association of school business officials international standards and the operating standards developed under division (D)(3) of section 3301.07 of the Revised Code.

(4) Develop standards for the renewal of ~~educator~~ licenses under ~~section~~ sections 3301.074 and 3319.22 of the Revised Code;

(~~3~~)~~(5)~~ Develop standards for educator professional development;

(6) Investigate and make recommendations for the creation, expansion, and implementation of school building and school district leadership academies.

The superintendent of public instruction, the chancellor of the Ohio board of regents, or the education standards board itself may request that the educator standards board update, review, or reconsider any standards developed under this section.

(B) The educator standards board shall incorporate indicators of cultural competency into the standards developed under division (A) of this section. For this purpose, the educator standards board shall develop a definition of cultural competency based upon content and experiences that enable

educators to know, understand, and appreciate the students, families, and communities that they serve and skills for addressing cultural diversity in ways that respond equitably and appropriately to the cultural needs of individual students.

(C) In developing the standards under division (A) of this section, the educator standards board shall consider the impact of the standards on closing the achievement gap between students of different subgroups.

(D) In developing the standards under division (A) of this section, the educator standards board shall ensure ~~that~~ both of the following:

(1) That teachers and principals have sufficient knowledge to provide appropriate instruction for students identified as gifted pursuant to Chapter 3324. of the Revised Code and to assist in the identification of such students, and have sufficient knowledge that will enable teachers to provide learning opportunities for all children to succeed;

(2) That principals, superintendents, school treasurers, and school business managers have sufficient knowledge to provide principled, collaborative, foresighted, and data-based leadership that will provide learning opportunities for all children to succeed.

(E) The standards for educator professional development developed under division (A)~~(3)~~(5) of this section shall include ~~standards~~ the following:

(1) Standards for the inclusion of local professional development committees established under section 3319.22 of the Revised Code in the planning and design of professional development;

(2) Standards that address the crucial link between academic achievement and mental health issues.

(F) The educator standards board shall also perform the following functions:

~~(1) Collaborate with colleges and universities that offer teacher preparation programs approved pursuant to section 3319.23 of the Revised Code to align teacher and principal preparation courses with the standards developed under division (A) of this section and with student academic content standards adopted under section 3301.079 of the Revised Code. The educator standards board shall study the model developed by the college of food, agricultural, and environmental sciences and the college of education of the Ohio state university for aligning teacher preparation programs in agricultural education with recognized standards for this purpose.~~

~~(2) Monitor compliance with the teacher and principal standards developed under division (A) of this section and make recommendations to the state board of education for appropriate corrective action if such~~

standards are not met;

~~(3)~~(2) Research, develop, and recommend policies on the professions of teaching and school administration;

~~(4)~~(3) Recommend policies to close the achievement gap between students of different subgroups;

~~(5)~~(4) Define a "master teacher" in a manner that can be used uniformly by all school districts;

(5) Adopt criteria that a candidate for a lead professional educator license under section 3319.22 of the Revised Code who does not hold a valid certificate issued by the national board for professional teaching standards must meet to be considered a lead teacher for purposes of division (B)(4)(d) of that section. It is the intent of the general assembly that ~~when defining "master teacher,"~~ the educator standards board shall adopt multiple, equal-weighted criteria to use in determining whether a person is a ~~master~~ lead teacher. ~~Such~~ The criteria shall be in addition to the other standards and qualifications prescribed in division (B)(4) of section 3319.22 of the Revised Code. The criteria may include, but shall not be limited to, attainment of a master's degree in an appropriate subject area, completion of other educational levels beyond a master's degree or other professional development courses, certification by the national board for professional teaching standards, or demonstration of a leadership role in the teacher's school building or district. The board shall determine the number of criteria that a teacher shall satisfy to be recognized as a ~~master~~ lead teacher, which shall not be the total number of criteria adopted by the board.

(6) Develop model teacher and principal evaluation instruments and processes. The models shall be based on the standards developed under division (A) of this section.

(7) Develop a method of measuring the academic improvement made by individual students during a one-year period and make recommendations for incorporating the measurement as one of multiple evaluation criteria into each of the following:

(a) Eligibility for a professional educator license, senior professional educator license, lead professional educator license, or principal license issued under section 3319.22 of the Revised Code;

(b) The Ohio teacher residency program established under section 3319.223 of the Revised Code;

(c) The model teacher and principal evaluation instruments and processes developed under division (F)(6) of this section.

(G) The educator standards board shall submit recommendations of standards developed under division (A) of this section to the state board of

education ~~within one year after the educator standards board first convenes~~ not later than September 1, 2010. The state board of education shall review those recommendations at the state board's regular meeting that next succeeds the date that the recommendations are submitted to the state board. At that meeting, the state board of education shall vote to either adopt standards based on those recommendations or request that the educator standards board reconsider its recommendations. The state board of education shall articulate reasons for requesting reconsideration of the recommendations but shall not direct the content of the recommendations. The educator standards board shall reconsider its recommendations if the state board of education so requests, may revise the recommendations, and shall resubmit the recommendations, whether revised or not, to the state board not later than two weeks prior to the state board's regular meeting that next succeeds the meeting at which the state board requested reconsideration of the initial recommendations. The state board of education shall review the recommendations as resubmitted by the educator standards board at the state board's regular meeting that next succeeds the meeting at which the state board requested reconsideration of the initial recommendations and may adopt the standards as resubmitted or, if the resubmitted standards have not addressed the state board's concerns, the state board may modify the standards prior to adopting them. The final responsibility to determine whether to adopt standards as described in division (A) of this section and the content of those standards, if adopted, belongs solely to the state board of education.

Sec. 3319.611. The subcommittee on standards for superintendents of the education standards board is hereby established. The subcommittee shall consist of the following members:

(A) The school district superintendent appointed to the educator standards board under section 3319.60 of the Revised Code, who shall act as chairperson of the subcommittee;

(B) Three additional school district superintendents appointed by the state board of education, for terms of two years. The buckeye association of school administrators shall submit a list of six nominees for appointments under this section.

(C) Three additional members of the educator standards board, appointed by the chairperson of the educator standards board;

(D) The superintendent of public instruction and the chancellor of the Ohio board of regents, or their designees, who shall serve as nonvoting, ex officio members of the subcommittee.

Members of the subcommittee shall receive no compensation for their

services. The members appointed under divisions (B) and (C) of this section may be reappointed.

The subcommittee shall assist the educator standards board in developing the standards for superintendents and with any additional matters the educator standards board directs the subcommittee to examine.

Sec. 3319.612. The subcommittee on standards for school treasurers and business managers of the educator standards board is hereby established. The subcommittee shall consist of the following members:

(A) The school district treasurer or business manager appointed to the educator standards board under section 3319.60 of the Revised Code, who shall act as chairperson of the subcommittee;

(B) Three additional school district treasurers or business managers appointed by the state board of education for terms of two years. The Ohio association of school business officials shall submit a list of six nominees for appointments under this section.

(C) Three additional members of the educator standards board, appointed by the chairperson of the educator standards board;

(D) The superintendent of public instruction and the chancellor of the Ohio board of regents, or their designees, who shall serve as nonvoting, ex officio members of the subcommittee.

Members of the subcommittee shall receive no compensation for their services. The members appointed under divisions (B) and (C) of this section may be reappointed.

The subcommittee shall assist the educator standards board in developing the standards for school treasurers and business managers and with any additional matters the educator standards board directs the subcommittee to examine.

Sec. 3319.63. The board of education of a school district that employs any person who is appointed to serve as a member of the educator standards board under division (A)(1)(a) or ~~(3)(c)~~ of section 3319.60, as a member of the subcommittee on standards for superintendents under division (B) or (C) of section 3319.611, or as a member of the subcommittee on standards for school treasurers and business managers under division (B) or (C) of section 3319.612 of the Revised Code shall grant that person paid professional leave for the purpose of attending meetings and conducting official business of the educator standards board and the subcommittees.

Sec. 3319.70. (A) The school health services advisory council is hereby established. The council shall consist of the following members:

(1) A registered nurse licensed under Chapter 4723, of the Revised Code who also is licensed as a school nurse pursuant to section 3319.221 or

former section 3319.22 of the Revised Code and is a member of the Ohio association of school nurses, appointed by the governor;

(2) A representative of the board of nursing, appointed by the governor;

(3) A representative of the department of health who has expertise in school and adolescent health services, appointed by the director of health;

(4) A representative of the department of education, appointed by the superintendent of public instruction;

(5) A representative of the chancellor of the Ohio board of regents, appointed by the chancellor;

(6) A representative of a nurse education program, appointed by the chancellor;

(7) A representative of the department of development who has expertise in workforce development, appointed by the director of development;

(8) A representative of the department of job and family services who has expertise in child and adolescent care, appointed by the director of job and family services;

(9) A representative of the public, appointed by the governor.

(B) Initial appointments to the council shall be made within thirty days after the effective date of this section. Members of the council shall serve at the pleasure of their appointing authorities. Vacancies shall be filled in the same manner as the original appointment. Members shall receive no compensation for their services, except to the extent that service on the council is part of their regular employment duties.

(C) The representative of the department of education shall call the first meeting of the council. At that meeting, the members shall select a chairperson and vice-chairperson. Subsequent meetings of the council shall be held at the call of the chairperson.

Sec. 3319.71. (A) The school health services advisory council shall make recommendations on the following topics:

(1) The content of the course of instruction required to obtain a school nurse license under section 3319.221 of the Revised Code;

(2) The content of the course of instruction required to obtain a school nurse wellness coordinator license under section 3319.221 of the Revised Code;

(3) Best practices for the use of school nurses and school nurse wellness coordinators in providing health and wellness programs for students and employees of school districts, community schools established under Chapter 3314. of the Revised Code, and STEM schools established under Chapter 3326. of the Revised Code.

(B) The council shall issue its initial recommendations not later than March 31, 2010, and may issue subsequent recommendations as it considers necessary. Copies of all recommendations shall be provided to the state board of education, the chancellor of the Ohio board of regents, the board of nursing, and the health care coverage and quality council.

Sec. 3321.01. (A)(1) As used in this chapter, "parent," "guardian," or "other person having charge or care of a child" means either parent unless the parents are separated or divorced or their marriage has been dissolved or annulled, in which case "parent" means the parent who is the residential parent and legal custodian of the child. If the child is in the legal or permanent custody of a person or government agency, "parent" means that person or government agency. When a child is a resident of a home, as defined in section 3313.64 of the Revised Code, and the child's parent is not a resident of this state, "parent," "guardian," or "other person having charge or care of a child" means the head of the home.

A child between six and eighteen years of age is "of compulsory school age" for the purpose of sections 3321.01 to 3321.13 of the Revised Code. A child under six years of age who has been enrolled in kindergarten also shall be considered "of compulsory school age" for the purpose of sections 3321.01 to 3321.13 of the Revised Code unless at any time the child's parent or guardian, at the parent's or guardian's discretion and in consultation with the child's teacher and principal, formally withdraws the child from kindergarten. The compulsory school age of a child shall not commence until the beginning of the term of such schools, or other time in the school year fixed by the rules of the board of the district in which the child resides.

(2) No child shall be admitted to a kindergarten or a first grade of a public school in a district in which all children are admitted to kindergarten and the first grade in August or September unless the child is five or six years of age, respectively, by the thirtieth day of September of the year of admittance, or by the first day of a term or semester other than one beginning in August or September in school districts granting admittance at the beginning of such term or semester, except that in those school districts using or obtaining educationally accepted standardized testing programs for determining entrance, as approved by the board of education of such districts, the board shall admit a child to kindergarten or the first grade who fails to meet the age requirement, provided the child meets necessary standards as determined by such standardized testing programs. If the board of education has not established a standardized testing program, the board shall designate the necessary standards and a testing program it will accept for the purpose of admitting a child to kindergarten or first grade who fails

to meet the age requirement. Each child who will be the proper age for entrance to kindergarten or first grade by the first day of January of the school year for which admission is requested shall be so tested upon the request of the child's parent.

(3) Notwithstanding divisions (A)(2) and (D) of this section, beginning with the school year that starts in 2001 and continuing thereafter the board of education of any district may adopt a resolution establishing the first day of August in lieu of the thirtieth day of September as the required date by which students must have attained the age specified in those divisions.

(B) As used in divisions (C) and (D) of this section, "successfully completed kindergarten" and "successful completion of kindergarten" mean that the child has completed the kindergarten requirements at one of the following:

- (1) A public or chartered nonpublic school;
- (2) A kindergarten class that is both of the following:

(a) Offered by a day-care provider licensed under Chapter 5104. of the Revised Code;

(b) If offered after July 1, 1991, is directly taught by a teacher who holds one of the following:

(i) A valid educator license issued under section 3319.22 of the Revised Code;

(ii) A Montessori preprimary credential or age-appropriate diploma granted by the American Montessori society or the association Montessori internationale;

(iii) Certification determined under division (G) of this section to be equivalent to that described in division (B)(2)(b)(ii) of this section;

(iv) Certification for teachers in nontax-supported schools pursuant to section 3301.071 of the Revised Code.

(C) Except as provided in division (D) of this section, no school district shall admit to the first grade any child who has not successfully completed kindergarten.

(D) Upon request of a parent, the requirement of division (C) of this section may be waived by the district's pupil personnel services committee in the case of a child who is at least six years of age by the thirtieth day of September of the year of admittance and who demonstrates to the satisfaction of the committee the possession of the social, emotional, and cognitive skills necessary for first grade.

The board of education of each city, local, and exempted village school district shall establish a pupil personnel services committee. The committee shall be composed of all of the following to the extent such personnel are

either employed by the district or employed by the governing board of the educational service center within whose territory the district is located and the educational service center generally furnishes the services of such personnel to the district:

- (1) The director of pupil personnel services;
- (2) An elementary school counselor;
- (3) An elementary school principal;
- (4) A school psychologist;
- (5) A teacher assigned to teach first grade;
- (6) A gifted coordinator.

The responsibilities of the pupil personnel services committee shall be limited to the issuing of waivers allowing admittance to the first grade without the successful completion of kindergarten. The committee shall have no other authority except as specified in this section.

(E) The scheduling of times for kindergarten classes and length of the school day for kindergarten shall be determined by the board of education of a city, exempted village, or local school district, subject to section 3321.05 of the Revised Code.

(F) Any kindergarten class offered by a day-care provider or school described by division (B)(1) or (B)(2)(a) of this section shall be developmentally appropriate.

(G) Upon written request of a day-care provider described by division (B)(2)(a) of this section, the department of education shall determine whether certification held by a teacher employed by the provider meets the requirement of division (B)(2)(b)(iii) of this section and, if so, shall furnish the provider a statement to that effect.

~~(H) As used in this division, "all day kindergarten" has the same meaning as in section 3317.029 of the Revised Code.~~

~~(1) Any school district that is not eligible to receive poverty-based assistance for all day kindergarten under division (D) of section 3317.029 of the Revised Code may charge fees or tuition for students enrolled in all day kindergarten. If a district charges fees or tuition for all day kindergarten under this division, the district shall develop a sliding fee scale based on family incomes.~~

~~(2) The department of education shall conduct an annual survey of each school district described in division (H)(1) of this section to determine the following:~~

- ~~(a) Whether the district charges fees or tuition for students enrolled in all day kindergarten;~~
- ~~(b) The amount of the fees or tuition charged;~~

~~(e)(1) How many of the students for whom tuition is charged are eligible for free lunches under the "National School Lunch Act," 60 Stat. 230 (1946), 42 U.S.C. 1751, as amended, and the "Child Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C. 1771, as amended, and how many of the students for whom tuition is charged are eligible for reduced price lunches under those acts;~~

~~(d)(2) How many students are enrolled in traditional half-day kindergarten rather than~~ and how many students are enrolled in all-day kindergarten, as defined in section 3321.05 of the Revised Code.

Each district shall report to the department, in the manner prescribed by the department, the information ~~described in divisions (H)(2)(a) to (d) of this section~~ required by this division.

The department shall issue an annual report on the results of the survey and shall post the report on its web site. The department shall issue the first report not later than April 30, 2008, and shall issue a report not later than the thirtieth day of April each year thereafter.

Sec. 3321.041. (A) As used in this section, "extracurricular activity" means a pupil activity program that a school or school district operates and is not included in the school district's graded course of study, including an interscholastic extracurricular activity that a school or school district sponsors or participates in and that has participants from more than one school or school district.

(B) Beginning in the 2009-2010 school year, if a student enrolled in a school district is absent from school for the sole purpose of traveling out of the state to participate in an enrichment activity approved by the district board of education or in an extracurricular activity, the district shall count that absence as an excused absence, up to a maximum of four days per school year. The district shall require any such student to complete any classroom assignments that the student misses because of the absence.

(C) If a student will be absent from school for four or more consecutive school days for a purpose described in division (B) of this section, a classroom teacher employed by the school district shall accompany the student during the travel period to provide the student with instructional assistance.

Sec. 3321.05. (A) As used in this section, "all-day kindergarten" means a kindergarten class that is in session five days per week for not less than the same number of clock hours each day as for students in grades one through six.

(B) Any school district may operate all-day kindergarten or extended kindergarten, but ~~not~~ beginning in fiscal year 2011, each city, local, and

exempted village school district shall provide all-day kindergarten to each student enrolled in kindergarten, except as specified in divisions (C) and (D) of this section.

(C) The board of education of a school district may apply to the superintendent of public instruction for a waiver of the requirement to provide all-day kindergarten for all kindergarten students. In making the determination to grant or deny the waiver, the state superintendent may consider space concerns or alternative delivery approaches used by the school district.

(D) No district shall require any student to attend kindergarten for more than one-half of the number of clock hours required each day for ~~traditional kindergarten~~ grades one through six by the minimum standards adopted under division (D) of section 3301.07 of the Revised Code. Each school district ~~that operates all-day or extended kindergarten~~ shall accommodate kindergarten students whose parents or guardians elect to enroll them for one-half of the minimum number of hours required each day for grades one through six.

(E) A school district may use space in child day-care centers licensed under Chapter 5104. of the Revised Code to provide all-day kindergarten under this section.

Sec. 3323.05. The state board of education shall establish procedures to ensure that children with disabilities and their parents are guaranteed procedural safeguards under this chapter with respect to a free appropriate public education.

The procedures shall include, but need not be limited to:

(A) An opportunity for the parents of a child with a disability to examine all records related to the child and to participate in meetings with respect to identification, evaluation, and educational placement of the child, and to obtain an independent educational evaluation of the child;

(B) Procedures to protect the rights of the child whenever the parents of the child are not known, an agency after making reasonable efforts cannot find the parents, or the child is a ward of the state, including the assignment; ~~in accordance with section 3323.051 of the Revised Code,~~ of an individual to act as a surrogate for the parents; made by the school district or other educational agency responsible for educating the child or by the court with jurisdiction over the child's custody. Such assignment shall be made in accordance with section 3323.051 of the Revised Code.

(C) Prior written notice to the child's parents of a school district's proposal or refusal to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate

education for the child. The procedures established under this division shall:

(1) Be designed to ensure that the written prior notice is in the native language of the parents, unless it clearly is not feasible to do so.

(2) Specify that the prior written notice shall include:

(a) A description of the action proposed or refused by the district;

(b) An explanation of why the district proposes or refuses to take the action and a description of each evaluation procedure, assessment, record, or report the district used as a basis for the proposed or refused action;

(c) A statement that the parents of a child with a disability have protection under the procedural safeguards and, if the notice is not in regard to an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;

(d) Sources for parents to contact to obtain assistance in understanding the provisions of Part B of the "Individuals with Disabilities Education Improvement Act of 2004";

(e) A description of other options considered by the IEP team and the reason why those options were rejected;

(f) A description of the factors that are relevant to the agency's proposal or refusal.

(D) An opportunity for the child's parents to present complaints to the superintendent of the child's school district of residence with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education under this chapter.

Within twenty school days after receipt of a complaint, the district superintendent or the superintendent's designee, without undue delay and at a time and place convenient to all parties, shall review the case, may conduct an administrative review, and shall notify all parties in writing of the superintendent's or designee's decision. Where the child is placed in a program operated by a county MR/DD board or other educational agency, the superintendent shall consult with the administrator of that county MR/DD board or agency.

Any party aggrieved by the decision of the district superintendent or the superintendent's designee may file a complaint with the state board as provided under division (E) of this section, request mediation as provided under division (F) of this section, or present a due process complaint notice and request for a due process hearing in writing to the superintendent of the district, with a copy to the state board, as provided under division (G) of this section.

(E) An opportunity for a party to file a complaint with the state board of

education with respect to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child. The department of education shall review and, where appropriate, investigate the complaint and issue findings.

(F) An opportunity for parents and a school district to resolve through mediation disputes involving any matter.

(1) The procedures established under this section shall ensure that the mediation process is voluntary on the part of the parties, is not used to deny or delay a parent's right to a due process hearing or to deny any other rights afforded under this chapter, and is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

(2) A school district may establish procedures to offer to parents and schools that choose not to use the mediation process, an opportunity to meet, at a time and location convenient to the parents, with a disinterested party to encourage the use, and explain the benefits, of the mediation process to the parents. The disinterested party shall be an individual who is under contract with a parent training and information center or community parent resource center in the state or is under contract with an appropriate alternative dispute resolution entity.

(3) The department shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.

(4) The department shall bear the cost of the mediation process, including the costs of meetings described in division (F)(2) of this section.

(5) Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

(6) Discussions that occur during the mediation process shall be confidential and shall not be used as evidence in any subsequent due process hearing or civil proceeding.

(7) In the case that a resolution is reached to resolve the complaint through the mediation process, the parties shall execute a legally binding agreement that sets forth the resolution and that:

(a) States that all discussions that occurred during the mediation process shall be confidential and shall not be used as evidence in any subsequent due process hearing or civil proceeding;

(b) Is signed by both the parent and a representative for the school district who has the authority to bind the district;

(c) Is enforceable in any state court of competent jurisdiction or in a district court of the United States.

(G)(1) An opportunity for parents or a school district to present a due process complaint and request for a due process hearing to the superintendent of the school district of the child's residence with respect to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child. The party presenting the due process complaint and request for a due process hearing shall provide due process complaint notice to the other party and forward a copy of the notice to the state board. The due process complaint notice shall include:

(a) The name of the child, the address of the residence of the child, or the available contact information in the case of a homeless child, and the name of the school the child is attending;

(b) A description of the nature of the problem of the child relating to the proposed initiation or change, including facts relating to the problem;

(c) A proposed resolution of the problem to the extent known and available to the party at the time.

A party shall not have a due process hearing until the party, or the attorney representing the party, files a notice that meets the requirement for filing a due process complaint notice.

A due process hearing shall be conducted by an impartial hearing officer in accordance with standards and procedures adopted by the state board. A hearing officer shall not be an employee of the state board or any agency involved in the education or care of the child or a person having a personal or professional interest that conflicts with the person's objectivity in the hearing. A hearing officer shall possess knowledge of, and the ability to understand, the provisions of the "Individuals with Disabilities Education Improvement Act of 2004," federal and state regulations pertaining to that act, and legal interpretations of that act by federal and state courts; possess the knowledge and ability to conduct hearings in accordance with appropriate standard legal practice; and possess the knowledge and ability to render and write decisions in accordance with appropriate standard legal practice. The due process requirements of section 615 of the "Individuals with Disabilities Education Improvement Act of 2004," 20 U.S.C. 1415, apply to due process complaint notices and requests for due process hearings and to due process hearings held under division (G) of this section, including, but not limited to, timelines for requesting hearings, requirements for sufficient complaint notices, resolution sessions, and sufficiency and hearing decisions.

(2) Discussions that occur during a resolution session shall be confidential and shall not be used as evidence in any subsequent due process

hearing or civil proceeding. If a resolution to the dispute is reached at a resolution session, the parties must execute a legally binding written settlement agreement which shall state that all discussions that occurred during the resolution process shall be confidential and shall not be used as evidence in any subsequent due process hearing or civil proceeding.

(3) A party to a hearing under division (G) of this section shall be accorded:

(a) The right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;

(b) The right to present evidence and confront, cross-examine, and compel the attendance of witnesses;

(c) The right to a written or electronic verbatim record of the hearing;

(d) The right to written findings of fact and decisions, which findings of fact and decisions shall be made available to the public consistent with the requirements relating to the confidentiality of personally identifiable data, information, and records collected and maintained by state educational agencies and local educational agencies; and shall be transmitted to the advisory panel established and maintained by the department for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the state.

(H) An opportunity for any party aggrieved by the findings and decision rendered in a hearing under division (G) of this section to appeal within forty-five days of notification of the decision to the state board, which shall appoint a state level officer who shall review the case and issue a final order. The state level officer shall be appointed and shall review the case in accordance with standards and procedures adopted by the state board.

Any party aggrieved by the final order of the state level officer may appeal the final order, in accordance with Chapter 119. of the Revised Code, within forty-five days after notification of the order to the court of common pleas of the county in which the child's school district of residence is located, or to a district court of the United States within ninety days after the date of the decision of the state level review officer, as provided in section 615(i)(2) of the "Individuals with Disabilities Education Improvement Act of 2004," 20 U.S.C. 1415(i)(2).

Sec. 3323.091. (A) The department of mental health, the department of mental retardation and developmental disabilities, the department of youth services, and the department of rehabilitation and correction shall establish and maintain special education programs for children with disabilities in institutions under their jurisdiction according to standards adopted by the

state board of education.

(B) The superintendent of each state institution required to provide services under division (A) of this section, and each county MR/DD board, providing special education for preschool children with disabilities under this chapter may apply to the state department of education for unit funding, which shall be paid in accordance with sections 3317.052 and 3317.053 of the Revised Code.

The superintendent of each state institution required to provide services under division (A) of this section may apply to the department of education for special education and related services weighted funding for children with disabilities other than preschool children with disabilities, calculated in accordance with section 3317.201 of the Revised Code.

Each county MR/DD board providing special education for children with disabilities other than preschool children with disabilities may apply to the department of education for base cost and special education and related services weighted funding calculated in accordance with section 3317.20 of the Revised Code.

(C) In addition to the authorization to apply for state funding described in division (B) of this section, each state institution required to provide services under division (A) of this section is entitled to tuition payments calculated in the manner described in division (C) of this section.

On or before the thirtieth day of June of each year, the superintendent of each institution that during the school year provided special education pursuant to this section shall prepare a statement for each child with a disability under twenty-two years of age who has received special education. The statement shall contain the child's data verification code assigned pursuant to division (D)(2) of section 3301.0714 of the Revised Code and the name of the child's school district of residence. Within sixty days after receipt of such statement, the department of education shall perform one of the following:

(1) For any child except a preschool child with a disability described in division (C)(2) of this section, pay to the institution submitting the statement an amount equal to the tuition calculated under division (A) of section 3317.08 of the Revised Code for the period covered by the statement, and deduct the same from the amount of state funds, if any, payable under sections ~~3317.022~~ 3306.13 and 3317.023 of the Revised Code, to the child's school district of residence or, if the amount of such state funds is insufficient, require the child's school district of residence to pay the institution submitting the statement an amount equal to the amount determined under this division.

(2) For any preschool child with a disability not included in a unit approved under division (B) of section 3317.05 of the Revised Code, perform the following:

(a) Pay to the institution submitting the statement an amount equal to the tuition calculated under division (B) of section 3317.08 of the Revised Code for the period covered by the statement, except that in calculating the tuition under that section the operating expenses of the institution submitting the statement under this section shall be used instead of the operating expenses of the school district of residence;

(b) Deduct from the amount of state funds, if any, payable under sections 3317.022 or 3306.13 and 3317.023 of the Revised Code to the child's school district of residence an amount equal to the amount paid under division (C)(2)(a) of this section.

Sec. 3323.14. This section does not apply to any preschool child with a disability except if included in a unit approved under division (B) of section 3317.05 of the Revised Code.

(A) Where a child who is a school resident of one school district receives special education from another district and the per capita cost to the educating district for that child exceeds the sum of the amount received by the educating district for that child under division (A) of section 3317.08 of the Revised Code and the amount received by the district from the state board of education for that child, then the board of education of the district of residence shall pay to the board of the school district that is providing the special education such excess cost as is determined by using a formula approved by the department of education and agreed upon in contracts entered into by the boards of the districts concerned at the time the district providing such special education accepts the child for enrollment. The department shall certify the amount of the payments under ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code for such pupils with disabilities for each school year ending on the thirtieth day of July.

(B) In the case of a child described in division (A) of this section who has been placed in a home, as defined in section 3313.64 of the Revised Code, pursuant to the order of a court and who is not subject to section 3323.141 of the Revised Code, the district providing the child with special education and related services may charge to the child's district of residence the excess cost determined by formula approved by the department, regardless of whether the district of residence has entered into a contract with the district providing the services. If the district providing the services chooses to charge excess costs, the district may report the amount calculated under this division to the department.

(C) If a district providing special education for a child reports an amount for the excess cost of those services, as authorized and calculated under division (A) or (B) of this section, the department shall pay that amount of excess cost to the district providing the services and shall deduct that amount from the child's district of residence in accordance with division (N) of section 3317.023 of the Revised Code.

Sec. 3323.142. This section does not apply to any preschool child with a disability except if included in a unit approved under division (B) of section 3317.05 of the Revised Code.

As used in this section, "per pupil amount" for a preschool child with a disability included in such an approved unit means the amount determined by dividing the amount received for the classroom unit in which the child has been placed by the number of children in the unit. For any other child, "per pupil amount" means the amount paid for the child under section 3317.20 of the Revised Code.

When a school district places or has placed a child with a county MR/DD board for special education, but another district is responsible for tuition under section 3313.64 or 3313.65 of the Revised Code and the child is not a resident of the territory served by the county MR/DD board, the board may charge the district responsible for tuition with the educational costs in excess of the per pupil amount received by the board under ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code. The amount of the excess cost shall be determined by the formula established by rule of the department of education under section 3323.14 of the Revised Code, and the payment for such excess cost shall be made by the school district directly to the county MR/DD board.

A school district board of education and the county MR/DD board that serves the school district may negotiate and contract, at or after the time of placement, for payments by the board of education to the county MR/DD board for additional services provided to a child placed with the county MR/DD board and whose individualized education program established pursuant to section 3323.08 of the Revised Code requires additional services that are not routinely provided children in the county MR/DD board's program but are necessary to maintain the child's enrollment and participation in the program. Additional services may include, but are not limited to, specialized supplies and equipment for the benefit of the child and instruction, training, or assistance provided by staff members other than staff members for which funding is received under Chapter 3306. or 3317. of the Revised Code.

Sec. 3324.05. (A) Each school district shall submit an annual report to

the department of education specifying the number of students in each of grades kindergarten through twelfth screened, the number assessed, and the number identified as gifted in each category specified in section 3324.03 of the Revised Code.

(B) The department of education shall audit each school district's identification numbers at least once every three years and may select any district at random or upon complaint or suspicion of noncompliance for a further audit to determine compliance with sections 3324.03 to 3324.06 of the Revised Code.

(C) The department shall provide technical assistance to any district found in noncompliance under division (B) of this section. The department may reduce funds received by the district under ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code by any amount if the district continues to be noncompliant.

Sec. 3325.08. (A) A diploma shall be granted by the superintendent of the state school for the blind and the superintendent of the state school for the deaf to any student enrolled in one of these state schools to whom all of the following apply:

(1) The student has successfully completed the individualized education program developed for the student for the student's high school education pursuant to section 3323.08 of the Revised Code;

(2) Subject to section 3313.614 of the Revised Code, the student has met the assessment requirements of division (A)(2)(a) or (b) of this section, as applicable.

(a) If the student entered the ninth grade prior to the date prescribed by rule of the state board of education under division (E)(2) of section 3301.0712 of the Revised Code, the student either:

~~(a)(i)~~ Has attained at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the tests assessments prescribed by that division unless division (L) of section 3313.61 of the Revised Code applies to the student;

~~(b)(ii)~~ Has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code.

(b) If the student entered the ninth grade on or after the date prescribed by rule of the state board under division (E)(2) of section 3301.0712 of the Revised Code, the student has attained on the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code at least the required passing composite score, designated under division (C)(1) of section 3301.0712 of the Revised Code, except to the extent that division (L) of section 3313.61 of the Revised Code applies to the student.

(3) The student is not eligible to receive an honors diploma granted pursuant to division (B) of this section.

No diploma shall be granted under this division to anyone except as provided under this division.

(B) In lieu of a diploma granted under division (A) of this section, the superintendent of the state school for the blind and the superintendent of the state school for the deaf shall grant an honors diploma, in the same manner that the boards of education of school districts grant such diplomas under division (B) of section 3313.61 of the Revised Code, to any student enrolled in one of these state schools who accomplishes all of the following:

(1) Successfully completes the individualized education program developed for the student for the student's high school education pursuant to section 3323.08 of the Revised Code;

(2) Subject to section 3313.614 of the Revised Code, has met the assessment requirements of division (B)(2)(a) or (b) of this section, as applicable.

(a) If the student entered the ninth grade prior to the date prescribed by rule of the state board under division (E)(2) of section 3301.0712 of the Revised Code, the student either:

~~(a)~~(i) Has attained at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the ~~tests~~ assessments prescribed under that division;

~~(b)~~(ii) Has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code.

(b) If the student entered the ninth grade on or after the date prescribed by rule of the state board under division (E)(2) of section 3301.0712 of the Revised Code, the student has attained on the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code at least the required passing composite score, designated under division (C)(1) of section 3301.0712 of the Revised Code.

(3) Has met additional criteria for granting an honors diploma.

These additional criteria shall be the same as those prescribed by the state board under division (B) of section 3313.61 of the Revised Code for the granting of such diplomas by school districts. No honors diploma shall be granted to anyone failing to comply with this division and not more than one honors diploma shall be granted to any student under this division.

(C) A diploma or honors diploma awarded under this section shall be signed by the superintendent of public instruction and the superintendent of the state school for the blind or the superintendent of the state school for the deaf, as applicable. Each diploma shall bear the date of its issue and be in

such form as the school superintendent prescribes.

(D) Upon granting a diploma to a student under this section, the superintendent of the state school in which the student is enrolled shall provide notice of receipt of the diploma to the board of education of the school district where the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code when not residing at the state school for the blind or the state school for the deaf. The notice shall indicate the type of diploma granted.

Sec. 3326.02. There is hereby established a STEM ~~subcommittee of the partnership for continued learning~~ committee consisting of the following members:

- (A) The superintendent of public instruction;
- (B) The chancellor of the Ohio board of regents;
- (C) The director of development;

(D) Four members of the public, two of whom shall be appointed by the governor, one of whom shall be appointed by the speaker of the house of representatives, and one of whom shall be appointed by the president of the senate. Members of the public shall be appointed based on their expertise in business or in STEM fields ~~and shall not be at large members of the partnership for continued learning~~. The initial members of the ~~subcommittee~~ committee shall be appointed under division (D) of this section not later than forty-five days after ~~the effective date of this section~~ June 30, 2007.

All members of the ~~subcommittee~~ committee appointed under division (D) of this section shall serve at the pleasure of their appointing authority.

Members of the ~~subcommittee~~ committee shall receive no compensation for their services. The department of education shall provide administrative support for the committee.

Sec. 3326.03. (A) The STEM ~~subcommittee~~ committee shall authorize the establishment of and award grants to science, technology, engineering, and mathematics schools through a request for proposals.

The STEM ~~subcommittee~~ committee may approve up to five STEM schools to operate under this chapter in the school year that begins July 1, 2008. The limit prescribed in this paragraph does not affect the number of schools that may be approved for operation in subsequent school years.

No STEM school established under this chapter may open for instruction earlier than July 1, 2008.

The ~~subcommittee~~ committee shall determine the criteria for the proposals, accept and evaluate the proposals, and choose which proposals to approve to become a STEM school and to receive grants. In approving proposals for STEM schools, the ~~subcommittee~~ committee shall consider

locating the schools in diverse geographic regions of the state so that all students have access to a STEM school.

(B) Proposals may be submitted only by a partnership of public and private entities consisting of at least all of the following:

- (1) A city, exempted village, local, or joint vocational school district;
- (2) Higher education entities;
- (3) Business organizations.

(C) Each proposal shall include at least the following:

(1) Assurances that the STEM school will be under the oversight of a governing body and a description of the members of that governing body and how they will be selected;

(2) Assurances that the STEM school will operate in compliance with this chapter and the provisions of the proposal as accepted by the ~~subcommittee~~ committee;

(3) Evidence that the school will offer a rigorous, diverse, integrated, and project-based curriculum to students in any of grades six through twelve, with the goal to prepare those students for college, the workforce, and citizenship, and that does all of the following:

- (a) Emphasizes the role of science, technology, engineering, and mathematics in promoting innovation and economic progress;
- (b) Incorporates scientific inquiry and technological design;
- (c) Includes the arts and humanities;
- (d) Emphasizes personalized learning and teamwork skills.

(4) Evidence that the school will attract school leaders who support the curriculum principles of division (C)(3) of this section;

(5) A description of how the school's curriculum will be developed and approved in accordance with section 3326.09 of the Revised Code;

(6) Evidence that the school will utilize an established capacity to capture and share knowledge for best practices and innovative professional development;

(7) Evidence that the school will operate in collaboration with a partnership that includes institutions of higher education and businesses;

(8) Assurances that the school has received commitments of sustained and verifiable fiscal and in-kind support from regional education and business entities;

(9) A description of how the school's assets will be distributed if the school closes for any reason.

Sec. 3326.04. (A) The STEM ~~subcommittee~~ committee shall award grants to support the operation of STEM programs of excellence to serve students in any of grades kindergarten through eight through a request for

proposals.

(B) Proposals may be submitted by any of the following:

(1) The board of education of a city, exempted village, or local school district;

(2) The governing authority of a community school established under Chapter 3314. of the Revised Code.

(C) Each proposal shall demonstrate to the satisfaction of the STEM ~~subcommittee~~ committee that the program meets at least the following standards:

(1) The program will serve all students enrolled in the district or school in the grades for which the program is designed.

(2) The program will offer a rigorous and diverse curriculum that is based on scientific inquiry and technological design, that emphasizes personalized learning and teamwork skills, and that will expose students to advanced scientific concepts within and outside the classroom.

(3) The program will not limit participation of students on the basis of intellectual ability, measures of achievement, or aptitude.

(4) The program will utilize an established capacity to capture and share knowledge for best practices and innovative professional development.

(5) The program will operate in collaboration with a partnership that includes institutions of higher education and businesses.

(6) The program will include teacher professional development strategies that are augmented by community and business partners.

(D) The STEM ~~subcommittee~~ committee shall give priority to proposals for new or expanding innovative programs.

Sec. 3326.05. The ~~partnership for continued learning, through the~~ STEM ~~subcommittee,~~ committee may make recommendations to the general assembly and the governor for the training of STEM educators.

Sec. 3326.06. The ~~partnership for continued learning, through the~~ STEM ~~subcommittee,~~ committee shall work with an Ohio-based nonprofit enterprise selected by the ~~subcommittee~~ committee to support the strategic and operational coordination of public and private STEM education initiatives and resources focused on curriculum development, instruction, assessment, teacher quality enhancement, leadership recruitment and training, and community engagement. The nonprofit enterprise selected by the STEM ~~subcommittee~~ committee shall have the proven ability to accumulate resources to enhance education quality across the educational continuum, from preschool to college, shall have experience in large-scale management of science and technology resources, and shall have a documented institutional mission to advance STEM education.

Sec. 3326.07. Each science, technology, engineering, and mathematics school established under this chapter is a public school, is part of the state's program of education, and may continue in operation for as long as the school is in compliance with the provisions of this chapter and with the proposal for its establishment as approved by the STEM ~~subcommittee~~ committee. If the school closes for any reason, its assets shall be distributed in the manner provided in the proposal for its establishment as required by division (C)(9) of section 3326.03 of the Revised Code.

Sec. 3326.08. (A) The governing body of each science, technology, engineering, and mathematics school shall employ and fix the compensation for the administrative officers, teachers, and nonteaching employees of the STEM school necessary for the school to carry out its mission and shall oversee the operations of the school. The governing body of each STEM school shall employ a chief administrative officer to serve as the school's instructional and administrative leader. The chief administrative officer shall be granted the authority to oversee the recruitment, retention, and employment of teachers and nonteaching employees.

(B) The department of education shall monitor the oversight of each STEM school exercised by the school's governing body and shall monitor the school's compliance with this chapter and with the proposal for the establishment of the school as it was approved by the STEM ~~subcommittee of the partnership for continued learning~~ committee under section 3326.04 of the Revised Code. If the department finds that the school is not in compliance with this chapter or with the proposal, the department shall consult with the STEM ~~subcommittee~~ committee, and the ~~subcommittee~~ committee may order the school to close on the last day of the school year in which the ~~subcommittee~~ committee issues its order.

(C) The governing body of each STEM school shall comply with sections 121.22 and 149.43 of the Revised Code.

Sec. 3326.11. Each science, technology, engineering, and mathematics school established under this chapter and its governing body shall comply with sections 9.90, 9.91, 109.65, 121.22, 149.43, 2151.357, 2151.421, 2313.18, 2921.42, 2921.43, ~~3301.0712~~, 3301.0714, 3301.0715, 3313.14, 3313.15, 3313.16, 3313.18, 3313.201, 3313.26, 3313.472, 3313.48, 3313.481, 3313.482, 3313.50, 3313.536, 3313.608, 3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.61, 3313.611, 3313.614, 3313.615, 3313.643, 3313.648, 3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.718, 3313.719, 3313.80, 3313.801, 3313.86, 3313.96, 3319.073, 3319.21, 3319.32, 3319.321, 3319.35, 3319.39, 3319.391, 3319.41, 3319.45, 3321.01,

~~3321.041~~, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and Chapters 102., 117., 1347., 2744., 3307., 3309., 3365., 3742., 4112., 4123., 4141., and 4167. of the Revised Code as if it were a school district.

Sec. 3326.14. Each science, technology, engineering, and mathematics school and its governing body shall administer the ~~tests~~ assessments required by sections 3301.0710 ~~and~~, 3301.0711, and 3301.0712 of the Revised Code, as if it were a school district, except that, notwithstanding any provision of those sections to the contrary, any student enrolled in a grade lower than the tenth grade in a STEM school may take one or more of the Ohio graduation tests prescribed under division (B)(1) of section 3301.0710 of the Revised Code on any of the dates prescribed ~~in division (C)(3) of that section~~ for that assessment.

Sec. 3326.20. (A) As used in this section, "native student" means a student entitled to attend school in the school district under section 3313.64 or 3313.65 of the Revised Code.

(B) Unless the proposal for the establishment of a science, technology, engineering, and mathematics school, as it was approved by the ~~STEM subcommittee of the partnership for continued learning committee~~ under section 3326.03 of the Revised Code, otherwise provides for the transportation of students to and from the STEM school, the board of education of each city, local, and exempted village school district shall provide transportation to and from school for its district's native students enrolled in the STEM school in the same manner that section 3327.01 of the Revised Code requires for its native students enrolled in nonpublic schools.

Sec. 3326.23. The governing body of each science, technology, engineering, and mathematics school annually shall provide the following assurances in writing to the department of education not later than ten business days prior to the opening of the school:

(A) That the school has a plan for providing special education and related services to students with disabilities and has demonstrated the capacity to provide those services in accordance with Chapter 3323. of the Revised Code and federal law;

(B) That the school has a plan and procedures for administering the achievement ~~tests~~ and diagnostic assessments prescribed by sections 3301.0710, ~~3301.0712~~, and 3301.0715 of the Revised Code;

(C) That school personnel have the necessary training, knowledge, and resources to properly use and submit information to all databases maintained by the department for the collection of education data, including the education management information system established under section

3301.0714 of the Revised Code;

(D) That all required information about the school has been submitted to the Ohio education directory system or any successor system;

(E) That all classroom teachers are licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code or are engaged to teach pursuant to section 3319.301 of the Revised Code;

(F) That the school's treasurer is in compliance with section 3326.21 of the Revised Code;

(G) That the school has complied with sections 3319.39 and 3319.391 of the Revised Code with respect to all employees and that the school has conducted a criminal records check of each of its governing body members;

(H) That the school holds all of the following:

(1) Proof of property ownership or a lease for the facilities used by the school;

(2) A certificate of occupancy;

(3) Liability insurance for the school, as required by section 3326.11 of the Revised Code;

(4) A satisfactory health and safety inspection;

(5) A satisfactory fire inspection;

(6) A valid food permit, if applicable.

(I) That the governing body has conducted a pre-opening site visit to the school for the school year for which the assurances are provided;

(J) That the school has designated a date it will open for the school year for which the assurances are provided;

(K) That the school has met all of the governing body's requirements for opening and any other requirements of the governing body.

Sec. 3326.33. ~~For~~ Payments and deductions under this section for fiscal years 2010 and 2011 shall be made in accordance with section 3326.39 of the Revised Code.

For each student enrolled in a science, technology, engineering, and mathematics school established under this chapter, the department of education annually shall deduct from the state education aid of a student's resident school district and, if necessary, from the payment made to the district under sections 321.24 and 323.156 of the Revised Code and pay to the school the sum of the following:

(A) The sum of the formula amount plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code.

(B) If the student is receiving special education and related services pursuant to an IEP, the product of the applicable special education weight

times the formula amount;

(C) If the student is enrolled in vocational education programs or classes that are described in section 3317.014 of the Revised Code, are provided by the school, and are comparable as determined by the superintendent of public instruction to school district vocational education programs and classes eligible for state weighted funding under section 3317.014 of the Revised Code, the product of the applicable vocational education weight times the formula amount times the percentage of time the student spends in the vocational education programs or classes;

(D) If the student is included in the poverty student count of the student's resident district, the per pupil amount of the district's payment under division (C) of section 3317.029 of the Revised Code;

(E) If the student is identified as limited English proficient and the student's resident district receives a payment for services to limited English proficient students under division (F) of section 3317.029 of the Revised Code, the per pupil amount of the district's payment under that division, calculated in the same manner as per pupil payments are calculated under division (C)(6) of section 3314.08 of the Revised Code;

(F) If the student's resident district receives a payment under division (G), (H), or (I) of section 3317.029 of the Revised Code, the per pupil amount of the district's payments under each division, calculated in the same manner as per pupil payments are calculated under divisions (C)(7) and (8) of section 3314.08 of the Revised Code;

(G) If the student's resident district receives a parity aid payment under section 3317.0217 of the Revised Code, the per pupil amount calculated for the district under division (C) or (D) of that section.

Sec. 3326.36. The department of education shall reduce the amounts paid to a science, technology, engineering, and mathematics school under section 3326.33 of the Revised Code to reflect payments made to colleges under division (B) of section 3365.07 of the Revised Code or through alternative funding agreements entered into under rules adopted under section 3365.12 of the Revised Code. A student shall be considered enrolled in the school for any portion of the school year the student is attending a college under Chapter 3365. of the Revised Code.

Sec. 3326.37. The department of education shall not pay to a science, technology, engineering, and mathematics school any amount for any of the following:

(A) Any student who has graduated from the twelfth grade of a public or nonpublic school;

(B) Any student who is not a resident of the state;

(C) Any student who was enrolled in a STEM school during the previous school year when ~~tests~~ assessments were administered under section 3301.0711 of the Revised Code but did not take one or more of the ~~tests~~ assessments required by that section and was not excused pursuant to division (C)(1) or (3) of that section, unless the superintendent of public instruction grants the student a waiver from the requirement to take the ~~test~~ assessment. The superintendent may grant a waiver only for good cause in accordance with rules adopted by the state board of education.

(D) Any student who has attained the age of twenty-two years, except for veterans of the armed services whose attendance was interrupted before completing the recognized twelve-year course of the public schools by reason of induction or enlistment in the armed forces and who apply for enrollment in a STEM school not later than four years after termination of war or their honorable discharge. If, however, any such veteran elects to enroll in special courses organized for veterans for whom tuition is paid under federal law, or otherwise, the department shall not pay to the school any amount for that veteran.

Sec. 3326.39. For purposes of applying sections 3326.31 to 3326.37 of the Revised Code to fiscal years 2010 and 2011:

(A) The formula amount for STEM schools for fiscal year 2010 is \$5,718, and for fiscal year 2011 is \$5,703. These respective amounts shall be applied wherein sections 3326.31 to 3326.37 of the Revised Code the formula amount is specified, except for deducting and paying amounts for special education weighted funding and vocational education weighted funding.

(B) The base funding supplements under section 3317.012 of the Revised Code shall be deemed in each year to be the amounts specified in that section for fiscal year 2009.

(C) Special education additional weighted funding shall be calculated by multiplying the applicable weight specified in section 3317.013 of the Revised Code for fiscal year 2009 times \$5,732.

(D) Vocational education additional weighted funding shall be calculated by multiplying the applicable weight specified in section 3317.014 of the Revised Code for fiscal year 2009 times \$5,732.

(E) The per pupil amounts paid to a school district under sections 3317.029 and 3317.0217 of the Revised Code shall be deemed to be the respective per pupil amounts paid under those sections to that district for fiscal year 2009.

Sec. 3326.51. (A) As used in this section:

(1) "Resident district" has the same meaning as in section 3326.31 of the

Revised Code.

(2) "STEM school sponsoring district" means a municipal, city, local, exempted village, or joint vocational school district that governs and controls a STEM school pursuant to this section.

(B) Notwithstanding any other provision of this chapter to the contrary:

(1) If a proposal for a STEM school submitted under section 3326.03 of the Revised Code proposes that the governing body of the school be the board of education of a municipal, city, local, exempted village, or joint vocational school district that is one of the partners submitting the proposal, and the ~~partnership for continued learning~~ STEM committee approves that proposal, that school district board shall govern and control the STEM school as one of the schools of its district.

(2) The STEM school sponsoring district shall maintain a separate accounting for the STEM school as a separate and distinct operational unit within the district's finances. The auditor of state, in the course of an annual or biennial audit of the school district serving as the STEM school sponsoring district, shall audit that school district for compliance with the financing requirements of this section.

(3) With respect to students enrolled in a STEM school whose resident district is the STEM school sponsoring district:

(a) The department of education shall make no deductions under section 3326.33 of the Revised Code from the STEM school sponsoring district's state payments.

(b) The STEM school sponsoring district shall ensure that it allocates to the STEM school funds equal to or exceeding the amount that would be calculated pursuant to division (B) of section 3313.981 of the Revised Code for the students attending the school whose resident district is the STEM school sponsoring district.

(c) The STEM school sponsoring district is responsible for providing children with disabilities with a free appropriate public education under Chapter 3323. of the Revised Code.

(d) The STEM school sponsoring district shall provide student transportation in accordance with laws and policies generally applicable to the district.

(4) With respect to students enrolled in the STEM school whose resident district is another school district, the department shall make no payments or deductions under sections 3326.31 to 3326.49 of the Revised Code. Instead, the students shall be considered as open enrollment students and the department shall make payments and deductions in accordance with section 3313.981 of the Revised Code. The STEM school sponsoring district shall

allocate the payments to the STEM school. The STEM school sponsoring district may enter into financial agreements with the students' resident districts, which agreements may provide financial support in addition to the funds received from the open enrollment calculation. The STEM school sponsoring district shall allocate all such additional funds to the STEM school.

(5) Where the department is required to make, deny, reduce, or adjust payments to a STEM school sponsoring district pursuant to this section, it shall do so in such a manner that the STEM school sponsoring district may allocate that action to the STEM school.

(6) A STEM school sponsoring district and its board may assign its district employees to the STEM school, in which case section 3326.18 of the Revised Code shall not apply. The district and board may apply any other resources of the district to the STEM school in the same manner that it applies district resources to other district schools.

(7) Provisions of this chapter requiring a STEM school and its governing body to comply with specified laws as if it were a school district and in the same manner as a board of education shall instead require such compliance by the STEM school sponsoring district and its board of education, respectively, with respect to the STEM school. Where a STEM school or its governing body is required to perform a specific duty or permitted to take a specific action under this chapter, that duty is required to be performed or that action is permitted to be taken by the STEM school sponsoring district or its board of education, respectively, with respect to the STEM school.

(8) No provision of this chapter limits the authority, as provided otherwise by law, of a school district and its board of education to levy taxes and issue bonds secured by tax revenues.

(9) The treasurer of the STEM school sponsoring district or, if the STEM school sponsoring district is a municipal school district, the chief financial officer of the district, shall have all of the respective rights, authority, exemptions, and duties otherwise conferred upon the treasurer or chief financial officer by the Revised Code.

Sec. 3327.02. (A) After considering each of the following factors, the board of education of a city, exempted village, or local school district may determine that it is impractical to transport a pupil who is eligible for transportation to and from a school under section 3327.01 of the Revised Code:

- (1) The time and distance required to provide the transportation;
- (2) The number of pupils to be transported;

(3) The cost of providing transportation in terms of equipment, maintenance, personnel, and administration;

(4) Whether similar or equivalent service is provided to other pupils eligible for transportation;

(5) Whether and to what extent the additional service unavoidably disrupts current transportation schedules;

(6) Whether other reimbursable types of transportation are available.

(B)(1) Based on its consideration of the factors established in division (A) of this section, the board may pass a resolution declaring the impracticality of transportation. The resolution shall include each pupil's name and the reason for impracticality.

(2) The board shall report its determination to the state board of education in a manner determined by the state board.

(3) The board of education of a local school district additionally shall submit the resolution for concurrence to the educational service center that contains the local district's territory. If the educational service center governing board considers transportation by school conveyance practicable, it shall so inform the local board and transportation shall be provided by such local board. If the educational service center board agrees with the view of the local board, the local board may offer payment in lieu of transportation as provided in this section.

(C) After passing the resolution declaring the impracticality of transportation, the district board shall offer to provide payment in lieu of transportation by doing the following:

(1) In accordance with guidelines established by the department of education, informing the pupil's parent, guardian, or other person in charge of the pupil of both of the following:

(a) The board's resolution;

(b) The right of the pupil's parent, guardian, or other person in charge of the pupil to accept the offer of payment in lieu of transportation or to reject the offer and instead request the department to initiate mediation procedures.

(2) Issuing the pupil's parent, guardian, or other person in charge of the pupil a contract or other form on which the parent, guardian, or other person in charge of the pupil is given the option to accept or reject the board's offer of payment in lieu of transportation.

(D) If the parent, guardian, or other person in charge of the pupil accepts the offer of payment in lieu of providing transportation, the board shall pay the parent, guardian, or other person in charge of the child an amount that shall be not less than the amount determined by the department of education as the minimum for payment in lieu of transportation, and not more than the

amount determined by the department as the average cost of pupil transportation for the previous school year. Payment may be prorated if the time period involved is only a part of the school year.

(E)(1)(a) Upon the request of a parent, guardian, or other person in charge of the pupil who rejected the payment in lieu of transportation, the department shall conduct mediation procedures.

(b) If the mediation does not resolve the dispute, the state board of education shall conduct a hearing in accordance with Chapter 119. of the Revised Code. The state board may approve the payment in lieu of transportation or may order the board of education to provide transportation. The decision of the state board is binding in subsequent years and on future parties in interest provided the facts of the determination remain comparable.

(2) The school district shall provide transportation for the pupil from the time the parent, guardian, or other person in charge of the pupil requests mediation until the matter is resolved under division (E)(1)(a) or (b) of this section.

(F)(1) If the department determines that a school district board has failed or is failing to provide transportation as required by division (E)(2) of this section or as ordered by the state board under division (E)(1)(b) of this section, the department shall order the school district board to pay to the pupil's parent, guardian, or other person in charge of the pupil, an amount equal to the state average daily cost of transportation as determined by the state board of education for the previous year. The school district board shall make payments on a schedule ordered by the department.

(2) If the department subsequently finds that a school district board is not in compliance with an order issued under division (F)(1) of this section and the affected pupils are enrolled in a nonpublic or community school, the department shall deduct the amount that the board is required to pay under that order from any payments the department makes to the school district board under ~~division (D) of section 3317.022~~ 3306.12 of the Revised Code. The department shall use the moneys so deducted to make payments to the nonpublic or community school attended by the pupil. The department shall continue to make the deductions and payments required under this division until the school district board either complies with the department's order issued under division (F)(1) of this section or begins providing transportation.

(G) A nonpublic or community school that receives payments from the department under division (F)(2) of this section shall do either of the following:

(1) Disburse the entire amount of the payments to the parent, guardian, or other person in control of the pupil affected by the failure of the school district of residence to provide transportation;

(2) Use the entire amount of the payments to provide acceptable transportation for the affected pupil.

Sec. 3327.04. (A) The board of education of any city, exempted village, or local school district may contract with the board of another district for the admission or transportation, or both, of pupils into any school in such other district, on terms agreed upon by such boards.

(B) The boards of two school districts may enter into a contract under this section to share the provision of transportation to a child who resides in one school district and attends school in the other district. Under such an agreement, one district may claim the total transportation subsidy available for such child under ~~division (D) of section 3317.022~~ 3306.12 of the Revised Code and may agree to pay any portion of such subsidy to the other district sharing the provision of transportation to that child. The contract shall delineate the transportation responsibilities of each district.

A school district that enters into a contract under this section is not liable for any injury, death, or loss to the person or property of a student that may occur while the student is being furnished transportation by the other school district that is a party to the contract.

(C) Whenever a board not maintaining a high school enters into an agreement with one or more boards maintaining such school for the schooling of all its high school pupils, the board making such agreement is exempt from the payment of tuition at other high schools of pupils living within three miles of the school designated in the agreement. In case no such agreement is entered into, the high school to be attended can be selected by the pupil holding an eighth grade diploma, and the tuition shall be paid by the board of the district of school residence.

Sec. 3327.05. (A) Except as provided in division (B) of this section, no board of education of any school district shall provide transportation for any pupil who is a school resident of another school district unless the pupil is enrolled pursuant to section 3313.98 of the Revised Code or the board of the other district has given its written consent thereto. If the board of any school district files with the state board of education a written complaint that transportation for resident pupils is being provided by the board of another school district contrary to this division, the state board of education shall make an investigation of such complaint. If the state board of education finds that transportation is being provided contrary to this section, it may withdraw from state funds due the offending district any part of the amount

that has been approved for transportation pursuant to ~~division (D) of section 3317.022~~ 3306.12 of the Revised Code.

(B) Notwithstanding division (D) of section 3311.19 and division (D) of section 3311.52 of the Revised Code, this division does not apply to any joint vocational or cooperative education school district.

A board of education may provide transportation to and from the nonpublic school of attendance if both of the following apply:

(1) The parent, guardian, or other person in charge of the pupil agrees to pay the board for all costs incurred in providing the transportation that are not reimbursed pursuant to Chapter 3306. or 3317. of the Revised Code;

(2) The pupil's school district of residence does not provide transportation for public school pupils of the same grade as the pupil being transported under this division, or that district is not required under section 3327.01 of the Revised Code to transport the pupil to and from the nonpublic school because the direct travel time to the nonpublic school is more than thirty minutes.

Upon receipt of the request to provide transportation, the board shall review the request and determine whether the board will accommodate the request. If the board agrees to transport the pupil, the board may transport the pupil to and from the nonpublic school and a collection point in the district, as determined by the board. If the board transports the pupil, the board may include the pupil in the district's transportation ADM reported to the department of education under section 3317.03 of the Revised Code and, accordingly, may receive a state payment under ~~division (D) of section 3317.022~~ 3306.12 of the Revised Code for transporting the pupil.

If the board declines to transport the pupil, the board, in a written communication to the parent, guardian, or other person in charge of the pupil, shall state the reasons for declining the request.

Sec. 3327.10. (A) No person shall be employed as driver of a school bus or motor van, owned and operated by any school district or educational service center or privately owned and operated under contract with any school district or service center in this state, who has not received a certificate from the educational service center governing board in case such person is employed by a service center or by a local school district under the supervision of the service center governing board, or by the superintendent of schools, in case such person is employed by the board of a city or exempted village school district, certifying that such person is at least eighteen years of age and is of good moral character and is qualified physically and otherwise for such position. The service center governing board or the superintendent, as the case may be, shall provide for an annual

physical examination that conforms with rules adopted by the state board of education of each driver to ascertain the driver's physical fitness for such employment. Any certificate may be revoked by the authority granting the same on proof that the holder has been guilty of failing to comply with division (D)(1) of this section, or upon a conviction or a guilty plea for a violation, or any other action, that results in a loss or suspension of driving rights. Failure to comply with such division may be cause for disciplinary action or termination of employment under division (C) of section 3319.081, or section 124.34 of the Revised Code.

(B) No person shall be employed as driver of a school bus or motor van not subject to the rules of the department of education pursuant to division (A) of this section who has not received a certificate from the school administrator or contractor certifying that such person is at least eighteen years of age, is of good moral character, and is qualified physically and otherwise for such position. Each driver shall have an annual physical examination which conforms to the state highway patrol rules, ascertaining the driver's physical fitness for such employment. The examination shall be performed by one of the following:

- (1) A person licensed under Chapter 4731. of the Revised Code or by another state to practice medicine and surgery or osteopathic medicine and surgery;
- (2) A physician assistant;
- (3) A certified nurse practitioner;
- (4) A clinical nurse specialist;
- (5) A certified nurse-midwife.

Any written documentation of the physical examination shall be completed by the individual who performed the examination.

Any certificate may be revoked by the authority granting the same on proof that the holder has been guilty of failing to comply with division (D)(2) of this section.

(C) Any person who drives a school bus or motor van must give satisfactory and sufficient bond except a driver who is an employee of a school district and who drives a bus or motor van owned by the school district.

(D) No person employed as driver of a school bus or motor van under this section who is convicted of a traffic violation or who has had the person's commercial driver's license suspended shall drive a school bus or motor van until the person has filed a written notice of the conviction or suspension, as follows:

- (1) If the person is employed under division (A) of this section, the

person shall file the notice with the superintendent, or a person designated by the superintendent, of the school district for which the person drives a school bus or motor van as an employee or drives a privately owned and operated school bus or motor van under contract.

(2) If employed under division (B) of this section, the person shall file the notice with the employing school administrator or contractor, or a person designated by the administrator or contractor.

(E) In addition to resulting in possible revocation of a certificate as authorized by divisions (A) and (B) of this section, violation of division (D) of this section is a minor misdemeanor.

(F)(1) Not later than thirty days after June 30, 2007, each owner of a school bus or motor van shall obtain the complete driving record for each person who is currently employed or otherwise authorized to drive the school bus or motor van. An owner of a school bus or motor van shall not permit a person to operate the school bus or motor van for the first time before the owner has obtained the person's complete driving record. Thereafter, the owner of a school bus or motor van shall obtain the person's driving record not less frequently than semiannually if the person remains employed or otherwise authorized to drive the school bus or motor van. An owner of a school bus or motor van shall not permit a person to resume operating a school bus or motor van, after an interruption of one year or longer, before the owner has obtained the person's complete driving record.

(2) The owner of a school bus or motor van shall not permit a person to operate the school bus or motor van for six years after the date on which the person pleads guilty to or is convicted of a violation of section 4511.19 of the Revised Code or a substantially equivalent municipal ordinance.

(3) An owner of a school bus or motor van shall not permit any person to operate such a vehicle unless the person meets all other requirements contained in rules adopted by the state board of education prescribing qualifications of drivers of school buses and other student transportation.

(G) No superintendent of a school district, educational service center, community school, or public or private employer shall permit the operation of a vehicle used for pupil transportation within this state by an individual unless both of the following apply:

(1) Information pertaining to that driver has been submitted to the department of education, pursuant to procedures adopted by that department. Information to be reported shall include the name of the employer or school district, name of the driver, driver license number, date of birth, date of hire, status of physical evaluation, and status of training.

(2) The most recent criminal records check required by division (J) of

this section, ~~including information from the federal bureau of investigation,~~ has been completed and received by the superintendent or public or private employer.

(H) A person, school district, educational service center, community school, nonpublic school, or other public or nonpublic entity that owns a school bus or motor van, or that contracts with another entity to operate a school bus or motor van, may impose more stringent restrictions on drivers than those prescribed in this section, in any other section of the Revised Code, and in rules adopted by the state board.

(I) For qualified drivers who, on July 1, 2007, are employed by the owner of a school bus or motor van to drive the school bus or motor van, any instance in which the driver was convicted of or pleaded guilty to a violation of section 4511.19 of the Revised Code or a substantially equivalent municipal ordinance prior to two years prior to July 1, 2007, shall not be considered a disqualifying event with respect to division (F) of this section.

(J)(1) This division applies to persons hired by a school district, educational service center, community school, chartered nonpublic school, or science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code to operate a vehicle used for pupil transportation.

For each person to whom this division applies who is hired on or after November 14, 2007, the employer shall request a criminal records check in accordance with section 3319.39 of the Revised Code and every six years thereafter. For each person to whom this division applies who is hired prior to that date, the employer shall request a criminal records check by a date prescribed by the department of education and every six years thereafter.

(2) This division applies to persons hired by a public or private employer not described in division (J)(1) of this section to operate a vehicle used for pupil transportation.

For each person to whom this division applies who is hired on or after November 14, 2007, the employer shall request a criminal records check prior to the person's hiring and every six years thereafter. For each person to whom this division applies who is hired prior to that date, the employer shall request a criminal records check by a date prescribed by the department and every six years thereafter.

(3) Each request for a criminal records check under division (J) of this section shall be made to the superintendent of the bureau of criminal identification and investigation in the manner prescribed in section 3319.39 of the Revised Code, except that if both of the following conditions apply to

the person subject to the records check, the employer shall request the superintendent only to obtain any criminal records that the federal bureau of investigation has on the person:

(a) The employer previously requested the superintendent to determine whether the bureau of criminal identification and investigation has any information, gathered pursuant to division (A) of section 109.57 of the Revised Code, on the person in conjunction with a criminal records check requested under section 3319.39 of the Revised Code or under division (J) of this section.

(b) The person presents proof that the person has been a resident of this state for the five-year period immediately prior to the date upon which the person becomes subject to a criminal records check under this section. Upon

Upon receipt of a request, the ~~bureau~~ superintendent shall conduct the criminal records check in accordance with section 109.572 of the Revised Code as if the request had been made under section 3319.39 of the Revised Code. However, as specified in division (B)(2) of section 109.572 of the Revised Code, if the employer requests the superintendent only to obtain any criminal records that the federal bureau of investigation has on the person for whom the request is made, the superintendent shall not conduct the review prescribed by division (B)(1) of that section.

(K) Any person who is the subject of a criminal records check under division (J) of this section and has been convicted of or pleaded guilty to any offense described in division (C) of section 3319.31 of the Revised Code shall not be hired or shall be released from employment.

Sec. 3329.16. If the superintendent of public instruction determines that a school district has expended for other purposes any moneys appropriated by the general assembly for the specific purpose of purchasing textbooks or other instructional materials, the superintendent shall notify the school district of this determination within seven days and shall deduct the amount so expended from payments otherwise due to the district under Chapter 3306. or 3317. of the Revised Code.

Sec. 3333.04. The chancellor of the Ohio board of regents shall:

(A) Make studies of state policy in the field of higher education and formulate a master plan for higher education for the state, considering the needs of the people, the needs of the state, and the role of individual public and private institutions within the state in fulfilling these needs;

(B)(1) Report annually to the governor and the general assembly on the findings from the chancellor's studies and the master plan for higher education for the state;

(2) Report at least semiannually to the general assembly and the

governor the enrollment numbers at each state-assisted institution of higher education.

(C) Approve or disapprove the establishment of new branches or academic centers of state colleges and universities;

(D) Approve or disapprove the establishment of state technical colleges or any other state institution of higher education;

(E) Recommend the nature of the programs, undergraduate, graduate, professional, state-financed research, and public services which should be offered by the state colleges, universities, and other state-assisted institutions of higher education in order to utilize to the best advantage their facilities and personnel;

(F) Recommend to the state colleges, universities, and other state-assisted institutions of higher education graduate or professional programs, including, but not limited to, doctor of philosophy, doctor of education, and juris doctor programs, that could be eliminated because they constitute unnecessary duplication, as shall be determined using the process developed pursuant to this division, or for other good and sufficient cause. Prior to recommending a program for elimination, the chancellor shall request the board of regents to hold at least one public hearing on the matter and advise the chancellor on whether the program should be recommended for elimination. The board shall provide notice of each hearing within a reasonable amount of time prior to its scheduled date. Following the hearing, the board shall issue a recommendation to the chancellor. The chancellor shall consider the board's recommendation but shall not be required to accept it.

For purposes of determining the amounts of any state instructional subsidies paid to state colleges, universities, and other state-assisted institutions of higher education, the chancellor may exclude students enrolled in any program that the chancellor has recommended for elimination pursuant to this division except that the chancellor shall not exclude any such student who enrolled in the program prior to the date on which the chancellor initially commences to exclude students under this division.

The chancellor and state colleges, universities, and other state-assisted institutions of higher education shall jointly develop a process for determining which existing graduate or professional programs constitute unnecessary duplication.

(G) Recommend to the state colleges, universities, and other state-assisted institutions of higher education programs which should be added to their present programs;

(H) Conduct studies for the state colleges, universities, and other state-assisted institutions of higher education to assist them in making the best and most efficient use of their existing facilities and personnel;

(I) Make recommendations to the governor and general assembly concerning the development of state-financed capital plans for higher education; the establishment of new state colleges, universities, and other state-assisted institutions of higher education; and the establishment of new programs at the existing state colleges, universities, and other institutions of higher education;

(J) Review the appropriation requests of the public community colleges and the state colleges and universities and submit to the office of budget and management and to the chairpersons of the finance committees of the house of representatives and of the senate the chancellor's recommendations in regard to the biennial higher education appropriation for the state, including appropriations for the individual state colleges and universities and public community colleges. For the purpose of determining the amounts of instructional subsidies to be paid to state-assisted colleges and universities, the chancellor shall define "full-time equivalent student" by program per academic year. The definition may take into account the establishment of minimum enrollment levels in technical education programs below which support allowances will not be paid. Except as otherwise provided in this section, the chancellor shall make no change in the definition of "full-time equivalent student" in effect on November 15, 1981, which would increase or decrease the number of subsidy-eligible full-time equivalent students, without first submitting a fiscal impact statement to the president of the senate, the speaker of the house of representatives, the legislative service commission, and the director of budget and management. The chancellor shall work in close cooperation with the director of budget and management in this respect and in all other matters concerning the expenditures of appropriated funds by state colleges, universities, and other institutions of higher education.

(K) Seek the cooperation and advice of the officers and trustees of both public and private colleges, universities, and other institutions of higher education in the state in performing the chancellor's duties and making the chancellor's plans, studies, and recommendations;

(L) Appoint advisory committees consisting of persons associated with public or private secondary schools, members of the state board of education, or personnel of the state department of education;

(M) Appoint advisory committees consisting of college and university personnel, or other persons knowledgeable in the field of higher education,

or both, in order to obtain their advice and assistance in defining and suggesting solutions for the problems and needs of higher education in this state;

(N) Approve or disapprove all new degrees and new degree programs at all state colleges, universities, and other state-assisted institutions of higher education;

(O) Adopt such rules as are necessary to carry out the chancellor's duties and responsibilities. The rules shall prescribe procedures for the chancellor to follow when taking actions associated with the chancellor's duties and responsibilities and shall indicate which types of actions are subject to those procedures. The procedures adopted under this division shall be in addition to any other procedures prescribed by law for such actions. However, if any other provision of the Revised Code or rule adopted by the chancellor prescribes different procedures for such an action, the procedures adopted under this division shall not apply to that action to the extent they conflict with the procedures otherwise prescribed by law. The procedures adopted under this division shall include at least the following:

- (1) Provision for public notice of the proposed action;
- (2) An opportunity for public comment on the proposed action, which may include a public hearing on the action by the board of regents;
- (3) Methods for parties that may be affected by the proposed action to submit comments during the public comment period;
- (4) Submission of recommendations from the board of regents regarding the proposed action, at the request of the chancellor;
- (5) Written publication of the final action taken by the chancellor and the chancellor's rationale for the action;
- (6) A timeline for the process described in divisions (O)(1) to (5) of this section.

(P) Establish and submit to the governor and the general assembly a clear and measurable set of goals and timetables for their achievement for each program under the chancellor's supervision that is designed to accomplish any of the following:

- (1) Increased access to higher education;
- (2) Job training;
- (3) Adult literacy;
- (4) Research;
- (5) Excellence in higher education;
- (6) Reduction in the number of graduate programs within the same subject area.

In July of each odd-numbered year, the chancellor shall submit to the

governor and the general assembly a report on progress made toward these goals.

(Q) Make recommendations to the governor and the general assembly regarding the design and funding of the student financial aid programs specified in sections 3333.12, 3333.122, 3333.21 to ~~3333.27~~ 3333.26, and 5910.02 of the Revised Code;

(R) Participate in education-related state or federal programs on behalf of the state and assume responsibility for the administration of such programs in accordance with applicable state or federal law;

(S) Adopt rules for student financial aid programs as required by sections 3333.12, 3333.122, 3333.21 to ~~3333.27~~ 3333.26, 3333.28, and 5910.02 of the Revised Code, and perform any other administrative functions assigned to the chancellor by those sections;

(T) Conduct enrollment audits of state-supported institutions of higher education;

(U) Appoint consortia of college and university personnel to advise or participate in the development and operation of statewide collaborative efforts, including the Ohio supercomputer center, the Ohio academic resources network, OhioLink, and the Ohio learning network. For each consortium, the chancellor shall designate a college or university to serve as that consortium's fiscal agent, financial officer, and employer. Any funds appropriated for the consortia shall be distributed to the fiscal agents for the operation of the consortia. A consortium shall follow the rules of the college or university that serves as its fiscal agent. The chancellor may restructure existing consortia, appointed under this division, in accordance with procedures adopted under divisions (D)(1) to (6) of this section.

(V) Adopt rules establishing advisory duties and responsibilities of the board of regents not otherwise prescribed by law;

(W) Respond to requests for information about higher education from members of the general assembly and direct staff to conduct research or analysis as needed for this purpose.

Sec. 3333.048. (A) Not later than one year after the effective date of this section, the chancellor of the Ohio board of regents and the superintendent of public instruction jointly shall do the following:

(1) In accordance with Chapter 119. of the Revised Code, establish metrics and educator preparation programs for the preparation of educators and other school personnel and the institutions of higher education that are engaged in their preparation. The metrics and educator preparation programs shall be aligned with the standards and qualifications for educator licenses adopted by the state board of education under section 3319.22 of the

Revised Code and the requirements of the Ohio teacher residency program established under section 3319.223 of the Revised Code. The metrics and educator preparation programs also shall ensure that educators and other school personnel are adequately prepared to use the value-added progress dimension prescribed by section 3302.021 of the Revised Code.

(2) Provide for the inspection of institutions of higher education desiring to prepare educators and other school personnel.

(B) Not later than one year after the effective date of this section, the chancellor shall approve institutions of higher education engaged in the preparation of educators and other school personnel that maintain satisfactory training procedures and records of performance, as determined by the chancellor.

(C) If the metrics established under division (A)(1) of this section require an institution of higher education that prepares teachers to satisfy the standards of an independent accreditation organization, the chancellor shall permit each institution to satisfy the standards of either the national council for accreditation of teacher education or the teacher education accreditation council.

(D) The metrics and educator preparation programs established under division (A)(1) of this section may require an institution of higher education, as a condition of approval by the chancellor, to make changes in the curricula of its preparation programs for educators and other school personnel.

Notwithstanding division (D) of section 119.03 and division (A)(1) of section 119.04 of the Revised Code, any metrics, educator preparation programs, rules, and regulations, or any amendment or rescission of such metrics, educator preparation programs, rules, and regulations, adopted under this section that necessitate institutions offering preparation programs for educators and other school personnel approved by the chancellor to revise the curricula of those programs shall not be effective for at least one year after the first day of January next succeeding the publication of the said change.

Each institution shall allocate money from its existing appropriations to pay the cost of making the curricular changes.

(E) The chancellor shall notify the state board of the metrics and educator preparation programs established under division (A)(1) of this section and the institutions of higher education approved under division (B) of this section. The state board shall publish the metrics, educator preparation programs, and approved institutions with the standards and qualifications for each type of educator license.

(F) The graduates of institutions of higher education approved by the chancellor shall be licensed by the state board in accordance with the standards and qualifications adopted under section 3319.22 of the Revised Code.

~~Sec. 3319.233~~ 3333.049. ~~The state board of education~~ chancellor of the Ohio board of regents, in collaboration with the ~~Ohio board of regents~~ state board of education, shall issue an annual report on the quality of institutions approved for the preparation of teachers pursuant to section ~~3319.23~~ 3333.048 of the Revised Code. ~~The state board~~ chancellor shall prepare the report in collaboration with the ~~state~~ board of regents and the teacher quality partnership and shall use data collected by the partnership and other educational agencies as the basis for the information contained in the report. The report shall include at least the following information:

(A) Identification of best practices in the preparation of teachers drawn from research conducted by the teacher quality partnership and other regional and national educational research efforts;

(B) A plan for implementing best practices in approved teacher preparation institutions;

(C) The number of graduates of approved teacher preparation institutions who graduated with a subject area specialty and teach grades seven through twelve. The number shall be disaggregated according to the subject areas of mathematics, science, foreign language, special education and related services, and any other subject area determined by the ~~state board~~ chancellor.

(D) A plan to be implemented by the teacher preparation programs approved by the ~~state board~~ chancellor under section ~~3319.23~~ 3333.048 of the Revised Code for increasing the number of classroom teachers in science, mathematics, and foreign language toward meeting the identified needs for teachers in those subject areas throughout the state but especially in hard-to-staff schools.

The ~~state board~~ chancellor shall submit the report to the governor, the speaker and minority leader of the house of representatives, the president and minority leader of the senate, the chairpersons and ranking minority members of the standing committees of the house of representatives and the senate that consider education legislation, and the ~~chancellor of the~~ state board of regents.

~~Sec. 3333.122. (A) As used in this section:~~

~~(1) "Eligible student" means a student who is:~~

~~(a) An Ohio resident who first enrolls in an undergraduate program in the 2006-2007 academic year or thereafter;~~

~~(b) If the student first enrolled in an undergraduate program in the 2006-2007 or 2007-2008 academic year, the student is enrolled in one of the following:~~

~~(i) An accredited institution of higher education in this state that meets the requirements of Title VI of the Civil Rights Act of 1964 and is state-assisted, is nonprofit and has a certificate of authorization pursuant to Chapter 1713. of the Revised Code, has a certificate of registration from the state board of career colleges and schools and program authorization to award an associate or bachelor's degree, or is a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code. Students who attend an institution that holds a certificate of registration shall be enrolled in a program leading to an associate or bachelor's degree for which associate or bachelor's degree program the institution has program authorization issued under section 3332.05 of the Revised Code.~~

~~(ii) A technical education program of at least two years duration sponsored by a private institution of higher education in this state that meets the requirements of Title VI of the Civil Rights Act of 1964;~~

~~(iii) A nursing diploma program approved by the board of nursing under division (A)(5) of section 4723.06 of the Revised Code and that meets the requirements of Title VI of the Civil Rights Act of 1964.~~

~~(c) If the student first enrolled in an undergraduate program after the 2007-2008 academic year, the student is enrolled in one of the following:~~

~~(i) An accredited institution of higher education in this state that meets the requirements of Title VI of the Civil Rights Act of 1964 and is state-assisted, is nonprofit and has a certificate of authorization pursuant to Chapter 1713. of the Revised Code, or is a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code;~~

~~(ii) An education program of at least two years duration sponsored by a private institution of higher education in this state that meets the requirements of Title VI of the Civil Rights Act of 1964 and has a certificate of authorization pursuant to Chapter 1713. of the Revised Code;~~

~~(iii) A nursing diploma program approved by the board of nursing under division (A)(5) of section 4723.06 of the Revised Code and that meets the requirements of Title VI of the Civil Rights Act of 1964.~~

~~(2) A student who participated in either the early college high school program administered by the department of education or in the post-secondary enrollment options program pursuant to Chapter 3365. of the Revised Code before the 2006-2007 academic year shall not be excluded~~

~~from eligibility for a needs-based financial aid grant under this section.~~

~~(3) "Resident~~ The chancellor of the Ohio board of regents shall adopt rules to carry out this section and as authorized under section 3333.123 of the Revised Code. The rules shall include definitions of the terms "resident," "expected family contribution" or "EFC," "full-time student," "three-quarters-time student," "half-time student," "one-quarter-time student," "state cost of attendance," and "accredited" shall be defined by rules adopted by the chancellor of the Ohio board of regents for the purpose of those sections.

(B) Only an Ohio resident who meets both of the following is eligible for a grant awarded under this section:

(1) The resident has an expected family contribution of two thousand one hundred ninety or less;

(2) The resident enrolls in one of the following:

(a) An undergraduate program, or a nursing diploma program approved by the board of nursing under division (A)(5) of section 4723.06 of the Revised Code, at a state-assisted state institution of higher education, as defined in section 3345.12 of the Revised Code, that meets the requirements of Title VI of the Civil Rights Act of 1964;

(b) An undergraduate program, or a nursing diploma program approved by the board of nursing under division (A)(5) of section 4723.06 of the Revised Code, at a private, nonprofit institution in this state holding a certificate of authorization pursuant to Chapter 1713. of the Revised Code;

(c) An undergraduate program, or a nursing diploma program approved by the board of nursing under division (A)(5) of section 4723.06 of the Revised Code, at a career college in this state that holds a certificate of registration from the state board of career colleges and schools under Chapter 3332. of the Revised Code or at a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, if the program has a certificate of authorization pursuant to Chapter 1713. of the Revised Code.

(C)(1) The chancellor shall establish and administer a needs-based financial aid grants program based on the United States department of education's method of determining financial need and may adopt rules to carry out this section. The program shall be known as the Ohio college opportunity grant program. The general assembly shall support the needs-based financial aid program by such sums and in such manner as it may provide, but the chancellor also may ~~also~~ receive funds from other sources to support the program. If, for any academic year, the amounts available for support of the program are inadequate to provide grants to all

eligible students, the chancellor shall do one of the following:

(a) Give preference in the payment of grants shall be given in terms of based upon expected family contribution, beginning with the lowest expected family contribution category and proceeding upward by category to the highest expected family contribution category;

(b) Proportionately reduce the amount of each grant to be awarded for the academic year under this section;

(c) Use an alternate formula for such grants that addresses the shortage of available funds and has been submitted to and approved by the controlling board.

A (2) The needs-based financial aid grant shall be paid to ~~an~~ the eligible student through the institution in which the student is enrolled, except that no needs-based financial aid grant shall be paid to any person serving a term of imprisonment. Applications for ~~such~~ the grants shall be made as prescribed by the chancellor, and such applications may be made in conjunction with and upon the basis of information provided in conjunction with student assistance programs funded by agencies of the United States government or from financial resources of the institution of higher education. The institution shall certify that the student applicant meets the requirements set forth in ~~divisions (A)(1)(a) and (b)~~ division (B) of this section. Needs-based financial aid grants shall be provided to an eligible student only as long as the student is making appropriate progress toward a nursing diploma or an associate or bachelor's degree. No student shall be eligible to receive a grant for more than ten semesters, fifteen quarters, or the equivalent of five academic years. A grant made to an eligible student on the basis of less than full-time enrollment shall be based on the number of credit hours for which the student is enrolled and shall be computed in accordance with a formula adopted by rule issued by the chancellor. No student shall receive more than one grant on the basis of less than full-time enrollment.

~~A needs-based financial aid grant shall not exceed the total instructional and general charges of the institution.~~

~~(C) The tables in this division prescribe the maximum grant amounts covering two semesters, three quarters, or a comparable portion of one academic year. Grant amounts for additional terms in the same academic year shall be determined under division (D) of this section.~~

~~As used in the tables in division (C) of this section:~~

~~(1) "Private institution" means an institution that is nonprofit and has a certificate of authorization pursuant to Chapter 1713. of the Revised Code.~~

~~(2) "Career college" means either an institution that holds a certificate of~~

~~registration from the state board of career colleges and schools or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code.~~

~~Full-time students shall be eligible to receive awards according to the following table:~~

Full-Time Enrollment				
If the EFC is equal to or greater than:	And if the EFC is no more than:	If the student attends a public institution, the annual award shall be:	If the student attends a private institution, the annual award shall be:	If the student attends a career college, the annual award shall be:
\$2,101	\$2,190	\$300	\$600	\$480
2,001	2,100	402	798	642
1,901	2,000	498	1,002	798
1,801	1,900	600	1,200	960
1,701	1,800	702	1,398	1,122
1,601	1,700	798	1,602	1,278
1,501	1,600	900	1,800	1,440
1,401	1,500	1,002	1,998	1,602
1,301	1,400	1,098	2,202	1,758
1,201	1,300	1,200	2,400	1,920
1,101	1,200	1,302	2,598	2,082
1,001	1,100	1,398	2,802	2,238
901	1,000	1,500	3,000	2,400
801	900	1,602	3,198	2,562
701	800	1,698	3,402	2,718
601	700	1,800	3,600	2,280
501	600	1,902	3,798	3,042
401	500	1,998	4,002	3,198
301	400	2,100	4,200	3,360
201	300	2,202	4,398	3,522
101	200	2,298	4,602	3,678
±	100	2,400	4,800	3,840
0	0	2,496	4,992	3,996

~~Three quarters time students shall be eligible to receive awards according to the following table:~~

~~Three-Quarters Time Enrollment~~

If the EFC is equal to or greater than:	And the EFC is no more than:	If the student attends a public institution, the annual award shall be:	If the student attends a private institution, the annual award shall be:	If the student attends a career college, the annual award shall be:
\$2,101	\$2,190	\$228	\$450	\$360
2,001	2,100	300	600	480
1,901	2,000	372	750	600
1,801	1,900	450	900	720
1,701	1,800	528	1,050	840
1,601	1,700	600	1,200	960
1,501	1,600	678	1,350	1,080
1,401	1,500	750	1,500	1,200
1,301	1,400	822	1,650	1,320
1,201	1,300	900	1,800	1,440
1,101	1,200	978	1,950	1,560
1,001	1,100	1,050	2,100	1,680
901	1,000	1,128	2,250	1,800
801	900	1,200	2,400	1,920
701	800	1,272	2,550	2,040
601	700	1,350	2,700	2,160
501	600	1,428	2,850	2,280
401	500	1,500	3,000	2,400
301	400	1,578	3,150	2,520
201	300	1,650	3,300	2,640
101	200	1,722	3,450	2,760
+	100	1,800	3,600	2,880
0	0	1,872	3,744	3,000

~~Half-time students shall be eligible to receive awards according to the following table:~~

Half-Time Enrollment

If the EFC is equal to or greater than:	And if the EFC is no more than:	If the student attends a public institution, the annual	If the student attends a private institution, the annual	If the student attends a career college, the annual
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		award shall be:	award shall be:	award shall be:
\$2,101	\$2,190	\$150	\$300	\$240
2,001	2,100	204	402	324
1,901	2,000	252	504	402
1,801	1,900	300	600	480
1,701	1,800	354	702	564
1,601	1,700	402	804	642
1,501	1,600	450	900	720
1,401	1,500	504	1,002	804
1,301	1,400	552	1,104	882
1,201	1,300	600	1,200	960
1,101	1,200	654	1,302	1,044
1,001	1,100	702	1,404	1,122
901	1,000	750	1,500	1,200
801	900	804	1,602	1,284
701	800	852	1,704	1,362
601	700	900	1,800	1,440
501	600	954	1,902	1,524
401	500	1,002	2,004	1,602
301	400	1,050	2,100	1,680
201	300	1,104	2,202	1,764
101	200	1,152	2,304	1,842
1	100	1,200	2,400	1,920
0	0	1,248	2,496	1,998

~~One-quarter-time students shall be eligible to receive awards according to the following table:~~

~~One-Quarter-Time Enrollment~~

If the EFC is equal to or greater than:	And if the EFC is no more than:	If the student attends a public institution, the annual award shall be:	If the student attends a private institution, the annual award shall be:	If the student attends a career college, the annual award shall be:
\$2,101	\$2,190	\$78	\$150	\$120
2,001	2,100	102	198	162
1,901	2,000	126	252	198
1,801	1,900	150	300	240

1,701	1,800	174	348	282
1,601	1,700	198	402	318
1,501	1,600	228	450	360
1,401	1,500	252	498	402
1,301	1,400	276	552	438
1,201	1,300	300	600	480
1,101	1,200	324	648	522
1,001	1,100	348	702	558
901	1,000	378	750	600
801	900	402	798	642
701	800	426	852	678
601	700	450	900	720
501	600	474	948	762
401	500	498	1,002	798
301	400	528	1,050	840
201	300	552	1,098	882
101	200	576	1,152	918
1	100	600	1,200	960
0	0	624	1,248	1,002

(D)(1) Except as provided in division (D)(4) of this section, no grant awarded under this section shall exceed the total state cost of attendance.

(2) Subject to divisions (D)(1), (3), and (4) of this section, the amount of a grant awarded to a student under this section shall equal the student's remaining state cost of attendance after the student's Pell grant and expected family contribution are applied to the instructional and general charges for the undergraduate program. However, for students enrolled in a state university or college as defined in section 3345.12 of the Revised Code or a university branch, the chancellor may provide that the grant amount shall equal the student's remaining instructional and general charges for the undergraduate program after the student's Pell grant and expected family contribution have been applied to those charges, but, in no case, shall the grant amount for such a student exceed any maximum that the chancellor may set by rule.

(3) For a full-time student enrolled in an eligible institution for a semester or quarter in addition to the portion of the academic year covered by a grant determined under division (C) of this section, the maximum grant amount shall be a percentage of the maximum prescribed specified in the applicable any table of that division established in rules adopted by the chancellor as provided in division (A) of this section. The maximum grant for a fourth quarter shall be one-third of the maximum amount so prescribed

~~under that division.~~ The maximum grant for a third semester shall be one-half of the maximum amount so prescribed ~~under that division.~~

(4) If a student is enrolled in a two-year institution of higher education and is eligible for an education and training voucher through the Ohio education and training voucher program that receives federal funding under the John H. Chafee foster care independence program, 42 U.S.C. 677, the amount of a grant awarded under this section may exceed the total state cost of attendance to additionally cover housing costs.

(E) No grant shall be made to any student in a course of study in theology, religion, or other field of preparation for a religious profession unless such course of study leads to an accredited bachelor of arts, bachelor of science, associate of arts, or associate of science degree.

(F)(1) Except as provided in division (F)(2) of this section, no grant shall be made to any student for enrollment during a fiscal year in an institution with a cohort default rate determined by the United States secretary of education pursuant to the "Higher Education Amendments of 1986," 100 Stat. 1278, 1408, 20 U.S.C.A. 1085, as amended, as of the fifteenth day of June preceding the fiscal year, equal to or greater than thirty per cent for each of the preceding two fiscal years.

(2) Division (F)(1) of this section does not apply ~~to~~ in the case of either of the following:

(a) ~~Any student enrolled in an~~ The institution that under the ~~pursuant to~~ federal law appeals its loss of eligibility for federal financial aid and the United States secretary of education determines its cohort default rate after recalculation is lower than the rate specified in division (F)(1) of this section or the secretary determines due to mitigating circumstances that the institution may continue to participate in federal financial aid programs. The chancellor shall adopt rules requiring ~~institutions~~ any such appellant to provide information to the chancellor regarding an appeal ~~to the chancellor.~~

(b) Any student who has previously received a grant ~~under~~ pursuant to any provision of this section, including prior to the section's amendment by H.B. 1 of the 128th general assembly, and who meets all other eligibility requirements of this section.

(3) The chancellor shall adopt rules for the notification of all institutions whose students will be ineligible to participate in the grant program pursuant to division (F)(1) of this section.

(4) A student's attendance at ~~an~~ any institution whose students ~~lose~~ eligibility are ineligible for grants ~~under~~ due to division (F)(1) of this section shall not affect that student's eligibility to receive a grant when enrolled in another institution.

(G) Institutions of higher education that enroll students receiving needs-based financial aid grants under this section shall report to the chancellor all students who have received such needs-based financial aid grants but are no longer eligible for all or part of ~~such~~ those grants and shall refund any moneys due the state within thirty days after the beginning of the quarter or term immediately following the quarter or term in which the student was no longer eligible to receive all or part of the student's grant. There shall be an interest charge of one per cent per month on all moneys due and payable after such thirty-day period. The chancellor shall immediately notify the office of budget and management and the legislative service commission of all refunds so received.

Sec. 3333.123. (A) As used in this section:

(1) "The Ohio college opportunity grant program" means the program established under section 3333.122 of the Revised Code.

(2) "Rules for the Ohio college opportunity grant program" means the rules authorized in division (S) of section 3333.04 of the Revised Code for the implementation of the program.

(B) In adopting rules for the Ohio college opportunity grant program, the chancellor of the Ohio board of regents may include provisions that give preferential or priority funding to low-income students who in their primary and secondary school work participate in or complete rigorous academic coursework, attain passing scores on the ~~tests~~ assessments prescribed in section 3301.0710 of the Revised Code, or meet other high academic performance standards determined by the chancellor to reduce the need for remediation and ensure academic success at the postsecondary education level. Any such rules shall include a specification of procedures needed to certify student achievement of primary and secondary standards as well as the timeline for implementation of the provisions authorized by this section.

Sec. 3333.16. As used in this section "state institution of higher education" means an institution of higher education as defined in section 3345.12 of the Revised Code.

(A) The chancellor of the Ohio board of regents shall do all of the following:

(1) Establish policies and procedures applicable to all state institutions of higher education that ensure that students can begin higher education at any state institution of higher education and transfer coursework and degrees to any other state institution of higher education without unnecessary duplication or institutional barriers. The purpose of this requirement is to allow students to attain their highest educational aspirations in the most efficient and effective manner for the students and

the state. These policies and procedures shall require state institutions of higher education to make changes or modifications, as needed, to strengthen course content so as to ensure equivalency for that course at any state institution of higher education.

(2) Develop and implement a universal course equivalency classification system for state institutions of higher education so that the transfer of students and the transfer and articulation of equivalent courses or specified learning modules or units completed by students are not inhibited by inconsistent judgment about the application of transfer credits. Coursework completed within such a system at one state institution of higher education and transferred to another institution shall be applied to the student's degree objective in the same manner as equivalent coursework completed at the receiving institution.

(3) Develop a system of transfer policies that ensure that graduates with associate degrees which include completion of approved transfer modules shall be admitted to a state institution of higher education, shall be able to compete for admission to specific programs on the same basis as students native to the institution, and shall have priority over out-of-state associate degree graduates and transfer students. To assist a student in advising and transferring, all state institutions of higher education shall fully implement the course applicability information system for advising and transferring selected by, contracted for, or developed by the chancellor.

(4) Examine the feasibility of developing a transfer marketing agenda that includes materials and interactive technology to inform the citizens of Ohio about the availability of transfer options at state institutions of higher education and to encourage adults to return to colleges and universities for additional education;

(5) Study, in consultation with the state board of career colleges and schools, and in light of existing criteria and any other criteria developed by the articulation and transfer advisory council, the feasibility of credit recognition and transferability to state institutions of higher education for graduates who have received associate degrees from a career college or school with a certificate of registration from the state board of career colleges and schools under Chapter 3332. of the Revised Code.

(B) All provisions of the existing articulation and transfer policy developed by the Ohio board of regents shall remain in effect except where amended by this section.

Sec. 3333.28. (A) The chancellor of the Ohio board of regents shall establish the nurse education assistance program, the purpose of which shall be to make loans to students enrolled in prelicensure nurse education

programs at institutions approved by the board of nursing under section 4723.06 of the Revised Code and postlicensure nurse education programs approved by the chancellor under section 3333.04 of the Revised Code or offered by an institution holding a certificate of authorization issued under Chapter 1713. of the Revised Code. The board of nursing shall assist the chancellor in administering the program.

(B) There is hereby created in the state treasury the nurse education assistance fund, which shall consist of all money transferred to it pursuant to section 4743.05 of the Revised Code. The fund shall be used by the chancellor for loans made under division (A) of this section and for expenses of administering the loan program.

(C) Between July 1, 2005, and January 1, 2012, the chancellor shall distribute money in the nurse education assistance fund in the following manner:

(1)(a) Fifty per cent of available funds shall be awarded as loans to registered nurses enrolled in postlicensure nurse education programs described in division (A) of this section. To be eligible for a loan, the applicant shall provide the chancellor with a letter of intent to practice as a faculty member at a prelicensure or postlicensure program for nursing in this state upon completion of the applicant's academic program.

(b) If the borrower of a loan under division (C)(1)(a) of this section secures employment as a faculty member of an approved nursing education program in this state within six months following graduation from an approved nurse education program, the chancellor may forgive the principal and interest of the student's loans received under division (C)(1)(a) of this section at a rate of twenty-five per cent per year, for a maximum of four years, for each year in which the borrower is so employed. A deferment of the service obligation, and other conditions regarding the forgiveness of loans may be granted as provided by the rules adopted under division (D)(7) of this section.

(c) Loans awarded under division (C)(1)(a) of this section shall be awarded on the basis of the student's expected family contribution, with preference given to those applicants with the lowest expected family contribution. However, the chancellor may consider other factors the chancellor determines relevant in ranking the applications.

(d) Each loan awarded to a student under division (C)(1)(a) of this section shall be not less than five thousand dollars per year.

(2) Twenty-five per cent of available funds shall be awarded to students enrolled in prelicensure nurse education programs for registered nurses, as defined in section 4723.01 of the Revised Code.

(3) Twenty-five per cent of available funds shall be awarded to students enrolled in ~~prelicensure professional~~ nurse education programs ~~for licensed practical nurses, as defined in section 4723.01 of the Revised Code~~ as determined by the chancellor, with preference given to programs aimed at increasing enrollment in an area of need.

After January 1, 2012, the chancellor shall determine the manner in which to distribute loans under this section.

(D) Subject to the requirements specified in division (C) of this section, the chancellor shall adopt rules in accordance with Chapter 119. of the Revised Code establishing:

- (1) Eligibility criteria for receipt of a loan;
- (2) Loan application procedures;
- (3) The amounts in which loans may be made and the total amount that may be loaned to an individual;
- (4) The total amount of loans that can be made each year;
- (5) The percentage of the money in the fund that must remain in the fund at all times as a fund balance;
- (6) Interest and principal repayment schedules;
- (7) Conditions under which a portion of principal and interest obligations incurred by an individual under the program will be forgiven;
- (8) Ways that the program may be used to encourage individuals who are members of minority groups to enter the nursing profession;
- (9) Any other matters incidental to the operation of the program.

(E) The obligation to repay a portion of the principal and interest on a loan made under this section shall be forgiven if the recipient of the loan meets the criteria for forgiveness established by division (C)(1)(b) of this section, in the case of loans awarded under division (C)(1)(a) of this section, or by the chancellor under the rule adopted under division (D)(7) of this section, in the case of other loans awarded under this section.

(F) The receipt of a loan under this section shall not affect a student's eligibility for assistance, or the amount of that assistance, granted under section 3333.12, 3333.122, 3333.22, 3333.26, ~~3333.27~~, 5910.03, 5910.032, or 5919.34 of the Revised Code, but the rules of the chancellor may provide for taking assistance received under those sections into consideration when determining a student's eligibility for a loan under this section.

Sec. 3333.35. The state board of education and the chancellor of the Ohio board of regents shall strive to reduce unnecessary student remediation costs incurred by colleges and universities in this state, increase overall access for students to higher education, enhance the post-secondary enrollment options program in accordance with Chapter 3365. of the

Revised Code, and enhance the alternative resident educator licensure program in accordance with section 3319.26 of the Revised Code.

Sec. 3333.38. (A) As used in this section:

(1) "Institution of higher education" includes all of the following:

(a) A state institution of higher education, as defined in section 3345.011 of the Revised Code;

(b) A nonprofit institution issued a certificate of authorization under Chapter 1713. of the Revised Code;

(c) A private institution exempt from regulation under Chapter 3332. of the Revised Code, as prescribed in section 3333.046 of the Revised Code;

(d) An institution of higher education with a certificate of registration from the state board of career colleges and schools under Chapter 3332. of the Revised Code.

(2) "Student financial assistance supported by state funds" includes assistance granted under sections 3315.33, 3333.12, 3333.122, 3333.21, 3333.26, ~~3333.27~~, 3333.28, 3333.372, 3333.391, 5910.03, 5910.032, and 5919.34 of the Revised Code, financed by an award under the choose Ohio first scholarship program established under section 3333.61 of the Revised Code, or financed by an award under the Ohio co-op/internship program established under section 3333.72 of the Revised Code, and any other post-secondary student financial assistance supported by state funds.

(B) An individual who is convicted of, pleads guilty to, or is adjudicated a delinquent child for one of the following violations shall be ineligible to receive any student financial assistance supported by state funds at an institution of higher education for two calendar years from the time the individual applies for assistance of that nature:

(1) A violation of section 2917.02 or 2917.03 of the Revised Code;

(2) A violation of section 2917.04 of the Revised Code that is a misdemeanor of the fourth degree;

(3) A violation of section 2917.13 of the Revised Code that is a misdemeanor of the fourth or first degree and occurs within the proximate area where four or more others are acting in a course of conduct in violation of section 2917.11 of the Revised Code.

(C) If an individual is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing a violation of section 2917.02 or 2917.03 of the Revised Code, and if the individual is enrolled in a state-supported institution of higher education, the institution in which the individual is enrolled shall immediately dismiss the individual. No state-supported institution of higher education shall admit an individual of that nature for one academic year after the individual applies for admission to a

state-supported institution of higher education. This division does not limit or affect the ability of a state-supported institution of higher education to suspend or otherwise discipline its students.

Sec. 3333.39. The chancellor of the Ohio board of regents and the superintendent of public instruction shall establish and administer the teach Ohio program to promote and encourage citizens of this state to consider teaching as a profession. The program shall include all of the following:

(A) A statewide program administered by a nonprofit corporation that has been in existence for at least fifteen years with demonstrated results in encouraging high school students from economically disadvantaged groups to enter the teaching profession. The chancellor and superintendent jointly shall select the nonprofit corporation.

(B) The Ohio teaching fellows program established under sections 3333.391 and 3333.392 of the Revised Code;

(C) The Ohio teacher residency program established under section 3319.223 of the Revised Code;

(D) Alternative licensure procedures established under section 3319.26 of the Revised Code;

(E) Any other program as identified by the chancellor and the superintendent.

Sec. 3333.391. (A) As used in this section and in section 3333.392 of the Revised Code:

(1) "Academic year" shall be as defined by the chancellor of the Ohio board of regents.

(2) "Hard-to-staff school" and "hard-to-staff subject" shall be as defined by the department of education.

(3) "Parent" means the parent, guardian, or custodian of a qualified student.

(4) "Qualified service" means teaching at a qualifying school.

(5) "Qualifying school" means a hard-to-staff school district building or a school district building that has a performance rating of academic watch or academic emergency under section 3302.03 of the Revised Code at the time the recipient becomes employed by the district.

(B) If the chancellor of the Ohio board of regents determines that sufficient funds are available from general revenue fund appropriations made to the Ohio board of regents or to the chancellor, the chancellor and the superintendent of public instruction jointly may develop and agree on a plan for the Ohio teaching fellows program to promote and encourage high school seniors to enter and remain in the teaching profession. Upon agreement of such a plan, the chancellor shall establish and administer the

program in conjunction with the superintendent and with the cooperation of teacher training institutions. Under the program, the chancellor annually shall provide scholarships to students who commit to teaching in a qualifying school for a minimum of four years upon graduation from a teacher training program at a state institution of higher education or an Ohio nonprofit institution of higher education that has a certificate of authorization under Chapter 1713. of the Revised Code. The scholarships shall be for up to four years at the undergraduate level at an amount determined by the chancellor based on state appropriations.

(C) The chancellor shall adopt a competitive process for awarding scholarships under the teaching fellows program, which shall include minimum grade point average and scores on national standardized tests for college admission. The process shall also give additional consideration to all of the following:

(1) A person who has participated in the program described in division (A) of section 3333.39 of the Revised Code;

(2) A person who plans to specialize in teaching students with special needs;

(3) A person who plans to teach in the disciplines of science, technology, engineering, or mathematics.

The chancellor shall require that all applicants to the teaching fellows program shall file a statement of service status in compliance with section 3345.32 of the Revised Code, if applicable, and that all applicants have not been convicted of, plead guilty to, or adjudicated a delinquent child for any violation listed in section 3333.38 of the Revised Code.

(D) Teaching fellows shall complete the four-year teaching commitment within not more than seven years after graduating from the teacher training program. Failure to fulfill the commitment shall convert the scholarship into a loan to be repaid under section 3333.392 of the Revised Code.

(E) The chancellor shall adopt rules in accordance with Chapter 119. of the Revised Code to administer this section and section 3333.392 of the Revised Code.

Sec. 3333.392. (A) Each recipient who accepts a scholarship under the Ohio teaching fellows program created under section 3333.391 of the Revised Code, or the recipient's parent if the recipient is younger than eighteen years of age, shall sign a promissory note payable to the state in the event the recipient does not satisfy the service requirement of division (D) of section 3333.391 of the Revised Code or the scholarship is terminated. The amount payable under the note shall be the amount of total scholarships accepted by the recipient under the program plus ten per cent interest

accrued annually beginning on the first day of September after graduating from the teacher training program or immediately after termination of the scholarship. The period of repayment under the note shall be determined by the chancellor of the Ohio board of regents. The note shall stipulate that the obligation to make payments under the note is canceled following completion of four years of qualified service by the recipient in accordance with division (D) of section 3333.391 of the Revised Code, or if the recipient dies, becomes totally and permanently disabled, or is unable to complete the required qualified service as a result of a reduction in force at the recipient's school of employment before the obligation under the note has been satisfied.

(B) Repayment of the principal amount of the scholarship and interest accrued shall be deferred while the recipient is enrolled in an approved teaching program, while the recipient is seeking employment to fulfill the service obligation, for a period not to exceed six months, or while the recipient is engaged in qualified service.

(C) During the seven-year period following the recipient's graduation from an approved teaching program, the chancellor shall deduct twenty-five per cent of the outstanding balance that may be converted to a loan for each year the recipient teaches at a qualifying school.

(D) The chancellor may terminate the scholarship, in which case the scholarship shall be converted to a loan to be repaid under division (A) of this section.

(E) The scholarship shall be deemed terminated upon the recipient's withdrawal from school or the recipient's failure to meet the standards of the scholarship as determined by the chancellor and shall be converted to a loan to be repaid under division (A) of this section.

(F) The chancellor and the attorney general shall collect payments on the converted loan in accordance with section 131.02 of the Revised Code.

Sec. 3333.42. No state institution of higher education, as defined in section 3345.011 of the Revised Code, shall charge a nonresident student who is a member of the armed forces of the United States and who is stationed in this state pursuant to military orders or who is a member of the Ohio national guard, or who is the spouse or dependent child of such a student, rates for tuition and fees that are higher than the rates charged to an Ohio resident.

Sec. 3333.61. The chancellor of the Ohio board of regents shall establish and administer the Ohio innovation partnership, which shall consist of the choose Ohio first scholarship program and the Ohio research scholars program. Under the programs, the chancellor, subject to approval

by the controlling board, shall make awards to state universities or colleges for programs and initiatives that recruit students and scientists in the fields of science, technology, engineering, mathematics, and medicine to state universities or colleges, in order to enhance regional educational and economic strengths and meet the needs of the state's regional economies. Awards may be granted for programs and initiatives to be implemented by a state university or college alone or in collaboration with other state institutions of higher education, nonpublic Ohio universities and colleges, or other public or private Ohio entities. If the chancellor makes an award to a program or initiative that is intended to be implemented by a state university or college in collaboration with other state institutions of higher education or nonpublic Ohio universities or colleges, the chancellor may provide that some portion of the award be received directly by the collaborating universities or colleges consistent with all terms of the Ohio innovation partnership.

The choose Ohio first scholarship program shall assign a number of scholarships to state universities and colleges to recruit Ohio residents as undergraduate, or as provided in section 3333.66 of the Revised Code graduate, students in the fields of science, technology, engineering, mathematics, and medicine, or in science, technology, engineering, mathematics, or medical education. Choose Ohio first scholarships shall be awarded to each participating eligible student as a grant to the state university or college the student is attending and shall be reflected on the student's tuition bill. Choose Ohio first scholarships are student-centered grants from the state to students to use to attend a university or college and are not grants from the state to universities or colleges.

Notwithstanding any other provision of this section or sections 3333.62 to 3333.70 of the Revised Code, a nonpublic four-year Ohio institution of higher education may submit a proposal for choose Ohio first scholarships ~~if the proposal is to be implemented in collaboration with a state university or college or Ohio research scholars grants.~~ If the chancellor ~~grants awards~~ grants awards a nonpublic institution ~~an award of~~ scholarships or grants, the nonpublic institution shall comply with all requirements of this section, sections 3333.62 to 3333.70 of the Revised Code, and the rules adopted under this section that apply to state universities or colleges awarded choose Ohio first scholarships or Ohio research scholars grants.

The Ohio research scholars program shall award grants to use in recruiting scientists to the faculties of state universities or colleges.

The chancellor shall adopt rules in accordance with Chapter 119. of the Revised Code to administer the programs.

Sec. 3333.62. The chancellor of the Ohio board of regents shall establish a competitive process for making awards under the choose Ohio first scholarship program and the Ohio research scholars program. The chancellor, on completion of that process, shall make a recommendation to the controlling board asking for approval of each award selected by the chancellor.

Any state university or college may apply for one or more awards under one or both programs. The state university or college shall submit a proposal and other documentation required by the chancellor, in the form and manner prescribed by the chancellor, for each award it seeks. A proposal may propose an initiative to be implemented solely by the state university or college or in collaboration with other state institutions of higher education, nonpublic Ohio universities or colleges, or other public or nonpublic Ohio entities. A single proposal may seek an award under one or both programs.

The chancellor shall determine which proposals will receive awards each fiscal year, and the amount of each award, on the basis of the merit of each proposal, which the chancellor, subject to approval by the controlling board, shall determine based on one or more of the following criteria:

(A) The quality of the program that is the subject of the proposal and the extent to which additional resources will enhance its quality;

(B) The extent to which the proposal is integrated with the strengths of the regional economy;

(C) The extent to which the proposal is integrated with centers of research excellence within the private sector;

(D) The amount of other institutional, public, or private resources, whether monetary or nonmonetary, that the proposal pledges to leverage;

(E) The extent to which the proposal is collaborative with other public or nonpublic Ohio institutions of higher education;

(F) The extent to which the proposal is integrated with the university's or college's mission and does not displace existing resources already committed to the mission;

(G) The extent to which the proposal facilitates a more efficient utilization of existing faculty and programs;

(H) The extent to which the proposal meets a statewide educational need;

(I) The demonstrated productivity or future capacity of the students or scientists to be recruited;

(J) The extent to which the proposal will create additional capacity in educational or economic areas of need;

(K) The extent to which the proposal will encourage students who

received degrees in the fields of science, technology, engineering, mathematics, or medicine from two-year institutions to transfer to state universities or colleges to pursue baccalaureate degrees in science, technology, engineering, mathematics, or medicine;

(L) The extent to which the proposal encourages students enrolled in state universities to transfer into science, technology, engineering, mathematics, or medicine programs;

(M) The extent to which the proposal facilitates the completion of a baccalaureate degree in a cost-effective manner, for example, by facilitating students' completing two years at a two-year institution and two years at a state university or college;

(N) The extent to which the proposal allows attendance at a state university or college of students who otherwise could not afford to attend;

(O) The extent to which other institutional, public, or private resources pledged to the proposal will be deployed to assist in sustaining students' scholarships over their academic careers;

(P) The extent to which the proposal increases the likelihood that students will successfully complete their degree programs in science, technology, engineering, mathematics, or medicine or in science, technology, engineering, mathematics, or medical education;

(Q) The extent to which the proposal ensures that a student who is awarded a scholarship is appropriately qualified and prepared to successfully complete a degree program in science, technology, engineering, mathematics, or medicine or in science, technology, engineering, mathematics, or medical education;

(R) The extent to which the proposal will increase the number of women participating in the choose Ohio first scholarship program.

Sec. 3333.66. (A) ~~It~~ (1) Except as provided in division (A)(2) of this section, in each academic year, no student who receives a choose Ohio first scholarship shall receive less than one thousand five hundred dollars or more than one-half of the highest in-state undergraduate instructional and general fees charged by all state universities. For this purpose, if Miami university is implementing the pilot tuition restructuring plan originally recognized in Am. Sub. H.B. 95 of the 125th general assembly, that university's instructional and general fees shall be considered to be the average full-time in-state undergraduate instructional and general fee amount after taking into account the Ohio resident and Ohio leader scholarships and any other credit provided to all Ohio residents.

(2) The chancellor of the Ohio board of regents may authorize a state university or college or a nonpublic Ohio institution of higher education to

award a choose Ohio first scholarship in an amount greater than one-half of the highest in-state undergraduate instructional and general fees charged by all state universities to either of the following:

(a) Any undergraduate student who qualifies for a scholarship and is enrolled in a program leading to a teaching profession in science, technology, engineering, mathematics, or medicine;

(b) Any graduate student who qualifies for a scholarship, if any initiatives are selected for award under division (B) of this section.

(B) ~~The chancellor of the Ohio board of regents~~ shall encourage state universities and colleges, alone or in collaboration with other state institutions of higher education, nonpublic Ohio universities and colleges, or other public or private Ohio entities, to submit proposals under the choose Ohio first scholarship program for initiatives that recruit Ohio residents enrolled in colleges and universities in other states or other countries to return to Ohio and enroll in state universities or colleges as graduate students in the fields of science, technology, engineering, mathematics, and medicine, or in the fields of science, technology, engineering, mathematics, or medical education. If such proposals are submitted and meet the chancellor's competitive criteria for awards, the chancellor, subject to approval by the controlling board, shall give at least one of the proposals preference for an award.

(C) The general assembly intends that money appropriated for the choose Ohio first scholarship program in each fiscal year be used for scholarships in the following academic year.

Sec. 3333.90. (A) As used in this section:

(1) "Allocated state share of instruction" means, for any fiscal year, the amount of the state share of instruction appropriated to the Ohio board of regents by the general assembly that is allocated to a community or technical college or community or technical college district for such fiscal year.

(2) "Authority" means the Ohio building authority.

(3) "Bond service charges" has the same meaning as in section 152.09 of the Revised Code.

(4) "Chancellor" means the chancellor of the Ohio board of regents.

(5) "Community or technical college" or "college" means any of the following state-supported or state-assisted institutions of higher education:

(a) A community college as defined in section 3354.01 of the Revised Code;

(b) A technical college as defined in section 3357.01 of the Revised Code;

(c) A state community college as defined in section 3358.01 of the Revised Code.

(6) "Community or technical college district" or "district" means any of the following institutions of higher education that are state-supported or state-assisted:

(a) A community college district as defined in section 3354.01 of the Revised Code;

(b) A technical college district as defined in section 3357.01 of the Revised Code;

(c) A state community college district as defined in section 3358.01 of the Revised Code.

(7) "Credit enhancement facilities" has the same meaning as in section 133.01 of the Revised Code.

(8) "Obligations" has the meaning as in section 152.09 or 3345.12 of the Revised Code, as the context requires.

(B) The board of trustees of any community or technical college district authorizing the issuance of obligations under section 3354.12, 3354.121, 3357.11, 3357.112, or 3358.10 of the Revised Code, or for whose benefit and on whose behalf the authority proposes to issue obligations under division (G) of section 152.09 of the Revised Code, may adopt a resolution requesting the chancellor to enter into an agreement with the community or technical college district and the primary paying agent or fiscal agent for such obligations, providing for the withholding and deposit of funds otherwise due the district or the community or technical college it operates in respect of its allocated state share of instruction, for the payment of bond service charges on such obligations.

The board of trustees shall deliver to the chancellor a copy of the resolution and any additional pertinent information the chancellor may require.

The chancellor and the office of budget and management, and the authority in the case of obligations to be issued by the authority, shall evaluate each request received from a community or technical college district under this section. The chancellor, with the advice and consent of the director of budget and management and the authority in the case of obligations to be issued by the authority, shall approve each request if all of the following conditions are met:

(1) Approval of the request will enhance the marketability of the obligations for which the request is made;

(2) The chancellor and the office of budget and management, and the authority in the case of obligations to be issued by the authority, have no

reason to believe the requesting community or technical college district or the community or technical college it operates will be unable to pay when due the bond service charges on the obligations for which the request is made, and bond service charges on those obligations are therefore not anticipated to be paid pursuant to this section from the allocated state share of instruction for purposes of Section 17 of Article VIII, Ohio Constitution.

(3) Any other pertinent conditions established in rules adopted under division (H) of this section.

(C) If the chancellor approves the request of a community or technical college district to withhold and deposit funds pursuant to this section, the chancellor shall enter into a written agreement with the district and the primary paying agent or fiscal agent for the obligations, which agreement shall provide for the withholding of funds pursuant to this section for the payment of bond service charges on those obligations. The agreement may also include both of the following:

(1) Provisions for certification by the district to the chancellor, prior to the deadline for payment of the applicable bond service charges, whether the district and the community or technical college it operates are able to pay those bond service charges when due;

(2) Requirements that the district or the community or technical college it operates deposits amounts for the payment of those bond service charges with the primary paying agent or fiscal agent for the obligations prior to the date on which the bond service charges are due to the owners or holders of the obligations.

(D) Whenever a district or the community or technical college it operates notifies the chancellor that it will not be able to pay the bond service charges when they are due, subject to the withholding provisions of this section, or whenever the applicable paying agent or fiscal agent notifies the chancellor that it has not timely received from a district or from the college it operates the full amount needed for payment of the bond service charges when due to the holders or owners of such obligations, the chancellor shall immediately contact the district or college and the paying agent or fiscal agent to confirm that the district and the college are not able to make the required payment by the date on which it is due.

If the chancellor confirms that the district and the college are not able to make the payment and the payment will not be made pursuant to a credit enhancement facility, the chancellor shall promptly pay to the applicable primary paying agent or fiscal agent the lesser of the amount due for bond service charges or the amount of the next periodic distribution scheduled to be made to the district or to the college in respect of its allocated state share

of instruction. If this amount is insufficient to pay the total amount then due the agent for the payment of bond service charges, the chancellor shall continue to pay to the agent from each periodic distribution thereafter, and until the full amount due the agent for unpaid bond service charges is paid in full, the lesser of the remaining amount due the agent for bond service charges or the amount of the next periodic distribution scheduled to be made to the district or college in respect of its allocated state share of instruction.

(E) The chancellor may make any payments under this section by direct deposit of funds by electronic transfer.

Any amount received by a paying agent or fiscal agent under this section shall be applied only to the payment of bond service charges on the obligations of the community or technical college district or community or technical college subject to this section or to the reimbursement of the provider of a credit enhancement facility that has paid the bond service charges.

(F) The chancellor may make payments under this section to paying agents or fiscal agents during any fiscal biennium of the state only from and to the extent that money is appropriated to the board of regents by the general assembly for distribution during such biennium for the state share of instruction and only to the extent that a portion of the state share of instruction has been allocated to the community or technical college district or community or technical college. Obligations of the authority or of a community or technical college district to which this section is made applicable do not constitute an obligation or a debt or a pledge of the faith, credit, or taxing power of the state, and the holders or owners of those obligations have no right to have excises or taxes levied or appropriations made by the general assembly for the payment of bond service charges on the obligations, and the obligations shall contain a statement to that effect. The agreement for or the actual withholding and payment of money under this section does not constitute the assumption by the state of any debt of a community or technical college district or a community or technical college, and bond service charges on the related obligations are not anticipated to be paid from the state general revenue fund for purposes of Section 17 of Article VIII, Ohio Constitution.

(G) In the case of obligations subject to the withholding provisions of this section, the issuing community or technical college district, or the authority in the case of obligations issued by the authority, shall appoint a paying agent or fiscal agent who is not an officer or employee of the district or college.

(H) The chancellor, with the advice and consent of the office of budget

and management, may adopt reasonable rules not inconsistent with this section for the implementation of this section to secure payment of bond service charges on obligations issued by a community or technical college district or by the authority for the benefit of a community or technical college district or the community or technical college it operates. Those rules shall include criteria for the evaluation and approval or denial of community or technical college district requests for withholding under this section.

(I) The authority granted by this section is in addition to and not a limitation on any other authorizations granted by or pursuant to law for the same or similar purposes.

Sec. 3334.03. (A)(1) There is hereby created the Ohio tuition trust authority within the office of the chancellor of the Ohio board of regents, which shall have the powers enumerated in this chapter and which shall operate as a qualified state tuition program within the meaning of section 529 of the Internal Revenue Code. The exercise by the authority of its powers shall be and is hereby declared an essential state governmental function. The authority is subject to all provisions of law generally applicable to state agencies which do not conflict with the provisions of this chapter.

(2) Except for the duties and responsibilities under this chapter of the Ohio tuition trust authority board as specified in divisions (B)(2) and (3) of this section, the Ohio tuition trust authority shall perform all duties and responsibilities specified under this chapter.

~~(B) The (1)(a) There is hereby created the Ohio tuition trust authority board, which shall consist of eleven members, no more than six of whom shall be of the same political party. Six members shall be appointed by the governor with the advice and consent of the senate as follows: one shall represent state institutions of higher education, one shall represent private nonprofit colleges and universities located in Ohio, one shall have experience in the field of marketing or public relations, one shall have experience in the field of information systems design or management, and two shall have experience in the field of banking, investment banking, insurance, or law. Four members shall be appointed by the speaker of the house of representatives and the president of the senate as follows: the speaker of the house of representatives shall appoint one member of the house from each political party and the president of the senate shall appoint one member of the senate from each political party. The chancellor of the board of regents or the chancellor's designee shall be an ex officio voting member; provided, however, that the chancellor may designate a~~

~~vice chancellor of the board of regents to serve as the chancellor's representative. The political party of the chancellor shall be deemed the political party of the designee for purposes of determining that no more than six members are of the same political party.~~

~~Initial gubernatorial appointees to the authority shall serve staggered terms, with two terms expiring on January 31, 1991, one term expiring on January 31, 1992, and one term expiring on January 31, 1993. The governor shall appoint two additional members to the authority no later than thirty days after March 30, 1999, and their initial terms shall expire January 31, 2002. Thereafter, terms Terms of office for gubernatorial appointees shall be for four years staggered four-year terms. The initial terms of the four legislative members shall expire on January 31, 1991. Thereafter legislative Legislative members shall serve two-year terms, provided that legislative members may continue to serve on the authority board only if they remain members of the general assembly. Any vacancy on the authority board shall be filled in the same manner as the original appointment, except that any person appointed to fill a vacancy shall be appointed to the remainder of the unexpired term. Any member is eligible for reappointment.~~

~~(C)(b)~~ Any member may be removed by the appointing authority for misfeasance, malfeasance, or willful neglect of duty or for other cause after notice and a public hearing, unless the notice and hearing are waived in writing by the member. Members shall serve without compensation but shall receive their reasonable and necessary expenses incurred in the conduct of ~~authority~~ the board's business.

~~(D)(c)~~ The speaker of the house of representatives and the president of the senate shall each designate a member of the authority board to serve as co-chairpersons. The six gubernatorial appointees and the chancellor ~~of the board of regents~~ or the chancellor's designee shall serve as the executive committee of the authority board, and shall elect an executive chairperson from among the executive committee members. The authority board and the executive committee may elect such other officers as determined by the authority board or the executive committee respectively. The authority shall meet at least annually at the call of either co-chairperson and at such other times as either co-chairperson or the authority board determines necessary. In the absence of both co-chairpersons, the executive chairperson shall serve as the presiding officer of the authority board. The executive committee shall meet at the call of the executive chairperson or as the executive committee determines necessary. The authority board may delegate to the executive committee such duties and responsibilities as the authority board determines appropriate, except that the authority board may not delegate to

the executive committee ~~the final determination of the annual price of a tuition unit~~, the final designation of bonds as college savings bonds; or providing of advice concerning and consent to the employment of an executive director of the Ohio tuition trust authority. Upon such delegation, the executive committee shall have the authority to act pursuant to such delegation without further approval or action by the ~~authority board~~. A majority of the ~~authority board~~ shall constitute a quorum of the ~~authority board~~, and the affirmative vote of a majority of the members present shall be necessary for any action taken by the ~~authority board~~. A majority of the executive committee shall constitute a quorum of the executive committee, and the affirmative vote of a majority of the members present shall be necessary for any action taken by the executive committee. No vacancy in the membership of the ~~authority board~~ or the executive committee shall impair the rights of a quorum to exercise all rights and perform all duties of the ~~authority board~~ or the executive committee respectively.

(2) The Ohio tuition trust authority board solely shall perform the duties and responsibilities specified in division (B)(3) of this section and in all of the following:

(a) Section 3334.04 of the Revised Code, except for administration responsibilities that include, but are not limited to, marketing, promoting, and advertising;

(b) Division (A)(11) of section 3334.08 of the Revised Code to provide advice and consent to the Ohio tuition trust authority on the hiring of the executive director, provided that the executive director shall not be hired unless a majority of the board votes in favor of the hiring;

(c) Divisions (A) to (E), (G)(1), (K), (L), and (M) of section 3334.11 of the Revised Code, except that the board shall consult with the chancellor prior to any change in the order of expenditures under division (B) of that section, prior to entering into a contract under division (E) of that section, or prior to establishing an entity authorized under division (K)(2) of that section;

(d) Section 3334.12 of the Revised Code;

(e) Sections 3334.18 to 3334.21 of the Revised Code concerning investment and fiduciary duties that are required for the variable college savings program. In addition, prior to any change in the order of expenditures under division (F) of section 3334.19 of the Revised Code, the board shall consult with the chancellor.

(3) Subject to the advice and consent of the chancellor, the Ohio tuition trust authority board may remove at any time the executive director of the Ohio tuition trust authority hired under division (A)(11) of section 3334.08

of the Revised Code.

Sec. 3334.07. (A) The Ohio tuition trust authority shall develop a plan for the sale of tuition units. ~~The Ohio board of regents shall cooperate with the authority and provide technical assistance upon request~~ Not later than December 31, 2009, the authority shall conduct a study of guaranteed tuition program plans and submit a report that contains recommendations for a new guaranteed tuition plan to the speaker of the house of representatives, the president of the senate, and the governor. The authority shall include in the report consideration of a guaranteed tuition program plan in which the risks of the plan are shared equitably among institutions of higher education, the state, the Ohio tuition trust authority, and the investors in the program.

(B) Annually, the authority shall determine the weighted average tuition of four-year state universities in the academic year that begins on or after the first day of August of the current calendar year, and shall establish the price of a tuition unit in the ensuing sales period. Such price shall be based on sound actuarial principles, and shall, to the extent actuarially possible, reasonably approximate one per cent of the weighted average tuition for that academic year plus the costs of administering the program that are in excess of general revenue fund appropriations for administrative costs. The sales period to which such price applies shall consist of twelve months, and the authority by rule shall establish the date on which the sales period begins. If circumstances arise during a sales period that the authority determines causes the price of tuition units to be insufficient to ensure the actuarial soundness of the Ohio tuition trust fund, the authority may adjust the price of tuition units purchased during the remainder of the sales period. To promote the purchase of tuition units and in accordance with actuarially sound principles, the authority may adjust the sales price as part of incentive programs, such as discounting for lump sum purchases and multi-year installment plans at a fixed rate of purchase.

(C) The authority may establish and administer more than one plan for the sale of tuition units within the Ohio tuition trust fund using similar principles specified in division (B) of this section or modeled after a plan that was included in the study that was conducted under division (A) of this section. If the authority establishes and administers more than one plan for the sale of tuition units, the money received under each plan shall be segregated and identified within the Ohio tuition trust fund.

Sec. 3334.08. (A) Subject to division (B) of this section, in addition to any other powers conferred by this chapter, the Ohio tuition trust authority may do any of the following:

- (1) Impose reasonable residency requirements for beneficiaries of

tuition units;

(2) Impose reasonable limits on the number of tuition unit participants;

(3) Impose and collect administrative fees and charges in connection with any transaction under this chapter;

(4) Purchase insurance from insurers licensed to do business in this state providing for coverage against any loss in connection with the authority's property, assets, or activities or to further ensure the value of tuition units;

(5) Indemnify or purchase policies of insurance on behalf of members, officers, and employees of the authority from insurers licensed to do business in this state providing for coverage for any liability incurred in connection with any civil action, demand, or claim against a director, officer, or employee by reason of an act or omission by the director, officer, or employee that was not manifestly outside the scope of the employment or official duties of the director, officer, or employee or with malicious purpose, in bad faith, or in a wanton or reckless manner;

(6) Make, execute, and deliver contracts, conveyances, and other instruments necessary to the exercise and discharge of the powers and duties of the authority;

(7) Promote, advertise, and publicize the Ohio college savings program and the variable college savings program;

(8) Adopt rules under section 111.15 of the Revised Code for the implementation of the Ohio college savings program;

(9) Contract, for the provision of all or part of the services necessary for the management and operation of the Ohio college savings program and the variable college savings program, with a bank, trust company, savings and loan association, insurance company, or licensed dealer in securities if the bank, company, association, or dealer is authorized to do business in this state and information about the contract is filed with the controlling board pursuant to division (D)(6) of section 127.16 of the Revised Code;

(10) Contract for other services, or for goods, needed by the authority in the conduct of its business, including but not limited to credit card services;

(11) Employ an executive director and other personnel as necessary to carry out its responsibilities under this chapter, and fix the compensation of these persons. All employees of the authority shall be in the unclassified civil service and shall be eligible for membership in the public employees retirement system. In the hiring of the executive director, the Ohio tuition trust authority shall obtain the advice and consent of the Ohio tuition trust board created in section 3334.03 of the Revised Code, provided that the executive director shall not be hired unless a majority of the board votes in favor of the hiring. In addition, the board may remove the executive director

at any time subject to the advice and consent of the chancellor of the Ohio board of regents.

(12) Contract with financial consultants, actuaries, auditors, and other consultants as necessary to carry out its responsibilities under this chapter;

(13) Enter into agreements with any agency of the state or its political subdivisions or with private employers under which an employee may agree to have a designated amount deducted in each payroll period from the wages or salary due the employee for the purpose of purchasing tuition units pursuant to a tuition payment contract or making contributions pursuant to a variable college savings program contract;

(14) Enter into an agreement with the treasurer of state under which the treasurer of state will receive, and credit to the Ohio tuition trust fund or variable college savings program fund, from any bank or savings and loan association authorized to do business in this state, amounts that a depositor of the bank or association authorizes the bank or association to withdraw periodically from the depositor's account for the purpose of purchasing tuition units pursuant to a tuition payment contract or making contributions pursuant to a variable college savings program contract;

(15) Solicit and accept gifts, grants, and loans from any person or governmental agency and participate in any governmental program;

(16) Impose limits on the number of units which may be purchased on behalf of or assigned or awarded to any beneficiary and on the total amount of contributions that may be made on behalf of a beneficiary;

(17) Impose restrictions on the substitution of another individual for the original beneficiary under the Ohio college savings program;

(18) Impose a limit on the age of a beneficiary, above which tuition units may not be purchased on behalf of that beneficiary;

(19) Enter into a cooperative agreement with the treasurer of state to provide for the direct disbursement of payments under tuition payment or variable college savings program contracts;

(20) Determine the other higher education expenses for which tuition units or contributions may be used;

(21) Terminate any tuition payment or variable college savings program contract if no purchases or contributions are made for a period of three years or more and there are fewer than a total of five tuition units or less than a dollar amount set by rule on account, provided that notice of a possible termination shall be provided in advance, explaining any options to prevent termination, and a reasonable amount of time shall be provided within which to act to prevent a termination;

(22) Maintain a separate account for each tuition payment or variable

college savings program contract;

(23) Perform all acts necessary and proper to carry out the duties and responsibilities of the authority pursuant to this chapter.

(B) The authority shall adopt rules under section 111.15 of the Revised Code for the implementation and administration of the variable college savings program. The rules shall provide taxpayers with the maximum tax advantages and flexibility consistent with section 529 of the Internal Revenue Code and regulations adopted thereunder with regard to disposition of contributions and earnings, designation of beneficiaries, and rollover of account assets to other programs.

(C) Except as otherwise specified in this chapter, the provisions of Chapters 123., 125., and 4117. of the Revised Code shall not apply to the authority. The department of administrative services shall, upon the request of the authority, act as the authority's agent for the purchase of equipment, supplies, insurance, or services, or the performance of administrative services pursuant to Chapter 125. of the Revised Code.

Sec. 3334.11. (A) The assets of the Ohio tuition trust authority reserved for payment of the obligations of the authority pursuant to tuition payment contracts shall be placed in a fund, which is hereby created and shall be known as the Ohio tuition trust fund. The fund shall be in the custody of the treasurer of state, but shall not be part of the state treasury. That portion of payments received by the authority or the treasurer of state from persons purchasing tuition units under tuition payment contracts that the authority determines is actuarially necessary for the payment of obligations of the authority pursuant to tuition payment contracts, all interest and investment income earned by the fund, and all other receipts of the authority from any other source that the authority determines appropriate, shall be deposited in the fund. No purchaser or beneficiary of tuition units shall have any claim against the funds of any state institution of higher education. All investment fees and other costs incurred in connection with the exercise of the investment powers of the authority pursuant to divisions (D) and (E) of this section shall be paid from the assets of the fund.

(B) Unless otherwise provided by the authority, the assets of the Ohio tuition trust fund shall be expended in the following order:

(1) To make payments to beneficiaries, or institutions of higher education on behalf of beneficiaries, under division (B) of section 3334.09 of the Revised Code;

(2) To make refunds as provided in divisions (A) and (C) of section 3334.10 of the Revised Code;

(3) To pay the investment fees and other costs of administering the fund.

(C)(1) Except as may be provided in an agreement under division (A)(19) of section 3334.08 of the Revised Code, all disbursements from the Ohio tuition trust fund shall be made by the treasurer of state on order of a designee of the authority.

(2) The treasurer of state shall deposit any portion of the Ohio tuition trust fund not needed for immediate use in the same manner as state funds are deposited.

(D) The authority is the trustee of the Ohio tuition trust fund. The authority shall have full power to invest the assets of the fund and in exercising this power shall be subject to the limitations and requirements contained in divisions (K) to (M) of this section and sections 145.112 and 145.113 of the Revised Code. The evidences of title of all investments shall be delivered to the treasurer of state or to a qualified trustee designated by the treasurer of state as provided in section 135.18 of the Revised Code. Assets of the fund shall be administered by the authority in a manner designed to be actuarially sound so that the assets of the fund will be sufficient to satisfy the obligations of the authority pursuant to tuition payment contracts and defray the reasonable expenses of administering the fund.

(E) ~~The public employees retirement board shall, with the approval of the authority, exercise the investment powers of the authority~~ may enter into an agreement with any business, entity, or governmental agency to perform the investment duties of the authority as set forth in division (D) of this section ~~until the authority determines that assumption and exercise by the authority of the investment powers is financially and administratively feasible.~~ The investment powers shall be exercised by the ~~public employees retirement board~~ business, entity, or governmental agency that entered into an agreement with the authority in a manner agreed upon by the authority that maximizes the return on investment and minimizes the administrative expenses.

(F)(1) The authority shall maintain a separate account for each tuition payment contract entered into pursuant to division (A) of section 3334.09 of the Revised Code for the purchase of tuition units on behalf of a beneficiary or beneficiaries showing the beneficiary or beneficiaries of that contract and the number of tuition units purchased pursuant to that contract. Upon request of any beneficiary or person who has entered into a tuition payment contract, the authority shall provide a statement indicating, in the case of a beneficiary, the number of tuition units purchased on behalf of the beneficiary, or in the case of a person who has entered into a tuition payment contract, the number of tuition units purchased, used, or refunded

pursuant to that contract. A beneficiary and person that have entered into a tuition payment contract each may file only one request under this division in any year.

(2) The authority shall maintain an account for each scholarship program showing the number of tuition units that have been purchased for or donated to the program and the number of tuition units that have been used. Upon the request of the entity that established the scholarship program, the authority shall provide a statement indicating these numbers.

(G)(1) In addition to the Ohio tuition trust fund, there is hereby established a reserve fund that shall be in the custody of the treasurer of state but shall not be part of the state treasury, and shall be known as the Ohio tuition trust reserve fund, and an operating fund that shall be part of the state treasury, and shall be known as the Ohio tuition trust operating fund. That portion of payments received by the authority or the treasurer of state from persons purchasing tuition units under tuition payment contracts that the authority determines is not actuarially necessary for the payment of obligations of the authority pursuant to tuition payment contracts, any interest and investment income earned by the reserve fund, any administrative charges and fees imposed by the authority on transactions under this chapter or on purchasers or beneficiaries of tuition units, and all other receipts from any other source that the authority determines appropriate, shall be deposited in the reserve fund to pay the operating expenses of the authority and the costs of administering the program. The assets of the reserve fund may be invested in the same manner and subject to the same limitations set forth in divisions (D), (E), and (K) to (M) of this section and sections 145.112 and 145.113 of the Revised Code. All investment fees and other costs incurred in connection with the exercise of the investment powers shall be paid from the assets of the reserve fund. Except as otherwise provided for in this chapter, all operating expenses of the authority and costs of administering the program shall be paid from the operating fund. ~~The~~

(2) ~~The~~ treasurer shall, upon request of the authority, transfer funds from the reserve fund to the operating fund as the authority determines appropriate to pay those current operating expenses of the authority and costs of administering the program as the authority designates. Any interest or investment income earned on the assets of the operating fund shall be deposited in the operating fund.

(H) In January of each year the authority shall report to each person who received any payments or refunds from the authority during the preceding year information relative to the value of the payments or refunds to assist in

determining that person's tax liability.

(I) The authority shall report to the tax commissioner any information, and at the times, as the tax commissioner requires to determine any tax liability that a person may have incurred during the preceding year as a result of having received any payments or refunds from the authority.

(J) All records of the authority indicating the identity of purchasers and beneficiaries of tuition units or college savings bonds, the number of tuition units purchased, used, or refunded under a tuition payment contract, and the number of college savings bonds purchased, held, or redeemed are not public records within the meaning of section 149.43 of the Revised Code.

(K)(1) The authority and other fiduciaries shall discharge their duties with respect to the funds with care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and by diversifying the investments of the assets of the funds so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

(2) To facilitate investment of the funds, the authority may establish a partnership, trust, limited liability company, corporation, including a corporation exempt from taxation under the Internal Revenue Code, 100 Stat. 2085, 26 U.S.C. 1, as amended, or any other legal entity authorized to transact business in this state.

(L) In exercising its fiduciary responsibility with respect to the investment of the assets of the funds, it shall be the intent of the authority to give consideration to investments that enhance the general welfare of the state and its citizens where the investments offer quality, return, and safety comparable to other investments currently available to the authority. In fulfilling this intent, equal consideration shall also be given to investments otherwise qualifying under this section that involve minority owned and controlled firms and firms owned and controlled by women, either alone or in joint venture with other firms.

The authority shall adopt, in regular meeting, policies, objectives, or criteria for the operation of the investment program that include asset allocation targets and ranges, risk factors, asset class benchmarks, time horizons, total return objectives, and performance evaluation guidelines. In adopting policies and criteria for the selection of agents with whom the authority may contract for the administration of the assets of the funds, the authority shall give equal consideration to minority owned and controlled firms, firms owned and controlled by women, and ventures involving minority owned and controlled firms and firms owned and controlled by

women that otherwise meet the policies and criteria established by the authority. Amendments and additions to the policies and criteria shall be adopted in regular meeting. The authority shall publish its policies, objectives, and criteria under this provision no less often than annually and shall make copies available to interested parties.

When reporting on the performance of investments, the authority shall comply with the performance presentation standards established by the association for investment management and research.

(M) All investments shall be purchased at current market prices and the evidences of title of the investments shall be placed in the hands of the treasurer of state, who is hereby designated as custodian thereof, or in the hands of the treasurer of state's authorized agent. The treasurer of state or the agent shall collect the principal, dividends, distributions, and interest thereon as they become due and payable and place them when so collected into the custodial funds.

The treasurer of state shall pay for investments purchased by the authority on receipt of written or electronic instructions from the authority or the authority's designated agent authorizing the purchase and pending receipt of the evidence of title of the investment by the treasurer of state or the treasurer of state's authorized agent. The authority may sell investments held by the authority, and the treasurer of state or the treasurer of state's authorized agent shall accept payment from the purchaser and deliver evidence of title of the investment to the purchaser on receipt of written or electronic instructions from the authority or the authority's designated agent authorizing the sale, and pending receipt of the moneys for the investments. The amount received shall be placed in the custodial funds. The authority and the treasurer of state may enter into agreements to establish procedures for the purchase and sale of investments under this division and the custody of the investments.

No purchase or sale of any investment shall be made under this section except as authorized by the authority.

Any statement of financial position distributed by the authority shall include fair value, as of the statement date, of all investments held by the authority under this section.

Sec. 3334.111. (A) As used in this section:

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

(2) "Women's business enterprise" means a business, or a partnership, corporation, limited liability company, or joint venture of any kind, that is owned and controlled by women who are United States citizens and

residents of this state.

(B) The chancellor of the board of regents shall submit annually to the governor and to the general assembly (under section 101.68 of the Revised Code) a report containing the following information:

(1) The name of each investment manager that is a minority business enterprise or a women's business enterprise with which the chancellor contracts;

(2) The amount of assets managed by investment managers that are minority business enterprises or women's business enterprises, expressed as a percentage of assets managed by investment managers with which the chancellor has contracted;

(3) Efforts by the chancellor to increase utilization of investment managers that are minority business enterprises or women's business enterprises.

Sec. 3334.12. Notwithstanding anything to the contrary in sections 3334.07 and 3334.09 of the Revised Code:

(A) Annually, the Ohio tuition trust authority shall have the actuarial soundness of the Ohio tuition trust fund evaluated by a nationally recognized actuary and shall determine whether additional assets are necessary to defray the obligations of the authority. If, after the authority sets the price for tuition units, circumstances arise that the executive director determines necessitate an additional evaluation of the actuarial soundness of the fund, the executive director shall have a nationally recognized actuary conduct the necessary evaluation. If the assets of the fund are insufficient to ensure the actuarial soundness of the fund, the authority shall adjust the price of subsequent purchases of tuition units to the extent necessary to help restore the actuarial soundness of the fund. If, at any time, the adjustment is likely, in the opinion of the authority, to diminish the marketability of tuition units to an extent that the continued sale of the units likely would not restore the actuarial soundness of the fund and external economic factors continue to negatively impact the soundness of the program, the authority may suspend sales, either permanently or temporarily, of tuition units. During any suspension, the authority shall continue to service existing college savings program accounts.

(B) Upon termination of ~~the program~~ all programs or liquidation of the Ohio tuition trust fund, the Ohio tuition trust reserve fund, and the Ohio tuition trust operating fund, any remaining assets of the funds after all obligations of the funds have been satisfied pursuant to division (B) of section 3334.11 of the Revised Code shall be transferred to the general revenue fund of the state.

(C) The authority shall prepare and cause to have audited an annual financial report on all financial activity of the Ohio tuition trust authority within ninety days of the end of the fiscal year. The authority shall transmit a copy of the audited financial report to the governor, the president of the senate, the speaker of the house of representatives, and the minority leaders of the senate and the house of representatives. Copies of the audited financial report also shall be made available, upon request, to the persons entering into contracts with the authority and to prospective purchasers of tuition units and prospective contributors to variable college savings program accounts.

Sec. 3343.04. The board of trustees of the Central state university shall meet in regular session at the university twice a year. ~~The first meeting shall be on the third Thursday in June, and the second on the first Thursday in November of each year.~~ Other meetings may be called and held at such places as the board prescribes. A majority of the board present at any meeting shall constitute a quorum; but a majority of the board shall be necessary to elect or remove a president, business manager, or professor. The trustees shall receive no compensation for their services, but shall be paid their expenses for traveling and other reasonable and necessary expenses while engaged in the discharge of their official duties.

Sec. 3345.011. "State university" means a public institution of higher education which is a body politic and corporate. Each of the following institutions of higher education shall be recognized as a state university: university of Akron, Bowling Green state university, Central state university, university of Cincinnati, Cleveland state university, Kent state university, Miami university, Ohio university, Ohio state university, Shawnee state university, university of Toledo, Wright state university, and Youngstown state university.

"State institution of higher education" means any state university or college as defined in division (A)(1) of section 3345.12 of the Revised Code, community college, state community college, university branch established under Chapter 3355. of the Revised Code, or technical college.

"University system of Ohio" means the collective group of all of the state institutions of higher education.

"Member of the university system of Ohio" means any individual state institution of higher education.

Sec. 3345.062. If the partnership for continued learning, after consulting with the Ohio board of regents and the state board of education, does not complete and submit recommendations for legislative changes for the operation of the post-secondary enrollment options program, as required by

division (B) of section 3301.42 of the Revised Code as it existed prior to the effective date of this amendment, by the deadline prescribed in that division, each state university, as defined in section 3345.011 of the Revised Code, shall offer via the internet or interactive distance learning at least two college level courses, one each in science and mathematics, by which high school students may earn both high school and college credit. During such course, the university may include a single presentation, of not more than two minutes in length, that describes its other programs and courses. The university may assess a fee for the course required under this section of not more than one-tenth of the amount per credit hour normally assessed by the university for an undergraduate course at its main campus.

Sec. 3345.12. (A) As used in this section and sections 3345.07 and 3345.11 of the Revised Code, in other sections of the Revised Code that make reference to this section unless the context does not permit, and in related bond proceedings unless otherwise expressly provided:

(1) "State university or college" means each of the state universities identified in section 3345.011 of the Revised Code and the northeastern Ohio universities college of medicine, and includes its board of trustees.

(2) "Institution of higher education" or "institution" means a state university or college, or a community college district, technical college district, university branch district, or state community college, and includes the applicable board of trustees or, in the case of a university branch district, any other managing authority.

(3) "Housing and dining facilities" means buildings, structures, and other improvements, and equipment, real estate, and interests in real estate therefor, to be used for or in connection with dormitories or other living quarters and accommodations, or related dining halls or other food service and preparation facilities, for students, members of the faculty, officers, or employees of the institution of higher education, and their spouses and families.

(4) "Auxiliary facilities" means buildings, structures, and other improvements, and equipment, real estate, and interests in real estate therefor, to be used for or in connection with student activity or student service facilities, housing and dining facilities, dining halls, and other food service and preparation facilities, vehicular parking facilities, bookstores, athletic and recreational facilities, faculty centers, auditoriums, assembly and exhibition halls, hospitals, infirmaries and other medical and health facilities, research, and continuing education facilities.

(5) "Education facilities" means buildings, structures, and other improvements, and equipment, real estate, and interests in real estate

therefor, to be used for or in connection with, classrooms or other instructional facilities, libraries, administrative and office facilities, and other facilities, other than auxiliary facilities, to be used directly or indirectly for or in connection with the conduct of the institution of higher education.

(6) "Facilities" means housing and dining facilities, auxiliary facilities, or education facilities, and includes any one, part of, or any combination of such facilities, and further includes site improvements, utilities, machinery, furnishings, and any separate or connected buildings, structures, improvements, sites, open space and green space areas, utilities or equipment to be used in, or in connection with the operation or maintenance of, or supplementing or otherwise related to the services or facilities to be provided by, such facilities.

(7) "Obligations" means bonds or notes or other evidences of obligation, including interest coupons pertaining thereto, authorized to be issued under this section or section 3345.07, 3345.11, 3354.121, 3355.091, 3357.112, or 3358.10 of the Revised Code.

(8) "Bond service charges" means principal, including any mandatory sinking fund or redemption requirements for the retirement of obligations or assurances, interest, or interest equivalent and other accreted amounts, and any call premium required to be paid on obligations or assurances.

(9) "Bond proceedings" means the resolutions, trust agreement, indenture, and other agreements and credit enhancement facilities, and amendments and supplements to the foregoing, or any one or more or combination thereof, authorizing, awarding, or providing for the terms and conditions applicable to, or providing for the security or liquidity of, obligations or assurances, and the provisions contained in those obligations or assurances.

(10) "Costs of facilities" means the costs of acquiring, constructing, reconstructing, rehabilitating, remodeling, renovating, enlarging, improving, equipping, or furnishing facilities, and the financing thereof, including the cost of clearance and preparation of the site and of any land to be used in connection with facilities, the cost of any indemnity and surety bonds and premiums on insurance, all related direct administrative expenses and allocable portions of direct costs of the institution of higher education or state agency, cost of engineering, architectural services, design, plans, specifications and surveys, estimates of cost, legal fees, fees and expenses of trustees, depositories, bond registrars, and paying agents for the obligations, cost of issuance of the obligations and financing costs and fees and expenses of financial advisers and consultants in connection therewith, interest on the

obligations from the date thereof to the time when interest is to be covered by available receipts or other sources other than proceeds of the obligations, amounts necessary to establish reserves as required by the bond proceedings, costs of audits, the reimbursements of all moneys advanced or applied by or borrowed from the institution or others, from whatever source provided, including any temporary advances from state appropriations, for the payment of any item or items of cost of facilities, and all other expenses necessary or incident to planning or determining feasibility or practicability with respect to facilities, and such other expenses as may be necessary or incident to the acquisition, construction, reconstruction, rehabilitation, remodeling, renovation, enlargement, improvement, equipment, and furnishing of facilities, the financing thereof and the placing of them in use and operation, including any one, part of, or combination of such classes of costs and expenses.

(11) "Available receipts" means all moneys received by the institution of higher education, including income, revenues, and receipts from the operation, ownership, or control of facilities or entrepreneurial projects, grants, gifts, donations, and pledges and receipts therefrom, receipts from fees and charges, and the proceeds of the sale of obligations or assurances, including proceeds of obligations or assurances issued to refund obligations or assurances previously issued, but excluding any special fee, and receipts therefrom, charged pursuant to division (D) of section 154.21 of the Revised Code.

(12) "Credit enhancement facilities" has the meaning given in division (H) of section 133.01 of the Revised Code.

(13) "Financing costs" has the meaning given in division (K) of section 133.01 of the Revised Code.

(14) "Interest" or "interest equivalent" has the meaning given in division (R) of section 133.01 of the Revised Code.

(15) "Assurances" means bonds, notes, or other evidence of indebtedness, including interest coupons pertaining thereto, authorized to be issued under section 3345.36 of the Revised Code.

(16) "Entrepreneurial project" has the same meaning as in section 3345.36 of the Revised Code.

(17) "Costs of entrepreneurial projects" means any costs related to the establishment or development of entrepreneurial projects pursuant to a resolution adopted under section 3345.36 of the Revised Code.

(B) Obligations issued under section 3345.07 or 3345.11 of the Revised Code by a state university or college shall be authorized by resolution of its board of trustees. Obligations issued by any other institution of higher

education shall be authorized by resolution of its board of trustees, or managing directors in the case of certain university branch districts, as applicable. Sections 9.96 and 9.98 to 9.983 of the Revised Code apply to obligations and assurances. Obligations and assurances may be issued to pay costs of facilities or entrepreneurial projects even if the institution anticipates the possibility of a future state appropriation to pay all or a portion of such costs.

(C) Obligations and assurances shall be secured by a pledge of and lien on all or such part of the available receipts of the institution of higher education as it provides for in the bond proceedings, excluding moneys raised by taxation and state appropriations except as permitted by section 3333.90 of the Revised Code. Such pledge and lien may be made prior to all other expenses, claims, or payments, excepting any pledge of such available receipts previously made to the contrary and except as provided by any existing restrictions on the use thereof, or such pledge and lien may be made subordinate to such other expenses, claims, or payments, as provided in the bond proceedings. Obligations or assurances may be additionally secured by covenants of the institution to make, fix, adjust, collect, and apply such charges, rates, fees, rentals, and other items of available receipts as will produce pledged available receipts sufficient to meet bond service charges, reserve, and other requirements provided for in the bond proceedings. Notwithstanding this and any other sections of the Revised Code, the holders or owners of the obligations or assurances shall not be given the right and shall have no right to have excises or taxes levied by the general assembly for the payment of bond service charges thereon, and each such obligation or assurance shall bear on its face a statement to that effect and to the effect that the right to such payment is limited to the available receipts and special funds pledged to such purpose under the bond proceedings.

All pledged available receipts and funds and the proceeds of obligations or assurances are trust funds and, subject to the provisions of this section and the applicable bond proceedings, shall be held, deposited, invested, reinvested, disbursed, applied, and used to such extent, in such manner, at such times, and for such purposes, as are provided in the bond proceedings.

(D) The bond proceedings for obligations or assurances shall provide for the purpose thereof and the principal amount or maximum principal amount, and provide for or authorize the manner of determining the principal maturity or maturities, the sale price including any permitted discount, the interest rate or rates, which may be a variable rate or rates, or the maximum interest rate, the date of the obligations or assurances and the date or dates of payment of interest thereon, their denominations, the

manner of sale thereof, and the establishment within or without the state of a place or places of payment of bond service charges. The bond proceedings also shall provide for a pledge of and lien on available receipts of the institution of higher education as provided in division (C) of this section, and a pledge of and lien on such fund or funds provided in the bond proceedings arising from available receipts, which pledges and liens may provide for parity with obligations or assurances theretofore or thereafter issued by the institution. The available receipts so pledged and thereafter received by the institution and the funds so pledged are immediately subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge is valid and binding against all parties having claims of any kind against the institution, irrespective of whether such parties have notice thereof, and shall create a perfected security interest for all purposes of Chapter 1309. of the Revised Code, without the necessity for separation or delivery of funds or for the filing or recording of the bond proceedings by which such pledge is created or any certificate, statement, or other document with respect thereto; and the pledge of such available receipts and funds shall be effective and the money therefrom and thereof may be applied to the purposes for which pledged without necessity for any act of appropriation.

(E) The bond proceedings may contain additional provisions customary or appropriate to the financing or to the obligations or assurances or to particular obligations and assurances, including:

(1) The acquisition, construction, reconstruction, equipment, furnishing, improvement, operation, alteration, enlargement, maintenance, insurance, and repair of facilities or entrepreneurial projects, and the duties of the institution of higher education with reference thereto;

(2) The terms of the obligations or assurances, including provisions for their redemption prior to maturity at the option of the institution of higher education at such price or prices and under such terms and conditions as are provided in the bond proceedings;

(3) Limitations on the purposes to which the proceeds of the obligations or assurances may be applied;

(4) The rates or rentals or other charges for the use of or right to use the facilities or entrepreneurial projects financed by the obligations or assurances, or other properties the revenues or receipts from which are pledged to the obligations or assurances, and rules for assuring any applicable use and occupancy thereof, including limitations upon the right to modify such rates, rentals, other charges, or regulations;

(5) The use and expenditure of the pledged available receipts in such

manner and to such extent as shall be determined, which may include provision for the payment of the expenses of operation, maintenance, and repair of facilities or entrepreneurial projects so that such expenses, or part thereof, shall be paid or provided as a charge prior or subsequent to the payment of bond service charges and any other payments required to be made by the bond proceedings;

(6) Limitations on the issuance of additional obligations or assurances;

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

(8) The deposit, investment, and application of funds, and the safeguarding of funds on hand or on deposit without regard to Chapter 131. or 135. of the Revised Code, and any bank or trust company or other financial institution that acts as depository of any moneys under the bond proceedings shall furnish such indemnifying bonds or pledge such securities as required by the bond proceedings or otherwise by the institution of higher education;

(9) The binding effect of any or every provision of the bond proceedings upon such officer, board, commission, authority, agency, department, or other person or body as may from time to time have the authority under law to take such actions as may be necessary to perform all or any part of the duty required by such provision;

(10) Any provision that may be made in a trust agreement or indenture;

(11) Any other or additional agreements with respect to the facilities of the institution of higher education or its entrepreneurial projects, their operation, the available receipts and funds pledged, and insurance of facilities or entrepreneurial projects and of the institution, its officers and employees.

(F) Such obligations or assurances may have the seal of the institution of higher education or a facsimile thereof affixed thereto or printed thereon and shall be executed by such officers as are designated in the bond proceedings, which execution may be by facsimile signatures. Any obligations or assurances may be executed by an officer who, on the date of execution, is the proper officer although on the date of such obligations or assurances such person was not the proper officer. In case any officer whose signature or a facsimile of whose signature appears on any such obligation or assurance ceases to be such officer before delivery thereof, such signature or facsimile is nevertheless valid and sufficient for all purposes as if the person had remained such officer until such delivery; and in case the seal of the institution has been changed after a facsimile of the seal has been imprinted on such obligations or assurances, such facsimile seal continues to

be sufficient as to such obligations or assurances and obligations or assurances issued in substitution or exchange therefor.

(G) All such obligations or assurances are negotiable instruments and securities under Chapter 1308. of the Revised Code, subject to the provisions of the bond proceedings as to registration. The obligations or assurances may be issued in coupon or in registered form, or both. Provision may be made for the registration of any obligations or assurances with coupons attached thereto as to principal alone or as to both principal and interest, their exchange for obligations or assurances so registered, and for the conversion or reconversion into obligations or assurances with coupons attached thereto of any obligations or assurances registered as to both principal and interest, and for reasonable charges for such registration, exchange, conversion, and reconversion.

(H) Pending preparation of definitive obligations or assurances, the institution of higher education may issue interim receipts or certificates which shall be exchanged for such definitive obligations or assurances.

(I) Such obligations or assurances may be secured additionally by a trust agreement or indenture between the institution of higher education and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without this state but authorized to exercise trust powers within this state. Any such agreement or indenture may contain the resolution authorizing the issuance of the obligations or assurances, any provisions that may be contained in the bond proceedings as authorized by this section, and other provisions which are customary or appropriate in an agreement or indenture of such type, including:

(1) Maintenance of each pledge, trust agreement, and indenture, or other instrument comprising part of the bond proceedings until the institution of higher education has fully paid the bond service charges on the obligations or assurances secured thereby, or provision therefor has been made;

(2) In the event of default in any payments required to be made by the bond proceedings, or any other agreement of the institution of higher education made as a part of the contract under which the obligations or assurances were issued, enforcement of such payments or agreement by mandamus, the appointment of a receiver, suit in equity, action at law, or any combination of the foregoing;

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

(4) The replacement of any obligations or assurances that become

mutilated or are destroyed, lost, or stolen;

(5) Such other provisions as the trustee and the institution of higher education agree upon, including limitations, conditions, or qualifications relating to any of the foregoing.

(J) Each duty of the institution of higher education and its officers or employees, undertaken pursuant to the bond proceedings or any related agreement or lease made under authority of law, is hereby established as a duty of such institution, and of each such officer or employee having authority to perform such duty, specially enjoined by law resulting from an office, trust, or station within the meaning of section 2731.01 of the Revised Code. The persons who are at the time the members of the board of trustees or the managing directors of the institution or its officers or employees are not liable in their personal capacities on such obligations or assurances, or lease, or other agreement of the institution.

(K) The authority to issue obligations or assurances includes authority to:

(1) Issue obligations or assurances in the form of bond anticipation notes and to renew them from time to time by the issuance of new notes. Such notes are payable solely from the available receipts and funds that may be pledged to the payment of such bonds, or from the proceeds of such bonds or renewal notes, or both, as the institution of higher education provides in its resolution authorizing such notes. Such notes may be additionally secured by covenants of the institution to the effect that it will do such or all things necessary for the issuance of such bonds or renewal notes in appropriate amount, and either exchange such bonds or renewal notes therefor or apply the proceeds thereof to the extent necessary, to make full payment of the bond service charges on such notes at the time or times contemplated, as provided in such resolution. Subject to the provisions of this division, all references to obligations or assurances in this section apply to such anticipation notes.

(2) Issue obligations or assurances to refund, including funding and retirement of, obligations or assurances previously issued to pay costs of facilities or entrepreneurial projects. Such obligations or assurances may be issued in amounts sufficient for payment of the principal amount of the obligations or assurances to be so refunded, any redemption premiums thereon, principal maturities of any obligations or assurances maturing prior to the redemption of any other obligations or assurances on a parity therewith to be so refunded, interest accrued or to accrue to the maturity date or dates of redemption of such obligations or assurances, and any expenses incurred or to be incurred in connection with such refunding or the

issuance of the obligations or assurances.

(L) Obligations and assurances are lawful investments for banks, societies for savings, savings and loan associations, deposit guarantee associations, trust companies, trustees, fiduciaries, insurance companies, including domestic for life and domestic not for life, trustees or other officers having charge of sinking and bond retirement or other special funds of political subdivisions and taxing districts of this state, the commissioners of the sinking fund, the administrator of workers' compensation in accordance with the investment policy approved by the bureau of workers' compensation board of directors pursuant to section 4121.12 of the Revised Code, the state teachers retirement system, the public employees retirement system, the school employees retirement system, and the Ohio police and fire pension fund, notwithstanding any other provisions of the Revised Code or rules adopted pursuant thereto by any state agency with respect to investments by them, and are also acceptable as security for the deposit of public moneys.

(M) All facilities or entrepreneurial projects purchased, acquired, constructed, or owned by an institution of higher education, or financed in whole or in part by obligations or assurances issued by an institution, and used for the purposes of the institution or other publicly owned and controlled college or university, is public property used exclusively for a public purpose, and such property and the income therefrom is exempt from all taxation and assessment within this state, including ad valorem and excise taxes. The obligations or assurances, the transfer thereof, and the income therefrom, including any profit made on the sale thereof, are at all times free from taxation within the state. The transfer of tangible personal property by lease under authority of this section or section 3345.07, 3345.11, 3345.36, 3354.121, 3355.091, 3357.112, or 3358.10 of the Revised Code is not a sale as used in Chapter 5739. of the Revised Code.

(N) The authority granted by this section is cumulative with the authority granted to institutions of higher education under Chapter 154. of the Revised Code, and nothing in this section impairs or limits the authority granted by Chapter 154. of the Revised Code. In any lease, agreement, or commitment made by an institution of higher education under Chapter 154. of the Revised Code, it may agree to restrict or subordinate any pledge it may thereafter make under authority of this section.

(O) Title to lands acquired under this section and sections 3345.07 and 3345.11 of the Revised Code by a state university or college shall be taken in the name of the state.

(P) Except where costs of facilities or entrepreneurial projects are to be

paid in whole or in part from funds appropriated by the general assembly, section 125.81 of the Revised Code and the requirement for certification with respect thereto under section 153.04 of the Revised Code do not apply to such facilities or entrepreneurial projects.

(Q) A state university or college may sell or lease lands or interests in land owned by it or by the state for its use, or facilities authorized to be acquired or constructed by it under section 3345.07 or 3345.11 of the Revised Code, to permit the purchasers or lessees thereof to acquire, construct, equip, furnish, reconstruct, alter, enlarge, remodel, renovate, rehabilitate, improve, maintain, repair, or maintain and operate thereon and to provide by lease or otherwise to such institution, facilities authorized in section 3345.07 or 3345.11 of the Revised Code or entrepreneurial projects authorized under section 3345.36 of the Revised Code. Such land or interests therein shall be sold for such appraised value, or leased, and on such terms as the board of trustees determines. All deeds or other instruments relating to such sales or leases shall be executed by such officer of the state university or college as the board of trustees designates. The state university or college shall hold, invest, or use the proceeds of such sales or leases for the same purposes for which proceeds of borrowings may be used under sections 3345.07 and 3345.11 of the Revised Code or, if the proceeds relate to the sale or lease of entrepreneurial projects, for purposes of section 3345.36 of the Revised Code.

(R) An institution of higher education may pledge available receipts, to the extent permitted by division (C) of this section with respect to obligations, to secure the payments to be made by it under any lease, lease with option to purchase, or lease-purchase agreement authorized under this section or section 3345.07, 3345.11, 3345.36, 3354.121, 3355.091, 3357.112, or 3358.10 of the Revised Code.

Sec. 3345.32. (A) As used in this section:

(1) "State university or college" means the institutions described in section 3345.27 of the Revised Code and the northeastern Ohio universities college of medicine.

(2) "Resident" has the meaning specified by rule of the chancellor of the Ohio board of regents.

(3) "Statement of selective service status" means a statement certifying one of the following:

(a) That the individual filing the statement has registered with the selective service system in accordance with the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 453, as amended;

(b) That the individual filing the statement is not required to register

with the selective service for one of the following reasons:

- (i) The individual is under eighteen or over twenty-six years of age.
- (ii) The individual is on active duty with the armed forces of the United States other than for training in a reserve or national guard unit.
- (iii) The individual is a nonimmigrant alien lawfully in the United States in accordance with section 101 (a)(15) of the "Immigration and Nationality Act," 8 U.S.C. 1101, as amended.
- (iv) The individual is not a citizen of the United States and is a permanent resident of the Trust Territory of the Pacific Islands or the Northern Mariana Islands.

(4) "Institution of higher education" means any eligible institution approved by the United States department of education pursuant to the "Higher Education Act of 1965," 79 Stat. 1219, as amended, or any institution whose students are eligible for financial assistance under any of the programs described by division (E) of this section.

(B) The chancellor shall, by rule, specify the form of statements of selective service status to be filed in compliance with divisions (C) to (F) of this section. Each statement of selective service status shall contain a section wherein a male student born after December 31, 1959, certifies that the student has registered with the selective service system in accordance with the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 453, as amended. For those students not required to register with the selective service, as specified in divisions (A)(2)(b)(i) to (iv) of this section, a section shall be provided on the statement of selective service status for the certification of nonregistration and for an explanation of the reason for the exemption. The chancellor may require that such statements be accompanied by documentation specified by rule of the chancellor.

(C) A state university or college that enrolls in any course, class, or program a male student born after December 31, 1959, who has not filed a statement of selective service status with the university or college shall, regardless of the student's residency, charge the student any tuition surcharge charged students who are not residents of this state.

(D) No male born after December 31, 1959, shall be eligible to receive any loan, grant, scholarship, or other financial assistance for educational expenses granted under section 3315.33, 3333.12, 3333.122, 3333.21, 3333.22, 3333.26, ~~3333.27~~, 3333.391, 5910.03, 5910.032, or 5919.34 of the Revised Code, financed by an award under the choose Ohio first scholarship program established under section 3333.61 of the Revised Code, or financed by an award under the Ohio co-op/internship program established under section 3333.72 of the Revised Code, unless that person has filed a

statement of selective service status with that person's institution of higher education.

(E) If an institution of higher education receives a statement from an individual certifying that the individual has registered with the selective service system in accordance with the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 453, as amended or that the individual is exempt from registration for a reason other than that the individual is under eighteen years of age, the institution shall not require the individual to file any further statements. If it receives a statement certifying that the individual is not required to register because the individual is under eighteen years of age, the institution shall require the individual to file a new statement of selective service status each time the individual seeks to enroll for a new academic term or makes application for a new loan or loan guarantee or for any form of financial assistance for educational expenses, until it receives a statement certifying that the individual has registered with the selective service system or is exempt from registration for a reason other than that the individual is under eighteen years of age.

Sec. 3345.36. (A) For purposes of this section:

(1) "Entrepreneurial project" means an effort to develop or commercialize technology through research or technology transfer or investment of real or personal property, or both, including undivided and other interests therein, acquired by gift or purchase, constructed, reconstructed, enlarged, improved, furnished, or equipped, or any combination thereof, by an institution of higher education or by others.

(2) "Governmental agency" has the same meaning as in section 166.01 of the Revised Code.

(3) "Person" means individuals or entities engaged in industry, commerce, distribution, or research.

(4) "Institution of higher education" has the same meaning as in section 3345.12 of the Revised Code.

(5) "Stock or other ownership" means equity or other ownership rights held or received in return for the grant of rights to intellectual property developed by an institution of higher education. "Stock or other ownership" excludes equity or other ownership rights held or received in return for the investment of money.

(B) To create or preserve jobs and employment opportunities and to improve the economic welfare of the people of the state pursuant to Section 13 of Article VIII, Ohio Constitution, it is hereby declared to be the public policy of the state for institutions of higher education to facilitate and assist with establishing and developing entrepreneurial projects or to assist and

cooperate with any governmental agency in achieving such purpose. An entrepreneurial project is hereby determined to qualify as property, structures, equipment, and facilities described in Section 13 of Article VIII, Ohio Constitution.

In furtherance of such public policy, and pursuant to Section 13 of Article VIII, Ohio Constitution, a board of trustees of an institution of higher education may do any of the following by resolution:

(1) Enter into an agreement with persons and with governmental agencies to induce such persons to acquire, construct, reconstruct, rehabilitate, renovate, enlarge, improve, equip, furnish, or otherwise develop entrepreneurial projects;

(2) Acquire stock or other ownership in an entrepreneurial project or a legal entity formed in connection with an entrepreneurial project;

(3) Make or guarantee loans and borrow money and issue bonds, notes, or other evidence of indebtedness to provide moneys for the acquisition, construction, enlargement, improvement, equipment, maintenance, repair, or operation of entrepreneurial projects, provided that such bonds, notes, or other evidence of indebtedness shall not constitute debt for which the full faith and credit of the state or an instrumentality or political subdivision of the state may be pledged and moneys raised by taxation shall not be obligated or pledged for their repayment.

Sec. 3345.61. As used in this section and sections 3345.62 to 3345.66 of the Revised Code:

(A) "Avoided capital costs" means a measured reduction in the cost of future equipment or other capital purchases that results from implementation of one or more energy or water conservation measures, when compared to an established baseline for previous such cost.

(B) "Board of trustees of a state institution of higher education" means the board of trustees of a state institution of higher education as defined in section 3345.011 of the Revised Code.

~~(B)~~(C) "Energy conservation measure" means an installation or modification of an installation in, or a remodeling of, an existing building in order to reduce energy consumption and operating costs. The term includes any of the following:

(1) Installation or modification of insulation in the building structure and systems within the building;

(2) Installation or modification of a storm ~~windows and doors~~ window or door, a multiglazed ~~windows and doors~~ window or door, and or a heat absorbing or heat reflective glazed and coated window and door systems system; installation of additional glazing; ~~reductions~~ a reduction in glass

area; ~~and or~~ other window ~~and or~~ door system ~~modifications~~ modification that ~~reduce~~ reduces energy consumption and operating costs;

(3) Installation or modification of an automatic energy control ~~systems~~ system;

(4) Replacement or modification of a heating, ventilating, or air conditioning ~~systems~~ system;

(5) Application of caulking and weatherstripping;

(6) Replacement or modification of a lighting ~~fixtures~~ fixture to increase the energy efficiency of the system without increasing the overall illumination of a facility, unless such increase in illumination is necessary to conform to the applicable state or local building code for the proposed lighting system;

(7) Installation or modification of an energy recovery ~~systems~~ system;

(8) Installation or modification of cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;

(9) Any other modification, installation, or remodeling approved by the board of trustees of a state institution of higher education as an energy conservation measure for one or more buildings owned by the institution.

~~(C)~~(D) "Energy saving measure" means the acquisition and installation, by purchase, lease, lease-purchase, lease with an option to buy, or installment purchase, of an energy conservation measure and any attendant architectural and engineering consulting services.

(E) "Energy, water, or wastewater cost savings" means a measured reduction in, as applicable, the cost of fuel, energy or water consumption, wastewater production, or stipulated operation or maintenance resulting from the implementation of one or more energy or water conservation measures, when compared to an established baseline for previous such costs, respectively.

(F) "Operating cost savings" means a measured reduction in the cost of stipulated operation or maintenance created by the installation of new equipment or implementation of a new service, when compared with an established baseline for previous such stipulated costs.

(G) "Water conservation measure" means an installation or modification of an installation in, or a remodeling of, an existing building or the surrounding grounds in order to reduce water consumption. The term includes any of the following:

(1) Water-conserving fixture, appliance, or equipment, or the substitution of a nonwater-using fixture, appliance, or equipment;

(2) Water-conserving, landscape irrigation equipment;

(3) Landscaping measure that reduces storm water runoff demand and capture and hold applied water and rainfall, including landscape contouring such as the use of a berm, swale, or terrace and including the use of a soil amendment, including compost, that increases the water-holding capacity of the soil;

(4) Rainwater harvesting equipment or equipment to make use of water collected as part of a storm water system installed for water quality control;

(5) Equipment for recycling or reuse of water originating on the premises or from another source, including treated, municipal effluent;

(6) Equipment needed to capture water for nonpotable uses from any nonconventional, alternate source, including air conditioning condensate or gray water;

(7) Any other modification, installation, or remodeling approved by the board of trustees of a state institution of higher education, as defined in section 3345.011 of the Revised Code, as a water conservation measure for one or more buildings or the surrounding grounds owned by the institution.

(H) "Water saving measure" means the acquisition and installation, by the purchase, lease, lease-purchase, lease with an option to buy, or installment purchases of a water conservation measure and any attendant architectural and engineering consulting services.

Sec. 3345.62. The board of trustees of a state institution of higher education may contract with an energy or water services company, architect, professional engineer, contractor, or other person experienced in the design and implementation of energy or water conservation measures for a report containing an analysis and recommendations pertaining to the implementation of energy or water conservation measures that would ~~significantly reduce result in energy consumption and, water, or wastewater cost savings, operating costs in buildings owned by~~ cost savings, or avoided capital costs for the institution. The report shall include estimates of all costs of such installations, including the costs of design, engineering, installation, maintenance, repairs, and debt service, and estimates of the ~~amounts by which energy consumption and, water, or wastewater cost savings, operating costs would be reduced~~ cost savings, and avoided capital costs created.

Sec. 3345.63. If the board of trustees of a state institution of higher education wishes to enter into a contract, other than an installment payment contract provided under section 3345.64 of the Revised Code, to implement one or more energy or water saving measures, the board may proceed under the applicable competitive bidding requirements in Chapter 153. or section 3354.16, 3355.12, 3357.16, or 3358.10 of the Revised Code or, notwithstanding those requirements, may enter into such a contract as

provided in section 3345.65 of the Revised Code.

Sec. 3345.64. In accordance with this section, the board of trustees of a state institution of higher education may enter into an installment payment contract for the implementation of one or more energy or water saving measures. Any such contract shall be subject to the competitive bidding requirements of Chapter 153. or section 3354.16, 3355.12, 3357.16, or 3358.10 of the Revised Code, as applicable to each such board, except as follows:

(A) If the board does not exempt the entire installment payment contract from the applicable competitive bidding requirements pursuant to division (B) of this section, the provisions of the contract dealing with interest charges and financing terms shall not be subject to the applicable competitive bidding requirements. Each such contract shall require repayment on the following terms:

(1) Not less than one ~~tenth~~ fifteenth of the costs of the contract shall be paid within two years from the date of purchase;

~~(2)(a) The remaining balance of the costs of the contract, in the case of an installment payment contract for a cogeneration system described in division (B)(8) of section 3345.61 of the Revised Code, shall be paid within five~~ fifteen years from the date of purchase;

~~(b) The remaining balance of the costs of the contract, in the case of an installment payment contract for an energy saving measure that is not a cogeneration system, shall be paid within ten years from the date of purchase.~~

(B) The board by majority vote may exempt from the applicable competitive bidding requirements an entire installment payment contract for the implementation of energy or water saving measures pursuant to this section and instead of those requirements shall enter into the contract as provided in section 3345.65 of the Revised Code.

Sec. 3345.65. To enter into a contract under this section pursuant to section 3345.63 or division (B) of section 3345.64 of the Revised Code, a board of trustees of a state institution of higher education shall request proposals from at least three parties for the implementation of energy or water saving measures. Prior to providing any interested party a copy of any such request, the board shall advertise, in a newspaper of general circulation in the county where the contract is to be performed, its intent to request proposals for the implementation of energy or water saving measures. The notice shall invite interested parties to submit proposals for consideration and shall be published at least thirty days prior to the date for accepting proposals.

Upon receiving the proposals, the board shall analyze them. After considering the cost estimates of each proposal, how qualified each party submitting a proposal is to implement its proposal, and the institution's ability to pay for each with current revenues or by financing the cost of each, the board may select one or more proposals or, instead, reject all proposals. In selecting proposals, the board shall select the proposal or proposals most likely to result in the greatest savings when the cost of the proposal is compared to the reduced energy and, water, or wastewater cost savings, operating cost savings, and avoided capital costs that will result from implementing the proposal.

No board shall award a contract to implement energy or water saving measures under this section unless the board finds that ~~one or both of the following circumstances exists, as applicable:~~

~~(A) In the case of a contract for a cogeneration system described in division (B)(8) of section 3345.61 of the Revised Code, the cost of the contract is not likely to exceed the amount of money the board would save in energy and, water, or wastewater savings, operating cost savings, and avoided capital costs over no more than ~~five~~ fifteen years;~~

~~(B) In the case of any contract for any energy saving measure other than a cogeneration system, the cost of the contract is not likely to exceed the amount of money the board would save in energy and operating costs over no more than ten years.~~

Sec. 3345.66. The board of trustees of a state institution of higher education may issue notes of the institution signed by the ~~chairman~~ chairperson and treasurer or other chief fiscal officer of the board and specifying the terms of the purchase and securing the payments provided in section 3345.64 of the Revised Code, payable at the times provided and bearing interest at a rate not exceeding a rate determined under section 9.95 of the Revised Code. The notes may contain an option for prepayment and are not subject to Chapter 133. of the Revised Code. Revenues derived from any source, other than money appropriated by the general assembly, that may be used for the purpose of conserving implementing energy or water saving measures or for defraying the current operating expenses of the institution may be pledged to the payment of interest and the retirement of such notes. The notes may be sold at private sale or given to the contractor under the installment payment contract authorized by section 3345.64 of the Revised Code.

Sec. 3349.242. Any agreement authorized by section 3349.241 of the Revised Code may provide for the amounts of such participation by such school district or districts in the development, maintenance, and operation of

such municipal university, but no funds granted to school districts under Chapter 3306. or 3317. of the Revised Code shall be used for such purposes. By the terms of any such agreement the school district or districts and their residents shall be entitled to the educational advantages of said municipal university at the same rate of tuition, fees, and other charges as are provided for the residents of the municipal corporation in which such municipal university is situated.

Sec. 3351.07. (A) For the purposes of this chapter, "approved lender" means any bank as defined in section 1101.01 of the Revised Code, any domestic savings and loan association as defined in section 1151.01 of the Revised Code, any credit union as defined in section 1733.01 of the Revised Code, any federal credit union established pursuant to federal law, any insurance company organized or authorized to do business in this state, any pension fund eligible under the "Higher Education Amendments of 1968," 82 Stat. 1026, 20 U.S.C.A. 1085, as amended, the secondary market operation designated under division (B) of this section, or any secondary market operation established pursuant to the "Education Amendments of 1972," 86 Stat. 261, 20 U.S.C.A. 1071, as amended, or under the laws of any state.

(B) The governor may designate one nonprofit corporation secondary market operation to be the single nonprofit private agency designated by the state under the "Higher Education Act of 1965," 101 Stat. 347, 20 U.S.C.A. 1085(d)(1)(D), as amended. A designation in effect on the effective date of this amendment expires December 31, 2009. Each designation after the effective date of this amendment shall be made by competitive selection and shall be valid for one year. The controlling board shall not waive the competitive selection requirement.

(C) The nonprofit corporation designated by the governor under division (B) of this section as the private agency secondary market operation shall be considered to be an agency of the state, in accordance with section 435(d)(1)(F) of the "Higher Education Act of 1965," 101 Stat. 347, 20 U.S.C.A. 1085(d)(1)(F), as amended, exclusively for the purpose of functioning as a secondary student loan market. The corporation shall be considered a state agency only for the purposes of this division and no other division or section of the Revised Code regarding state agencies shall apply to the corporation. No liability or obligation incurred by the corporation shall be considered to be a liability or debt of the state, nor shall the state be construed to act as guarantor of any debt of the corporation.

(D) The nonprofit corporation designated under division (B) of this section shall designate a separate nonprofit corporation to operate

exclusively for charitable and educational purposes, complementing and supplementing the designating corporation's secondary market operation for student loans authorized under the "Higher Education Act of 1965," 101 Stat. 347, 20 U.S.C.A. 1085, as amended, and promoting the general health and welfare of the state, the public interest, and a public purpose through improving student assistance programs by expanding access to higher education financing programs for students and families in need of student financial aid. In furtherance of such purposes, the separate nonprofit corporation may do all of the following:

(1) Assist educational institutions in establishing financial aid programs to help students obtain an economical education;

(2) Encourage financial institutions to increase educational opportunities by making funds available to both students and educational institutions;

(3) Make available financial aid that supplements the financial assistance provided by eligible and approved lenders under state and federal programs;

(4) Develop and administer programs that do all of the following:

(a) Provide financial aid and incidental student financial aid information to students and their parents or other persons responsible for paying educational costs of those students at educational institutions;

(b) Provide financial aid and information relating to it to and through educational institutions, enabling those institutions to assist students financially in obtaining an education and fully expanding their intellectual capacity and skills;

(c) Better enable financial institutions to participate in student loan programs and other forms of financial aid, assisting students and educational institutions to increase education excellence and accessibility.

(E) The nonprofit corporation designated under authority of division (D) of this section shall do both of the following:

(1) Establish the criteria, standards, terms, and conditions for participation by students, parents, educational institutions, and financial institutions in that corporation's programs;

(2) Provide the governor a report of its programs and a copy of its audited financial statements not later than one hundred eighty days after the end of each fiscal year of the corporation.

No liability, obligation, or debt incurred by the corporation designated under authority of division (D) of this section or by any person under that corporation's programs shall be, or be considered to be, a liability, obligation, or debt of, or a pledge of the faith and credit of, the state, any political subdivision of the state, or any state-supported or state-assisted

institution of higher education, nor shall the state or any political subdivision of the state or any state-supported or state-assisted institution of higher education be or be construed to act as an obligor under or guarantor of any liability, obligation, or debt of that corporation or of any person under that corporation's programs or incur or be construed to have incurred any other liability, obligation, or debt as a result of any acts of the corporation.

(F) The nonprofit corporation designated under authority of division (D) of this section shall not be deemed to qualify by reason of the designation as a guarantor or an eligible lender under sections 435(d) and (j) of the "Higher Education Act of 1965," 101 Stat. 347, 20 U.S.C.A. 1085(d) and (j), as amended.

Sec. 3353.09. (A) Not later than January 1, 2010, the eTech Ohio commission shall develop and implement a state technology plan to create an aligned educational technology system that spans preschool to postsecondary education and complies with federal mandates. The commission periodically shall modify the plan as it determines necessary.

(B) The commission shall consult with the state board of education in the development and modification of the state technology plan.

Sec. 3353.20. (A) The eTech Ohio commission shall develop and implement an interactive distance learning pilot project to provide, beginning with the 2009-2010 school year, access to at least three interactive distance learning courses in each school year free of charge for all high schools operated by school districts. The courses offered shall include two advanced placement courses and one foreign language course.

The commission shall do all of the following:

(1) Contract for the development and offering of interactive distance learning courses;

(2) Produce and broadcast the courses offered by the pilot project;

(3) Provide the funds for schools to purchase video conferencing telecommunications equipment and connectivity devices, if necessary, so that the schools may participate in the pilot project;

(4) Assist schools in arranging for the purchase and installation of telecommunications equipment and connectivity devices, if necessary, so that the schools may participate in the pilot project;

(5) Pay, for up to one school year, the cost of upgrading internet service for schools that currently have a connection not faster than 1.544 megabits per second;

(6) Offer training in the use of the telecommunications equipment necessary to participate in the pilot project;

(7) Administer and oversee the operation of the pilot project.

(B) The department of education, in consultation with the chancellor of the Ohio board of regents, shall select courses to be offered by the pilot project and shall develop the standards for the curriculum of each course selected.

(C) The commission and the department jointly, and in consultation with the chancellor, shall select the teachers to develop and teach the courses offered by the pilot project.

(D) The commission, the department, and the chancellor jointly shall notify schools of and promote participation in the pilot project.

(E) Each high school shall determine the manner in which and facilities at which students may participate in courses consistent with specifications for technology and connectivity required by the commission.

(F) The grade for a student enrolled in a course offered through the pilot project shall be assigned by the course teacher and shall be transmitted to the student's high school.

(G) Not later than December 31, 2010, the superintendent of public instruction, the chancellor, and the commission shall submit to the governor and the general assembly, in accordance with section 101.68 of the Revised Code, a formative evaluation of the implementation and results of and legislative recommendations for changes in the pilot project.

Sec. 3354.24. (A) The provisions of this section prevail over conflicting provisions of this chapter; however, except as otherwise provided in this section, the eastern gateway community college district and its board of trustees shall comply with the provisions of this chapter.

(B) The territory of Columbiana, Mahoning, and Trumbull counties is hereby added to the territory of the community college district of Jefferson county, creating a new community college district to replace the former community college district of Jefferson county. The district created under this section shall be known as and operate under the name of "eastern gateway community college district," and its charter shall be amended to this name. The Jefferson county campus is hereby part of the eastern gateway community college district and shall remain in operation unless otherwise specified by the board of trustees of the community college.

The eastern gateway community college district is divided into two taxing subdistricts, one consisting of the territory of Jefferson county, and the other consisting of the territories of Columbiana, Mahoning, and Trumbull counties.

(C) On the effective date of this section as enacted by H.B. 1 of the 128th general assembly, the government of the eastern gateway community college district shall be vested in a board of eleven trustees to be appointed

by the governor, with the advice and consent of the senate. The board of trustees of the former community college district of Jefferson county is abolished on that date.

The governor shall appoint the members of the board of trustees of the eastern gateway community college district as successors to the board of trustees of Jefferson community college as follows: Three members of the board of trustees shall be residents of Jefferson county. (The initial Jefferson county members shall be members of the board of trustees of the former community college district of Jefferson county, as it existed before the effective date of this section.) Eight members of the board of trustees shall be residents of Columbiana, Mahoning, and Trumbull counties.

The initial board of trustees shall be appointed within ninety days after the effective date of this section for terms as follows: Of the trustees who are residents of Jefferson county, one trustee shall be appointed for a one-year term, one trustee shall be appointed for a three-year term, and one trustee shall be appointed for a five-year term. Of the trustees who are residents of Columbiana, Mahoning, and Trumbull counties, one trustee shall be appointed for a one-year term, two trustees shall be appointed for two-year terms, two trustees shall be appointed for three-year terms, two trustees shall be appointed for four-year terms, and one trustee shall be appointed for a five-year term.

At the conclusion of each initial term, the term of office of each trustee shall be five years, each term ending on the same day of the same month of the year as did the term that it succeeds.

Each trustee shall hold office from the date of the trustee's appointment until the end of the term for which the trustee was appointed. Any trustee appointed to fill a vacancy occurring before the expiration of the term for which the trustee's predecessor was appointed shall hold office for the remainder of that term. Any trustee shall continue in office subsequent to the expiration date of the trustee's term until the trustee's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

If a vacancy occurs and the Jefferson county tax levy is no longer in place or a conversion under division (H) of this section has occurred, the governor shall fill the vacancy with a person residing within the eastern gateway community college district.

(D) The board of trustees of the eastern gateway community college district shall continue to comply with division (G) of section 3354.09 of the Revised Code regarding tuition for students who are residents of Ohio but not residents of the district, and for students who are nonresidents of Ohio. The tuition rate shall be based on the student's county of residence and shall

apply to all eastern gateway community college district classes in all district locations. Except as provided in division (F)(3) of this section, students who are residents of Columbiana, Mahoning, or Trumbull county shall continue to be charged tuition at the same rate as Ohio residents who are not residents of the district.

(E)(1) Except as provided in divisions (E)(2) and (3) of this section, each member of the board of trustees shall have full voting rights on all matters that come before the board.

(2) The three trustees representing Jefferson county shall have sole authority to vote on the following matters:

(a) The Jefferson county tax levy;

(b) The expenditure of revenue from that tax levy;

(c) Levy-subsidized tuition rates.

(3) The voting restrictions under division (E)(2) of this section apply until the electors of the Columbiana, Mahoning, and Trumbull county taxing subdistrict approve a tax levy under division (F)(3) of this section that is equivalent to the tax levy approved by the electors of Jefferson county for the support of the former community college district of Jefferson county on the effective date of this section. For the purposes of this division, the tax levy is an equivalent tax levy if either:

(a) In the first tax year for which the tax is collected, it yields revenue per capita equal to or greater than the yield per capita of levies of the community college district in effect that year in Jefferson county, as jointly determined by the county auditors of Jefferson, Columbiana, Mahoning, and Trumbull counties; or

(b) In the first tax year for which the tax is collected, the effective tax rate of the tax is equal to or greater than the effective tax rate of levies of the community college district in effect that tax year in Jefferson county, as jointly determined by the county auditors of Jefferson, Columbiana, Mahoning, and Trumbull counties.

As used in this division, "effective tax rate" means the quotient obtained by dividing the total taxes charged and payable for a taxing subdistrict for a tax year after the reduction prescribed by section 319.301 of the Revised Code but before the reduction prescribed by section 319.302 or 323.152 of the Revised Code, by the taxable value for the taxing subdistrict for that tax year.

(F)(1) For each taxing subdistrict of the eastern gateway community college district, the board of trustees may propose to levy a tax in accordance with the procedures prescribed in section 3354.12 of the Revised Code, except the following terms used in that section shall have the

meanings given them in this section:

(a) "District" and "community college district" mean the appropriate taxing subdistrict defined in this section;

(b) "Board of trustees of the community college district" means the board of trustees for the entire eastern gateway community college district. That board of trustees may propose separate levies for either of the two taxing subdistricts.

(c) "Tax duplicate" means the tax duplicate of only the appropriate taxing subdistrict and not the tax duplicate of the entire eastern gateway community college district.

(2) The board of trustees may propose to levy a tax on taxable property in Jefferson county to be voted on by the electors of Jefferson county as provided in division (F)(1) of this section. An affirmative vote by a majority of the electors of the subdistrict voting on the question is necessary for passage. Any money raised by a tax levied by the former community college district of Jefferson county or a subsequent tax levied in Jefferson county in accordance with division (F)(1) of this section shall be used solely for the benefit of Jefferson county residents attending the eastern gateway community college in the form of student tuition subsidies, student scholarships, and instructional facilities, equipment, and support services located within Jefferson county, or for any purpose approved by the electors. Such amounts shall be deposited into a separate fund of the taxing subdistrict, and shall be budgeted separately.

(3) The board of trustees may propose to levy a tax on taxable property in Columbiana, Mahoning, and Trumbull counties to be voted on by the electors of the counties as provided in division (F)(1) of this section. An affirmative vote by a majority of the electors of the subdistrict voting on the question is necessary for passage. Any amounts raised by such a tax in the tax subdistrict shall be used solely for the benefit of residents of the subdistrict attending the eastern gateway community college in the form of student tuition subsidies, student scholarships, and instructional facilities, equipment, and support services located within Columbiana, Mahoning, and Trumbull counties, or for any purpose approved by the electors. Amounts collected shall be deposited into a separate fund from all other revenues collected by each taxing subdistrict.

The board of trustees may adjust the rate of tuition charged to each taxing subdistrict's residents to an amount commensurate with the amount of tax the board of trustees dedicates for instructional and general services provided to the residents of the subdistrict.

(G) The board of trustees of the eastern gateway community college

district may issue bonds in accordance with section 3354.11 of the Revised Code, but the board may limit the question of approval of the issue of those bonds to the electors of only one of the two taxing subdistricts, in which case the board also may limit the use of the property or improvements to the residents of that subdistrict.

(H) If the tax levy in Jefferson county expires, is not renewed, or is not approved by the electors of Jefferson county and the other taxing subdistrict does not levy a tax for the purposes of this section, the board of trustees of the eastern gateway community college district shall submit a proposal to the chancellor of the board of regents to convert to a state community college and, upon the chancellor's approval of the proposal, enter into a transition agreement with the chancellor following the procedures set forth in section 3358.05 of the Revised Code for a technical college district.

Sec. 3354.26. Notwithstanding the provisions in section 3354.07 and division (A) of section 3354.09 of the Revised Code, which allow the board of trustees of a community college district to contract with a generally accredited public university or college for operation of such community college, the board of trustees of the Rio Grande community college district and the board of trustees of the university of Rio Grande, a private nonprofit corporation also located in Rio Grande, Ohio, may enter into ~~a contract~~ one or more contracts for the board of trustees of the university of Rio Grande to provide any services for the operation of the community college. ~~The,~~ except the services of a treasurer or other fiscal officer. Under the contracts, the community college board of trustees may employ a person to serve as president of the community college, and also may have that person serve as president of the university as established by the contract entered into pursuant to this section. The salary, benefits, and other compensation for any such employee for all duties shall be determined and paid solely by the community college acquire the services of the president of the university and other personnel, except as otherwise provided in this section. The community college board shall have exclusive authority to employ and make personnel decisions regarding the treasurer or other fiscal officer of the community college and any other personnel the community college board considers necessary for the operation of the community college. The purpose of the contracts shall be to provide the necessary leadership and to secure the efficient and effective provision of educational services for the community college from the university. The board of trustees of Rio Grande community college may terminate any such contract if a majority of the members of the board determines that the contract is no longer in the best interests of the community college. Each such contract shall include a

provision for termination of the contract.

Sec. 3365.01. As used in this chapter:

(A) "College" means any state-assisted college or university described in section 3333.041 of the Revised Code, any nonprofit institution holding a certificate of authorization pursuant to Chapter 1713. of the Revised Code, any private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, and any institution holding a certificate of registration from the state board of career colleges and schools and program authorization for an associate or bachelor's degree program issued under section 3332.05 of the Revised Code.

(B) "School district," except as specified in division (G) of this section, means any school district to which a student is admitted under section 3313.64, 3313.65, 3313.98, or 3317.08 of the Revised Code and does not include a joint vocational or cooperative education school district.

(C) "Parent" has the same meaning as in section 3313.64 of the Revised Code.

(D) "Participant" means a student enrolled in a college under the post-secondary enrollment options program established by this chapter.

(E) "Secondary grade" means the ninth through twelfth grades.

(F) "School foundation payments" means the amount required to be paid to a school district for a fiscal year under ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code.

(G) "Tuition base" means, with respect to a participant's school district, the sum of the formula amount plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code for fiscal year 2009.

The participant's "school district" in the case of a participant enrolled in a community school shall be the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(H) "Educational program" means enrollment in one or more school districts, in a nonpublic school, or in a college under division (B) of section 3365.04 of the Revised Code.

(I) "Nonpublic school" means a chartered or nonchartered school for which minimum standards are prescribed by the state board of education pursuant to division (D) of section 3301.07 of the Revised Code.

(J) "School year" means the year beginning on the first day of July and ending on the thirtieth day of June.

(K) "Community school" means any school established pursuant to

Chapter 3314. of the Revised Code that includes secondary grades.

(L) "STEM school" means a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code.

Sec. 3365.04. The rules adopted under section 3365.02 of the Revised Code shall provide for students to enroll in courses under either of the following options:

(A) The student may elect at the time of enrollment to be responsible for payment of all tuition and the cost of all textbooks, materials, and fees associated with the course. The college shall notify the student about payment of tuition and fees in the customary manner followed by the college. A student electing this option also shall elect, at the time of enrollment, whether to receive only college credit or high school credit and college credit for the course.

(1) The student may elect to receive only college credit for the course. Except as provided in section 3365.041 of the Revised Code, if the student successfully completes the course, the college shall award the student full credit for the course, but the board of education, community school governing authority, STEM school, or nonpublic participating school shall not award the high school credit.

(2) The student may elect to receive both high school credit and college credit for the course. Except as provided in section 3365.041 of the Revised Code, if the student successfully completes the course, the college shall award the student full credit for the course and the board of education, community school governing authority, STEM school, or nonpublic school shall award the student high school credit.

(B) The student may elect at the time of enrollment for each course to have the college reimbursed under section 3365.07 of the Revised Code or as provided in alternative funding agreements entered into under rules adopted under section 3365.12 of the Revised Code. Except as provided in section 3365.041 of the Revised Code, if the student successfully completes the course, the college shall award the student full credit for the course, the board of education, community school governing authority, STEM school, or nonpublic school shall award the student high school credit, and the college shall be reimbursed in accordance with section 3365.07 of the Revised Code or alternative funding agreements entered into under rules adopted under section 3365.12 of the Revised Code.

When determining a school district's formula ADM under section 3317.03 of the Revised Code, the time a participant is attending courses under division (A) of this section shall be considered as time the participant is not attending or enrolled in school anywhere, and the time a participant is

attending courses under division (B) of this section shall be considered as time the participant is attending or enrolled in the district's schools.

Sec. 3365.041. (A) When a school district superintendent, the governing authority of a community school, or the chief administrative officer of a STEM school expels a student under division (B) of section 3313.66 of the Revised Code, the district superintendent, governing authority, or chief administrative officer shall send a written notice of the expulsion to any college in which the expelled student is enrolled under section 3365.03 of the Revised Code at the time the expulsion is imposed. The notice shall indicate the date the expulsion is scheduled to expire. The notice also shall indicate whether the district board of education, community school governing authority, or the STEM school has adopted a policy under section 3313.613 of the Revised Code to deny high school credit for post-secondary courses taken during an expulsion. If the expulsion is extended under division (F) of section 3313.66 of the Revised Code, the district superintendent, community school governing authority, or STEM school chief administrative officer shall notify the college of the extension.

(B) A college may withdraw its acceptance under section 3365.03 of the Revised Code of a student who is expelled from school under division (B) of section 3313.66 of the Revised Code. As provided in section 3365.03 of the Revised Code, regardless of whether the college withdraws its acceptance of the student for the college term in which the student is expelled, the student is ineligible to enroll in a college under that section for subsequent college terms during the period of the expulsion, unless the student enrolls in another school district or community school, or a participating nonpublic school during that period.

If a college withdraws its acceptance of an expelled student who elected either option of division (A)(1) or (2) of section 3365.04 of the Revised Code, the college shall refund tuition and fees paid by the student in the same proportion that it refunds tuition and fees to students who voluntarily withdraw from the college at the same time in the term.

If a college withdraws its acceptance of an expelled student who elected the option of division (B) of section 3365.04 of the Revised Code, the school district, community school, or STEM school shall not award high school credit for the college courses in which the student was enrolled at the time the college withdrew its acceptance, and any reimbursement under section 3365.07 of the Revised Code or through alternative funding agreements entered into under rules adopted under section 3365.12 of the Revised Code for the student's attendance prior to the withdrawal shall be the same as would be paid for a student who voluntarily withdrew from the

college at the same time in the term. If the withdrawal results in the college's receiving no reimbursement, the college may require the student to return or pay for the textbooks and materials it provided the student free of charge under section 3365.08 of the Revised Code.

(C) When a student who elected the option of division (B) of section 3365.04 of the Revised Code is expelled under division (B) of section 3313.66 of the Revised Code from a school district, community school, or STEM school that has adopted a policy under section 3313.613 of the Revised Code, that election is automatically revoked for all college courses in which the student is enrolled during the college term in which the expulsion is imposed. Any reimbursement under section 3365.07 of the Revised Code or through alternative funding agreements entered into under rules adopted under section 3365.12 of the Revised Code for the student's attendance prior to the expulsion shall be the same as would be paid for a student who voluntarily withdrew from the college at the same time in the term. If the revocation results in the college's receiving no reimbursement, the college may require the student to return or pay for the textbooks and materials it provided the student free of charge under section 3365.08 of the Revised Code.

No later than five days after receiving an expulsion notice from the superintendent of a district, the governing authority of a community school, or the chief administrative officer of a STEM school that has adopted a policy under section 3313.613 of the Revised Code, the college shall send a written notice to the expelled student that the student's election of division (B) of section 3365.04 of the Revised Code is revoked. If the college elects not to withdraw its acceptance of the student, the student shall pay all applicable tuition and fees for the college courses and shall pay for the textbooks and materials that the college provided under section 3365.08 of the Revised Code.

Sec. 3365.07. (A) The rules adopted under section 3365.02 of the Revised Code shall specify a method for each of the following:

(1) Determining, with respect to any participant, the percentage of a full-time educational program constituted by the participant's total educational program. That percentage shall be the participant's full-time equivalency percentage for purposes of the computation required by division (B)(1) of this section.

(2) In the case of a participant who is not enrolled in a participating nonpublic school, determining the percentage of a participant's school day during which the participant is participating in each of the following:

(a) Programs provided by the city, local, or exempted village school

district, a community school, or a STEM school;

(b) Programs provided by a joint vocational school district;

(c) Programs provided by a college under division (B) of section 3365.04 of the Revised Code.

The sum of divisions (A)(2)(a) to (c) of this section shall equal one hundred per cent.

(3) In the case of a participant who is not enrolled in a participating nonpublic school, determining the percentage of a participant's enrollment that shall be deemed to be enrollment in a joint vocational school district and the percentage that shall be deemed to be enrollment in a city, local, or exempted village school district. The sum of such percentages shall equal one hundred per cent.

(4) In the case of a participant who is enrolled in a participating nonpublic school, determining the percentage of a participant's school day during which the participant is participating in programs provided by a college under division (B) of section 3365.04 of the Revised Code.

(B) Each July, unless provided otherwise in an alternative funding agreement entered into under rules adopted under section 3365.12 of the Revised Code, the department of education shall pay each college for any participant enrolled in the college in the prior school year under division (B) of section 3365.04 of the Revised Code an amount computed as follows:

(1) Multiply the tuition base by the participant's full-time equivalency percentage and multiply the resulting amount by a percentage equal to the percentage of the participant's school day apportioned to the college under division (A)(2)(c) or (4) of this section, as applicable.

(2) Pay the college the lesser of:

(a) The amount computed under division (B)(1) of this section;

(b) The actual costs that would have been the responsibility of the participant had the participant elected to enroll under division (A) of section 3365.04 of the Revised Code, as verified by the department, of tuition, textbooks, materials, and fees directly related to any courses elected by the participant during the prior school year under division (B) of section 3365.04 of the Revised Code.

(C) The department shall not reimburse any college for any course taken by a participant under division (A) of section 3365.04 of the Revised Code.

(D) If the participant was not enrolled in a participating nonpublic school, the amount paid under division (B) of this section for each participant shall be subtracted from the school foundation payments made to the participant's school district or, if the participant was enrolled in a community school or a STEM school, from the payments made to the

participant's school under section 3314.08 or 3326.33 of the Revised Code. If the participant was enrolled in a joint vocational school district, a portion of the amount shall be subtracted from the payments to the joint vocational school district and a portion shall be subtracted from the payments to the participant's city, local, or exempted village school district. The amount of the payment subtracted from the city, local, or exempted village school district shall be computed as follows:

(1) Add the following:

(a) The percentage of the participant's enrollment in the school district, determined under division (A)(3) of this section; and

(b) Twenty-five per cent times the percentage of the participant's enrollment in the joint vocational school district, determined under division (A)(3) of this section.

(2) Multiply the sum obtained under division (D)(1) of this section by the amount computed under division (B)(2) of this section.

The balance of the payment shall be subtracted from the joint vocational district's school foundation payments.

(E) If the participant was enrolled in a participating nonpublic school, the amount paid under division (B) of this section shall be subtracted from moneys set aside by the general assembly for such purpose from funds appropriated for the purposes of section 3317.06 of the Revised Code.

Sec. 3365.08. (A) A college that expects to receive or receives reimbursement under section 3365.07 of the Revised Code or through alternative funding agreements entered into under rules adopted under section 3365.12 of the Revised Code shall furnish to a participant all textbooks and materials directly related to a course taken by the participant under division (B) of section 3365.04 of the Revised Code. No college shall charge such participant for tuition, textbooks, materials, or other fees directly related to any such course.

(B) No student enrolled under this chapter in a course for which credit toward high school graduation is awarded shall receive direct financial aid through any state or federal program.

(C) If a school district provides transportation for resident school students in grades eleven and twelve under section 3327.01 of the Revised Code, a parent of a pupil enrolled in a course under division (A)(2) or (B) of section 3365.04 of the Revised Code may apply to the board of education for full or partial reimbursement for the necessary costs of transporting the student between the secondary school the student attends and the college in which the student is enrolled. Reimbursement may be paid solely from funds received by the district under ~~division (D) of section 3317.022~~

3306.12 of the Revised Code. The state board of education shall establish guidelines, based on financial need, under which a district may provide such reimbursement.

(D) If a community school provides or arranges transportation for its pupils in grades nine through twelve under section 3314.091 of the Revised Code, a parent of a pupil of the community school who is enrolled in a course under division (A)(2) or (B) of section 3365.04 of the Revised Code may apply to the governing authority of the community school for full or partial reimbursement of the necessary costs of transporting the student between the community school and the college. The governing authority may pay the reimbursement in accordance with the state board's rules adopted under division (C) of this section solely from funds paid to it under section 3314.091 of the Revised Code.

Sec. 3365.09. Section 3365.07 ~~and~~, divisions (A) and (C) of section 3365.08, and agreements entered into under rules adopted under section 3365.12 of the Revised Code do not apply to any college course in which a student is enrolled if during the term such student is enrolled in the college course the student is also a full-time student in the student's district, community school, STEM school, or nonpublic school. The rules adopted under section 3365.02 of the Revised Code shall prescribe a method for determining whether a student is enrolled full-time in the student's district, community school, STEM school, or nonpublic school.

Sec. 3365.10. As used in this section, the "base amount" for any school year is one million dollars. "Full-time equivalency percentage" and "percentage of the school day" enrolled in college shall be determined under the rules described by divisions (A)(1) and (4) of section 3365.07 of the Revised Code or the rules adopted under section 3365.12 of the Revised Code.

(A) Each nonpublic school student who wishes to become a participant in any school year shall send to the department of education a copy of ~~his~~ the student's acceptance from a college and an application. The application shall be made on forms provided by the state board and shall include information about the student's proposed participation, including the school year in which ~~he~~ the student wishes to participate; the semesters or terms the student wishes to enroll during such year; the student's expected full-time equivalency percentage for each such semester or term; and the percentage of the school day each such semester or term that the student expects to be enrolled in programs provided by a college under division (B) of section 3365.04 of the Revised Code. The department shall mark each application with the date and time of receipt.

(B) Calculations involving applications under this division shall be made in the order in which the applications are received.

Upon receipt of an application under division (A) of this section, the department shall calculate the amount the college would be paid under division (B) of section 3365.07 of the Revised Code or through alternative funding agreements entered into under rules adopted under section 3365.12 of the Revised Code for the student's expected participation. ~~The~~ For calculations made under division (B) of section 3365.07 of the Revised Code, the department shall subtract each such calculated amount from the base amount for that year, or the amount remaining for that year after the subtraction from the base amount of amounts previously calculated under this division as a result of prior applications for participation in that year, whichever is the lesser amount.

(C) If such a subtraction under division (B) of this section results in a positive number, the department shall notify the applicant within three weeks of the receipt of ~~his~~ the application that ~~he~~ such applicant may participate in the post-secondary enrollment options program to the extent indicated in the application.

(D) If such a subtraction under division (B) of this section results in a negative number, the department shall, within one week of the receipt of such application, notify the applicant, the applicant's nonpublic school, and the college accepting the applicant that funds will not be available for the applicant's participation in the program during the year for which the application was made. The department shall also notify all applicants whose applications for that year are subsequently received, their nonpublic schools, and the colleges accepting them of the same fact.

(E) No applicant receiving notification under division (D) of this section may become a participant under division (B) of section 3365.04 of the Revised Code for the year for which ~~he~~ the applicant applied and no college shall be paid under division (B) of section 3365.07 of the Revised Code or through alternative funding agreements entered into under rules adopted under section 3365.12 of the Revised Code for participation by any such applicant in such year.

Sec. 3365.12. The superintendent of public instruction and the chancellor of the Ohio board of regents jointly may adopt rules in accordance with Chapter 119. of the Revised Code permitting a board of education of a school district or joint vocational school district, governing authority of a community school, governing body of a STEM school, or governing authority of a participating nonpublic school to enter into an agreement with a college or university to use an alternate funding formula to

calculate, or an alternate method to transmit, the amount the college or university would be paid for a student participating in a program under this chapter, including the program known as seniors to sophomores.

Rules adopted under this section may include, but need not be limited to, any of the following alternative funding options:

(A) Direct payment of funds necessary to support students participating in a program under this chapter, including the seniors to sophomores program, by the school district, joint vocational school district, community school, STEM school, or any combination thereof, to the college or university in which the student enrolled;

(B) Alternate funding formulas to calculate the amount of money to be paid to colleges for participants;

(C) A negotiated amount to be paid, as agreed by the school district, joint vocational school district, community school, or STEM school and the college or university.

Sec. 3375.79. There is hereby created in the state treasury the Bill and Melinda Gates foundation grant fund consisting of Bill and Melinda Gates foundation grants awarded to the state library of Ohio. The state library board shall use the fund for the improvement of public library services, interlibrary cooperation, or other library purposes. All investment earnings of the fund shall be credited to the fund.

Sec. 3501.17. (A) The expenses of the board of elections shall be paid from the county treasury, in pursuance of appropriations by the board of county commissioners, in the same manner as other county expenses are paid. If the board of county commissioners fails to appropriate an amount sufficient to provide for the necessary and proper expenses of the board of elections pertaining to the conduct of elections, the board of elections may apply to the court of common pleas within the county, which shall fix the amount necessary to be appropriated and the amount shall be appropriated. Payments shall be made upon vouchers of the board of elections certified to by its chairperson or acting chairperson and the director or deputy director, upon warrants of the county auditor.

The board of elections shall not incur any obligation involving the expenditure of money unless there are moneys sufficient in the funds appropriated therefor to meet the obligation. If the board of elections requests a transfer of funds from one of its appropriation items to another, the board of county commissioners shall adopt a resolution providing for the transfer except as otherwise provided in section 5705.40 of the Revised Code. The expenses of the board of elections shall be apportioned among the county and the various subdivisions as provided in this section, and the

amount chargeable to each subdivision shall be withheld by the auditor from the moneys payable thereto at the time of the next tax settlement. At the time of submitting budget estimates in each year, the board of elections shall submit to the taxing authority of each subdivision, upon the request of the subdivision, an estimate of the amount to be withheld from the subdivision during the next fiscal year.

(B) Except as otherwise provided in division (F) of this section, the compensation of the members of the board of elections and of the director, deputy director, and regular employees in the board's offices, other than compensation for overtime worked; the expenditures for the rental, furnishing, and equipping of the office of the board and for the necessary office supplies for the use of the board; the expenditures for the acquisition, repair, care, and custody of the polling places, booths, guardrails, and other equipment for polling places; the cost of tally sheets, maps, flags, ballot boxes, and all other permanent records and equipment; the cost of all elections held in and for the state and county; and all other expenses of the board which are not chargeable to a political subdivision in accordance with this section shall be paid in the same manner as other county expenses are paid.

(C) The compensation of judges of elections and intermittent employees in the board's offices; the cost of renting, moving, heating, and lighting polling places and of placing and removing ballot boxes and other fixtures and equipment thereof, including voting machines, marking devices, and automatic tabulating equipment; the cost of printing and delivering ballots, cards of instructions, registration lists required under section 3503.23 of the Revised Code, and other election supplies, including the supplies required to comply with division (H) of section 3506.01 of the Revised Code; the cost of contractors engaged by the board to prepare, program, test, and operate voting machines, marking devices, and automatic tabulating equipment; and all other expenses of conducting primaries and elections in the odd-numbered years shall be charged to the subdivisions in and for which such primaries or elections are held. The charge for each primary or general election in odd-numbered years for each subdivision shall be determined in the following manner: first, the total cost of all chargeable items used in conducting such elections shall be ascertained; second, the total charge shall be divided by the number of precincts participating in such election, in order to fix the cost per precinct; third, the cost per precinct shall be prorated by the board of elections to the subdivisions conducting elections for the nomination or election of offices in such precinct; fourth, the total cost for each subdivision shall be determined by adding the charges prorated to it in

each precinct within the subdivision.

(D) The entire cost of special elections held on a day other than the day of a primary or general election, both in odd-numbered or in even-numbered years, shall be charged to the subdivision. Where a special election is held on the same day as a primary or general election in an even-numbered year, the subdivision submitting the special election shall be charged only for the cost of ballots and advertising. Where a special election is held on the same day as a primary or general election in an odd-numbered year, the subdivision submitting the special election shall be charged for the cost of ballots and advertising for such special election, in addition to the charges prorated to such subdivision for the election or nomination of candidates in each precinct within the subdivision, as set forth in the preceding paragraph.

(E) Where a special election is held on the day specified by division (E) of section 3501.01 of the Revised Code for the holding of a primary election, for the purpose of submitting to the voters of the state constitutional amendments proposed by the general assembly, and a subdivision conducts a special election on the same day, the entire cost of the special election shall be divided proportionally between the state and the subdivision based upon a ratio determined by the number of issues placed on the ballot by each, except as otherwise provided in division (G) of this section. Such proportional division of cost shall be made only to the extent funds are available for such purpose from amounts appropriated by the general assembly to the secretary of state. If a primary election is also being conducted in the subdivision, the costs shall be apportioned as otherwise provided in this section.

(F) When a precinct is open during a general, primary, or special election solely for the purpose of submitting to the voters a statewide ballot issue, the state shall bear the entire cost of the election in that precinct and shall reimburse the county for all expenses incurred in opening the precinct.

(G)(1) The state shall bear the entire cost of advertising in newspapers statewide ballot issues, explanations of those issues, and arguments for or against those issues, as required by Section 1g of Article II and Section 1 of Article XVI, Ohio Constitution, and any other section of law. Appropriations made to the controlling board shall be used to reimburse the secretary of state for all expenses the secretary of state incurs for such advertising under division (G) of section 3505.062 of the Revised Code.

(2) There is hereby created in the state treasury the statewide ballot advertising fund. The fund shall receive transfers approved by the controlling board, and shall be used by the secretary of state to pay the costs of advertising state ballot issues as required under division (G)(1) of this

section. Any such transfers may be requested from and approved by the controlling board prior to placing the advertising, in order to facilitate timely provision of the required advertising.

(H) The cost of renting, heating, and lighting registration places; the cost of the necessary books, forms, and supplies for the conduct of registration; and the cost of printing and posting precinct registration lists shall be charged to the subdivision in which such registration is held.

(I) At the request of a majority of the members of the board of elections, the board of county commissioners may, by resolution, establish an elections revenue fund. Except as otherwise provided in this division, the purpose of the fund shall be to accumulate revenue withheld by or paid to the county under this section for the payment of any expense related to the duties of the board of elections specified in section 3501.11 of the Revised Code, upon approval of a majority of the members of the board of elections. The fund shall not accumulate any revenue withheld by or paid to the county under this section for the compensation of the members of the board of elections or of the director, deputy director, or other regular employees in the board's offices, other than compensation for overtime worked.

Notwithstanding sections 5705.14, 5705.15, and 5705.16 of the Revised Code, the board of county commissioners may, by resolution, transfer money to the elections revenue fund from any other fund of the political subdivision from which such payments lawfully may be made. Following an affirmative vote of a majority of the members of the board of elections, the board of county commissioners may, by resolution, rescind an elections revenue fund established under this division. If an elections revenue fund is rescinded, money that has accumulated in the fund shall be transferred to the county general fund.

(J) As used in this section:

(1) "Political subdivision" and "subdivision" mean any board of county commissioners, board of township trustees, legislative authority of a municipal corporation, board of education, or any other board, commission, district, or authority that is empowered to levy taxes or permitted to receive the proceeds of a tax levy, regardless of whether the entity receives tax settlement moneys as described in division (A) of this section;

(2) "Statewide ballot issue" means any ballot issue, whether proposed by the general assembly or by initiative or referendum, that is submitted to the voters throughout the state.

~~Sec. 3503.18. The chief health officer of each political subdivision and the director of health shall file with the board of elections, at least once each month, the names, dates of birth, dates of death, and residences of all~~

~~persons, over eighteen years of age, who have died within such subdivision or within this state or another state, respectively, within such month.~~ At least once each month ~~the~~, each probate judge in this state shall file with the board of elections the names and residence addresses of all persons over eighteen years of age who have been adjudicated incompetent for the purpose of voting, as provided in section 5122.301 of the Revised Code. At least once each month the clerk of the court of common pleas shall file with the board the names and residence addresses of all persons who have been convicted during the previous month of crimes that would disfranchise such persons under existing laws of the state. Reports of conviction of crimes under the laws of the United States that would disfranchise an elector and that are provided to the secretary of state by any United States attorney shall be forwarded by the secretary of state to the appropriate board of elections.

Upon receiving ~~any a report described in~~ required by this section or section 3705.031 of the Revised Code, the board of elections shall promptly cancel ~~the~~ registration of ~~the~~ each elector named in the report. If the report contains a residence address of an elector in a county other than the county in which the board of elections is located, the director shall promptly send a copy of the report to the appropriate board of elections, which shall cancel the registration.

Sec. 3503.21. (A) The registration of a registered elector shall be canceled upon the occurrence of any of the following:

(1) The filing by a registered elector of a written request with a board of elections, on a form prescribed by the secretary of state and signed by the elector, that the registration be canceled. The filing of such a request does not prohibit an otherwise qualified elector from reregistering to vote at any time.

~~(2) The filing of a notice of the death of the registered elector as provided in section 3503.18 of the Revised Code;~~

~~(3) The conviction of the registered elector of a felony under the laws of this state, any other state, or the United States as provided in section 2961.01 of the Revised Code;~~

~~(4)~~(3) The adjudication of incompetency of the registered elector for the purpose of voting as provided in section 5122.301 of the Revised Code;

(4) The receipt by a board of elections of a report required by section 3705.031 of the Revised Code that contains the name of the registered elector;

(5) The change of residence of the registered elector to a location outside the county of registration in accordance with division (B) of this section;

(6) The failure of the registered elector, after having been mailed a confirmation notice, to do either of the following:

(a) Respond to such a notice and vote at least once during a period of four consecutive years, which period shall include two general federal elections;

(b) Update the elector's registration and vote at least once during a period of four consecutive years, which period shall include two general federal elections.

(B)(1) The secretary of state shall prescribe procedures to identify and cancel the registration in a prior county of residence of any registrant who changes the registrant's voting residence to a location outside the registrant's current county of registration. Any procedures prescribed in this division shall be uniform and nondiscriminatory, and shall comply with the Voting Rights Act of 1965. The secretary of state may prescribe procedures under this division that include the use of the national change of address service provided by the United States postal system through its licensees. Any program so prescribed shall be completed not later than ninety days prior to the date of any primary or general election for federal office.

(2) The registration of any elector identified as having changed the elector's voting residence to a location outside the elector's current county of registration shall not be canceled unless the registrant is sent a confirmation notice on a form prescribed by the secretary of state and the registrant fails to respond to the confirmation notice or otherwise update the registration and fails to vote in any election during the period of two federal elections subsequent to the mailing of the confirmation notice.

(C) The registration of a registered elector shall not be canceled except as provided in this section, division (Q) of section 3501.05 of the Revised Code, division (C)(2) of section 3503.19 of the Revised Code, or division (C) of section 3503.24 of the Revised Code.

(D) Boards of elections shall send their voter registration information to the secretary of state as required under section 3503.15 of the Revised Code. In the first quarter of each odd-numbered year, the secretary of state shall send the information to the national change of address service described in division (B) of this section and request that service to provide the secretary of state with a list of any voters sent by the secretary of state who have moved within the last thirty-six months. The secretary of state shall transmit to each appropriate board of elections whatever lists the secretary of state receives from that service. The board shall send a notice to each person on the list transmitted by the secretary of state requesting confirmation of the person's change of address, together with a postage prepaid, preaddressed

return envelope containing a form on which the voter may verify or correct the change of address information.

(E) The registration of a registered elector described in division (A)(6) or (B)(2) of this section shall be canceled not later than one hundred twenty days after the date of the second general federal election in which the elector fails to vote or not later than one hundred twenty days after the expiration of the four-year period in which the elector fails to vote or respond to a confirmation notice, whichever is later.

Sec. 3701.0211. (A) There is hereby created the hemophilia advisory council in the department of health. The council shall consist of the following members:

(1) The following nonvoting members:

(a) The director of health or the director's designee;

(b) The superintendent of insurance or the superintendent's designee;

(c) A representative of the department of job and family services.

(2) The following voting members, to be appointed by the governor with the advice and consent of the senate:

(a) Two individuals authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery who are currently treating patients with hemophilia or related bleeding disorders, one of whom specializes in pediatrics and one of whom specializes in the treatment of adults;

(b) An individual licensed under Chapter 4723. of the Revised Code to practice nursing who is currently treating patients with hemophilia or related bleeding disorders;

(c) An individual licensed under Chapter 4757. of the Revised Code as an independent social worker or social worker who is currently treating patients with hemophilia or related bleeding disorders;

(d) A representative of a federally funded hemophilia treatment center;

(e) A representative of a health insuring corporation that holds a certificate of authority issued under Chapter 1751. of the Revised Code or a company authorized under Chapter 3923. of the Revised Code to do the business of sickness and accident insurance in this state;

(f) A representative of an Ohio chapter of the national hemophilia foundation that serves the community of persons with hemophilia and related bleeding disorders;

(g) An adult with hemophilia or caregiver of an adult with hemophilia;

(h) A caregiver of a minor with hemophilia;

(i) A person with a bleeding disorder other than hemophilia or caregiver of a person with a bleeding disorder other than hemophilia;

(j) A person with hemophilia who is a member of the Amish sect or a health professional currently treating persons with hemophilia who are members of the Amish sect.

(B) Not later than ninety days after the effective date of this section, the governor shall make initial appointments to the council. Of the initial appointments, four shall be for terms ending two years after the effective date of this section, four shall be for terms ending three years after that date, and three shall be for terms ending four years after that date. Thereafter, terms of office shall be two years, with each term ending on the same day of the same month as the term it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Members may be reappointed.

Vacancies shall be filled in the same manner as original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(C) The voting members shall elect from among the council's members a chairperson who shall serve a one-year term. The council shall meet at the call of the chairperson, but not less than four times each year. A majority of the members of the council constitutes a quorum.

(D) Members shall serve without compensation, but may be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(E) The council shall advise the director of health on all of the following:

(1) Reviewing the impact of changes to both of the following:

(a) Existing programs for persons with hemophilia and related bleeding disorders;

(b) Existing policies for persons with hemophilia and related bleeding disorders.

(2) Developing standards of care and standards of treatment for persons with hemophilia and related bleeding disorders;

(3) Developing programs of care and programs of treatment for persons with hemophilia and related bleeding disorders, including self-administration of medication, home care, medical and dental procedures, and techniques designed to provide maximum control over bleeding episodes;

(4) Reviewing data and making recommendations regarding the ability of persons with hemophilia and related bleeding disorders to obtain appropriate health insurance coverage and access to appropriate care;

(5) Coordinating with other state agencies and private organizations to develop community-based initiatives to increase awareness of hemophilia and related bleeding disorders.

(F) The council shall annually submit to the governor and general assembly a report with recommendations on increasing access to care and treatment and obtaining appropriate health insurance coverage for persons with hemophilia and related bleeding disorders.

Sec. 3701.045. (A) The department of health, in consultation with the children's trust fund board established under section 3109.15 of the Revised Code and any bodies acting as child fatality review boards on ~~the effective date of this section~~ October 5, 2000, shall adopt rules in accordance with Chapter 119. of the Revised Code that establish a procedure for child fatality review boards to follow in conducting a review of the death of a child. The rules shall do all of the following:

(1) Establish the format for the annual reports required by section 307.626 of the Revised Code;

(2) Establish guidelines for a child fatality review board to follow in compiling statistics for annual reports so that the reports do not contain any information that would permit any person's identity to be ascertained from a report;

(3) Establish guidelines for a child fatality review board to follow in creating and maintaining the comprehensive database of child deaths required by section 307.623 of the Revised Code, including provisions establishing uniform record-keeping procedures;

(4) Establish guidelines for reporting child fatality review data to the department of health or a national child death review database, either of which must maintain the confidentiality of information that would permit a person's identity to be ascertained;

(5) Establish guidelines, materials, and training to help educate members of child fatality review boards about the purpose of the review process and the confidentiality of the information described in section 307.629 of the Revised Code and to make them aware that such information is not a public record under section 149.43 of the Revised Code.

(B) On or before the thirtieth day of September of each year, the department of health and the children's trust fund board jointly shall prepare and publish a report organizing and setting forth the data from the department of health child death review database or the national child death

review database, data in all the reports provided by child fatality review boards in their annual reports for the previous calendar year, and ~~recommending~~ recommendations for any changes to law and policy that might prevent future deaths. The department and the children's trust fund board jointly shall provide a copy of the report to the governor, the speaker of the house of representatives, the president of the senate, the minority leaders of the house of representatives and the senate, each county or regional child fatality review board, and each county or regional family and children first council.

Sec. 3701.07. (A) The public health council shall adopt rules in accordance with Chapter 119. of the Revised Code defining and classifying hospitals and dispensaries and providing for the reporting of information by hospitals and dispensaries. Except as otherwise provided in the Revised Code, the rules providing for the reporting of information shall not require inclusion of any confidential patient data or any information concerning the financial condition, income, expenses, or net worth of the facilities other than that financial information already contained in those portions of the medicare or medicaid cost report that is necessary for the department of health to certify the per diem cost under section 3701.62 of the Revised Code. The rules may require the reporting of information in the following categories:

- (1) Information needed to identify and classify the institution;
- (2) Information on facilities and type and volume of services provided by the institution;
- (3) The number of beds listed by category of care provided;
- (4) The number of licensed or certified professional employees by classification;
- (5) The number of births that occurred at the institution the previous calendar year;
- (6) Any other information that the council considers relevant to the safety of patients served by the institution.

Every hospital and dispensary, public or private, annually shall register with and report to the department of health. Reports shall be submitted in the manner prescribed in rules adopted under this division.

(B) Every governmental entity or private nonprofit corporation or association whose employees or representatives are defined as residents' rights advocates under divisions (E)(1) and (2) of section 3721.10 or division (A)(10) of section 3722.01 of the Revised Code shall register with the department of health on forms furnished by the director of health and shall provide such reasonable identifying information as the director may

prescribe.

The department shall compile a list of the governmental entities, corporations, or associations registering under this division and shall update the list annually. Copies of the list shall be made available to nursing home administrators as defined in division (C) of section 3721.10 of the Revised Code and to adult care facility managers as defined in section 3722.01 of the Revised Code.

~~(C) Every governmental entity or private nonprofit corporation or association whose employees or representatives act as residents' rights advocates for community alternative homes pursuant to section 3724.08 of the Revised Code shall register with the department of health on forms furnished by the director of health and shall provide such reasonable identifying information as the director may prescribe.~~

~~The department shall compile a list of the governmental entities, corporations, and associations registering under this division and shall update the list annually. Copies of the list shall be made available to operators or residence managers of community alternative homes as defined in section 3724.01 of the Revised Code.~~

Sec. 3701.136. (A) There is hereby created the sickle cell anemia advisory committee. The committee shall assist the director of health in fulfilling the director's duties under section 3701.131 of the Revised Code.

(B) The director shall appoint five members to the committee who are familiar with sickle cell anemia, including researchers, health care professionals, and persons personally affected by sickle cell anemia.

Not later than ninety days after the effective date of this section, the director shall make initial appointments to the committee. Of the initial appointments, one shall be for a term ending one year after the effective date of this section, two shall be for terms ending two years after that date, and two shall be for terms ending three years after that date. Thereafter, terms of office shall be three years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Members may be reappointed.

Vacancies shall be filled in the same manner as original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

Members of the committee shall serve without compensation, but may be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(C) The committee shall annually select from among its members a chairperson. The committee shall meet at the call of the chairperson, but not less than twice each year. A majority of the members of the committee constitutes a quorum.

~~Sec. 3701.242. (A) An HIV test shall may be performed only if, prior to the test, informed consent is obtained either by the person or agency of state or local government ordering the test or by the person or agency performing the test. Consent may be given orally or in writing after the person or agency performing or ordering the test has given the individual to be tested or his guardian the following information:~~

~~(1) An oral or written explanation of the test and testing procedures, including the purposes and limitations of the test and the meaning of its results;~~

~~(2) An oral or written explanation that the test is voluntary, that consent to be tested may be withdrawn, if the test is performed on an outpatient basis, at any time before the individual tested leaves the premises where blood is taken for the test, or, if the test is performed on an inpatient basis, within one hour after the blood is taken for the test, and that the individual or guardian may elect to have an anonymous test;~~

~~(3) An oral or written explanation about behaviors known to pose risks for transmission of HIV infection.~~

~~The public health council shall adopt rules, pursuant to recommendations of the director of health and in accordance with Chapter 119. of the Revised Code, specifying the information required by this section to be given to an individual before he is given an HIV test. The rules shall contain specifications for an informed consent form that includes the required information. The director of health shall prepare and distribute the form. A person or government agency required by division (A) of this section to give information to an individual may satisfy the requirement by obtaining the signature of the individual on the form prepared by the director by or on the order of a health care provider who, in the exercise of the provider's professional judgment, determines the test to be necessary for providing diagnosis and treatment to the individual to be tested, if the individual or the individual's parent or guardian has given consent to the provider for medical or other health care treatment. The health care provider shall inform the individual of the individual's right under division (D) of this section to an anonymous test.~~

(B) A minor may consent to be given an HIV test. The consent is not subject to disaffirmance because of minority. The parents or guardian of a minor giving consent under this division are not liable for payment and shall not be charged for an HIV test given to the minor without the consent of a parent or the guardian.

~~(C) The person or government agency health care provider ordering an HIV test shall provide post-test counseling for the an individual who was tested at the time he is told the result of the test or informed of a diagnosis of AIDS or of an AIDS-related condition receives an HIV-positive test result. If the test was performed on the order of the individual tested, the person or government agency that performed the test shall provide counseling. The individual shall be given an oral or written explanation of the nature of AIDS and AIDS-related conditions and the relationship between the HIV test and those diseases and a list of resources for further counseling or support. When necessary, the individual shall be referred for further counseling to help him cope with the emotional consequences of learning the test result. The public health council may adopt rules, pursuant to recommendations from the director of health and in accordance with Chapter 119. of the Revised Code, specifying the information to be provided in post-test counseling.~~

(D) ~~Any~~ An individual seeking an HIV test shall have the right, ~~on his request,~~ to an anonymous test. A health care facility or health care provider that does not provide anonymous testing shall refer an individual requesting an anonymous test to a site where it is available.

(E) Divisions ~~(A)~~(B) to (D) of this section do not apply to the performance of an HIV test in any of the following circumstances:

(1) When the test is performed in a medical emergency by a nurse or physician and the test results are medically necessary to avoid or minimize an immediate danger to the health or safety of the individual to be tested or another individual, except that post-test counseling shall be given to the individual ~~as soon as possible after the emergency is over~~ if the individual receives an HIV-positive test result;

(2) When the test is performed for the purpose of research if the researcher does not know and cannot determine the identity of the individual tested;

(3) When the test is performed by a person who procures, processes, distributes, or uses a human body part from a deceased person donated for a purpose specified in Chapter 2108. of the Revised Code, if the test is medically necessary to ensure that the body part is acceptable for its intended purpose;

(4) When the test is performed on a person incarcerated in a correctional institution under the control of the department of rehabilitation and correction if the head of the institution has determined, based on good cause, that a test is necessary;

~~(5) When the test is performed by or on the order of a physician who, in the exercise of his professional judgment, determines the test to be necessary for providing diagnosis and treatment to the individual to be tested, if the individual or his parent or guardian has given consent to the physician for medical treatment in accordance with section 2907.27 of the Revised Code;~~

(6) When the test is performed on an individual after the infection control committee of a health care facility, or other body of a health care facility performing a similar function determines that a health care provider, emergency medical services worker, or peace officer, while rendering health or emergency care to an individual, has sustained a significant exposure to the body fluids of that individual, and the individual has refused to give consent for testing.

~~(F) If the requirements of division (A) of this section have been met, consent to be tested given under that division shall be presumed to be valid and effective, and no evidence is admissible in a civil action to impeach, modify, or limit the consent.~~

~~(G) The consent of the individual to be tested is not required, and the individual or guardian may not elect to have an anonymous test, when the test is ordered by a court in connection with a criminal investigation.~~

Sec. 3701.247. (A)(1) Any of the following persons may bring an action in a probate court for an order compelling another person to undergo HIV testing:

(a) A person who believes ~~he~~ the person may have been exposed to HIV infection while rendering health or emergency care to the other person;

(b) A peace officer who believes ~~he~~ the peace officer may have been exposed to HIV infection while dealing with the other person in the performance of ~~his~~ official duties.

(2) The complaint in the action shall be accompanied by an affidavit in which the plaintiff attests to all of the following:

(a) While rendering health or emergency care to the defendant, or while dealing with the defendant in the performance of ~~his~~ the plaintiff's duties, the plaintiff sustained a significant exposure to body fluids of the defendant that are known to transmit HIV;

(b) The plaintiff has reason to believe the defendant may have an HIV infection;

(c) The plaintiff made a reasonable attempt to have the defendant submit to HIV testing in accordance with section 3701.242 of the Revised Code, and notified the defendant that ~~he~~ the plaintiff would bring an action under this section on the defendant's refusal or failure to be tested, but the defendant has not been tested;

(d) Within seven days after the exposure, the plaintiff took an HIV test ~~and also has received counseling pursuant to section 3701.242 of the Revised Code.~~

In the complaint, the defendant shall be identified by a pseudonym and ~~his~~ the defendant's name communicated to the court confidentially pursuant to a court order restricting the use of the name. Proceedings shall be conducted in chambers unless the defendant agrees to a hearing in open court.

(B) The court shall hold a hearing on the complaint at the earliest possible time but not later than the third business day after the day the defendant is served with the complaint and notice of the hearing. The court shall enter judgment on the complaint on the day the hearing is concluded.

(C) Notwithstanding division (A) of section 3701.242 of the Revised Code, the court may order the defendant to undergo HIV testing if it finds by clear and convincing evidence that the plaintiff has proved the matters attested to in ~~his~~ the plaintiff's affidavit and has demonstrated that ~~he~~ the plaintiff has a compelling need for the results of the test and no other means exist to accommodate the need. If granted, the order shall guard against unauthorized disclosure of the test results by specifying the persons and governmental entities that may have access to the results and by limiting further disclosure. The court shall require that the defendant be given test results and, if the defendant's test results are HIV-positive, that post-test counseling be provided ~~him~~ the defendant in accordance with division (C) of section 3701.242 of the Revised Code. The court may order the plaintiff to pay the cost of the defendant's testing and counseling.

Sec. 3701.344. As used in this section and sections 3701.345, 3701.346, and 3701.347 of the Revised Code:

(A) "Private water system" means any water system for the provision of water for human consumption, if such system has fewer than fifteen service connections and does not regularly serve an average of at least twenty-five individuals daily at least sixty days out of the year. A private water system includes any well, spring, cistern, pond, or hauled water and any equipment for the collection, transportation, filtration, disinfection, treatment, or storage of such water extending from and including the source of the water to the point of discharge from any pressure tank or other storage vessel; to

the point of discharge from the water pump where no pressure tank or other storage vessel is present; or, in the case of multiple service connections serving more than one dwelling, to the point of discharge from each service connection. ~~A private~~ "Private water system" does not include the water service line extending from the point of discharge to a structure.

(B) Notwithstanding section 3701.347 of the Revised Code and subject to division (C) of this section, rules adopted by the public health council regarding private water systems shall provide for the following:

(1) Except as otherwise provided in this division, boards of health of city or general health districts shall be given the exclusive power to establish fees in accordance with section 3709.09 of the Revised Code for administering and enforcing such rules. Such fees shall establish a different rate for administering and enforcing the rules relative to private water systems serving single-family dwelling houses and nonsingle-family dwelling houses. Except for an amount established by the public health council, pursuant to division (B)(5) of this section, for each new private water system installation, no portion of any fee for administering and enforcing such rules shall be returned to the department of health. If the director of health determines that a board of health of a city or general health district is unable to administer and enforce a private water system program in the district, the director shall administer and enforce such a program in the district and establish fees for such administration and enforcement.

(2) Boards of health of city or general health districts shall be given the exclusive power to determine the number of inspections necessary for determining the safe drinking characteristics of a private water system.

(3) Private water systems contractors, as a condition of doing business in this state, shall annually register with, and comply with surety bonding requirements of, the department of health. No such contractor shall be permitted to register if ~~he~~ the contractor fails to comply with all applicable rules adopted by the public health council and the board of health of the city or general health district. The annual registration fee for private water systems contractors shall be sixty-five dollars. The public health council, by rule adopted in accordance with Chapter 119. of the Revised Code, may increase the annual registration fee. Before January 1, 1993, the fee shall not be increased by more than fifty per cent of the amount prescribed by this section.

(4) Boards of health of city or general health districts subject to such rules of the public health council shall have the option of determining whether bacteriological examinations shall be performed at approved

laboratories of the state or at approved private laboratories.

(5) The public health council may establish fees for each new private water system installation, which shall be collected by the appropriate ~~city or general health district~~ board of health and ~~returned~~ transmitted to the ~~department~~ director of health pursuant to section 3709.092 of the Revised Code.

(6) All fees ~~collected~~ received by the director of health under divisions (B)(1), (3), and (5) of this section shall be deposited in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code for use in the administration and enforcement of sections 3701.344 to 3701.347 of the Revised Code and the rules pertaining to private water systems adopted under those sections or section 3701.34 of the Revised Code.

(C) To the extent that rules adopted under division (B) of this section require health districts to follow specific procedures or use prescribed forms, no such procedure or form shall be implemented until it is approved by majority vote of an approval board of health commissioners, hereby created. Members of the board shall be the officers of the association of Ohio health commissioners, or any successor organization, and membership on the board shall be coterminous with holding an office of the association. No health district is required to follow a procedure or use a form required by a rule adopted under division (B) of this section without the approval of the board.

(D) A board of health shall collect well log filing fees on behalf of the division of soil and water resources in the department of natural resources in accordance with section 1521.05 of the Revised Code and rules adopted under it. The fees shall be submitted to the division quarterly as provided in those rules.

Sec. 3701.611. (A) The governor shall create the help me grow advisory council in accordance with 20 U.S.C. 1441, which shall serve as the state interagency coordinating council, as described in 20 U.S.C. 1441. Members of the council shall reasonably represent the population of this state. The governor shall appoint as a member of the council a representative of a board of health of a city or general health district or an authority having the duties of a board of health under section 3709.05 of the Revised Code.

The governor shall appoint one of the council members to serve as chairperson of the council, or the governor may delegate appointment of the chairperson to the council. No member of the council representing the department of health shall serve as chairperson.

(B) The council shall meet at least once in each quarter of the calendar year. The chairperson may call additional meetings if necessary.

(C) A member of the council shall not vote on any matter that is likely to provide a direct financial benefit to that member or otherwise be a conflict of interest.

(D) The governor may reimburse members of the council for actual and necessary expenses incurred in the performance of their official duties, including child care for the parent representatives described in 20 U.S.C. 1441(b)(1)(A). The governor also may compensate members of the council who are not employed or who must forfeit wages from other employment when performing official council business.

(E) The department of health shall serve as the "lead agency," as described by 20 U.S.C. 1435(a)(10).

(F) The help me grow advisory council shall do all of the following:

(1) Advise and assist the department of health in the performance of the responsibilities described in 20 U.S.C. 1435(a)(10), including the following:

(a) Identification of the sources of fiscal and other support for services for early intervention programs;

(b) Assignment of financial responsibility to the appropriate agency, in accordance with 20 U.S.C. 1437(a)(2);

(c) Promotion of formal interagency agreements that define the financial responsibility of each agency for paying for early intervention services and procedures for resolving disputes;

(2) Advise and assist the department of health in the preparation and amendment of applications related to the department of health's responsibilities described in 20 U.S.C. 1435(a)(10);

(3) Advise and assist the department of education regarding the transition of toddlers with disabilities to preschool and other appropriate services;

(4) Prepare and submit an annual report to the governor, before the thirtieth day of September, on the status of early intervention programs for infants and toddlers with disabilities and their families operated within this state during the most recent fiscal year.

(G) The help me grow advisory council may advise and assist the department of health and the department of education regarding the provision of appropriate services for children age five and younger. The council may advise appropriate agencies about the integration of services for infants and toddlers with disabilities, and at-risk infants and toddlers and their families, regardless of whether at-risk infants and toddlers are eligible for early intervention services.

(H) The help me grow advisory council shall promote family-centered programs and services that acknowledge and support the social, emotional,

cognitive, intellectual, and physical development of children and the vital role of families in ensuring the well-being and success of children.

Sec. 3701.78. (A) There is hereby created the commission on minority health, consisting of ~~eighteen~~ twenty-one members. The governor shall appoint to the commission nine members from among health researchers, health planners, and health professionals. The governor also shall appoint two members who are representatives of the lupus awareness and education program. The speaker of the house of representatives shall appoint to the commission two members of the house of representatives, not more than one of whom is a member of the same political party, and the president of the senate shall appoint to the commission two members of the senate, not more than one of whom is a member of the same political party. The directors of health, mental health, mental retardation and developmental disabilities, alcohol and drug addiction services, and job and family services, or their designees, and the superintendent of public instruction, or the superintendent's designee, shall be members of the commission. The commission shall elect a chairperson from among its members. Of the members appointed by the governor, five shall be appointed to initial terms of one year, and four shall be appointed to initial terms of two years. Thereafter, all members appointed by the governor shall be appointed to terms of two years. All members of the commission appointed by the speaker of the house of representatives or the president of the senate shall be nonvoting members of the commission and be appointed within thirty days after the commencement of the first regular session of each general assembly, and shall serve until the expiration of the session of the general assembly during which they were appointed. Members of the commission shall serve without compensation, but shall be reimbursed for the actual and necessary expenses they incur in the performance of their official duties.

(B) The commission shall promote health and the prevention of disease among members of minority groups. Each year the commission shall distribute grants from available funds to community-based health groups to be used to promote health and the prevention of disease among members of minority groups. As used in this division, "minority group" means any of the following economically disadvantaged groups: Blacks, American Indians, Hispanics, and Orientals. The commission shall adopt and maintain rules pursuant to Chapter 119. of the Revised Code to provide for the distribution of these grants. No group shall qualify to receive a grant from the commission unless it receives at least twenty per cent of its funds from sources other than grants distributed under this section.

(C) The commission may appoint such employees as it considers

necessary to carry out its duties under this section. The department of health shall provide office space for the commission.

(D) The commission shall meet at the call of its chairperson to conduct its official business. A majority of the voting members of the commission constitute a quorum. The votes of at least eight voting members of the commission are necessary for the commission to take any official action or to approve the distribution of grants under this section.

Sec. 3702.30. (A) As used in this section:

(1) "Ambulatory surgical facility" means a facility, whether or not part of the same organization as a hospital, that is located in a building distinct from another in which inpatient care is provided, and to which any of the following apply:

(a) Outpatient surgery is routinely performed in the facility, and the facility functions separately from a hospital's inpatient surgical service and from the offices of private physicians, podiatrists, and dentists.

(b) Anesthesia is administered in the facility by an anesthesiologist or certified registered nurse anesthetist, and the facility functions separately from a hospital's inpatient surgical service and from the offices of private physicians, podiatrists, and dentists.

(c) The facility applies to be certified by the United States centers for medicare and medicaid services as an ambulatory surgical center for purposes of reimbursement under Part B of the medicare program, Part B of Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended.

(d) The facility applies to be certified by a national accrediting body approved by the centers for medicare and medicaid services for purposes of deemed compliance with the conditions for participating in the medicare program as an ambulatory surgical center.

(e) The facility bills or receives from any third-party payer, governmental health care program, or other person or government entity any ambulatory surgical facility fee that is billed or paid in addition to any fee for professional services.

(f) The facility is held out to any person or government entity as an ambulatory surgical facility or similar facility by means of signage, advertising, or other promotional efforts.

"Ambulatory surgical facility" does not include a hospital emergency department.

(2) "Ambulatory surgical facility fee" means a fee for certain overhead costs associated with providing surgical services in an outpatient setting. A fee is an ambulatory surgical facility fee only if it directly or indirectly pays

for costs associated with any of the following:

(a) Use of operating and recovery rooms, preparation areas, and waiting rooms and lounges for patients and relatives;

(b) Administrative functions, record keeping, housekeeping, utilities, and rent;

(c) Services provided by nurses, orderlies, technical personnel, and others involved in patient care related to providing surgery.

"Ambulatory surgical facility fee" does not include any additional payment in excess of a professional fee that is provided to encourage physicians, podiatrists, and dentists to perform certain surgical procedures in their office or their group practice's office rather than a health care facility, if the purpose of the additional fee is to compensate for additional cost incurred in performing office-based surgery.

(3) "Governmental health care program" has the same meaning as in section 4731.65 of the Revised Code.

(4) "Health care facility" means any of the following:

(a) An ambulatory surgical facility;

(b) A freestanding dialysis center;

(c) A freestanding inpatient rehabilitation facility;

(d) A freestanding birthing center;

(e) A freestanding radiation therapy center;

(f) A freestanding or mobile diagnostic imaging center.

(5) "Third-party payer" has the same meaning as in section 3901.38 of the Revised Code.

(B) By rule adopted in accordance with sections 3702.12 and 3702.13 of the Revised Code, the director of health shall establish quality standards for health care facilities. The standards may incorporate accreditation standards or other quality standards established by any entity recognized by the director.

(C) Every ambulatory surgical facility shall require that each physician who practices at the facility comply with all relevant provisions in the Revised Code that relate to the obtaining of informed consent from a patient.

(D) The director shall issue a license to each health care facility that makes application for a license and demonstrates to the director that it meets the quality standards established by the rules adopted under division (B) of this section and satisfies the informed consent compliance requirements specified in division (C) of this section.

(E)(1) Except as provided in division (H) of this section and in section 3702.301 of the Revised Code, no health care facility shall operate without a license issued under this section.

(2) If the department of health finds that a physician who practices at a health care facility is not complying with any provision of the Revised Code related to the obtaining of informed consent from a patient, the department shall report its finding to the state medical board, the physician, and the health care facility.

(3) This division does not create, and shall not be construed as creating, a new cause of action or substantive legal right against a health care facility and in favor of a patient who allegedly sustains harm as a result of the failure of the patient's physician to obtain informed consent from the patient prior to performing a procedure on or otherwise caring for the patient in the health care facility.

(F) The rules adopted under division (B) of this section shall include all of the following:

(1) Provisions governing application for, renewal, suspension, and revocation of a license under this section;

(2) Provisions governing orders issued pursuant to section 3702.32 of the Revised Code for a health care facility to cease its operations or to prohibit certain types of services provided by a health care facility;

(3) Provisions governing the imposition under section 3702.32 of the Revised Code of civil penalties for violations of this section or the rules adopted under this section, including a scale for determining the amount of the penalties.

(G) An ambulatory surgical facility that performs or induces abortions shall comply with section 3701.791 of the Revised Code.

(H) The following entities are not required to obtain a license as a freestanding diagnostic imaging center issued under this section:

(1) A hospital registered under section 3701.07 of the Revised Code that provides diagnostic imaging;

(2) An entity that is reviewed as part of a hospital accreditation or certification program and that provides diagnostic imaging;

(3) An ambulatory surgical facility that provides diagnostic imaging in conjunction with or during any portion of a surgical procedure.

Sec. 3702.51. As used in sections 3702.51 to 3702.62 of the Revised Code:

(A) "Applicant" means any person that submits an application for a certificate of need and who is designated in the application as the applicant.

(B) "Person" means any individual, corporation, business trust, estate, firm, partnership, association, joint stock company, insurance company, government unit, or other entity.

(C) "Certificate of need" means a written approval granted by the

director of health to an applicant to authorize conducting a reviewable activity.

(D) "Health service area" means a geographic region designated by the director of health under section 3702.58 of the Revised Code.

(E) "Health service" means a clinically related service, such as a diagnostic, treatment, rehabilitative, or preventive service.

(F) "Health service agency" means an agency designated to serve a health service area in accordance with section 3702.58 of the Revised Code.

(G) "Health care facility" means:

(1) A hospital registered under section 3701.07 of the Revised Code;

(2) A nursing home licensed under section 3721.02 of the Revised Code, or by a political subdivision certified under section 3721.09 of the Revised Code;

(3) A county home or a county nursing home as defined in section 5155.31 of the Revised Code that is certified under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;

(4) A freestanding dialysis center;

(5) A freestanding inpatient rehabilitation facility;

(6) An ambulatory surgical facility;

(7) A freestanding cardiac catheterization facility;

(8) A freestanding birthing center;

(9) A freestanding or mobile diagnostic imaging center;

(10) A freestanding radiation therapy center.

A health care facility does not include the offices of private physicians and dentists whether for individual or group practice, residential facilities licensed under section 5123.19 of the Revised Code, or an institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing twenty-four hour nursing care pursuant to the exemption in division (E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.

(H) "Medical equipment" means a single unit of medical equipment or a single system of components with related functions that is used to provide health services.

(I) "Third-party payer" means a health insuring corporation licensed under Chapter 1751. of the Revised Code, a health maintenance

organization as defined in division (K) of this section, an insurance company that issues sickness and accident insurance in conformity with Chapter 3923. of the Revised Code, a state-financed health insurance program under Chapter 3701., 4123., or 5111. of the Revised Code, or any self-insurance plan.

(J) "Government unit" means the state and any county, municipal corporation, township, or other political subdivision of the state, or any department, division, board, or other agency of the state or a political subdivision.

(K) "Health maintenance organization" means a public or private organization organized under the law of any state that is qualified under section 1310(d) of Title XIII of the "Public Health Service Act," 87 Stat. 931 (1973), 42 U.S.C. 300e-9.

(L) "Existing health care facility" means either of the following:

(1) A health care facility that is licensed or otherwise authorized to operate in this state in accordance with applicable law, including a county home or a county nursing home that is certified as of February 1, 2008, under Title XVIII or Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, is staffed and equipped to provide health care services, and is actively providing health services;

(2) A health care facility that is licensed or otherwise authorized to operate in this state in accordance with applicable law, including a county home or a county nursing home that is certified as of February 1, 2008, under Title XVIII or Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, or that has beds registered under section 3701.07 of the Revised Code as skilled nursing beds or long-term care beds and has provided services for at least three hundred sixty-five consecutive days within the twenty-four months immediately preceding the date a certificate of need application is filed with the director of health.

(M) "State" means the state of Ohio, including, but not limited to, the general assembly, the supreme court, the offices of all elected state officers, and all departments, boards, offices, commissions, agencies, institutions, and other instrumentalities of the state of Ohio. "State" does not include political subdivisions.

(N) "Political subdivision" means a municipal corporation, township, county, school district, and all other bodies corporate and politic responsible for governmental activities only in geographic areas smaller than that of the state to which the sovereign immunity of the state attaches.

(O) "Affected person" means:

(1) An applicant for a certificate of need, including an applicant whose

application was reviewed comparatively with the application in question;

(2) The person that requested the reviewability ruling in question;

(3) Any person that resides or regularly uses health care facilities within the geographic area served or to be served by the health care services that would be provided under the certificate of need or reviewability ruling in question;

(4) Any health care facility that is located in the health service area where the health care services would be provided under the certificate of need or reviewability ruling in question;

(5) Third-party payers that reimburse health care facilities for services in the health service area where the health care services would be provided under the certificate of need or reviewability ruling in question;

(6) Any other person who testified at a public hearing held under division (B) of section 3702.52 of the Revised Code or submitted written comments in the course of review of the certificate of need application in question.

(P) "Osteopathic hospital" means a hospital registered under section 3701.07 of the Revised Code that advocates osteopathic principles and the practice and perpetuation of osteopathic medicine by doing any of the following:

(1) Maintaining a department or service of osteopathic medicine or a committee on the utilization of osteopathic principles and methods, under the supervision of an osteopathic physician;

(2) Maintaining an active medical staff, the majority of which is comprised of osteopathic physicians;

(3) Maintaining a medical staff executive committee that has osteopathic physicians as a majority of its members.

(Q) "Ambulatory surgical facility" has the same meaning as in section 3702.30 of the Revised Code.

~~(R) Except as otherwise provided in division (T) of this section, and until the termination date specified in section 3702.511 of the Revised Code, "reviewable activity" means any of the following:~~

~~(1) The addition by any person of any of the following health services, regardless of the amount of operating costs or capital expenditures:~~

~~(a) A heart, heart-lung, lung, liver, kidney, bowel, pancreas, or bone marrow transplantation service, a stem cell harvesting and reinfusion service, or a service for transplantation of any other organ unless transplantation of the organ is designated by public health council rule not to be a reviewable activity;~~

~~(b) A cardiac catheterization service;~~

~~(c) An open heart surgery service;~~
~~(d) Any new, experimental medical technology that is designated by rule of the public health council.~~

~~(2) The acceptance of high risk patients, as defined in rules adopted under section 3702.57 of the Revised Code, by any cardiac catheterization service that was initiated without a certificate of need pursuant to division (R)(3)(b) of the version of this section in effect immediately prior to April 20, 1995;~~

~~(3)(a) The establishment, development, or construction of a new health care facility other than a new long term care facility or a new hospital;~~

~~(b) The establishment, development, or construction of a new hospital or the relocation of an existing hospital;~~

~~(c) The relocation of hospital beds, other than long term care, perinatal, or pediatric intensive care beds, into or out of a rural area.~~

~~(4)(a) The replacement of an existing hospital;~~

~~(b) The replacement of an existing hospital obstetric or newborn care unit or freestanding birthing center.~~

~~(5)(a) The renovation of a hospital that involves a capital expenditure, obligated on or after June 30, 1995, of five million dollars or more, not including expenditures for equipment, staffing, or operational costs. For purposes of division (R)(5)(a) of this section, a capital expenditure is obligated:~~

~~(i) When a contract enforceable under Ohio law is entered into for the construction, acquisition, lease, or financing of a capital asset;~~

~~(ii) When the governing body of a hospital takes formal action to commit its own funds for a construction project undertaken by the hospital as its own contractor;~~

~~(iii) In the case of donated property, on the date the gift is completed under applicable Ohio law.~~

~~(b) The renovation of a hospital obstetric or newborn care unit or freestanding birthing center that involves a capital expenditure of five million dollars or more, not including expenditures for equipment, staffing, or operational costs.~~

~~(6) Any change in the health care services, bed capacity, or site, or any other failure to conduct the reviewable activity in substantial accordance with the approved application for which a certificate of need was granted, if the change is made prior to the date the activity for which the certificate was issued ceases to be a reviewable activity;~~

~~(7) Any of the following changes in perinatal bed capacity or pediatric intensive care bed capacity:~~

- ~~(a) An increase in bed capacity;~~
- ~~(b) A change in service or service level designation of newborn care beds or obstetric beds in a hospital or freestanding birthing center, other than a change of service that is provided within the service level designation of newborn care or obstetric beds as registered by the department of health;~~
- ~~(c) A relocation of perinatal or pediatric intensive care beds from one physical facility or site to another, excluding the relocation of beds within a hospital or freestanding birthing center or the relocation of beds among buildings of a hospital or freestanding birthing center at the same site.~~
- ~~(8) The expenditure of more than one hundred ten per cent of the maximum expenditure specified in a certificate of need;~~
- ~~(9) Any transfer of a certificate of need issued prior to April 20, 1995, from the person to whom it was issued to another person before the project that constitutes a reviewable activity is completed, any agreement that contemplates the transfer of a certificate of need issued prior to that date upon completion of the project, and any transfer of the controlling interest in an entity that holds a certificate of need issued prior to that date. However, the transfer of a certificate of need issued prior to that date or agreement to transfer such a certificate of need from the person to whom the certificate of need was issued to an affiliated or related person does not constitute a reviewable transfer of a certificate of need for the purposes of this division, unless the transfer results in a change in the person that holds the ultimate controlling interest in the certificate of need.~~
- ~~(10)(a) The acquisition by any person of any of the following medical equipment, regardless of the amount of operating costs or capital expenditure:~~
- ~~(i) A cobalt radiation therapy unit;~~
 - ~~(ii) A linear accelerator;~~
 - ~~(iii) A gamma knife unit.~~
- ~~(b) The acquisition by any person of medical equipment with a cost of two million dollars or more. The cost of acquiring medical equipment includes the sum of the following:~~
- ~~(i) The greater of its fair market value or the cost of its lease or purchase;~~
 - ~~(ii) The cost of installation and any other activities essential to the acquisition of the equipment and its placement into service.~~
- ~~(11) The addition of another cardiac catheterization laboratory to an existing cardiac catheterization service.~~
- ~~(S) Except as provided in division (F)(S) of this section, "reviewable activity" also means any of the following activities, none of which are~~

~~subject to a termination date:~~

(1) The establishment, development, or construction of a new long-term care facility;

(2) The replacement of an existing long-term care facility;

(3) The renovation of a long-term care facility that involves a capital expenditure of two million dollars or more, not including expenditures for equipment, staffing, or operational costs;

(4) ~~Any~~ Either of the following changes in long-term care bed capacity:

(a) An increase in bed capacity;

(b) A relocation of beds from one physical facility or site to another, excluding the relocation of beds within a long-term care facility or among buildings of a long-term care facility at the same site;

~~(c) A recategorization of hospital beds registered under section 3701.07 of the Revised Code from another registration category to skilled nursing beds or long-term care beds.~~

(5) Any change in the health services, bed capacity, or site, or any other failure to conduct the reviewable activity in substantial accordance with the approved application for which a certificate of need concerning long-term care beds was granted, if the change is made within five years after the implementation of the reviewable activity for which the certificate was granted;

(6) The expenditure of more than one hundred ten per cent of the maximum expenditure specified in a certificate of need concerning long-term care beds;

~~(7) Any transfer of a certificate of need that concerns long-term care beds and was issued prior to April 20, 1995, from the person to whom it was issued to another person before the project that constitutes a reviewable activity is completed, any agreement that contemplates the transfer of such a certificate of need upon completion of the project, and any transfer of the controlling interest in an entity that holds such a certificate of need. However, the transfer of a certificate of need that concerns long-term care beds and was issued prior to April 20, 1995, or agreement to transfer such a certificate of need from the person to whom the certificate was issued to an affiliated or related person does not constitute a reviewable transfer of a certificate of need for purposes of this division, unless the transfer results in a change in the person that holds the ultimate controlling interest in the certificate of need.~~

~~(T)~~(S) "Reviewable activity" does not include any of the following activities:

(1) Acquisition of computer hardware or software;

(2) Acquisition of a telephone system;

(3) Construction or acquisition of parking facilities;

(4) Correction of cited deficiencies that are in violation of federal, state, or local fire, building, or safety laws and rules and that constitute an imminent threat to public health or safety;

(5) Acquisition of an existing health care facility that does not involve a change in the number of the beds, by service, or in the number or type of health services;

(6) Correction of cited deficiencies identified by accreditation surveys of the joint commission on accreditation of healthcare organizations or of the American osteopathic association;

(7) Acquisition of medical equipment to replace the same or similar equipment for which a certificate of need has been issued if the replaced equipment is removed from service;

(8) Mergers, consolidations, or other corporate reorganizations of health care facilities that do not involve a change in the number of beds, by service, or in the number or type of health services;

(9) Construction, repair, or renovation of bathroom facilities;

(10) Construction of laundry facilities, waste disposal facilities, dietary department projects, heating and air conditioning projects, administrative offices, and portions of medical office buildings used exclusively for physician services;

(11) Acquisition of medical equipment to conduct research required by the United States food and drug administration or clinical trials sponsored by the national institute of health. Use of medical equipment that was acquired without a certificate of need under division ~~(T)~~~~(S)~~(11) of this section and for which premarket approval has been granted by the United States food and drug administration to provide services for which patients or reimbursement entities will be charged shall be a reviewable activity.

(12) Removal of asbestos from a health care facility.

Only that portion of a project that meets the requirements of this division ~~(T)~~ of this section is not a reviewable activity.

~~(U)~~~~(T)~~ "Small rural hospital" means a hospital that is located within a rural area, has fewer than one hundred beds, and to which fewer than four thousand persons were admitted during the most recent calendar year.

~~(V)~~~~(U)~~ "Children's hospital" means any of the following:

(1) A hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;

(2) A distinct portion of a hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, has a total of at least one hundred fifty registered pediatric special care and pediatric acute care beds, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;

(3) A distinct portion of a hospital, if the hospital is registered under section 3701.07 of the Revised Code as a children's hospital and the children's hospital meets all the requirements of division ~~(V)~~(U)(1) of this section.

~~(W)~~(V) "Long-term care facility" means any of the following:

(1) A nursing home licensed under section 3721.02 of the Revised Code or by a political subdivision certified under section 3721.09 of the Revised Code;

(2) The portion of any facility, including a county home or county nursing home, that is certified as a skilled nursing facility or a nursing facility under Title XVIII or XIX of the "Social Security Act";

(3) The portion of any hospital that contains beds registered under section 3701.07 of the Revised Code as skilled nursing beds or long-term care beds.

~~(X)~~(W) "Long-term care bed" means a bed in a long-term care facility.

~~(Y)~~ "Perinatal bed" means a bed in a hospital that is registered under section 3701.07 of the Revised Code as a newborn care bed or obstetric bed, or a bed in a freestanding birthing center.

~~(Z)~~(X) "Freestanding birthing center" means any facility in which deliveries routinely occur, regardless of whether the facility is located on the campus of another health care facility, and which is not licensed under Chapter 3711. of the Revised Code as a level one, two, or three maternity unit or a limited maternity unit.

~~(AA)~~(Y)(1) "Reviewability ruling" means a ruling issued by the director of health under division (A) of section 3702.52 of the Revised Code as to whether a particular proposed project is or is not a reviewable activity.

(2) "Nonreviewability ruling" means a ruling issued under that division that a particular proposed project is not a reviewable activity.

~~(BB)~~(Z)(1) "Metropolitan statistical area" means an area of this state designated a metropolitan statistical area or primary metropolitan statistical area in United States office of management and budget bulletin no. 93-17, June 30, 1993, and its attachments.

(2) "Rural area" means any area of this state not located within a metropolitan statistical area.

~~(CC)~~(AA) "County nursing home" has the same meaning as in section 5155.31 of the Revised Code.

Sec. 3702.52. The director of health shall administer a state certificate of need program in accordance with sections 3702.51 to 3702.62 of the Revised Code and rules adopted under those sections.

(A) The director shall issue rulings on whether a particular proposed project is a reviewable activity. The director shall issue a ruling not later than forty-five days after receiving a request for a ruling accompanied by the information needed to make the ruling. If the director does not issue a ruling in that time, the project shall be considered to have been ruled not a reviewable activity.

(B) The director shall review applications for certificates of need. Each application shall be submitted to the director on forms prescribed by the director, shall include all information required by rules adopted under division (B) of section 3702.57 of the Revised Code, and shall be accompanied by the application fee established in rules adopted under division (G) of that section.

Application fees received by the director under this division shall be deposited into the state treasury to the credit of the certificate of need fund, which is hereby created. The director shall use the fund only to pay the costs of administering sections 3702.11 to 3702.20, 3702.30, and 3702.51 to 3702.62 of the Revised Code and rules adopted under those sections.

The director shall mail to the applicant a written notice that the application meets the criteria for a complete application specified in rules adopted under section 3702.57 of the Revised Code, or a written request for additional information, not later than thirty days after receiving an application or a response to an earlier request for information. The director shall not make more than two requests for additional information.

The director may conduct a public informational hearing in the course of reviewing any application for a certificate of need, and shall conduct one if requested to do so by any affected person not later than fifteen days after the director mails the notice that the application is complete. The hearing shall be conducted in the community in which the activities authorized by the certificate of need would be carried out. Any affected person may testify at the hearing. The director may, with the health service agency's consent, designate a health service agency to conduct the hearing.

Except during a public hearing or as necessary to comply with a subpoena issued under division ~~(F)~~(E) of this section, after a notice of completeness has been received, no person shall make revisions to information that was submitted to the director before the director mailed the

notice of completeness or knowingly discuss in person or by telephone the merits of the application with the director. A person may supplement an application after a notice of completeness has been received by submitting clarifying information to the director. If one or more persons request a meeting in person or by telephone, the director shall make a reasonable effort to invite interested parties to the meeting or conference call.

(C) All of the following apply to the process of granting or denying a certificate of need:

(1) If the project proposed in a certificate of need application meets all of the applicable certificate of need criteria for approval under sections 3702.51 to 3702.62 of the Revised Code and the rules adopted under those sections, the director shall grant a certificate of need for all or part of the entire project that is the subject of the application ~~immediately after both of the following conditions are met:~~

~~(a) The board of trustees of the health service agency of the health service area in which the reviewable activity is proposed to be conducted recommends, prior to the deadline specified in division (C)(4) of this section or any extension of it under division (C)(5) of this section, that the certificate of need be granted;~~

~~(b) The director does not receive any written objections to the application from any affected person by the thirtieth day after the director mails the notice of completeness by the applicable deadline specified in division (C)(4) of this section or any extension of it under division (C)(5) of this section.~~

~~(2) In the case of certificate of need applications under comparative review, if the projects proposed in the applications meet all of the applicable certificate of need criteria for approval under sections 3702.51 to 3702.62 of the Revised Code and the rules adopted under those sections, the director shall grant certificates of need for the entire projects that are the subject of the applications immediately after both of the following conditions are met:~~

~~(a) The board of trustees of the health service agency of each health service area in which the reviewable activities are proposed to be conducted recommends, prior to the deadline specified in division (C)(4) of this section or any extension of it under division (C)(5) of this section, that certificates of need be granted for each of the reviewable activities to be conducted in its health service area;~~

~~(b) The director does not receive any written objections to any of the applications from any affected person by the thirtieth day after the director mails the last notice of completeness.~~

The The director's grant of a certificate of need ~~under division (C)(1) or~~

~~(2) of this section~~ does not affect, and sets no precedent for, the director's decision to grant or deny other applications for similar reviewable activities proposed to be conducted in the same or different health service areas.

(3) If the director receives written objections to an application from any affected person by the thirtieth day after mailing the notice of completeness, ~~regardless of the health service agency's recommendation~~, the director shall notify the applicant and assign a hearing examiner to conduct an adjudication hearing concerning the application in accordance with Chapter 119. of the Revised Code. In the case of applications under comparative review, if the director receives written objections to any of the applications from any affected person by the thirtieth day after the director mails the last notice of completeness, ~~regardless of the health service agencies' recommendation~~, the director shall notify all of the applicants and appoint a hearing examiner to conduct a consolidated adjudication hearing concerning the applications in accordance with Chapter 119. of the Revised Code. The hearing examiner shall be employed by or under contract with the department of health.

The adjudication hearings may be conducted in the health service area in which the reviewable activity is proposed to be conducted. Consolidated adjudication hearings for applications in comparative review may be conducted in the geographic region in which all of the reviewable activities will be conducted. The applicant, the director, and the affected persons that filed objections to the application shall be parties to the hearing. If none of the affected persons that submitted written objections to the application appears or prosecutes the hearing, the hearing examiner shall dismiss the hearing and the director shall grant a certificate of need for all or part of the entire project that is the subject of the application if the proposed project meets all of the applicable certificate of need criteria for approval under sections 3702.51 to 3702.62 of the Revised Code and the rules adopted under those sections. The affected persons bear the burden of proving by a preponderance of evidence that the project is not needed or that granting the certificate would not be in accordance with sections 3702.51 to 3702.62 of the Revised Code or the rules adopted under those sections.

(4) Except as provided in ~~divisions~~ division (C)(1) ~~and (2)~~(5) of this section, the director shall grant or deny certificate of need applications for which an adjudication hearing is not conducted under division (C)(3) of this section not later than sixty days after mailing the notice of completeness or, in the case of an application proposing addition of long-term care beds, not later than sixty days after such other time as is specified in rules adopted under section 3702.57 of the Revised Code. The Except as provided in

division (C)(5) of this section, the director shall grant or deny certificate of need applications for which an adjudication hearing is conducted under division (C)(3) of this section not later than thirty days after the expiration of the time for filing objections to the report and recommendation of the hearing examiner under section 119.09 of the Revised Code. The director shall base decisions concerning applications for which an adjudication hearing is conducted under division (C)(3) of this section on the report and recommendations of the hearing examiner.

(5) Except as otherwise provided in division (C)(1), (2), ~~or~~ (6) of this section, the director or the applicant may extend the deadline prescribed in division (C)(4) of this section once, for no longer than thirty days, by written notice before the end of the ~~original thirty-day period~~ deadline prescribed by division (C)(4) of this section. An extension by the director under division (C)(5) of this section shall apply to all applications that are in comparative review.

(6) No applicant in a comparative review may extend the deadline specified in division (C)(4) of this section.

(7) ~~Except as provided in divisions (C)(1) and (2) of this section, the director may grant a certificate of need for all or part of the project that is the subject of an application.~~ If the director does not grant or deny the certificate by the applicable deadline specified in division (C)(4) of this section or any extension of it under division (C)(5) of this section, the certificate shall be considered to have been granted.

(8) In granting a certificate of need, the director shall specify as the maximum capital expenditure the certificate holder may obligate under the certificate a figure equal to one hundred ten per cent of the approved project cost.

(9) In granting a certificate of need, the director may grant the certificate with conditions that must be met by the holder of the certificate.

(D) The director shall monitor the activities of persons granted certificates of need ~~concerning long-term care beds~~ during the period beginning with the granting of the certificate of need and ending five years after implementation of the activity for which the certificate was granted.

~~In the case of any other certificate of need, the director shall monitor the activities of persons granted certificates of need during the period beginning with the granting of the certificate of need and ending when the activity for which the certificate was granted ceases to be a reviewable activity in accordance with section 3702.511 of the Revised Code.~~

(E) When reviewing applications for certificates of need or monitoring activities of persons granted certificates of need, the director may issue and

enforce, in the manner provided in section 119.09 of the Revised Code, subpoenas duces tecum to compel the production of documents relevant to review of the application or monitoring of the activities. In addition, the director or the director's designee, which may include a health service agency, may visit the sites where the activities are or will be conducted.

(F) The director may withdraw certificates of need.

(G) The director shall conduct, on a regular basis, health system data collection and analysis activities and prepare reports. The director shall make recommendations based upon these activities to the public health council concerning the adoption of appropriate rules under section 3702.57 of the Revised Code. All health care facilities and other health care providers shall submit to the director, upon request, any information that is necessary to conduct reviews of certificate of need applications and to develop recommendations for criteria for reviews, and that is prescribed by rules adopted under division (H) of section 3702.57 of the Revised Code.

(H) Any decision to grant or deny a certificate of need shall consider the special needs and circumstances resulting from moral and ethical values and the free exercise of religious rights of health care facilities administered by religious organizations, and the special needs and circumstances of children's hospitals, inner city hospitals, and small rural hospitals communities.

Sec. 3702.524. (A) Except as provided in division (B) ~~or (C)~~ of this section, a certificate of need granted on or after April 20, 1995, is not transferable prior to the completion of the reviewable activity for which it was granted. If any person holding a certificate of need issued on or after that date transfers the certificate of need to another person before the reviewable activity is completed, or enters into an agreement that contemplates the transfer of the certificate of need on the completion of the reviewable activity, the certificate of need is void. If the controlling interest in an entity that holds a certificate of need issued on or after that date is transferred prior to the completion of the reviewable activity, the certificate of need is void.

(B) Division (A) of this section does not prohibit the transfer of a certificate of need issued on or after April 20, 1995, between affiliated or related persons, as defined in rules adopted under section 3702.57 of the Revised Code, if the transfer does not result in a change in the person that holds the ultimate controlling interest, as defined in the rules, in the certificate of need.

The transfer of a health care facility after the completion of a reviewable activity for which a certificate of need was issued on or after April 20, 1995,

is not a transfer of the certificate of need, unless the facility is transferred pursuant to an agreement entered into prior to the completion of the reviewable activity.

~~(C) Division (A) of this section does not apply to a transfer of a certificate of need that meets all of the following conditions:~~

~~(1) The certificate of need is transferred for no more than the amount of money the person transferring the certificate expended for reasonable and necessary expenses incurred in applying for and obtaining the certificate;~~

~~(2) The person holding the certificate of need is unable to complete the reviewable activity for which it was issued due to circumstances beyond the person's control, including zoning restrictions, natural disasters, or comparable events;~~

~~(3) The director, after reviewing documentation supplied by the person transferring the certificate of need, certifies in writing prior to the transfer that the transfer meets the conditions specified in divisions (C)(1) and (2) of this section.~~

~~If the person that acquires a certificate of need under this division intends to implement the project other than in substantial compliance with the approved application for the certificate, that change is a reviewable activity for which the person must obtain another certificate of need.~~

Sec. 3702.525. (A) Not later than twenty-four months after the date the director of health mails the notice that the certificate of need has been granted or, if the grant or denial of the certificate of need is appealed under section 3702.60 of the Revised Code, not later than twenty-four months after issuance of an order granting the certificate that is not subject to further appeal, each person holding a certificate of need granted on or after April 20, 1995, shall:

(1) If the project for which the certificate of need was granted primarily involves construction and is to be financed primarily through external borrowing of funds, secure financial commitment for the stated purpose of developing the project and commence construction that continues uninterrupted except for interruptions or delays that are unavoidable due to reasons beyond the person's control, including labor strikes, natural disasters, material shortages, or comparable events;

(2) If the project for which the certificate of need was granted primarily involves construction and is to be financed primarily internally, receive formal approval from the holder's board of directors or trustees or other governing authority to commit specified funds for implementation of the project and commence construction that continues uninterrupted except for interruptions or delays that are unavoidable due to reasons beyond the

person's control, including labor strikes, natural disasters, material shortages, or comparable events;

(3) If the project for which the certificate of need was granted primarily involves acquisition of medical equipment, enter into a contract to purchase or lease the equipment and to accept the equipment at the site for which the certificate was granted;

(4) If the project for which the certificate of need was granted involves no capital expenditure or only minor renovations to existing structures, provide the health service or activity by the means specified in the approved application for the certificate;

(5) If the project for which the certificate of need was granted primarily involves leasing a building or space that requires only minor renovations to the existing space, execute a lease and provide the health service or activity by the means specified in the approved application for the certificate;

(6) If the project for which the certificate of need was granted primarily involves leasing a building or space that has not been constructed or requires substantial renovations to existing space, commence construction for the purpose of implementing the reviewable activity that continues uninterrupted except for interruptions or delays that are unavoidable due to reasons beyond the person's control, including labor strikes, natural disasters, material shortages, or comparable events.

(B) The twenty-four-month period specified in division (A) of this section shall not be extended by any means, including the ~~transfer of a certificate of need under division (C) of section 3702.524 of the Revised Code or~~ granting of a subsequent or replacement certificate of need. Each person holding a certificate of need granted on or after April 20, 1995, shall provide the director of health documentation of compliance with that division not later than the earlier of thirty days after complying with that division or five days after the twenty-four-month period expires. Not later than the earlier of fifteen days after receiving the documentation or fifteen days after the twenty-four-month period expires, the director shall send by certified mail a notice to the holder of the certificate of need specifying whether the holder has complied with division (A) of this section.

(C) Notwithstanding division (B) of this section, the twenty-four-month period specified in division (A) of this section shall be extended for an additional twenty-four months for any certificate of need granted for the purchase and relocation of licensed nursing home beds on February 26, 1999.

(D) A certificate of need granted on or after April 20, 1995, expires, regardless of whether the director sends a notice under division (B) of this

section, if the holder fails to comply with division (A) or (C) of this section or to provide information under division (B) of this section as necessary for the director to determine compliance.

Sec. 3702.53. (A) No person shall carry out any reviewable activity unless a certificate of need for such activity has been granted under sections 3702.51 to 3702.62 of the Revised Code or the person is exempted by division ~~(F)~~(S) of section 3702.51 or section ~~3702.527, 3702.528, 3702.529, 3702.5210;~~ or 3702.62 of the Revised Code from the requirement that a certificate of need be obtained. No person shall carry out any reviewable activity if a certificate of need authorizing that activity has been withdrawn by the director of health under section 3702.52 or 3702.526 of the Revised Code. No person shall carry out a reviewable activity if the certificate of need authorizing that activity is void pursuant to section 3702.524 of the Revised Code or has expired pursuant to section 3702.525 of the Revised Code.

(B) No person shall separate portions of any proposal for any reviewable activity to evade the requirements of sections 3702.51 to 3702.62 of the Revised Code.

(C) No person granted a certificate of need shall carry out the reviewable activity authorized by the certificate of need other than in substantial accordance with the approved application for the certificate of need.

Sec. 3702.532. When the director of health determines that a person has violated section 3702.53 of the Revised Code, the director shall send a notice to the person by certified mail, return receipt requested, specifying the activity constituting the violation and the penalties imposed under section 3702.54; or 3702.541; ~~or 3702.542~~ of the Revised Code.

Sec. 3702.54. Except as provided in ~~sections~~ section 3702.541 ~~and 3702.542 and former section 3702.543~~ of the Revised Code, divisions (A) and (B) of this section apply when the director of health determines that a person has violated section 3702.53 of the Revised Code.

(A) The director shall impose a civil penalty on the person in an amount equal to the greatest of the following:

- (1) Three thousand dollars;
- (2) Five per cent of the operating cost of the activity that constitutes the violation during the period of time it was conducted in violation of section 3702.53 of the Revised Code;

(3) ~~Two~~ If a certificate of need was granted, two per cent of the total approved capital cost associated with implementation of the activity for which the certificate of need was granted.

In no event, however, shall the penalty exceed two hundred fifty thousand dollars.

(B)(1) Notwithstanding section 3702.52 of the Revised Code, the director shall refuse to accept for review any application for a certificate of need filed by or on behalf of the person, or any successor to the person or entity related to the person, for a period of not less than one year and not more than three years after the director mails the notice of the director's determination under section 3702.532 of the Revised Code or, if the determination is appealed under section 3702.60 of the Revised Code, the issuance of the order upholding the determination that is not subject to further appeal. In determining the length of time during which applications will not be accepted, the director may consider any of the following:

- (a) The nature and magnitude of the violation;
- (b) The ability of the person to have averted the violation;
- (c) Whether the person disclosed the violation to the director before the director commenced his investigation;
- (d) The person's history of compliance with sections 3702.51 to 3702.62 and the rules adopted under section 3702.57 of the Revised Code;
- (e) Any community hardship that may result from refusing to accept future applications from the person.

(2) Notwithstanding the one-year minimum imposed by division (B)(1) of this section, the director may establish a period of less than one year during which the director will refuse to accept certificate of need applications if, after reviewing all information available to the director, the director determines and expressly indicates in the notice mailed under section 3702.532 of the Revised Code that refusing to accept applications for a longer period would result in hardship to the community in which the person provides health services. The director's finding of community hardship shall not affect the granting or denial of any future certificate of need application filed by the person.

Sec. 3702.544. Each person required by section 3702.54; or 3702.541; ~~or 3702.542, or former section 3702.543~~ of the Revised Code to pay a civil penalty shall do so not later than sixty days after receiving the notice mailed under section 3702.532 of the Revised Code or, if the person appeals under section 3702.60 of the Revised Code the director of health's determination that a violation has occurred, not later than sixty days after the issuance of an order upholding the director's determination that is not subject to further appeal. The civil penalties shall be paid to the director. The director shall deposit them into the certificate of need fund created by section 3702.52 of the Revised Code.

Sec. 3702.55. ~~Except as provided in section 3702.542 of the Revised Code, a~~ A person that the director of health determines has violated section 3702.53 of the Revised Code shall cease conducting the activity that constitutes the violation or utilizing the equipment or facility resulting from the violation not later than thirty days after the person receives the notice mailed under section 3702.532 of the Revised Code or, if the person appeals the director's determination under section 3702.60 of the Revised Code, thirty days after the person receives an order upholding the director's determination that is not subject to further appeal. ~~A person that applies for a certificate of need as described in section 3702.542 of the Revised Code shall cease conducting the activity or using the equipment or facility in accordance with the timetable established by the director of health under that section.~~

If any person determined to have violated section 3702.53 of the Revised Code fails to cease conducting an activity or using equipment or a facility as required by this section ~~or a timetable established under section 3702.542 of the Revised Code~~, or if the person continues to seek payment or reimbursement for services rendered or costs incurred in conducting the activity as prohibited by section 3702.56 of the Revised Code, in addition to the penalties imposed under section 3702.54; or 3702.541; ~~or 3702.542 or former section 3702.543~~ of the Revised Code:

(A) The director of health may refuse to include any beds involved in the activity in the bed capacity of a hospital for purposes of registration under section 3701.07 of the Revised Code;

(B) The director of health may refuse to license, or may revoke a license or reduce bed capacity previously granted to, a hospice care program under section 3712.04 of the Revised Code; a nursing home, rest home, or home for the aging under section 3721.02 of the Revised Code; or any beds within any of those facilities that are involved in the activity;

(C) A political subdivision certified under section 3721.09 of the Revised Code may refuse to license, or may revoke a license or reduce bed capacity previously granted to, a nursing home, rest home, or home for the aging, or any beds within any of those facilities that are involved in the activity;

(D) The director of mental health may refuse to license under section 5119.20 of the Revised Code, or may revoke a license or reduce bed capacity previously granted to, a hospital receiving mentally ill persons or beds within such a hospital that are involved in the activity;

(E) The department of job and family services may refuse to enter into a provider agreement that includes a facility, beds, or services that result from

the activity.

Sec. 3702.57. (A) The public health council shall adopt rules establishing procedures and criteria for reviews of applications for certificates of need and issuance, denial, or withdrawal of certificates.

~~(1) The rules shall require that, in addition to any other applicable review requirements of sections 3702.51 to 3702.62 of the Revised Code and rules adopted thereunder, any application for a certificate of need from an osteopathic hospital be reviewed on the basis of the need for and the availability in the community of services and hospitals for osteopathic physicians and their patients, and in terms of its impact on existing and proposed institutional training programs for doctors of osteopathy and doctors of medicine at the student, internship, and residency training levels.~~

(2) In adopting rules that establish criteria for reviews of applications of certificates of need, the council shall consider the availability of and need for long-term care beds to provide care and treatment to persons diagnosed as having traumatic brain injuries and shall prescribe criteria for reviewing applications that propose to add long-term care beds to provide care and treatment to persons diagnosed as having traumatic brain injuries.

~~(3)~~(2) The criteria for reviews of applications for certificates of need shall relate to the need for the reviewable activity and shall pertain to all of the following matters:

(a) The impact of the reviewable activity on the cost and quality of health services in the relevant geographic area, including, but not limited, to the historical and projected utilization of the services to which the application pertains and the effect of the reviewable activity on utilization of other providers of similar services;

(b) The quality of the services to be provided as the result of the activity, as evidenced by the historical performance of the persons that will be involved in providing the services and by the provisions that are proposed in the application to ensure quality, including but not limited to adequate available personnel, available ancillary and support services, available equipment, size and configuration of physical plant, and relations with other providers;

(c) The impact of the reviewable activity on the availability and accessibility of the type of services proposed in the application to the population of the relevant geographic area, and the level of access to the services proposed in the application that will be provided to medically underserved individuals such as recipients of public assistance and individuals who have no health insurance or whose health insurance is insufficient;

(d) The activity's short- and long-term financial feasibility and cost-effectiveness, the impact of the activity on the applicant's costs and charges, and a comparison of the applicant's costs and charges with those of providers of similar services in the applicant's proposed service area;

(e) The advantages, disadvantages, and costs of alternatives to the reviewable activity;

(f) The impact of the activity on all other providers of similar services in the health service area or other relevant geographic area, including the impact on their utilization, market share, and financial status;

(g) The historical performance of the applicant and related or affiliated parties in complying with previously granted certificates of need and any applicable certification, accreditation, or licensure requirements;

(h) The relationship of the activity to the current edition of the state health resources plan issued under section 3702.521 of the Revised Code;

(i) The historical performance of the applicant and related or affiliated parties in providing cost-effective health care services;

(j) The special needs and circumstances of the applicant or population proposed to be served by the proposed project, including research activities, prevalence of particular diseases, unusual demographic characteristics, cost-effective contractual affiliations, and other special circumstances;

(k) The appropriateness of the zoning status of the proposed site of the activity;

(l) The participation by the applicant in research conducted by the United States food and drug administration or clinical trials sponsored by the national institutes of health.

~~(4)(3)~~ The criteria for reviews of applications shall include a formula for determining each county's long-term care bed need for purposes of section 3702.593 of the Revised Code and may include other formulas for determining need for beds and services.

~~(a) The criteria prescribing formulas shall not, either by themselves or in conjunction with any established occupancy guidelines, require, as a condition of being granted a certificate of need, that a hospital reduce its complement of registered beds or discontinue any service that is not related to the service or project for which the certificate of need is sought.~~

~~(b) With respect to applications to conduct reviewable activities that are affected directly by the inpatient occupancy of a health care facility, including addition, relocation, or recategorization of beds or renovation or other construction activities relating to inpatient services, the rules shall prescribe criteria for determining whether the scope of the proposed project is appropriate in light of the historical and reasonably projected occupancy~~

~~rates for the beds related to the project.~~

~~(e) Any rules prescribing criteria that establish ratios of beds, services, or equipment to population shall specify the bases for establishing the ratios or mitigating factors or exceptions to the ratios.~~

(B) The council shall adopt rules specifying all of the following:

(1) Information that must be provided in applications for certificates of need, which shall include a plan for obligating the capital expenditure or implementing the proposed project on a timely basis in accordance with section 3702.525 of the Revised Code;

(2) Procedures for reviewing applications for completeness of information;

(3) Criteria for determining that the application is complete.

(C) The council shall adopt rules specifying requirements that holders of certificates of need must meet in order for the certificates to remain valid and establishing definitions and requirements for obligation of capital expenditures and implementation of projects authorized by certificates of need.

(D) The council shall adopt rules establishing criteria and procedures under which the director of health may withdraw a certificate of need if the holder fails to meet requirements for continued validity of the certificate.

(E) The council shall adopt rules establishing procedures under which the department of health shall monitor project implementation activities of holders of certificates of need. The rules adopted under this division also may establish procedures for monitoring implementation activities of persons that have received nonreviewability rulings.

(F) The council shall adopt rules establishing procedures under which the director of health shall review certificates of need whose holders exceed or appear likely to exceed an expenditure maximum specified in a certificate.

(G) The council shall adopt rules establishing certificate of need application fees sufficient to pay the costs incurred by the department for administering sections 3702.51 to 3702.62 of the Revised Code and to pay health service agencies for the functions they perform under division (D)(5) of section 3702.58 of the Revised Code. Unless rules are adopted under this division establishing different application fees, the application fee for a project not involving a capital expenditure shall be three thousand dollars and the application fee for a project involving a capital expenditure shall be nine-tenths of one per cent of the capital expenditure proposed subject to a minimum of three thousand dollars and a maximum of twenty thousand dollars.

(H) The council shall adopt rules specifying information that is necessary to conduct reviews of certificate of need applications and to develop recommendations for criteria for reviews that health care facilities and other health care providers are to submit to the director under division (G) of section 3702.52 of the Revised Code.

(I) The council shall adopt rules defining "affiliated person," "related person," and "ultimate controlling interest" for purposes of section 3702.524 of the Revised Code.

(J) The council shall adopt rules prescribing requirements for holders of certificates of need to demonstrate to the director under section 3702.526 of the Revised Code that reasonable progress is being made toward completion of the reviewable activity and establishing standards by which the director shall determine whether reasonable progress is being made.

~~(K) The council shall adopt rules defining high-risk cardiac catheterization patients. High risk patients shall include patients with significant ischemic syndromes or unstable myocardial infarction, patients who need intervention such as angioplasty or bypass surgery, patients who may require difficult or complex catheterization procedures such as transeptal assessment of valvular dysfunction, patients with critical aortic stenosis or congestive heart failure, and other patients specified by the council.~~

~~(L)~~ (J) The public health council shall adopt all rules under divisions (A) to ~~(K)~~ (J) of this section in accordance with Chapter 119. of the Revised Code. The council may adopt other rules as necessary to carry out the purposes of sections 3702.51 to 3702.62 of the Revised Code.

Sec. 3702.59. (A) ~~Notwithstanding any conflicting provision of sections 3702.51 to 3702.62 of the Revised Code, other than the provisions of sections 3702.5210, 3702.5211, 3702.5212, and 3702.5213 of the Revised Code, both of the following apply under the certificate of need program:~~

~~(1) Divisions (B) to (E) of this section apply to the review of certificate of need applications during the period beginning July 1, 1993, and ending June 30, 2009.~~

~~(2) Beginning July 1, 2009, the director of health shall not accept for review under section 3702.52 of the Revised Code any application for a certificate of need to recategorize hospital beds as described in section 3702.522 of the Revised Code.~~

~~(B)(1) Except as provided in division (B)(2) of this section, the director of health shall neither grant nor deny any application for a certificate of need submitted prior to July 1, 1993, if the application was for any of the following and the director had not issued a written decision concerning the~~

application prior to that date:

~~(a) Approval of beds in a new health care facility or an increase of beds in an existing health care facility, if the beds are proposed to be licensed as nursing home beds under Chapter 3721. of the Revised Code;~~

~~(b) Approval of beds in a new county home or new county nursing home as defined in section 5155.31 of the Revised Code, or an increase of beds in an existing county home or existing county nursing home, if the beds are proposed to be certified as skilled nursing facility beds under Title XVIII or nursing facility beds under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;~~

~~(c) Recategorization of hospital beds as described in section 3702.522 of the Revised Code, an increase of hospital beds registered pursuant to section 3701.07 of the Revised Code as long term care beds or skilled nursing facility beds, or a recategorization of hospital beds that would result in an increase of beds registered pursuant to that section as long term care beds or skilled nursing facility beds.~~

~~On July 1, 1993, the director shall return each such application to the applicant and, notwithstanding section 3702.52 of the Revised Code regarding the uses of the certificate of need fund, shall refund to the applicant the application fee paid under that section. Applications returned under division (B)(1) of this section may be resubmitted in accordance with section 3702.52 of the Revised Code no sooner than July 1, 2009.~~

~~(2) The director shall continue to review and shall issue a decision regarding any application submitted prior to July 1, 1993, to increase beds for either of the purposes described in division (B)(1)(a) or (b) of this section if the proposed increase in beds is attributable solely to a replacement or relocation of existing beds within the same county. The director shall authorize under such an application no additional beds beyond those being replaced or relocated.~~

~~(C)(1) Except as provided in division (C)(2) of this section, the director, during the period beginning July 1, 1993, and ending June 30, 2009, shall not accept for review under section 3702.52 of the Revised Code any application for a certificate of need for any of the purposes described in divisions (B)(1)(a) to (c) of this section.~~

~~(2)(a) The director of health shall accept for review any application for either of the purposes described in division (B)(1)(a) or (b) of this section if the proposed increase in beds is attributable solely to a replacement or relocation of existing beds from an existing health care facility within the same county. The director shall authorize under such an application no additional beds beyond those being replaced or relocated certificate of need~~

applications as provided in sections 3702.592, 3702.593, and 3702.594 of the Revised Code.

(B) The director shall not approve an application for a certificate of need for addition of long-term care beds to an existing health care facility ~~by relocation of beds~~ or for the development of a new health care facility ~~by relocation of beds unless all~~ if any of the following ~~conditions are met~~ apply:

~~(i)(1)~~ (1) The existing health care facility ~~to in~~ in which the beds are being ~~relocated~~ placed has ~~no one or more~~ one or more waivers for life safety code deficiencies, ~~no one or more~~ one or more state fire code violations, ~~and no one or more~~ one or more state building code violations, ~~or and~~ and the project identified in the application ~~proposes~~ does not propose to correct all life safety code deficiencies for which a waiver has been granted, all state fire code violations, and all state building code violations at the existing health care facility ~~to in~~ in which the beds are being ~~relocated~~ placed;

~~(ii)(2)~~ (2) During the sixty-month period preceding the filing of the application, ~~no a~~ a notice of proposed license revocation ~~of the facility's license~~ was issued under section 3721.03 of the Revised Code ~~to the operator of~~ for the existing health care facility ~~to in~~ in which the beds are being ~~relocated~~ placed or ~~to any health care facility~~ a nursing home owned or operated by the applicant or ~~any principal participant in~~ the same corporation or other business;

~~(iii)~~ Neither the existing health care facility to which the beds are being relocated nor any health care facility owned or operated by the applicant or any principal participant in the same corporation or other business has had a long-standing pattern of violations of this chapter or deficiencies that caused one or more residents physical, emotional, mental, or psychosocial harm that operates or seeks to operate the health care facility in which the beds are being placed.

(3) During the period that precedes the filing of the application and is encompassed by the three most recent standard surveys of the existing health care facility in which the beds are being placed, the facility was cited on three or more separate occasions for final, nonappealable deficiencies that, under 42 C.F.R. 488.404, either constitute a pattern of deficiencies resulting in actual harm that is not immediate jeopardy or are widespread deficiencies resulting in actual harm that is not immediate jeopardy.

(4) During the period that precedes the filing of the application and is encompassed by the three most recent standard surveys of the existing health care facility in which the beds are being placed, the facility was cited on two or more separate occasions for final, nonappealable deficiencies that,

under 42 C.F.R. 488.404, either constitute a pattern of deficiencies resulting in immediate jeopardy to resident health or safety or are widespread deficiencies resulting in immediate jeopardy to resident health or safety.

(5) During the period that precedes the filing of the application and is encompassed by the three most recent standard surveys of the existing health care facility in which the beds are being placed, more than two nursing homes operated in this state by the applicant or the person who operates the facility in which the beds are being placed or, if the applicant or person operates more than twenty nursing homes in this state, more than ten per cent of those nursing homes, were each cited on three or more separate occasions for final, nonappealable deficiencies that, under 42 C.F.R. 488.404, either constitute a pattern of deficiencies resulting in actual harm that is not immediate jeopardy or are widespread deficiencies resulting in actual harm that is not immediate jeopardy.

(6) During the period that precedes the filing of the application and is encompassed by the three most recent standard surveys of the existing health care facility in which the beds are being placed, more than two nursing homes operated in this state by the applicant or the person who operates the facility in which the beds are being placed or, if the applicant or person operates more than twenty nursing homes in this state, more than ten per cent of those nursing homes, were each cited on two or more separate occasions for final, nonappealable deficiencies that, under 42 C.F.R. 488.404, either constitute a pattern of deficiencies resulting in immediate jeopardy to resident health or safety or are widespread deficiencies resulting in immediate jeopardy to resident health or safety.

(7) During the sixty-month period preceding the filing of the application, the applicant has violated this chapter on two or more separate occasions.

In applying divisions (B)(1) to (6) of this section, the director shall not consider deficiencies cited before the current operator began to operate the health care facility at which the deficiencies were cited. The director may disregard deficiencies cited after the health care facility was acquired by the current operator if the deficiencies were attributable to circumstances that arose under the previous operator and the current operator has implemented measures to alleviate the circumstances. In the case of an application proposing development of a new health care facility by relocation of beds, the director shall not consider deficiencies that were solely attributable to the physical plant of the existing health care facility from which the beds are being relocated.

(b)(C) The director also shall accept for review any application for the

conversion of infirmary beds to long-term care beds if the infirmary meets all of the following conditions:

~~(i)~~(1) Is operated exclusively by a religious order;

~~(ii)~~(2) Provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related;

~~(iii)~~(3) Was providing care exclusively to members of such a religious order on January 1, 1994.

~~(D) The director shall issue a decision regarding any case remanded by a court as the result of a decision issued by the director prior to July 1, 1993, to grant, deny, or withdraw a certificate of need for any of the purposes described in divisions (B)(1)(a) to (e) of this section.~~

~~(E) The director shall not project the need for beds listed in division (B)(1) of this section for the period beginning July 1, 1993, and ending June 30, 2009. At no time shall individuals other than those described in division (C)(2) of this section be admitted to a facility to use beds for which a certificate of need is approved under this division.~~

Sec. 3702.592. (A) The director of health shall accept, for review under section 3702.52 of the Revised Code, certificate of need applications for any of the following purposes if the proposed increase in beds is attributable solely to a replacement or relocation of existing beds from an existing health care facility within the same county:

(1) Approval of beds in a new health care facility or an increase of beds in an existing health care facility if the beds are proposed to be licensed as nursing home beds under Chapter 3721. of the Revised Code;

(2) Approval of beds in a new county home or new county nursing home, or an increase of beds in an existing county home or existing county nursing home if the beds are proposed to be certified as skilled nursing facility beds under the medicare program, Title XVIII of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C. 1395, as amended, or nursing facility beds under the medicaid program, Title XIX of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C. 1396, as amended;

(3) An increase of hospital beds registered pursuant to section 3701.07 of the Revised Code as long-term care beds;

(4) An increase of hospital beds registered pursuant to section 3701.07 of the Revised Code as special skilled nursing beds that were originally authorized by and are operated in accordance with section 3702.522 of the Revised Code.

(B) The director shall accept applications described in division (A) of this section at any time.

Sec. 3702.593. (A) At the times specified in this section, the director of health shall accept, for review under section 3702.52 of the Revised Code, certificate of need applications for any of the following purposes if the proposed increase in beds is attributable solely to relocation of existing beds from an existing health care facility in a county with excess beds to a health care facility in a county in which there are fewer long-term care beds than the county's bed need:

(1) Approval of beds in a new health care facility or an increase of beds in an existing health care facility if the beds are proposed to be licensed as nursing home beds under Chapter 3721. of the Revised Code;

(2) Approval of beds in a new county home or new county nursing home, or an increase of beds in an existing county home or existing county nursing home if the beds are proposed to be certified as skilled nursing facility beds under the medicare program, Title XVIII of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C. 1395, as amended, or nursing facility beds under the medicaid program, Title XIX of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C. 1396, as amended;

(3) An increase of hospital beds registered pursuant to section 3701.07 of the Revised Code as long-term care beds.

(B) For the purpose of implementing this section, the director shall do all of the following:

(1) Determine the long-term care bed supply for each county, which shall consist of all of the following:

(a) Nursing home beds licensed under Chapter 3721. of the Revised Code;

(b) Beds certified as skilled nursing facility beds under the medicare program or nursing facility beds under the medicaid program;

(c) Beds in a county home or county nursing home that are certified under section 5155.38 of the Revised Code as having been in operation on July 1, 1993, and are eligible for licensure as nursing home beds;

(d) Beds held as approved long-term care beds under a certificate of need approved by the director.

(2) Determine the long-term care bed occupancy rate for the state at the time the determination is made;

(3) For each county, determine the county's bed need by identifying the number of long-term care beds that would be needed in the county in order for the statewide occupancy rate for a projected population aged sixty-five and older to be ninety per cent.

In determining each county's bed need, the director shall use the formula developed in rules adopted under section 3702.57 of the Revised Code. The

director's first determination after the effective date of this section shall be made not later than April 1, 2010. The second determination shall be made not later than April 1, 2012. Thereafter, a determination shall be made every four years. After each determination is made, the director shall publish the county's bed need on the web site maintained by the department of health.

(C) The director's consideration of a certificate of need that would increase the number of beds in a county shall be consistent with the county's bed need determined under division (B) of this section except as follows:

(1) If a county's occupancy rate is less than eighty-five per cent, the county shall be considered to have no need for additional beds.

(2) Even if a county is determined not to need any additional long-term care beds, the director may approve an increase in beds equal to up to ten per cent of the county's bed supply if the county's occupancy rate is greater than ninety per cent.

(D)(1) Applications made under this section shall be subject to comparative review. The review period for the first comparative review process after the effective date of this section shall begin July 1, 2010, and end June 30, 2012. Thereafter, the review period for each comparative review process shall be four years.

(2) Certificate of need applications shall be accepted and reviewed from the first day of the review period through the thirtieth day of April of the following year.

(3) Except for the first review period after the effective date of this section, each review period may consist of two phases. The first phase of the review period shall be the period during which the director accepts and reviews certificate of need applications as provided in division (D)(2) of this section. If the director determines that there will be acceptance and review of additional certificate of need applications, the second phase of the review period shall begin on the first day of July of the third year of the review period. The second phase shall be limited to acceptance and review of applications for redistribution of beds made available pursuant to division (G)(2) of this section. During the period between the first and second phases of the review period, the director shall act in accordance with division (H) of this section.

(E) The director shall consider certificate of need applications in accordance with all of the following:

(1) The number of beds approved for a county shall include only beds available for relocation from another county and shall not exceed the bed need of the receiving county;

(2) The director shall consider the existence of community resources

servicing persons who are age sixty-five or older or disabled that are demonstrably effective in providing alternatives to long-term care facility placement.

(3) The director shall approve relocation of beds from a county only if, after the relocation, the number of beds remaining in the county will exceed the county's bed need by at least one hundred beds;

(4) The director shall approve relocation of beds from a health care facility only if, after the relocation, the number of beds in the facility's service area is at least equal to the state bed need rate. For purposes of this division, a facility's service area shall be either of the following:

(a) The census tract in which the facility is located, if the facility is located in an area designated by the United States secretary of health and human services as a health professional shortage area under the "Public Health Service Act," 88 Stat. 682 (1944), 42 U.S.C. 254(e), as amended;

(b) The area that is within a fifteen mile radius of the facility's location, if the facility is not located in a health professional shortage area.

(F) In determining which applicants should receive preference in the comparative review process, the director shall consider all of the following as weighted priorities:

(1) Whether the beds will be part of a continuing care retirement community;

(2) Whether the beds will serve an underserved population, such as low-income individuals, individuals with disabilities, or individuals who are members of racial or ethnic minority groups;

(3) Whether the project in which the beds will be included will provide alternatives to institutional care, such as adult day-care, home health care, respite or hospice care, mobile meals, residential care, independent living, or congregate living services;

(4) Whether the health care facility's owner or operator will participate in medicaid waiver programs for alternatives to institutional care;

(5) Whether the project in which the beds will be included will reduce alternatives to institutional care by converting residential care beds or other alternative care beds to long-term care beds;

(6) Whether the facility in which the beds will be placed has positive resident and family satisfaction surveys;

(7) Whether the facility in which the beds will be placed has fewer than fifty long-term care beds;

(8) Whether the health care facility in which the beds will be placed is located within the service area of a hospital and is designed to accept patients for rehabilitation after an in-patient hospital stay;

(9) Whether the health care facility in which the beds will be placed is or proposes to become a nurse aide training and testing site;

(10) The rating, under the centers for medicare and medicaid services' five star nursing home quality rating system, of the health care facility in which the beds will be placed.

(G)(1) When a certificate of need application is approved during the initial phase of a four-year review period, on completion of the project under which the beds are relocated, that number of beds shall cease to be operated in the health care facility from which they were relocated and, if the licensure or certification of those beds cannot be or is not transferred to the facility to which the beds are relocated, the licensure or certification shall be surrendered.

(2) In addition to the actions required by division (G)(1) of this section, the health care facility from which the beds were relocated shall reduce the number of beds operated in the facility by a number of beds equal to at least ten per cent of the number of beds relocated and shall surrender the licensure or certification of those beds. This reduction shall be made not later than the completion date of the project for which the beds were relocated.

(H)(1) Once approval of certificate of need applications in the first phase of a four-year review period is complete, the director shall make a new determination of the bed need for each county by reducing the county's bed need by the number of beds approved for relocation to the county. The new bed-need determination shall be made not later than the first day of April of the third year of the review period.

(2) The director may publish on the department's web site the remaining bed need for counties that will be considered for redistribution of beds that, in accordance with division (G)(2) of this section, have ceased or will cease to be operated. The director shall base the determination of whether to include a county on all of the following:

(a) The statewide number of beds that, in accordance with division (G)(2) of this section, have ceased or will cease to be operated;

(b) The county's remaining bed need;

(c) The county's bed occupancy rate.

(I) If the director publishes the remaining bed need for a county under division (H)(2) of this section, the director may, beginning on the first day of the second phase of the review period, accept certificate of need applications for redistribution to health care facilities in that county of beds that have ceased or will cease operation in accordance with division (G)(2) of this section. The total number of beds approved for redistribution in the

second phase of a review period shall not exceed the number that have ceased or will cease operation in accordance with division (G)(2) of this section. Beds that are not approved for redistribution during the second phase of a review period shall not be available for redistribution at any future time.

Sec. 3702.594. (A) The director of health shall accept, for review under section 3702.52 of the Revised Code, certificate of need applications for an increase in beds in an existing nursing home if all of the following conditions are met:

(1) The proposed increase is attributable solely to a relocation of licensed nursing home beds from an existing nursing home to another existing nursing home located in a county that is contiguous to the county from which the beds are to be relocated;

(2) Not more than thirty nursing home beds are proposed for relocation;

(3) After the proposed relocation, there will be existing nursing home beds remaining in the county from which the beds are relocated;

(4) The beds are proposed to be licensed as nursing home beds under Chapter 3721. of the Revised Code.

(B) The director shall accept applications described in division (A) of this section at any time.

Sec. 3702.60. (A) Any affected person may appeal a reviewability ruling issued on or after April 20, 1995, to the director of health in accordance with Chapter 119. of the Revised Code, and the director shall provide an adjudication hearing in accordance with that chapter. An affected person may appeal the director's ruling in the adjudication hearing to the tenth district court of appeals.

(B) The certificate of need applicant or another affected person may appeal to the director in accordance with Chapter 119. of the Revised Code a decision issued by the director on or after April 20, 1995, to grant or deny a certificate of need application for which an adjudication hearing was not conducted under section 3702.52 of the Revised Code, and the director shall provide an adjudication hearing in accordance with that chapter. The certificate of need applicant or an affected person that was a party to and participated in an adjudication hearing conducted under this division or section 3702.52 of the Revised Code may appeal to the tenth district court of appeals the decision issued by the director following the adjudication hearing. No person may appeal to the director or a court the director's granting of a certificate of need prior to June 30, 1995, under the version of section 3702.52 of the Revised Code in effect immediately prior to that date due to failure to submit timely written objections, no person may appeal to

the director or a court the director's granting of a certificate of need under division (C)(1) ~~or (2)~~ of section 3702.52 of the Revised Code.

(C) The certificate of need holder may appeal to the director in accordance with Chapter 119. of the Revised Code a decision issued by the director under section 3702.52 or 3702.526 of the Revised Code on or after April 20, 1995, to withdraw a certificate of need, and the director shall provide an adjudication hearing in accordance with that chapter. The person may appeal the director's ruling in the adjudication hearing to the tenth district court of appeals.

(D) Any person determined by the director to have violated section 3702.53 of the Revised Code may appeal that determination, or the penalties imposed under section 3702.54, or 3702.541, ~~or 3702.542 or former section 3702.543~~ of the Revised Code, to the director in accordance with Chapter 119. of the Revised Code, and the director shall provide an adjudication hearing in accordance with that chapter. The person may appeal the director's ruling in the adjudication hearing to the tenth district court of appeals.

(E) Each person appealing under this section to the director shall file with the director, not later than thirty days after the decision, ruling, or determination of the director was mailed, a notice of appeal designating the decision, ruling, or determination appealed from.

(F) Each person appealing under this section to the tenth district court of appeals shall file with the court, not later than thirty days after the date the director's adjudication order was mailed, a notice of appeal designating the order appealed from. The appellant also shall file notice with the director not later than thirty days after the date the order was mailed.

(1) Not later than thirty days after receipt of the notice of appeal, the director shall prepare and certify to the court the complete record of the proceedings out of which the appeal arises. The expense of preparing and transcribing the record shall be taxed as part of the costs of the appeal. In the event that the record or a part thereof is not certified within the time prescribed by this division, the appellant may apply to the court for an order that the record be certified.

(2) In hearing the appeal, the court shall consider only the evidence contained in the record certified to it by the director. The court may remand the matter to the director for the admission of additional evidence on a finding that the additional evidence is material, newly discovered, and could not with reasonable diligence have been ascertained before the hearing before the director. Except as otherwise provided by statute, the court shall give the hearing on the appeal preference over all other civil matters,

irrespective of the position of the proceedings on the calendar of the court.

(3) The court shall affirm the director's order if it finds, upon consideration of the entire record and any additional evidence admitted under division (F)(2) of this section, that the order is supported by reliable, probative, and substantial evidence and is in accordance with law. In the absence of such a finding, it shall reverse, vacate, or modify the order.

(4) If the court determines that the director committed material procedural error, the court shall remand the matter to the director for further consideration or action.

(G) The court may award reasonable attorney's fees against the appellant if it determines that the appeal was frivolous. Sections 119.092, 119.093, and 2335.39 of the Revised Code do not apply to adjudication hearings under this section or section 3702.52 of the Revised Code and judicial appeals under this section.

(H) No person may intervene in an appeal brought under this section.

Sec. 3702.61. In addition to the sanctions imposed under sections 3702.54, 3702.541, ~~3702.542~~, and 3702.55 ~~and former section 3702.543~~ of the Revised Code, if any person violates section 3702.53 of the Revised Code, the attorney general may commence necessary legal proceedings in the court of common pleas of Franklin county to enjoin the person from such violation until the requirements of sections 3702.51 to 3702.62 of the Revised Code have been satisfied. At the request of the director of health, the attorney general shall commence any necessary proceedings. The court has jurisdiction to grant and, on a showing of a violation, shall grant appropriate injunctive relief.

Sec. 3702.74. (A) A primary care physician who has signed a letter of intent under section 3702.73 of the Revised Code and the director of health may enter into a contract for the physician's participation in the physician loan repayment program. The physician's employer or other funding source may also be a party to the contract.

(B) The contract shall include all of the following obligations:

(1) The primary care physician agrees to provide primary care services in the health resource shortage area identified in the letter of intent for at least two years;

(2) When providing primary care services in the health resource shortage area, the primary care physician agrees to do all of the following:

(a) Provide primary care services for a minimum of forty hours per week, of which at least twenty-one hours will be spent providing patient care in an outpatient or ambulatory setting;

(b) Provide primary care services without regard to a patient's ability to

pay;

(c) Meet the conditions prescribed by the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and the department of job and family services for participation in the medicaid program established under Chapter 5111. of the Revised Code and enter into a contract with the department to provide primary care services to recipients of the medical assistance program;

~~(d) Meet the conditions established by the department of job and family services for participation in the disability medical assistance program established under Chapter 5115. of the Revised Code and enter into a contract with the department to provide primary care services to recipients of disability medical assistance.~~

(3) The department of health agrees, as provided in section 3702.75 of the Revised Code, to repay, so long as the primary care physician performs the service obligation agreed to under division (B)(1) of this section, all or part of the principal and interest of a government or other educational loan taken by the primary care physician for expenses described in section 3702.75 of the Revised Code;

(4) The primary care physician agrees to pay the department of health an amount established by rules adopted under section 3702.79 of the Revised Code if the physician fails to complete the service obligation agreed to under division (B)(1) of this section.

(C) The contract may include any other terms agreed upon by the parties.

Sec. 3702.87. The director of health shall designate, as dental health resource shortage areas, areas in this state that experience special dental health problems and dentist practice patterns that limit access to dental care. The designations shall be made by rule and may apply to a geographic area, one or more facilities within a particular area, or a population group within a particular area. The director shall consider for designation as a dental health resource shortage area, any area in this state that has been designated by the United States secretary of health and human services as a health professional shortage area under Title III of the "Public Health Service Act," 58 Stat. 682 (1944), 42 U.S.C. 201, as amended.

Sec. 3702.89. (A) An individual who ~~is~~ will not ~~receiving national health service corps tuition or student~~ have an outstanding obligation for dental service to the federal government, a state, or other entity at the time of participation in the dentist loan repayment assistance program and meets one of the following requirements may apply for participation in the dentist loan repayment program:

(1) The applicant is a dental student enrolled in the final year of dental college.

(2) The applicant is a dental resident in the final year of residency.

(3) The applicant ~~has been engaged in the~~ holds a valid license to practice of dentistry for not more than three years prior to submitting the application issued under Chapter 4715. of the Revised Code.

(B) An application for participation in the dentist loan repayment program shall be submitted to the director of health on a form the director shall prescribe. The following information shall be included or supplied:

(1) The applicant's name, permanent address or address at which the applicant is currently residing if different from the permanent address, and telephone number;

(2) The dental college the applicant attended or is attending ~~or attended~~, dates of attendance, and verification of attendance;

(3) If the applicant has completed a dental residency program or is a dental resident, the facility or institution at which where the dental residency was completed or is being performed, and, if completed, the date of completion;

(4) A summary and verification of the educational expenses for which the applicant seeks reimbursement under the program;

(5) If the applicant is a dentist, verification of the applicant's license issued under Chapter 4715. of the Revised Code to practice dentistry and proof of good standing;

(6) Verification of the applicant's United States citizenship or status as a legal alien.

Sec. 3702.90. If funds are available in the dentist loan repayment fund created under section 3702.95 of the Revised Code and the general assembly has appropriated the funds for the program, the director of health shall approve an applicant for participation in the program on finding in accordance with the priorities established under section 3702.88 of the Revised Code that the applicant is eligible for participation and is needed in a dental health resource shortage area.

On approving an application, the director shall notify and enter into discussions with the applicant. The object of the discussions is to facilitate recruitment of the applicant to a site within a dental health resource shortage area at which, according to the priorities established under section 3702.88 of the Revised Code, the applicant is needed. ~~The director may pay the costs incurred by the applicant and the applicant's spouse for travel, meals, and lodging in making one visit to one dental health resource shortage area. The director may also refer an applicant to the Ohio dental association for~~

~~assistance in being recruited to a site within a dental health resource shortage area at which the applicant will agree to be placed.~~

If the director and applicant agree on the applicant's placement at a particular site within a dental health resource shortage area, the applicant shall sign and deliver to the director a letter of intent agreeing to that placement.

Sec. 3702.91. (A) An individual who has signed a letter of intent under section 3702.90 of the Revised Code may enter into a contract with the director of health for participation in the dentist loan repayment program. ~~A lending institution~~ The dentist's employer or other funding source may also be a party to the contract.

(B) The contract shall include all of the following obligations:

(1) The individual agrees to provide dental services in the dental health resource shortage area identified in the letter of intent for at least ~~one year~~ two years.

(2) When providing dental services in the dental health resource shortage area, the individual agrees to do all of the following:

(a) Provide dental services for a minimum of forty hours per week;

(b) Provide dental services without regard to a patient's ability to pay;

(c) Meet the conditions prescribed by the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, and the department of job and family services for participation in the medicaid program established under Chapter 5111. of the Revised Code and enter into a contract with the department to provide dental services to medicaid recipients.

(3) The department of health agrees, as provided in section 3702.85 of the Revised Code, to repay, so long as the individual performs the service obligation agreed to under division (B)(1) of this section, all or part of the principal and interest of a government or other educational loan taken by the individual for expenses described in section 3702.85 of the Revised Code ~~up to but not exceeding twenty thousand dollars per year of service.~~

(4) The individual agrees to pay the department of health ~~the following as damages~~ an amount established by rules adopted under section 3702.86 of the Revised Code, if the individual fails to complete the service obligation agreed to under division (B)(1) of this section:

(a) ~~If the failure occurs during the first two years of the service obligation, three times the total amount the department has agreed to repay under division (B)(3) of this section;~~

(b) ~~If the failure occurs after the first two years of the service obligation, three times the amount the department is still obligated to repay under division (B)(3) of this section.~~

(C) The contract may include any other terms agreed upon by the parties, ~~including an assignment to the department of health of the individual's duty to pay the principal and interest of a government or other educational loan taken by the individual for expenses described in section 3702.85 of the Revised Code. If the department assumes the individual's duty to pay a loan, the contract shall set forth the total amount of principal and interest to be paid, an amortization schedule, and the amount of each payment to be made under the schedule.~~

(D) Not later than the thirty-first day of January of each year, the department of health shall mail to each individual to whom or on whose behalf repayment is made under the dentist loan repayment program a statement showing the amount of principal and interest repaid by the department pursuant to the contract in the preceding year. The statement shall be sent by ordinary mail with address correction and forwarding requested in the manner prescribed by the United States postal service.

Sec. 3702.92. There is hereby created the dentist loan repayment advisory board. The board shall consist of the following members:

(A) ~~One member~~ Two members of the house of representatives, one from each political party, appointed by the speaker of the house of representatives;

(B) ~~One member~~ Two members of the senate, one from each political party, appointed by the president of the senate;

(C) A representative of the board of regents, appointed by the chancellor;

(D) The director of health or an employee of the department of health designated by the director;

(E) ~~Three~~ Four representatives of the dental profession, appointed by the governor from persons nominated by the Ohio dental association.

Terms of office of the appointed members shall be two years, with each term commencing on the twenty-eighth day of January and ending on the twenty-seventh day of January of the second year after appointment. The governor shall appoint the dental profession representatives not later than ninety days after October 29, 2003. The terms of all members shall commence ninety-one days after October 29, 2003. Of the initial appointments made by the governor, two shall serve a term of one year and one shall serve a term of two years. The initial appointment made by the speaker of the house of representatives shall be for a term of one year. The initial appointment made by the, and president of the senate shall be for a term of two years make each of their respective appointments not later than the twenty-seventh day of January of the year in which the term of the

member being appointed is to commence. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed, except that a legislative member ceases to be a member of the board on ceasing to be a member of the general assembly. No person shall be appointed to the board for more than two consecutive terms.

Vacancies shall be filled in the manner prescribed for the original appointment. A member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. A member shall continue in office subsequent to the expiration of the member's term until a successor takes office or until sixty days have elapsed, whichever occurs first. ~~No person shall be appointed to the board for more than two consecutive terms. Thereafter, terms of office shall be two years. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed, except that a legislative member ceases to be a member of the board on ceasing to be a member of the general assembly.~~

The governor, speaker, or president may remove a member for whom the governor, speaker, or president was the appointing authority, for misfeasance, malfeasance, or willful neglect of duty.

The board shall designate a member to serve as chairperson of the board.

The board shall meet at least once annually. The chairperson shall call special meetings as needed or upon the request of four members.

~~Four~~ Six members of the board constitute a quorum to transact and vote on all business coming before the board.

Members of the board shall serve without compensation, ~~but may be reimbursed for reasonable and necessary expenses incurred in the discharge of their duties.~~

The department of health shall provide the board with staff assistance as requested by the board.

Sec. 3702.93. The dentist loan repayment advisory board shall determine the amounts that will be paid as loan repayments on behalf of participants in the dentist loan repayment program. ~~No~~ In the first and second years, no repayment shall exceed ~~twenty~~ twenty-five thousand dollars in ~~any each~~ year, ~~except that if~~. In the third and fourth years, no repayment shall exceed thirty-five thousand dollars in each year. If, however, a repayment results in an increase in the participant's federal, state, or local income tax liability, the department of health, at the participant's request and with the approval of the director of health, may reimburse the participant for the increased tax liability, regardless of the amount of the

repayment in that year. ~~Total repayment on behalf of a participant shall not exceed eighty thousand dollars over the time of participation in the program.~~

Sec. 3702.94. The dentist loan repayment advisory board, annually on or before the first day of March, shall submit a report to the governor and general assembly describing the operations of the dentist loan repayment program during the previous calendar year. The report shall include information about all of the following:

(A) The number of requests received by the director of health that a particular area be designated as a dental health resource shortage area;

(B) The areas that have been designated as dental health resource shortage areas and the priorities that have been assigned to them;

(C) The number of applicants for participation in the dentist loan repayment program;

(D) The number of dentists assigned to dental health resource shortage areas and the payments made on behalf of those dentists under the dentist loan repayment program;

(E) The dental health resource shortage areas that have not been matched with all of the dentists they need;

(F) The number of dentists failing to complete their service obligations, the amount of damages owed, and the amount of damages collected.

Sec. 3703.01. (A) Except as otherwise provided in this section, the division of ~~industrial compliance~~ labor in the department of commerce shall do all of the following:

(1) Inspect all nonresidential buildings within the meaning of section 3781.06 of the Revised Code;

(2) Condemn all unsanitary or defective plumbing that is found in connection with those places;

(3) Order changes in plumbing necessary to insure the safety of the public health.

(B)(1)(a) The division of ~~industrial compliance~~ labor, boards of health of city and general health districts, and county building departments shall not inspect plumbing or collect fees for inspecting plumbing in particular types of buildings in any municipal corporation that is certified by the board of building standards under section 3781.10 of the Revised Code to exercise enforcement authority for plumbing in those types of buildings.

(b) The division shall not inspect plumbing or collect fees for inspecting plumbing in particular types of buildings in any health district that employs one or more plumbing inspectors certified pursuant to division (D) of this section to enforce Chapters 3781. and 3791. of the Revised Code and the rules adopted pursuant to those chapters relating to plumbing in those types

of buildings.

(c) The division shall not inspect plumbing or collect fees for inspecting plumbing in particular types of buildings in any health district where the county building department is authorized to inspect those types of buildings pursuant to a contract described in division (C)(1) of this section.

(d) The division shall not inspect plumbing or collect fees for inspecting plumbing in particular types of buildings in any health district where the board of health has entered into a contract with the board of health of another district to conduct inspections pursuant to division (C)(2) of this section.

(2) No county building department shall inspect plumbing or collect fees for inspecting plumbing in any type of building in a health district unless the department is authorized to inspect that type of building pursuant to a contract described in division (C)(1) of this section.

(3) No municipal corporation shall inspect plumbing or collect fees for inspecting plumbing in types of buildings for which it is not certified by the board of building standards under section 3781.10 of the Revised Code to exercise enforcement authority.

(4) No board of health of a health district shall inspect plumbing or collect fees for inspecting plumbing in types of buildings for which it does not have a plumbing inspector certified pursuant to division (D) of this section.

(C)(1) The board of health of a health district may enter into a contract with a board of county commissioners to authorize the county building department to inspect plumbing in buildings within the health district. The contract may designate that the department inspect either residential or nonresidential buildings, as those terms are defined in section 3781.06 of the Revised Code, or both types of buildings, so long as the department employs or contracts with a plumbing inspector certified pursuant to division (D) of this section to inspect the types of buildings the contract designates. The board of health may enter into a contract regardless of whether the health district employs any certified plumbing inspectors to enforce Chapters 3781. and 3791. of the Revised Code.

(2) The board of health of a health district, regardless of whether it employs any certified plumbing inspectors to enforce Chapters 3781. and 3791. of the Revised Code, may enter into a contract with the board of health of another health district to authorize that board to inspect plumbing in buildings within the contracting board's district. The contract may designate the inspection of either residential or nonresidential buildings as defined in section 3781.06 of the Revised Code, or both types of buildings,

so long as the board that performs the inspections employs a plumbing inspector certified pursuant to division (D) of this section to inspect the types of buildings the contract designates.

(D) The superintendent of ~~industrial compliance~~ labor shall adopt rules prescribing minimum qualifications based on education, training, experience, or demonstrated ability, that the superintendent shall use in certifying or recertifying plumbing inspectors to do plumbing inspections for health districts and county building departments that are authorized to perform inspections pursuant to a contract under division (C)(1) of this section, and for continuing education of plumbing inspectors. Those minimum qualifications shall be related to the types of buildings for which a person seeks certification.

(E) The superintendent may enter into reciprocal registration, licensure, or certification agreements with other states and other agencies of this state relative to plumbing inspectors if both of the following apply:

(1) The requirements for registration, licensure, or certification of plumbing inspectors under the laws of the other state or laws administered by the other agency are substantially equal to the requirements the superintendent adopts under division (D) of this section for certifying plumbing inspectors.

(2) The other state or agency extends similar reciprocity to persons certified under this chapter.

(F) The superintendent may select and contract with one or more persons to do all of the following regarding examinations for certification of plumbing inspectors:

(1) Prepare, administer, score, and maintain the confidentiality of the examination;

(2) Maintain responsibility for all expenses required to comply with division (F)(1) of this section;

(3) Charge each applicant a fee for administering the examination in an amount the superintendent authorizes;

(4) Design the examination for certification of plumbing inspectors to determine an applicant's competence to inspect plumbing.

(G) Standards and methods prescribed in local plumbing regulations shall not be less than those prescribed in Chapters 3781. and 3791. of the Revised Code and the rules adopted pursuant to those chapters.

(H) Notwithstanding any other provision of this section, the division shall make a plumbing inspection of any building or other place that there is reason to believe is in a condition to be a menace to the public health.

Sec. 3703.03. In the administration of sections 3703.01 to ~~3703.09~~

3703.08 of the Revised Code, the division of ~~industrial-compliance~~ labor shall enforce rules governing plumbing adopted by the board of building standards under authority of sections 3781.10 and 3781.11 of the Revised Code, and register those persons engaged in or at the plumbing business.

Plans and specifications for all plumbing to be installed in or for buildings coming within such sections shall be submitted to and approved by the division before the contract for plumbing is let.

Sec. 3703.04. The superintendent of ~~industrial-compliance~~ labor shall appoint such number of plumbing inspectors as is required. The inspectors shall be practical plumbers with at least seven years' experience, and skilled and well-trained in matters pertaining to sanitary regulations concerning plumbing work.

Sec. 3703.05. Plumbing inspectors employed by the division of ~~industrial-compliance~~ labor assigned to the enforcement of sections 3703.01 to ~~3703.09~~ 3703.08 of the Revised Code may, between sunrise and sunset, enter any building where there is good and sufficient reason to believe that the sanitary condition of the premises endangers the public health, for the purpose of making an inspection to ascertain the condition of the premises.

Sec. 3703.06. When any building is found to be in a sanitary condition or when changes which are ordered, under authority of this chapter, in the plumbing, drainage, or ventilation have been made, and after a thorough inspection and approval by the superintendent of ~~industrial-compliance~~ labor, the superintendent shall issue a certificate, which shall be posted in a conspicuous place for the benefit of the public at large. Upon notification by the superintendent, the certificate shall be revoked for any violation of those sections.

Sec. 3703.07. No plumbing work shall be done in any building or place coming within the jurisdiction of the division of ~~industrial-compliance~~ labor, except in cases of repairs or leaks in existing plumbing, until a permit has been issued by the division.

Before granting such permit, an application shall be made by the owner of the property or by the person, firm, or corporation which is to do the work. The application shall be made on a form prepared by the division for the purpose, and each application shall be accompanied by a fee of twenty-seven dollars, and an additional fee of seven dollars for each trap, vented fixture, appliance, or device. Each application also shall be accompanied by a plan approval fee of eighteen dollars for work containing one through twenty fixtures; thirty-six dollars for work containing twenty-one through forty fixtures; and fifty-four dollars for work containing forty-one or more fixtures.

Whenever a reinspection is made necessary by the failure of the applicant or plumbing contractor to have the work ready for inspection when so reported, or by reason of faulty or improper installation, the person shall pay a fee of forty-five dollars for each reinspection.

All fees collected pursuant to this section shall be paid into the state treasury to the credit of the ~~industrial-compliance~~ labor operating fund created in section 121.084 of the Revised Code.

The superintendent of ~~industrial-compliance~~ labor, by rule adopted in accordance with Chapter 119. of the Revised Code, may increase the fees required by this section and may establish fees to pay the costs of the division to fulfill its duties established by this chapter, including, but not limited to, fees for administering a program for continuing education for, and certifying and recertifying plumbing inspectors. The fees shall bear some reasonable relationship to the cost of administering and enforcing the provisions of this chapter.

Sec. 3703.08. Any owner, agent, or manager of a building in which an inspection is made by the division of ~~industrial-compliance~~ labor, a board of health of a health district, or a certified department of building inspection of a municipal corporation or a county shall have the entire system of drainage and ventilation repaired, as the division, board of health, or department of building inspection directs by its order. After due notice to repair that work is given, the owner, agent, or manager shall notify the public authority that issued the order when the work is ready for its inspection. No person shall fail to have the work ready for inspection at the time specified in the notice.

Sec. 3703.10. All prosecutions and proceedings by the division of ~~industrial-compliance~~ labor for the violation of sections 3703.01 to ~~3703.09~~ 3703.08 of the Revised Code, or for the violation of any of the orders or rules of the division under those sections, shall be instituted by the superintendent of ~~industrial-compliance~~ labor. All fines or judgments collected by the division shall be paid into the state treasury to the credit of the ~~industrial-compliance~~ labor operating fund created by section 121.084 of the Revised Code.

The superintendent, the board of health of a general or city health district, or any person charged with enforcing the rules of the division adopted under sections 3703.01 to ~~3703.09~~ 3703.08 of the Revised Code may petition the court of common pleas for injunctive or other appropriate relief requiring any person violating a rule adopted or order issued by the superintendent under those sections to comply with the rule or order. The court of common pleas of the county in which the offense is alleged to be occurring may grant injunctive or other appropriate relief.

The superintendent may do all of the following:

- (A) Deny an applicant certification as a plumbing inspector;
- (B) Suspend or revoke the certification of a plumbing inspector;
- (C) Examine any certified plumbing inspector under oath;
- (D) Examine the records and books of any certified plumbing inspector

if the superintendent finds the material to be examined relevant to a determination described in division (A), (B), or (C) of this section.

Sec. 3703.21. (A) Within ninety days after ~~the effective date of this section~~ September 16, 2004, the superintendent of ~~the division of industrial compliance~~ labor shall appoint a backflow advisory board consisting of not more than ten members, who shall serve at the pleasure of the superintendent. The superintendent shall appoint a representative from the plumbing section of the division of ~~industrial compliance~~ labor, three representatives recommended by the plumbing administrator of the division of ~~industrial compliance~~ labor, a representative of the drinking water program of the Ohio environmental protection agency, three representatives recommended by the director of environmental protection, and not more than two members who are not employed by the plumbing or water industry.

The board shall advise the superintendent on matters pertaining to the training and certification of backflow technicians.

(B) The superintendent shall adopt rules in accordance with Chapter 119. of the Revised Code to provide for the certification of backflow technicians. The rules shall establish all of the following requirements, specifications, and procedures:

(1) Requirements and procedures for the initial certification of backflow technicians, including eligibility criteria and application requirements and fees;

(2) Specifications concerning and procedures for taking examinations required for certification as a backflow technician, including eligibility criteria to take the examination and application requirements and fees for taking the examination;

(3) Specifications concerning and procedures for renewing a certification as a backflow technician, including eligibility criteria, application requirements, and fees for renewal;

(4) Specifications concerning and procedures for both of the following:

(a) Approval of training agencies authorized to teach required courses to candidates for certification as backflow technicians or continuing education courses to certified backflow technicians;

(b) Renewal of the approval described in division (B)(4)(a) of this section.

(5) Education requirements that candidates for initial certification as backflow technicians must satisfy and continuing education requirements that certified backflow technicians must satisfy;

(6) Grounds and procedures for denying, suspending, or revoking certification, or denying the renewal of certification, as a backflow technician;

(7) Procedures for issuing administrative orders for the remedy of any violation of this section or any rule adopted pursuant to division (B) of this section, including, but not limited to, procedures for assessing a civil penalty authorized under division (D) of this section;

(8) Any provision the superintendent determines is necessary to administer or enforce this section.

(C) No individual shall engage in the installation, testing, or repair of any isolation backflow prevention device unless that individual possesses a valid certification as a backflow technician. This division does not apply with respect to the installation, testing, or repair of any containment backflow prevention device.

(D) Whoever violates division (C) of this section or any rule adopted pursuant to division (B) of this section shall pay a civil penalty of not more than five thousand dollars for each day that the violation continues. The superintendent may, by order, assess a civil penalty under this division, or may request the attorney general to bring a civil action to impose the civil penalty in the court of common pleas of the county in which the violation occurred or where the violator resides.

(E) Any action taken under a rule adopted pursuant to division (B)(6) of this section is subject to the appeal process of Chapter 119. of the Revised Code. An administrative order issued pursuant to rules adopted under division (B)(7) of this section and an appeal to that type of administrative order shall be executed in accordance with Chapter 119. of the Revised Code.

(F) As used in this section:

(1) "Isolation backflow prevention device" means a device for the prevention of the backflow of liquids, solids, or gases that is regulated by the building code adopted pursuant to section 3781.10 of the Revised Code and rules adopted pursuant to this section.

(2) "Containment backflow prevention device" means a device for the prevention of the backflow of liquids, solids, or gases that is installed by the supplier of, or as a requirement of, any public water system as defined in division (A) of section 6109.01 of the Revised Code.

Sec. 3703.99. Whoever violates sections 3703.01 to ~~3703.09~~ 3703.08 of

the Revised Code, or any rule the division of ~~industrial compliance~~ labor is required to enforce under such sections, shall be fined not less than ten nor more than one hundred dollars or imprisoned for not less than ten nor more than ninety days, or both. No person shall be imprisoned under this section for the first offense, and the prosecution always shall be as for a first offense unless the affidavit upon which the prosecution is instituted contains the allegation that the offense is a second or repeated offense.

Sec. 3704.03. The director of environmental protection may do any of the following:

(A) Develop programs for the prevention, control, and abatement of air pollution;

(B) Advise, consult, contract, and cooperate with any governmental or private agency in the furtherance of the purposes of this chapter;

(C) Encourage, participate in, or conduct studies, investigations, and research relating to air pollution, collect and disseminate information, and conduct education and training programs relating to the causes, prevention, control, and abatement of air pollution;

(D) Adopt, modify, and rescind rules prescribing ambient air quality standards for the state as a whole or for various areas of the state that are consistent with and no more stringent than the national ambient air quality standards in effect under the federal Clean Air Act;

(E) Adopt, modify, suspend, and rescind rules for the prevention, control, and abatement of air pollution, including rules prescribing for the state as a whole or for various areas of the state emission standards for air contaminants, and other necessary rules for the purpose of achieving and maintaining compliance with ambient air quality standards in all areas within the state as expeditiously as practicable, but not later than any deadlines applicable under the federal Clean Air Act; rules for the prevention or control of the emission of hazardous or toxic air contaminants; rules prescribing fugitive dust limitations and standards that are related, on an areawide basis, to attainment and maintenance of ambient air quality standards; rules prescribing shade, density, or opacity limitations and standards for emissions, provided that with regard to air contaminant sources for which there are particulate matter emission standards in addition to a shade, density, or opacity rule, upon demonstration by such a source of compliance with those other standards, the shade, density, or opacity rule shall provide for establishment of a shade, density, or opacity limitation for that source that does not require the source to reduce emissions below the level specified by those other standards; rules for the prevention or control of odors and air pollution nuisances; rules that prevent significant

deterioration of air quality to the extent required by the federal Clean Air Act; rules for the protection of visibility as required by the federal Clean Air Act; and rules prescribing open burning limitations and standards. In adopting, modifying, suspending, or rescinding any such rules, the director, to the extent consistent with the federal Clean Air Act, shall hear and give consideration to evidence relating to all of the following:

(1) Conditions calculated to result from compliance with the rules, the overall cost within this state of compliance with the rules, and their relation to benefits to the people of the state to be derived from that compliance;

(2) The quantity and characteristics of air contaminants, the frequency and duration of their presence in the ambient air, and the dispersion and dilution of those contaminants;

(3) Topography, prevailing wind directions and velocities, physical conditions, and other factors that may or may combine to affect air pollution.

Consistent with division (K) of section 3704.036 of the Revised Code, the director shall consider alternative emission limits proposed by the owner or operator of an air contaminant source that is subject to an emission limit established in rules adopted under this division and shall accept those alternative emission limits that the director determines to be equivalent to emission limits established in rules adopted under this division.

(F)(1) Adopt, modify, suspend, and rescind rules consistent with the purposes of this chapter prohibiting the location, installation, construction, or modification of any air contaminant source or any machine, equipment, device, apparatus, or physical facility intended primarily to prevent or control the emission of air contaminants unless an installation permit therefor has been obtained from the director or the director's authorized representative.

(2)(a) Applications for installation permits shall be accompanied by plans, specifications, construction schedules, and such other pertinent information and data, including data on ambient air quality impact and a demonstration of best available technology, as the director may require. Installation permits shall be issued for a period specified by the director and are transferable. The director shall specify in each permit the applicable emission standards and that the permit is conditioned upon payment of the applicable fees as required by section 3745.11 of the Revised Code and upon the right of the director's authorized representatives to enter upon the premises of the person to whom the permit has been issued, at any reasonable time and subject to safety requirements of the person in control of the premises, for the purpose of determining compliance with such

standards, this chapter, the rules adopted thereunder, and the conditions of any permit, variance, or order issued thereunder. Each proposed new or modified air contaminant source shall provide such notice of its proposed installation or modification to other states as is required under the federal Clean Air Act. Installation permits shall include the authorization to operate sources installed and operated in accordance with terms and conditions of the installation permits for a period not to exceed one year from commencement of operation, which authorization shall constitute an operating permit under division (G) of this section and rules adopted under it.

No installation permit shall be required for activities that are subject to and in compliance with a plant-wide applicability limit issued by the director in accordance with rules adopted under this section.

No installation permit shall be issued except in accordance with all requirements of this chapter and rules adopted thereunder. No application shall be denied or permit revoked or modified without a written order stating the findings upon which denial, revocation, or modification is based. A copy of the order shall be sent to the applicant or permit holder by certified mail.

(b) An air contaminant source that is the subject of an installation permit shall be installed or modified in accordance with the permit not later than eighteen months after the permit's effective date at which point the permit shall terminate unless one of the following applies:

(i) The owner or operator has undertaken a continuing program of installation or modification during the eighteen-month period.

(ii) The owner or operator has entered into a binding contractual obligation to undertake and complete within a reasonable period of time a continuing program of installation or modification of the air contaminant source during the eighteen-month period.

(iii) The director has extended the date by which the air contaminant source that is the subject of the installation permit must be installed or modified.

(iv) The installation permit is the subject of an appeal by a party other than the owner or operator of the air contaminant source that is the subject of the installation permit, in which case the date of termination of the permit is not later than eighteen months after the effective date of the permit plus the number of days between the date in which the permit was appealed and the date on which all appeals concerning the permit have been resolved.

(v) The installation permit has been superseded by a subsequent installation permit, in which case the original installation permit terminates on the effective date of the superseding installation permit.

Division (F)(2)(b) of this section applies to an installation permit that has not terminated as of the effective date of this amendment.

The director may adopt rules in accordance with Chapter 119. of the Revised Code for the purpose of establishing additional requirements that are necessary for the implementation of division (F)(2)(b) of this section.

(3) Not later than two years after August 3, 2006, the director shall adopt a rule in accordance with Chapter 119. of the Revised Code specifying that a permit to install is required only for new or modified air contaminant sources that emit any of the following air contaminants:

(a) An air contaminant or precursor of an air contaminant for which a national ambient air quality standard has been adopted under the federal Clean Air Act;

(b) An air contaminant for which the air contaminant source is regulated under the federal Clean Air Act;

(c) An air contaminant that presents, or may present, through inhalation or other routes of exposure, a threat of adverse human health effects, including, but not limited to, substances that are known to be, or may reasonably be anticipated to be, carcinogenic, mutagenic, teratogenic, or neurotoxic, that cause reproductive dysfunction, or that are acutely or chronically toxic, or a threat of adverse environmental effects whether through ambient concentrations, bioaccumulation, deposition, or otherwise, and that is identified in the rule by chemical name and chemical abstract service number.

The director may modify the rule adopted under division (F)(3)(c) of this section for the purpose of adding or deleting air contaminants. For each air contaminant that is contained in or deleted from the rule adopted under division (F)(3)(c) of this section, the director shall include in a notice accompanying any proposed or final rule an explanation of the director's determination that the air contaminant meets the criteria established in that division and should be added to, or no longer meets the criteria and should be deleted from, the list of air contaminants. The explanation shall include an identification of the scientific evidence on which the director relied in making the determination. Until adoption of the rule under division (F)(3)(c) of this section, nothing shall affect the director's authority to issue, deny, modify, or revoke permits to install under this chapter and rules adopted under it.

(4)(a) Applications for permits to install new or modified air contaminant sources shall contain sufficient information regarding air contaminants for which the director may require a permit to install to determine conformity with the environmental protection agency's document

entitled "Review of New Sources of Air Toxics Emissions, Option A," dated May 1986, which the director shall use to evaluate toxic emissions from new or modified air contaminant sources. The director shall make copies of the document available to the public upon request at no cost and post the document on the environmental protection agency's web site. Any inconsistency between the document and division (F)(4) of this section shall be resolved in favor of division (F)(4) of this section.

(b) The maximum acceptable ground level concentration of an air contaminant shall be calculated in accordance with the document entitled "Review of New Sources of Air Toxics Emissions, Option A." Modeling shall be conducted to determine the increase in the ground level concentration of an air contaminant beyond the facility's boundary caused by the emissions from a new or modified source that is the subject of an application for a permit to install. Modeling shall be based on the maximum hourly rate of emissions from the source using information including, but not limited to, any emission control devices or methods, operational restrictions, stack parameters, and emission dispersion devices or methods that may affect ground level concentrations, either individually or in combination. The director shall determine whether the activities for which a permit to install is sought will cause an increase in the ground level concentration of one or more relevant air contaminants beyond the facility's boundary by an amount in excess of the maximum acceptable ground level concentration. In making the determination as to whether the maximum acceptable ground level concentration will be exceeded, the director shall give consideration to the modeling conducted under division (F)(4)(b) of this section and other relevant information submitted by the applicant.

(c) If the modeling conducted under division (F)(4)(b) of this section with respect to an application for a permit to install demonstrates that the maximum ground level concentration from a new or modified source will be greater than or equal to eighty per cent, but less than one hundred per cent of the maximum acceptable ground level concentration for an air contaminant, the director may establish terms and conditions in the permit to install for the air contaminant source that will require the owner or operator of the air contaminant source to maintain emissions of that air contaminant commensurate with the modeled level, which shall be expressed as allowable emissions per day. In order to calculate the allowable emissions per day, the director shall multiply the hourly emission rate modeled under division (F)(4)(b) of this section to determine the ground level concentration by the operating schedule that has been identified in the permit to install application. Terms and conditions imposed under division (F)(4)(c) of this

section are not federally enforceable requirements and, if included in a Title V permit, shall be placed in the portion of the permit that is only enforceable by the state.

(d) If the modeling conducted under division (F)(4)(b) of this section with respect to an application for a permit to install demonstrates that the maximum ground level concentration from a new or modified source will be less than eighty per cent of the maximum acceptable ground level concentration, the owner or operator of the source annually shall report to the director, on a form prescribed by the director, whether operations of the source are consistent with the information regarding the operations that was used to conduct the modeling with regard to the permit to install application. The annual report to the director shall be in lieu of an emission limit or other permit terms and conditions imposed pursuant to division (F)(4) of this section. The director may consider any significant departure from the operations of the source described in the permit to install application that results in greater emissions than the emissions rate modeled to determine the ground level concentration as a modification and require the owner or operator to submit a permit to install application for the increased emissions. The requirements established in division (F)(4)(d) of this section are not federally enforceable requirements and, if included in a Title V permit, shall be placed in the portion of the permit that is only enforceable by the state.

(e) Division (F)(4) of this section and the document entitled "Review of New Sources of Air Toxics Emissions, Option A" shall not be included in the state implementation plan under section 110 of the federal Clean Air Act and do not apply to an air contaminant source that is subject to a maximum achievable control technology standard or residual risk standard under section 112 of the federal Clean Air Act, to a particular air contaminant identified under 40 C.F.R. 51.166, division (b)(23), for which the director has determined that the owner or operator of the source is required to install best available control technology for that particular air contaminant, or to a particular air contaminant for which the director has determined that the source is required to meet the lowest achievable emission rate, as defined in 40 C.F.R. part 51, Appendix S, for that particular air contaminant.

(f)(i) Division (F)(4) of this section and the document entitled "Review of New Sources of Air Toxics Emissions, Option A" do not apply to parking lots, storage piles, storage tanks, transfer operations, grain silos, grain dryers, emergency generators, gasoline dispensing operations, air contaminant sources that emit air contaminants solely from the combustion of fossil fuels, or the emission of wood dust, sand, glass dust, coal dust, silica, and grain dust.

(ii) Notwithstanding division (F)(4)(f)(i) of this section, the director may require an individual air contaminant source that is within one of the source categories identified in division (F)(4)(f)(i) of this section to submit information in an application for a permit to install a new or modified source in order to determine the source's conformity to the document if the director has information to conclude that the particular new or modified source will potentially cause an increase in ground level concentration beyond the facility's boundary that exceeds the maximum acceptable ground level concentration as set forth in the document.

(iii) The director may adopt rules in accordance with Chapter 119. of the Revised Code that are consistent with the purposes of this chapter and that add to or delete from the source category exemptions established in division (F)(4)(f)(i) of this section.

(5) Not later than one year after August 3, 2006, the director shall adopt rules in accordance with Chapter 119. of the Revised Code specifying activities that do not, by themselves, constitute beginning actual construction activities related to the installation or modification of an air contaminant source for which a permit to install is required such as the grading and clearing of land, on-site storage of portable parts and equipment, and the construction of foundations or buildings that do not themselves emit air contaminants. The rules also shall allow specified initial activities that are part of the installation or modification of an air contaminant source, such as the installation of electrical and other utilities for the source, prior to issuance of a permit to install, provided that the owner or operator of the source has filed a complete application for a permit to install, the director or the director's designee has determined that the application is complete, and the owner or operator of the source has notified the director that this activity will be undertaken prior to the issuance of a permit to install. Any activity that is undertaken by the source under those rules shall be at the risk of the owner or operator. The rules shall not apply to activities that are precluded prior to permit issuance under section 111, section 112, Part C of Title I, and Part D of Title I of the federal Clean Air Act.

(G) Adopt, modify, suspend, and rescind rules prohibiting the operation or other use of any new, modified, or existing air contaminant source unless an operating permit has been obtained from the director or the director's authorized representative, or the air contaminant source is being operated in compliance with the conditions of a variance issued pursuant to division (H) of this section. Applications for operating permits shall be accompanied by such plans, specifications, and other pertinent information as the director

may require. Operating permits may be issued for a period determined by the director not to exceed ten years, are renewable, and are transferable. The director shall specify in each operating permit that the permit is conditioned upon payment of the applicable fees as required by section 3745.11 of the Revised Code and upon the right of the director's authorized representatives to enter upon the premises of the person to whom the permit has been issued, at any reasonable time and subject to safety requirements of the person in control of the premises, for the purpose of determining compliance with this chapter, the rules adopted thereunder, and the conditions of any permit, variance, or order issued thereunder. Operating permits may be denied or revoked for failure to comply with this chapter or the rules adopted thereunder. An operating permit shall be issued only upon a showing satisfactory to the director or the director's representative that the air contaminant source is being operated in compliance with applicable emission standards and other rules or upon submission of a schedule of compliance satisfactory to the director for a source that is not in compliance with all applicable requirements at the time of permit issuance, provided that the compliance schedule shall be consistent with and at least as stringent as that contained in any judicial consent decree or administrative order to which the air contaminant source is subject. The rules shall provide for the issuance of conditional operating permits for such reasonable periods as the director may determine to allow the holder of an installation permit, who has constructed, installed, located, or modified a new air contaminant source in accordance with the provisions of an installation permit, to make adjustments or modifications necessary to enable the new air contaminant source to comply with applicable emission standards and other rules. Terms and conditions of operating permits issued pursuant to this division shall be federally enforceable for the purpose of establishing the potential to emit of a stationary source and shall be expressly designated as federally enforceable. Any such federally enforceable restrictions on a source's potential to emit shall include both an annual limit and a short-term limit of not more than thirty days for each pollutant to be restricted together with adequate methods for establishing compliance with the restrictions. In other respects, operating permits issued pursuant to this division are enforceable as state law only. No application shall be denied or permit revoked or modified without a written order stating the findings upon which denial, revocation, or modification is based. A copy of the order shall be sent to the applicant or permit holder by certified mail.

(H) Adopt, modify, and rescind rules governing the issuance, revocation, modification, or denial of variances that authorize emissions in

excess of the applicable emission standards.

No variance shall be issued except pursuant to those rules. The rules shall prescribe conditions and criteria in furtherance of the purposes of this chapter and consistent with the federal Clean Air Act governing eligibility for issuance of variances, which shall include all of the following:

(1) Provisions requiring consistency of emissions authorized by a variance with timely attainment and maintenance of ambient air quality standards;

(2) Provisions prescribing the classes and categories of air contaminants and air contaminant sources for which variances may be issued;

(3) Provisions defining the circumstances under which an applicant shall demonstrate that compliance with applicable emission standards is technically infeasible, economically unreasonable, or impossible because of conditions beyond the control of the applicant;

(4) Other provisions prescribed in furtherance of the goals of this chapter.

The rules shall prohibit the issuance of variances from any emission limitation that was applicable to a source pursuant to an installation permit and shall prohibit issuance of variances that conflict with the federal Clean Air Act.

Applications for variances shall be accompanied by such information as the director may require. In issuing variances, the director may order the person to whom a variance is issued to furnish plans and specifications and such other information and data, including interim reports, as the director may require and to proceed to take such action within such time as the director may determine to be appropriate and reasonable to prevent, control, or abate the person's existing emissions of air contaminants. The director shall specify in each variance that the variance is conditioned upon payment of the applicable fees as required by section 3745.11 of the Revised Code and upon the right of the director's authorized representatives to enter upon the premises of the person to whom the variance has been issued, at any reasonable time and subject to safety requirements of the person in control of the premises, for the purpose of determining compliance with this chapter, the rules adopted thereunder, and the conditions of any permit, variance, or order issued thereunder.

The director may hold a public hearing on an application for a variance or renewal thereof at a location in the county where the variance is sought. The director shall give not less than twenty days' notice of the hearing to the applicant by certified mail and cause at least one publication of notice in a newspaper with general circulation in the county where the variance is

sought. The director shall keep available for public inspection at the principal office of the environmental protection agency a current schedule of pending applications for variances and a current schedule of pending variance hearings. The director shall make a complete stenographic record of testimony and other evidence submitted at the hearing. The director shall make a written determination to issue, renew, or deny the variance and shall enter the determination and the basis therefor into the record of the hearing. The director shall issue, renew, or deny an application for a variance or renewal thereof, or issue a proposed action upon the application pursuant to section 3745.07 of the Revised Code, within six months of the date upon which the director receives a complete application with all pertinent information and data required by the director.

Any variance granted pursuant to rules adopted under this division shall be for a period specified by the director, not to exceed three years, and may be renewed from time to time on such terms and for such periods, not to exceed three years each, as the director determines to be appropriate. A variance may be revoked, or renewal denied, for failure to comply with conditions specified in the variance. No variance shall be issued, denied, revoked, or modified without a written order stating the findings upon which the issuance, denial, revocation, or modification is based. A copy of the order shall be sent to the applicant or variance holder by certified mail.

(I) Require the owner or operator of an air contaminant source to install, employ, maintain, and operate such emissions, ambient air quality, meteorological, or other monitoring devices or methods as the director shall prescribe; to sample those emissions at such locations, at such intervals, and in such manner as the director prescribes; to maintain records and file periodic reports with the director containing information as to location, size, and height of emission outlets, rate, duration, and composition of emissions, and any other pertinent information the director prescribes; and to provide such written notice to other states as the director shall prescribe. In requiring monitoring devices, records, and reports, the director, to the extent consistent with the federal Clean Air Act, shall give consideration to technical feasibility and economic reasonableness and allow reasonable time for compliance. For sources where a specific monitoring, record-keeping, or reporting requirement is specified for a particular air contaminant from a particular air contaminant source in an applicable regulation adopted by the United States environmental protection agency under the federal Clean Air Act or in an applicable rule adopted by the director, the director shall not impose an additional requirement in a permit that is a different monitoring, record-keeping, or reporting requirement other than the requirement

specified in the applicable regulation or rule for that air contaminant except as otherwise agreed to by the owner or operator of the air contaminant source and the director. If two or more regulations or rules impose different monitoring, record-keeping, or reporting requirements for the same air contaminant from the same air contaminant source, the director may impose permit terms and conditions that consolidate or streamline the monitoring, record-keeping, or reporting requirements in a manner that conforms with each applicable requirement. To the extent consistent with the federal Clean Air Act and except as otherwise agreed to by the owner or operator of an air contaminant source and the director, the director shall not require an operating restriction that has the practical effect of increasing the stringency of an existing applicable emission limitation or standard.

(J) Establish, operate, and maintain monitoring stations and other devices designed to measure air pollution and enter into contracts with any public or private agency for the establishment, operation, or maintenance of such stations and devices;

(K) By rule adopt procedures for giving reasonable public notice and conducting public hearings on any plans for the prevention, control, and abatement of air pollution that the director is required to submit to the federal government;

(L) Through any employee, agent, or authorized representative of the director or the environmental protection agency, enter upon private or public property, including improvements thereon, at any reasonable time, to make inspections, take samples, conduct tests, and examine records or reports pertaining to any emission of air contaminants and any monitoring equipment or methods and to determine if there are any actual or potential emissions from such premises and, if so, to determine the sources, amounts, contents, and extent of those emissions, or to ascertain whether there is compliance with this chapter, any orders issued or rules adopted thereunder, or any other determination of the director. The director, at reasonable times, may have access to and copy any such records. If entry or inspection authorized by this division is refused, hindered, or thwarted, the director or the director's authorized representative may by affidavit apply for, and any judge of a court of record may issue, an appropriate inspection warrant necessary to achieve the purposes of this chapter within the court's territorial jurisdiction.

(M) Accept and administer gifts or grants from the federal government and from any other source, public or private, for carrying out any of the functions under this chapter;

(N) Obtain necessary scientific, technical, and laboratory services;

(O) Establish advisory boards in accordance with section 121.13 of the Revised Code;

(P) Delegate to any city or general health district or political subdivision of the state any of the director's enforcement and monitoring powers and duties, other than rule-making powers, as the director elects to delegate, and in addition employ, compensate, and prescribe the powers and duties of such officers, employees, and consultants as are necessary to enable the director to exercise the authority and perform duties imposed upon the director by law. Technical and other services shall be performed, insofar as practical, by personnel of the environmental protection agency.

(Q) Certify to the government of the United States or any agency thereof that an industrial air pollution facility is in conformity with the state program or requirements for control of air pollution whenever such certificate is required for a taxpayer pursuant to any federal law or requirements;

(R) Issue, modify, or revoke orders requiring abatement of or prohibiting emissions that violate applicable emission standards or other requirements of this chapter and rules adopted thereunder, or requiring emission control devices or measures in order to comply with applicable emission standards or other requirements of this chapter and rules adopted thereunder. Any such order shall require compliance with applicable emission standards by a specified date and shall not conflict with any requirement of the federal Clean Air Act. In the making of such orders, the director, to the extent consistent with the federal Clean Air Act, shall give consideration to, and base the determination on, evidence relating to the technical feasibility and economic reasonableness of compliance with such orders and their relation to benefits to the people of the state to be derived from such compliance. If, under the federal Clean Air Act, any such order shall provide for the posting of a bond or surety to secure compliance with the order as a condition of issuance of the order, the order shall so provide, but only to the extent required by the federal Clean Air Act.

(S) To the extent provided by the federal Clean Air Act, adopt, modify, and rescind rules providing for the administrative assessment and collection of monetary penalties, not in excess of those required pursuant to the federal Clean Air Act, for failure to comply with any emission limitation or standard, compliance schedule, or other requirement of any rule, order, permit, or variance issued or adopted under this chapter or required under the applicable implementation plan whether or not the source is subject to a federal or state consent decree. The director may require the submission of compliance schedules, calculations of penalties for noncompliance, and

related information. Any orders, payments, sanctions, or other requirements imposed pursuant to rules adopted under this division shall be in addition to any other permits, orders, payments, sanctions, or other requirements established under this chapter and shall not affect any civil or criminal enforcement proceedings brought under any provision of this chapter or any other provision of state or local law. This division does not apply to any requirement of this chapter regarding the prevention or abatement of odors.

(T) Require new or modified air contaminant sources to install best available technology, but only in accordance with this division. With respect to permits issued pursuant to division (F) of this section beginning three years after August 3, 2006, best available technology for air contaminant sources and air contaminants emitted by those sources that are subject to standards adopted under section 112, Part C of Title I, and Part D of Title I of the federal Clean Air Act shall be equivalent to and no more stringent than those standards. For an air contaminant or precursor of an air contaminant for which a national ambient air quality standard has been adopted under the federal Clean Air Act, best available technology only shall be required to the extent required by rules adopted under Chapter 119. of the Revised Code for permit to install applications filed three or more years after August 3, 2006.

Best available technology requirements established in rules adopted under this division shall be expressed only in one of the following ways that is most appropriate for the applicable source or source categories:

- (1) Work practices;
- (2) Source design characteristics or design efficiency of applicable air contaminant control devices;
- (3) Raw material specifications or throughput limitations averaged over a twelve-month rolling period;
- (4) Monthly allowable emissions averaged over a twelve-month rolling period.

Best available technology requirements shall not apply to an air contaminant source that has the potential to emit, taking into account air pollution controls installed on the source, less than ten tons per year of emissions of an air contaminant or precursor of an air contaminant for which a national ambient air quality standard has been adopted under the federal Clean Air Act. In addition, best available technology requirements established in rules adopted under this division shall not apply to any existing, new, or modified air contaminant source that is subject to a plant-wide applicability limit that has been approved by the director. Further, best available technology requirements established in rules adopted

under this division shall not apply to general permits issued prior to January 1, 2006, under rules adopted under this chapter.

For permits to install issued three or more years after August 3, 2006, any new or modified air contaminant source that has the potential to emit, taking into account air pollution controls installed on the source, ten or more tons per year of volatile organic compounds or nitrogen oxides shall meet, at a minimum, the requirements of any applicable reasonably available control technology rule in effect as of January 1, 2006, regardless of the location of the source.

(U) Consistent with section 507 of the federal Clean Air Act, adopt, modify, suspend, and rescind rules for the establishment of a small business stationary source technical and environmental compliance assistance program as provided in section 3704.18 of the Revised Code;

(V) Provide for emissions trading, marketable permits, auctions of emission rights, and economic incentives that would reduce the cost or increase the efficiency of achieving a specified level of environmental protection;

(W) Provide for the construction of an air contaminant source prior to obtaining a permit to install pursuant to division (F) of this section if the applicant demonstrates that the source will be installed to comply with all applicable emission limits and will not adversely affect public health or safety or the environment and if the director determines that such an action will avoid an unreasonable hardship on the owner or operator of the source. Any such determination shall be consistent with the federal Clean Air Act.

(X) Exercise all incidental powers, including adoption of rules, required to carry out this chapter.

The environmental protection agency shall develop a plan to control air pollution resulting from state-operated facilities and property.

Sec. 3704.14. (A) ~~The director of environmental protection shall continue to implement an enhanced motor vehicle inspection and maintenance program for a period of two years beginning on January 1, 2006, and ending on December 31, 2007, in counties in which a motor vehicle inspection and maintenance program is federally mandated. The program shall be substantially similar to the enhanced program implemented in those counties under a contract that is scheduled to expire on December 31, 2005. The~~ (1) If the director of environmental protection determines that implementation of a motor vehicle inspection and maintenance program is necessary for the state to effectively comply with the federal Clean Air Act after June 30, 2009, the director may provide for the implementation of the program in those counties in this state in which such a program is federally

mandated. Upon making such a determination, the director of environmental protection may request the director of administrative services to extend the terms of the contract that was entered into under the authority of Section 7 of Am. Sub. H.B. 24 of the 127th general assembly. Upon receiving the request, the director of administrative services shall extend the contract, beginning on July 1, 2009, in accordance with this section. The contract shall be extended for a period of up to six months with the contractor who conducted the motor vehicle inspection and maintenance program under that contract.

(2) Prior to the expiration of the contract extension that is authorized by division (A)(1) of this section, the director of environmental protection may request the director of administrative services to enter into a contract with a vendor to operate a motor vehicle inspection and maintenance program in each county in this state in which such a program is federally mandated through June 30, 2011, with an option for the state to renew the contract through June 30, 2012. The contract shall ensure that the motor vehicle inspection and maintenance program achieves at least the same ozone precursor reductions as achieved by the program operated under the authority of the contract that was extended under division (A)(1) of this section. The director of administrative services shall select a vendor through a competitive selection process in compliance with Chapter 125. of the Revised Code.

(3) Notwithstanding any law to the contrary, the director of administrative services shall ensure that a competitive selection process regarding a contract to operate a motor vehicle inspection and maintenance program in this state incorporates the following elements, which shall be included in the contract:

(a) A requirement that the vendor selected to operate the program provide notification of the program's requirements to each owner of a motor vehicle that is required to be inspected under the program. The contract shall require the notification to be provided not later than sixty days prior to the date by which the owner of the motor vehicle is required to have the motor vehicle inspected. The director of environmental protection and the vendor shall jointly agree on the content of the notice. However, the notice shall include at a minimum the locations of all inspection facilities within a specified distance of the address that is listed on the owner's motor vehicle registration.

(b) A requirement that the vendor selected to operate the program spend not more than five hundred thousand dollars over the term of the contract for public education regarding the locations at which motor vehicle inspections

will be conducted:

(c) A requirement that the vendor selected to operate the program acquire all facilities that were previously utilized for motor vehicle emissions inspections via arm's-length transactions at the discretion of the interested parties if the vendor chooses to utilize those inspection facilities for purposes of the contract. The competitive selection process shall not include a requirement that a vendor pay book value for such facilities.

(d) A requirement that the motor vehicle inspection and maintenance program utilize established local businesses, such as existing motor vehicle repair facilities, for the purpose of expanding the number of inspection facilities for consumer convenience and increased local business participation.

(4) A motor vehicle inspection and maintenance program operated under this section shall comply with division (B) of this section. The director of environmental protection shall administer the motor vehicle inspection and maintenance program operated under this section.

(B) The motor vehicle inspection and maintenance program authorized by this section, at a minimum, shall do all of the following:

(1) Comply with the federal Clean Air Act;

(2) Provide for the extension of a contract for a period of two years, beginning on January 1, 2006, and ending on December 31, 2007, with the contractor who conducted the enhanced motor vehicle inspection and maintenance program in those federally mandated counties pursuant to a contract entered into under former section 3704.14 of the Revised Code as that section existed prior to its repeal and reenactment by Am. Sub. H.B. 66 of the 126th General Assembly;

(3) Provide for the issuance of inspection certificates;

(4)(3) Provide for a new car exemption for motor vehicles four years old or newer and provide that a new motor vehicle is exempt for four years regardless of whether legal title to the motor vehicle is transferred during that period.

(B)(C) The director shall not implement a motor vehicle inspection and maintenance program in any county other than a county in which a motor vehicle inspection and maintenance program is federally mandated. A motor vehicle inspection and maintenance program shall not be implemented in any county in which such a program is not authorized under division (A) of this section without the approval of the general assembly through the enactment of legislation. Further, a motor vehicle inspection and maintenance program shall not be implemented in any county beyond June 30, 2012, without the approval of the general assembly through the

enactment of legislation.

~~(C)~~(D) The director of environmental protection shall adopt rules in accordance with Chapter 119. of the Revised Code that the director determines are necessary to implement this section. The director may continue to implement and enforce rules pertaining to the ~~enhanced~~ motor vehicle inspection and maintenance program previously implemented under former section 3704.14 of the Revised Code as that section existed prior to its repeal and reenactment by Am. Sub. H.B. 66 of the 126th general assembly, provided that the rules do not conflict with this section.

~~(D)~~(E) There is hereby created in the state treasury the ~~motor vehicle inspection and maintenance~~ auto emissions test fund, which shall consist of money received by the director from any ~~fees for inspections that are established in rules adopted~~ cash transfers, state and local grants, and other contributions that are received for the purpose of funding the program established under this section. The director of environmental protection shall use money in the fund solely for the implementation, supervision, administration, operation, and enforcement of the ~~enhanced~~ motor vehicle inspection and maintenance program established under this section. Money in the fund shall not be used for either of the following:

(1) To pay for the inspection costs incurred by a motor vehicle dealer so that the dealer may provide inspection certificates to an individual purchasing a motor vehicle from the dealer when that individual resides in a county that is subject to the motor vehicle inspection and maintenance program;

(2) To provide payment for more than one free passing emissions inspection or a total of three emissions inspections for a motor vehicle in any three-hundred-sixty-five day period. The owner or lessee of a motor vehicle is responsible for inspection fees that are related to emissions inspections beyond one free passing emissions inspection or three total emissions inspections in any three-hundred-sixty-five day period. Inspection fees that are charged by a contractor conducting emissions inspections under a motor vehicle inspection and maintenance program shall be approved by the director of environmental protection.

~~(E)~~(F) The ~~enhanced~~ motor vehicle inspection and maintenance program established under this section expires ~~on December 31, 2007, upon the termination of all contracts entered into under this section~~ and shall not be ~~continued implemented beyond that the final date unless otherwise federally mandated on which termination occurs.~~

Sec. 3704.144. Gifts, grants, and contributions for the purpose of adding pollution control equipment to diesel-powered school buses, including

contributions that are made pursuant to the settlement of an administrative action or civil action that is brought at the request of the director of environmental protection pursuant to Chapter 3704., 3714., 3734., 6109., or 6111. of the Revised Code, shall be credited to the clean diesel school bus fund, which is hereby created in the state treasury. The director shall use money credited to the fund to make grants to school districts in the state and to county boards of developmental disabilities for the purpose of adding pollution control equipment to diesel-powered school buses and to pay the environmental protection agency's costs incurred in administering this section. In addition, the director may use money credited to the fund to make grants to school districts and to county boards of developmental disabilities for the purpose of maintaining pollution control equipment that is installed on diesel-powered school buses and to pay the additional cost incurred by a school district or a county board for using ultra-low sulfur diesel fuel instead of diesel fuel for the operation of diesel-powered school buses.

In making grants under this section, the director shall give priority to school districts and to county boards of developmental disabilities that are located in a county that is designated as nonattainment by the United States environmental protection agency for the fine particulate national ambient air quality standard under the federal Clean Air Act. In addition, the director may give a higher priority to a school district or a county board of developmental disabilities that employs additional measures that reduce air pollution from the district's or the county board's school bus fleet.

The director shall adopt rules establishing procedures and requirements that are necessary to implement this section, including procedures and requirements governing applications for grants.

Sec. 3705.03. (A) The director of health shall designate the state registrar, who shall head the office of vital statistics and do all of the following:

(1) Administer and enforce this chapter, the rules issued under this chapter, and the instructions of the director for the efficient administration of the system of vital statistics;

(2) Direct and supervise the system of vital statistics and be custodian of the vital records;

(3) Direct, supervise, and control the activities of all persons engaged in activities governed by this chapter;

(4) Conduct training programs to promote uniformity of policy and procedures throughout the state in matters pertaining to the system of vital statistics;

(5) Comply with the requirements in section 3705.031 of the Revised Code.

(B) To preserve vital records, the state registrar may prepare a typewritten, photographic, electronic, or other reproduction of certificates or reports in the office of vital statistics. These reproductions, when certified by the director or state registrar, shall be accepted as the original records. The documents from which the reproductions have been made and verified may be disposed of as provided by rules that shall be adopted by the director.

Sec. 3705.031. (A) Once each calendar month, the state registrar shall review all death certificates the state registrar receives, pursuant to section 3705.07 of the Revised Code, from each local registrar of vital statistics in this state, and from a vital statistics official in another state, in the preceding calendar month. The state registrar shall identify those death certificates that pertain to individuals who were at least eighteen years of age at the time of death.

(B) From each death certificate identified pursuant to division (A) of this section, the registrar shall determine the following information:

- (1) The decedent's name;
- (2) The decedent's date of birth;
- (3) The decedent's date of death;
- (4) The decedent's age on the date of death;
- (5) The address of the decedent's residence on the date of death;
- (6) The county and state in which the decedent's residence on the date of death was located.

(C) Not later than the end of the calendar month in which a review under division (A) of this section occurs, the state registrar shall file with each county auditor and county board of elections in this state a report that summarizes the information in divisions (B)(1) to (6) of this section for each decedent whose residence was located in that county.

Sec. 3705.24. (A)(1) The public health council shall, in accordance with section 111.15 of the Revised Code, adopt rules prescribing fees for the following items or services provided by the state office of vital statistics:

- (a) Except as provided in division (A)(4) of this section:
 - (i) A certified copy of a vital record or a certification of birth;
 - (ii) A search by the office of vital statistics of its files and records pursuant to a request for information, regardless of whether a copy of a record is provided;
 - (iii) A copy of a record provided pursuant to a request;
- (b) Replacement of a birth certificate following an adoption,

legitimation, paternity determination or acknowledgement, or court order;

(c) Filing of a delayed registration of a vital record;

(d) Amendment of a vital record that is requested later than one year after the filing date of the vital record;

(e) Any other documents or services for which the public health council considers the charging of a fee appropriate.

(2) Fees prescribed under division (A)(1)(a) of this section shall not be less than ~~seven~~ twelve dollars.

(3) Fees prescribed under division (A)(1) of this section shall be collected in addition to any fees required by sections 3109.14 and 3705.242 of the Revised Code.

(4) Fees prescribed under division (A) of this section shall not apply to certifications issued under division (H) of this section or copies provided under section 3705.241 of the Revised Code.

(B) In addition to the fees prescribed under division (A) of this section or section 3709.09 of the Revised Code, the office of vital statistics or the board of health of a city or general health district shall charge a five-dollar fee for each certified copy of a vital record and each certification of birth. This fee shall be deposited in the general operations fund created under section 3701.83 of the Revised Code and be used to support the operations, the modernization, and the automation of the vital records program in this state. A board of health shall forward all fees collected under this division to the department of health not later than thirty days after the end of each calendar quarter.

(C) Except as otherwise provided in division (H) of this section, and except as provided in section 3705.241 of the Revised Code, fees collected by the director of health under sections 3705.01 to 3705.29 of the Revised Code shall be paid into the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code. Except as provided in division (B) or (I) of this section, money generated by the fees shall be used only for administration and enforcement of this chapter and the rules adopted under it. Amounts submitted to the department of health for copies of vital records or services in excess of the fees imposed by this section shall be dealt with as follows:

(1) An overpayment of two dollars or less shall be retained by the department and deposited in the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code.

(2) An overpayment in excess of two dollars shall be returned to the person who made the overpayment.

(D) If a local registrar is a salaried employee of a city or a general health

district, any fees the local registrar receives pursuant to section 3705.23 of the Revised Code shall be paid into the general fund of the city or the health fund of the general health district.

Each local registrar of vital statistics, or each health district where the local registrar is a salaried employee of the district, shall be entitled to a fee for each birth, fetal death, death, or military service certificate properly and completely made out and registered with the local registrar or district and correctly copied and forwarded to the office of vital statistics in accordance with the population of the primary registration district at the last federal census. The fee for each birth, fetal death, death, or military service certificate shall be:

(1) In primary registration districts of over two hundred fifty thousand, twenty cents;

(2) In primary registration districts of over one hundred twenty-five thousand and less than two hundred fifty thousand, sixty cents;

(3) In primary registration districts of over fifty thousand and less than one hundred twenty-five thousand, eighty cents;

(4) In primary registration districts of less than fifty thousand, one dollar.

(E) The director of health shall annually certify to the county treasurers of the several counties the number of birth, fetal death, death, and military service certificates registered from their respective counties with the names of the local registrars and the amounts due each registrar and health district at the rates fixed in this section. Such amounts shall be paid by the treasurer of the county in which the registration districts are located. No fees shall be charged or collected by registrars except as provided by this chapter and section 3109.14 of the Revised Code.

(F) A probate judge shall be paid a fee of fifteen cents for each certified abstract of marriage prepared and forwarded by the probate judge to the department of health pursuant to section 3705.21 of the Revised Code. The fee shall be in addition to the fee paid for a marriage license and shall be paid by the applicants for the license.

(G) The clerk of a court of common pleas shall be paid a fee of one dollar for each certificate of divorce, dissolution, and annulment of marriage prepared and forwarded by the clerk to the department pursuant to section 3705.21 of the Revised Code. The fee for the certified abstract of divorce, dissolution, or annulment of marriage shall be added to the court costs allowed in these cases.

(H) The fee for an heirloom certification of birth issued pursuant to division (B)(2) of section 3705.23 of the Revised Code shall be an amount

prescribed by rule by the director of health plus any fee required by section 3109.14 of the Revised Code. In setting the amount of the fee, the director shall establish a surcharge in addition to an amount necessary to offset the expense of processing heirloom certifications of birth. The fee prescribed by the director of health pursuant to this division shall be deposited into the state treasury to the credit of the heirloom certification of birth fund which is hereby created. Money credited to the fund shall be used by the office of vital statistics to offset the expense of processing heirloom certifications of birth. However, the money collected for the surcharge, subject to the approval of the controlling board, shall be used for the purposes specified by the family and children first council pursuant to section 121.37 of the Revised Code.

(I) Four dollars of each fee collected by the director of health or the board of health of a city or general health district for an item or service described in division (A)(1)(a) of this section shall be transferred to the office of vital statistics not later than thirty days after the end of each calendar quarter and shall be used to support public health systems.

Sec. 3706.04. The Ohio air quality development authority may:

(A) Adopt bylaws for the regulation of its affairs and the conduct of its business;

(B) Adopt an official seal;

(C) Maintain a principal office and suboffices at such places within the state as it designates;

(D) Sue and plead in its own name; be sued and impleaded in its own name with respect to its contracts or torts of its members, employees, or agents acting within the scope of their employment, or to enforce its obligations and covenants made under sections 3706.05, 3706.07, and 3706.12 of the Revised Code. Any such actions against the authority shall be brought in the court of common pleas of the county in which the principal office of the authority is located, or in the court of common pleas of the county in which the cause of action arose, provided such county is located within this state, and all summonses, exceptions, and notices of every kind shall be served on the authority by leaving a copy thereof at the principal office with the person in charge thereof or with the secretary-treasurer of the authority.

(E) Make loans and grants to governmental agencies for the acquisition or construction of air quality projects by any such governmental agency and adopt rules and procedures for making such loans and grants;

(F) Acquire, construct, reconstruct, enlarge, improve, furnish, equip, maintain, repair, operate, lease or rent to, or contract for operation by, a

person or governmental agency, air quality projects, and establish rules for the use of such projects;

(G) Make available the use or services of any air quality project to one or more persons, one or more governmental agencies, or any combination thereof;

(H) Issue air quality revenue bonds and notes and air quality revenue refunding bonds of the state, payable solely from revenues as provided in section 3706.05 of the Revised Code, unless the bonds be refunded by refunding bonds, for the purpose of paying any part of the cost of one or more air quality projects or parts thereof;

(I) Acquire by gift or purchase, hold, and dispose of real and personal property in the exercise of the powers of the authority and the performance of its duties under this chapter;

(J) Acquire, in the name of the state, by purchase or otherwise, on such terms and in such manner as the authority finds proper, or by the exercise of the right of condemnation in the manner provided by section 3706.17 of the Revised Code, such public or private lands, including public parks, playgrounds, or reservations, or parts thereof or rights therein, rights-of-way, property, rights, easements, and interests as it finds necessary for carrying out this chapter, but excluding the acquisition by the exercise of the right of condemnation of any air quality facility owned by any person or governmental agency; and compensation shall be paid for public or private lands so taken;

(K) Make and enter into all contracts and agreements and execute all instruments necessary or incidental to the performance of its duties and the execution of its powers under this chapter.

(1) When the cost under any such contract or agreement, other than compensation for personal services, involves an expenditure of more than two thousand dollars, the authority shall make a written contract with the lowest responsive and responsible bidder, in accordance with section 9.312 of the Revised Code, after advertisement for not less than two consecutive weeks in a newspaper of general circulation in Franklin county, and in such other publications as the authority determines, which notice shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place of receiving bids; provided, that a contract or lease for the operation of an air quality project constructed and owned by the authority or an agreement for cooperation in the acquisition or construction of an air quality project pursuant to section 3706.12 of the Revised Code or any contract for the construction of an air quality project

that is to be leased by the authority to, and operated by, persons who are not governmental agencies and the cost of such project is to be amortized exclusively from rentals or other charges paid to the authority by persons who are not governmental agencies is not subject to the foregoing requirements and the authority may enter into such contract, lease, or agreement pursuant to negotiation and upon such terms and conditions and for such period as it finds to be reasonable and proper in the circumstances and in the best interests of proper operation or of efficient acquisition or construction of such project.

(2) Each bid for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement shall contain the full name of every person interested in it and meet the requirements of section 153.54 of the Revised Code.

(3) Each bid for a contract except as provided in division (K)(2) of this section shall contain the full name of every person interested in it and shall be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and the performance thereof secured.

(4) The authority may reject any and all bids.

(5) A bond with good and sufficient surety, approved by the authority, shall be required of every contractor awarded a contract except as provided in division (K)(2) of this section, in an amount equal to at least fifty per cent of the contract price, conditioned upon the faithful performance of the contract.

(L) Employ managers, superintendents, and other employees and retain or contract with consulting engineers, financial consultants, accounting experts, architects, attorneys, and such other consultants and independent contractors as are necessary in its judgment to carry out this chapter, and fix the compensation thereof. All expenses thereof shall be payable solely from the proceeds of air quality revenue bonds or notes issued under this chapter, from revenues, or from funds appropriated for such purpose by the general assembly.

(M) Receive and accept from any federal agency, subject to the approval of the governor, grants for or in aid of the construction of any air quality project or for research and development with respect to air quality facilities, and receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions are made;

(N) Engage in research and development with respect to air quality

facilities;

(O) Purchase fire and extended coverage and liability insurance for any air quality project and for the principal office and suboffices of the authority, insurance protecting the authority and its officers and employees against liability for damage to property or injury to or death of persons arising from its operations, and any other insurance the authority may agree to provide under any resolution authorizing its air quality revenue bonds or in any trust agreement securing the same;

(P) Charge, alter, and collect rentals and other charges for the use or services of any air quality project as provided in section 3706.13 of the Revised Code;

(Q) Provide coverage for its employees under Chapters 145., 4123., and 4141. of the Revised Code;

(R) In accordance with section 54D(e) of the Internal Revenue Code, 26 U.S.C. 54D(e), allocate the national qualified energy conservation bond limitation allocated to the state and reallocate any portion of an allocation waived by a county or municipality.

(S) Do all acts necessary or proper to carry out the powers expressly granted in this chapter.

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

Sec. 3706.25. As used in sections 3706.25 to 3706.30 of the Revised Code:

(A) "Advanced energy project" means any technologies, products, activities, or management practices or strategies that facilitate the generation or use of electricity or energy and that reduce or support the reduction of energy consumption or support the production of clean, renewable energy for industrial, distribution, commercial, institutional, governmental, research, not-for-profit, or residential energy users including, but not limited to, advanced energy resources and renewable energy resources. "Advanced energy project" includes any project described in division (A), (B), or (C) of section 4928.621 of the Revised Code.

(B) "Advanced energy resource" means any of the following:

(1) Any method or any modification or replacement of any property, process, device, structure, or equipment that increases the generation output of an electric generating facility to the extent such efficiency is achieved without additional carbon dioxide emissions by that facility;

(2) Any distributed generation system consisting of customer cogeneration of electricity and thermal output simultaneously, primarily to

meet the energy needs of the customer's facilities;

(3) Advanced nuclear energy technology consisting of generation III technology as defined by the nuclear regulatory commission; other, later technology; or significant improvements to existing facilities;

(4) Any fuel cell used in the generation of electricity, including, but not limited to, a proton exchange membrane fuel cell, phosphoric acid fuel cell, molten carbonate fuel cell, or solid oxide fuel cell;

(5) Advanced solid waste or construction and demolition debris conversion technology, including, but not limited to, advanced stoker technology, and advanced fluidized bed gasification technology, that results in measurable greenhouse gas emissions reductions as calculated pursuant to the United States environmental protection agency's waste reduction model (WARM).

(C) "Renewable energy resource" means solar photovoltaic or solar thermal energy, wind energy, power produced by a hydroelectric facility, geothermal energy, fuel derived from solid wastes, as defined in section 3734.01 of the Revised Code, through fractionation, biological decomposition, or other process that does not principally involve combustion, biomass energy, biologically derived methane gas, or energy derived from nontreated by-products of the pulping process or wood manufacturing process, including bark, wood chips, sawdust, and lignin in spent pulping liquors. "Renewable energy resource" includes, but is not limited to, any fuel cell used in the generation of electricity, including, but not limited to, a proton exchange membrane fuel cell, phosphoric acid fuel cell, molten carbonate fuel cell, or solid oxide fuel cell; wind turbine located in the state's territorial waters of Lake Erie; methane gas emitted from an abandoned coal mine; storage facility that will promote the better utilization of a renewable energy resource that primarily generates off peak; or distributed generation system used by a customer to generate electricity from any such energy. As used in this division, "hydroelectric facility" means a hydroelectric generating facility that is located at a dam on a river, or on any water discharged to a river, that is within or bordering this state or within or bordering an adjoining state and meets all of the following standards:

(1) The facility provides for river flows that are not detrimental for fish, wildlife, and water quality, including seasonal flow fluctuations as defined by the applicable licensing agency for the facility.

(2) The facility demonstrates that it complies with the water quality standards of this state, which compliance may consist of certification under Section 401 of the "Clean Water Act of 1977," 91 Stat. 1598, 1599, 33

U.S.C. 1341, and demonstrates that it has not contributed to a finding by this state that the river has impaired water quality under Section 303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 U.S.C. 1313.

(3) The facility complies with mandatory prescriptions regarding fish passage as required by the federal energy regulatory commission license issued for the project, regarding fish protection for riverine, anadromous, and catadromus fish.

(4) The facility complies with the recommendations of the Ohio environmental protection agency and with the terms of its federal energy regulatory commission license regarding watershed protection, mitigation, or enhancement, to the extent of each agency's respective jurisdiction over the facility.

(5) The facility complies with provisions of the "Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 to 1544, as amended.

(6) The facility does not harm cultural resources of the area. This can be shown through compliance with the terms of its federal energy regulatory commission license or, if the facility is not regulated by that commission, through development of a plan approved by the Ohio historic preservation office, to the extent it has jurisdiction over the facility.

(7) The facility complies with the terms of its federal energy regulatory commission license or exemption that are related to recreational access, accommodation, and facilities or, if the facility is not regulated by that commission, the facility complies with similar requirements as are recommended by resource agencies, to the extent they have jurisdiction over the facility; and the facility provides access to water to the public without fee or charge.

(8) The facility is not recommended for removal by any federal agency or agency of any state, to the extent the particular agency has jurisdiction over the facility.

Sec. 3707.26. ~~(A) Annually~~ Semiannually, and more often, if in its judgment necessary, the board of health of a city or general health district shall inspect the sanitary condition of all schools and school buildings within its jurisdiction, and may disinfect any school building. During an epidemic or threatened epidemic, or when a dangerous communicable disease is unusually prevalent, or for any other imminent public health threat as determined by the board, the board may close any school and prohibit public gatherings for such time as is necessary.

~~(B) The director of health shall adopt rules establishing minimum standards for inspections conducted under this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code and in~~

~~consultation with the association of Ohio health commissioners, the Ohio environmental health association, the Ohio school boards association, and the Ohio education association. Initial rules shall be adopted not later than eighteen months after the effective date of this amendment.~~

Sec. 3709.09. (A) The board of health of a city or general health district may, by rule, establish a uniform system of fees to pay the costs of any services provided by the board.

The fee for issuance of a certified copy of a vital record or a certification of birth shall not be less than the fee prescribed for the same service under division (A)(1) of section 3705.24 of the Revised Code and shall include the fees required by division (B) of section 3705.24 and section 3109.14 of the Revised Code.

Fees for services provided by the board for purposes specified in sections 3701.344, 3711.10, 3718.06, 3729.07, 3730.03, 3733.04, 3733.25, and 3749.04 of the Revised Code shall be established in accordance with rules adopted under division (B) of this section. The district advisory council, in the case of a general health district, and the legislative authority of the city, in the case of a city health district, may disapprove any fee established by the board of health under this division, and any such fee, as disapproved, shall not be charged by the board of health.

(B) The public health council shall adopt rules under section 111.15 of the Revised Code that establish fee categories and a uniform methodology ~~a uniform methodologies methodology~~ for use in calculating the costs of services provided for purposes specified in sections 3701.344, 3711.10, 3718.06, 3729.07, 3730.03, 3733.04, 3733.25, and 3749.04 of the Revised Code. In adopting the rules, the public health council shall consider recommendations it receives from advisory boards established either by statute or the director of health for entities subject to the fees.

(C) ~~At least thirty days prior to establishing a~~ Except when a board of health establishes a fee by adopting a rule as an emergency measure, the board of health shall hold a public hearing regarding each proposed fee for a service provided by the board for a purpose specified in section 3701.344, 3711.10, 3718.06, 3729.07, 3730.03, 3733.04, 3733.25, or 3749.04 of the Revised Code, a board of health shall notify any entity that would be affected by the proposed fee of the amount of the proposed fee. If a public hearing is held, at least twenty days prior to the public hearing the board shall give written notice of the hearing to each entity affected by the proposed fee. The notice shall be mailed to the last known address of each entity and shall specify the date, time, and place of the hearing and the amount of the proposed fee.

(D) If payment of a fee established under this section is not received by the day on which payment is due, the board of health shall assess a penalty. The amount of the penalty shall be equal to twenty-five per cent of the applicable fee.

(E) All rules adopted by a board of health under this section shall be adopted, recorded, and certified as are ordinances of municipal corporations and the record thereof shall be given in all courts the same effect as is given such ordinances, but the advertisements of such rules shall be by publication in one newspaper of general circulation within the health district. Publication shall be made once a week for two consecutive weeks and such rules shall take effect and be in force ten days from the date of the first publication.

Sec. 3709.092. (A) A board of health of a city or general health district shall transmit to the director of health all fees or additional amounts that the public health council requires to be collected under sections 3701.344, 3718.06, 3729.07, 3733.04, 3733.25, and 3749.04 of the Revised Code. The fees and amounts shall be transmitted according to the following schedule:

(1) For fees and amounts received by the board on or after the first day of January but not later than the thirty-first day of March, transmit the fees and amounts not later than the fifteenth day of May;

(2) For fees and amounts received by the board on or after the first day of April but not later than the thirtieth day of June, transmit the fees and amounts not later than the fifteenth day of August;

(3) For fees and amounts received by the board on or after the first day of July but not later than the thirtieth day of September, transmit the fees and amounts not later than the fifteenth day of November;

(4) For fees and amounts received by the board on or after the first day of October but not later than the thirty-first day of December, transmit the fees and amounts not later than the fifteenth day of February of the following year.

(B) The director shall deposit the fees and amounts received under this section into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. Each amount shall be used solely for the purpose for which it was collected.

Sec. 3712.01. As used in this chapter:

(A) "Hospice care program" means a coordinated program of home, outpatient, and inpatient care and services that is operated by a person or public agency and that provides the following care and services to hospice patients, including services as indicated below to hospice patients' families, through a medically directed interdisciplinary team, under interdisciplinary

plans of care established pursuant to section 3712.06 of the Revised Code, in order to meet the physical, psychological, social, spiritual, and other special needs that are experienced during the final stages of illness, dying, and bereavement:

- (1) Nursing care by or under the supervision of a registered nurse;
- (2) Physical, occupational, or speech or language therapy, unless waived by the department of health pursuant to rules adopted under division (A) of section 3712.03 of the Revised Code;
- (3) Medical social services by a social worker under the direction of a physician;
- (4) Services of a home health aide;
- (5) Medical supplies, including drugs and biologicals, and the use of medical appliances;
- (6) Physician's services;
- (7) Short-term inpatient care, including both palliative and respite care and procedures;
- (8) Counseling for hospice patients and hospice patients' families;
- (9) Services of volunteers under the direction of the provider of the hospice care program;
- (10) Bereavement services for hospice patients' families.

(B) "Hospice patient" means a patient who has been diagnosed as terminally ill, has an anticipated life expectancy of six months or less, and has voluntarily requested and is receiving care from a person or public agency licensed under this chapter to provide a hospice care program.

(C) "Hospice patient's family" means a hospice patient's immediate family members, including a spouse, brother, sister, child, or parent, and any other relative or individual who has significant personal ties to the patient and who is designated as a member of the patient's family by mutual agreement of the patient, the relative or individual, and the patient's interdisciplinary team.

(D) "Interdisciplinary team" means a working unit composed of professional and lay persons that includes at least a physician, a registered nurse, a social worker, a member of the clergy or a counselor, and a volunteer.

(E) "Palliative care" means treatment for a patient with a serious or life-threatening illness directed at controlling pain, relieving other symptoms, and focusing on the special needs enhancing the quality of life of a hospice the patient and the hospice patient's family as they experience the stress of the dying process rather than treatment aimed at investigation and intervention for the purpose of cure or prolongation of life. Nothing in this

section shall be interpreted to mean that palliative care can be provided only as a component of a hospice care program.

(F) "Physician" means a person authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(G) "Attending physician" means the physician identified by the hospice patient or the hospice patient's family as having primary responsibility for the hospice patient's medical care.

(H) "Registered nurse" means a person registered under Chapter 4723. of the Revised Code to practice professional nursing.

(I) "Social worker" means a person licensed under Chapter 4757. of the Revised Code to practice as a social worker or independent social worker.

Sec. 3712.03. (A) In accordance with Chapter 119. of the Revised Code, the public health council shall adopt, and may amend and rescind, rules:

(1) Providing for the licensing of persons or public agencies providing hospice care programs within this state by the department of health and for the suspension and revocation of licenses;

(2) Establishing a license fee and license renewal fee ~~not to~~, neither of which shall, except as provided in division (B) of this section, exceed three six hundred dollars. The fees shall cover the three-year period during which an existing license is valid as provided in division (B) of section 3712.04 of the Revised Code.

(3) Establishing an inspection fee not to exceed, except as provided in division (B) of this section, one thousand seven hundred fifty dollars;

(4) Establishing requirements for hospice care program facilities and services;

(5) Providing for a waiver of the requirement for the provision of physical, occupational, or speech or language therapy contained in division (A)(2) of section 3712.01 of the Revised Code when the requirement would create a hardship because such therapy is not readily available in the geographic area served by the provider of a hospice care program;

(6) Providing for the granting of licenses to provide hospice care programs to persons and public agencies that are accredited or certified to provide such programs by an entity whose standards for accreditation or certification equal or exceed those provided for licensure under this chapter and rules adopted under it; ~~and~~

(7) Establishing interpretive guidelines for each rule.

(B) Subject to the approval of the controlling board, the public health council may establish fees in excess of the maximum amounts ~~provided by sections 3712.01 and 3712.03 to 3712.06 of the Revised Code~~ specified in

this section, provided that the fees do not exceed those amounts by greater than fifty per cent.

(C) The department of health shall:

(1) Grant, suspend, and revoke licenses for hospice care programs in accordance with this chapter and rules adopted under it;

(2) Make such inspections as are necessary to determine whether hospice care program facilities and services meet the requirements of this chapter and rules adopted under it; and

(3) Implement and enforce this chapter and rules adopted under it.

Sec. 3713.01. As used in sections 3713.01 to 3713.10 of the Revised Code:

(A) "Person" has the same meaning as used in division (C) of section 1.59 of the Revised Code and also means any limited company, limited liability partnership, joint stock company, or other association.

(B) "Bedding" means any upholstered furniture, any mattress, upholstered spring, comforter, bolster, pad, cushion, pillow, mattress protector, quilt, and any other upholstered article, to be used for sleeping, resting, or reclining purposes, and any glider, hammock, or other substantially similar article that is wholly or partly upholstered.

(C) "Secondhand" means any article, or material, or portion thereof of which prior use has been made in any manner whatsoever.

(D) "Remade, repaired, or renovated articles not for sale" means any article that is remade, repaired, or renovated for and is returned to the owner for the owner's own use.

(E) "Sale," "sell," or "sold" shall, in the corresponding tense, mean sell, offer to sell, or deliver or consign in sale, or possess with intent to sell, or deliver in sale.

(F) "Upholstered furniture" means any article of furniture wholly or partly stuffed or filled with material and that is used or intended for use for sitting, resting, or reclining purposes.

(G) "Stuffed toy" means any article intended for use as a plaything or for an educational or recreational purpose that is wholly or partially stuffed with material.

(H) "Tag" or "label" means any material prescribed by the superintendent of ~~industrial compliance~~ labor to be attached to an article that contains information required under this chapter.

Sec. 3713.02. (A) Except as provided in section 3713.05 of the Revised Code, no person shall import, manufacture, renovate, wholesale, or reupholster stuffed toys or articles of bedding in this state without first registering to do so with the superintendent of ~~industrial compliance~~ labor in

accordance with section 3713.05 of the Revised Code.

(B) No person shall manufacture, offer for sale, sell, deliver, or possess for the purpose of manufacturing, selling, or delivering, an article of bedding or a stuffed toy that is not labeled in accordance with section 3713.08 of the Revised Code.

(C) No person shall manufacture, offer for sale, sell, deliver, or possess for the purpose of manufacturing, selling, or delivering, an article of bedding or a stuffed toy that is falsely labeled.

(D) No person shall sell or offer for sale any secondhand article of bedding or any secondhand stuffed toy that has not been sanitized in accordance with section 3713.08 of the Revised Code.

(E) The possession of any article of bedding or stuffed toy in the course of business by a person required to obtain registration under this chapter, or by that person's agent or servant shall be prima-facie evidence of the person's intent to sell the article of bedding or stuffed toy.

Sec. 3713.03. The superintendent of ~~industrial compliance~~ labor in the department of commerce shall administer and enforce this chapter.

Sec. 3713.04. (A) In accordance with Chapter 119. of the Revised Code, the superintendent of ~~industrial compliance~~ labor shall:

(1) Adopt rules pertaining to the definition, name, and description of materials necessary to carry out this chapter;

(2) Determine the testing standards, fees, and charges to be paid for making any test or analysis required pursuant to section 3713.08 of the Revised Code.

(B) In accordance with Chapter 119. of the Revised Code, the superintendent may adopt rules regarding the following:

(1) Establishing an initial application fee or an annual registration renewal fee not more than fifty per cent higher than the fees set forth in section 4713.05 of the Revised Code;

(2) Establishing standards, on a reciprocal basis, for the acceptance of labels and laboratory analyses from other states where the labeling requirements and laboratory analysis standards are substantially equal to the requirements of this state, provided the other state extends similar reciprocity to labels and laboratory analysis conducted under this chapter;

(3) Any other rules necessary to administer and carry out this chapter.

(C) The superintendent may do any of the following:

(1) Issue administrative orders, conduct hearings, and take all actions necessary under the authority of Chapter 119. of the Revised Code for the administration of this chapter. The authority granted under this division shall include the authority to suspend, revoke, or deny registration under this

chapter.

(2) Establish and maintain facilities within the department of commerce to make tests and analysis of materials used in the manufacture of bedding and stuffed toys. The superintendent also may designate established laboratories in various sections of the state that are qualified to make these tests. If the superintendent exercises this authority, the superintendent shall adopt rules to determine the fees and charges to be paid for making the tests or analyses authorized under this section.

(3) Exercise such other powers and duties as are necessary to carry out the purpose and intent of this chapter.

Sec. 3713.05. (A) Applications to register to import, manufacture, renovate, wholesale, make, or reupholster stuffed toys or bedding in this state shall be made in writing on forms provided by the superintendent of ~~industrial compliance~~ labor. The application shall be accompanied by a registration fee of fifty dollars per person unless the applicant engages only in renovation, in which case the registration fee shall be thirty-five dollars.

(B) Upon receipt of the application and the appropriate fee, the superintendent shall register the applicant and assign a registration number to the registrant.

(C) Notwithstanding section 3713.02 of the Revised Code and division (A) of this section, the following are exempt from registration:

(1) An organization described in section 501(c)(3) of the "Internal Revenue Code of 1986," and exempt from income tax under section 501(a) of that code and that is operated exclusively to provide recreation or social services;

(2) A person who is not regularly engaged in the business of manufacturing, making, wholesaling, or importing stuffed toys but who manufactures or makes stuffed toys as a leisure pursuit and who sells one hundred or fewer stuffed toys within one calendar year;

(3) A person who is not regularly engaged in the business of manufacturing, making, wholesaling, or importing quilts, comforters, pillows, or cushions, but who manufactures or makes these items as a leisure pursuit and who sells five or fewer quilts, ten or fewer comforters, or twenty or fewer pillows or cushions within one calendar year.

(D) Notwithstanding division (C)(2) or (3) of this section, a person exempt under that division must attach a label to each stuffed toy that contains all of the following information:

(1) The person's name and address;

(2) A statement that the person is not registered by the state of Ohio;

(3) A statement that the contents of the product have not been inspected.

Sec. 3713.06. (A) Any person required to register under division (A) of section 3713.02 of the Revised Code who imports bedding or stuffed toys into this state for retail sale or use in this state and any person required to register under division (A) of section 3713.02 of the Revised Code who manufactures bedding or stuffed toys in this state for retail sale or use in this state shall submit a report to the superintendent of ~~industrial compliance~~ labor, in a form and manner prescribed by the superintendent. The form shall be submitted once every six months and shall show the total number of items of bedding or stuffed toys imported into this state or manufactured in this state. Each report shall be accompanied by a fee of four cents for each item of bedding or stuffed toy imported into this state or manufactured in this state.

(B) Every importer, manufacturer, or wholesaler of stuffed toys or articles of bedding, and every mobile home and recreational vehicle dealer, conversion van dealer, secondhand dealer, and auction house shall retain records, designated by the superintendent in rule, for the time period established in rule.

(C) Every importer, manufacturer, or wholesaler of stuffed toys or articles of bedding, and every mobile home and recreational vehicle dealer, conversion van dealer, secondhand dealer, and auction house shall make sufficient investigation of its records to ensure that the information reported to the superintendent under division (A) of this section is accurate.

Sec. 3713.07. (A) Registration obtained under this chapter expires annually on the last day of the month in the month that the registration was obtained. The superintendent of ~~industrial compliance~~ labor shall renew the registration in accordance with Chapter 4745. of the Revised Code.

(B) Failure on the part of any registrant to renew registration prior to its expiration, when notified as required in this section, shall not deprive the person of the right to renewal within the ninety days that follow expiration, but the fee to be paid for renewal after its expiration shall be one hundred dollars plus the standard registration fee for the registrant.

(C) If a registrant fails to renew registration within ninety days of the date that it expired, the former registrant shall comply with the registration requirements under section 3713.05 of the Revised Code to obtain valid registration.

Sec. 3713.08. (A) All persons required to register under division (A) of section 3713.02 of the Revised Code manufacturing, making, or wholesaling bedding or stuffed toys, or both, that are sold or offered for sale shall have the material content of their products tested and analyzed at an established laboratory designated by the superintendent of ~~industrial compliance~~ labor

before the bedding or stuffed toys are sold or offered for sale.

(B) Every stuffed toy or item of bedding sold or offered for sale shall have a label affixed to it that reports the contents of the stuffed toy or bedding material in conformity with requirements established by the superintendent, a registration number, and any other identifying information as required by the superintendent.

(C) The seller of any secondhand articles of bedding or stuffed toys shall sanitize all items in accordance with rules established by the superintendent prior to the sale of or the offering for sale of any secondhand articles.

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

(1) Persons who meet the qualifications of division (C)(2) or (3) of section 3713.05 of the Revised Code;

(2) The sale of furniture more than fifty years old;

(3) The sale of furniture from the home of the owner directly to the purchaser.

Sec. 3713.09. (A) The superintendent of ~~industrial compliance~~ labor may appoint inspectors and periodically inspect and investigate any establishment where bedding or stuffed toys are manufactured, made, remade, renovated, repaired, sanitized, sold, or offered for sale, or where previously used material is processed for use in the manufacture of bedding or stuffed toys.

(1) Each inspector shall make a written report to the superintendent of each examination and inspection complete with the inspector's findings and recommendations. Inspectors may place "off sale" any article of bedding or stuffed toy offered for sale, or found in the possession of any person with the intent to sell, in violation of section 3713.02 of the Revised Code. Inspectors shall perform other duties related to inspection and examination as prescribed by the superintendent.

(2) When articles are placed "off sale" under division (A)(1) of this section, they shall be tagged, and the tag shall not be removed except by an authorized representative of the division of ~~industrial compliance~~ labor after the violator demonstrates to the satisfaction of the superintendent proof of compliance with the requirements of section 3713.08 of the Revised Code.

(B)(1) When an inspector has cause to believe that any bedding or stuffed toy is not tagged or labeled in accordance with section 3713.08 of the Revised Code, the inspector may open any seam of the bedding or stuffed toy in question to examine the material used or contained within it and take a reasonable amount of the material for testing and analysis and, if necessary, examine any and all purchase records in order to determine the

contents or the kind of material used in the bedding or stuffed toy in question. An inspector may seize and hold evidence of any article of bedding, stuffed toy, or material manufactured, made, possessed, renovated, remade, or repaired, sold, or offered for sale contrary to this chapter.

(2) Immediately after seizing articles believed to be in violation of this chapter, the inspector immediately shall report the seizure to the superintendent. The superintendent shall hold a hearing in accordance with Chapter 119. of the Revised Code or make a ruling in the matter. If the superintendent finds that the article of bedding, stuffed toy, or material is not in violation of this chapter, the superintendent shall order the item or items returned to the owner. If the superintendent finds a violation of this chapter, the superintendent may do either of the following:

(a) Return the articles to the owner for proper treatment, tagging or labeling, or other action as ordered by the superintendent, subject to the requirement that the articles be reinspected at cost to the owner, prior to being sold or offered for sale;

(b) Report the violation to the appropriate prosecuting attorney or city law director.

(C) The superintendent, at reasonable times and upon reasonable notice, may examine or cause to be examined the records of any importer, manufacturer, or wholesaler of stuffed toys or articles of bedding, mobile home and recreational vehicle dealer, conversion van dealer, secondhand dealer, or auction house to determine compliance with this chapter. The superintendent may enter into contracts, pursuant to procedures prescribed by the superintendent, with persons to examine these records to determine compliance with this chapter. These persons may collect and remit to the superintendent any amounts due under this chapter.

(D) Records audited pursuant to division (C) of this section are confidential and shall not be disclosed except as required by section 149.43 of the Revised Code, or as the superintendent finds necessary for the proper administration of this chapter.

(E) In the case of any investigation or examination, or both, that requires investigation or examination outside of this state of any importer, manufacturer, or wholesaler of stuffed toys or articles of bedding, or of any mobile home or recreational vehicle dealer, conversion van dealer, secondhand dealer, or auction house, the superintendent may require the investigated or examined person to pay the actual expense of the investigation or examination. The superintendent shall provide an itemized statement of actual expenses to the investigated or examined person.

(F) Whenever the superintendent has reason to believe, from the

superintendent's own information, upon complaint, or otherwise, that any person has engaged in, is engaging in, or is about to engage in any practice prohibited by this chapter, or when the superintendent has reason to believe that it is necessary for public health and safety, the superintendent may do any of the following:

(1) Investigate violations of this chapter, and for that purpose, may subpoena witnesses in connection with the investigation. The superintendent may make application to the appropriate court of common pleas for an order enjoining the violation of this chapter, and upon a showing by the superintendent that any registrant or person acting in a manner that requires registration has violated or is about to violate this chapter, an injunction, restraining order, or other order as may be appropriate shall be granted by the court.

(2) Compel by subpoena the attendance of witnesses to testify in relation to any matter over which the superintendent has jurisdiction and that is the subject of inquiry and investigation by the superintendent, and require the production of any book, paper, or document pertaining to the matter. In case any person fails to file any statement or report, obey any subpoena, give testimony, or produce any books, records, or papers as required by a subpoena, the court of common pleas of any county in the state, upon application made to it by the superintendent, shall compel obedience by attachment proceedings for contempt.

(3) Suspend or revoke the registration of any importer, manufacturer, or wholesaler of stuffed toys or articles of bedding, mobile home or recreational vehicle dealer, conversion van dealer, secondhand dealer, or auction house;

(4) Submit evidence of the violation or violations to any city prosecutor, city director of law, or prosecuting attorney with authority to prosecute. If the city prosecutor, city director of law, or prosecuting attorney with authority to prosecute fails to prosecute, the superintendent shall submit the evidence to the attorney general who may proceed with the prosecution.

Sec. 3713.10. All money collected under this chapter shall be deposited into the state treasury to the credit of the ~~industrial-compliance~~ labor operating fund created under section 121.084 of the Revised Code.

Sec. 3714.03. (A) As used in this section:

(1) "Aquifer system" means one or more geologic units or formations that are wholly or partially saturated with water and are capable of storing, transmitting, and yielding significant amounts of water to wells or springs.

(2) "Category 3 wetland" means a wetland that supports superior habitat or hydrological or recreational functions as determined by an appropriate

wetland evaluation methodology acceptable to the director of environmental protection. "Category 3 wetland" includes a wetland with high levels of diversity, a high proportion of native species, and high functional values and includes, but is not limited to, a wetland that contains or provides habitat for threatened or endangered species. "Category 3 wetland" may include high quality forested wetlands, including old growth forested wetlands, mature forested riparian wetlands, vernal pools, bogs, fens, and wetlands that are scarce regionally.

(3) "Natural area" means either of the following:

(a) An area designated by the director of natural resources as a wild, scenic, or recreational river under section ~~1517.14~~ 1547.81 of the Revised Code;

(b) An area designated by the United States department of the interior as a national wild, scenic, or recreational river.

(4) "Occupied dwelling" means a residential dwelling and also includes a place of worship as defined in section 5104.01 of the Revised Code, a child day-care center as defined in that section, a hospital as defined in section 3727.01 of the Revised Code, a nursing home as defined in that section, a school, and a restaurant or other eating establishment. "Occupied dwelling" does not include a dwelling owned or controlled by the owner or operator of a construction and demolition debris facility to which the siting criteria established under this section are being applied.

(5) "Residential dwelling" means a building used or intended to be used in whole or in part as a personal residence by the owner, part-time owner, or lessee of the building or any person authorized by the owner, part-time owner, or lessee to use the building as a personal residence.

(B) Neither the director of environmental protection nor any board of health shall issue a permit to install under section 3714.051 of the Revised Code to establish a new construction and demolition debris facility when any portion of the facility is proposed to be located in either of the following locations:

(1) Within the boundaries of a one-hundred-year flood plain, as those boundaries are shown on the applicable maps prepared under the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended, unless the owner or operator has obtained an exemption from division (B)(1) of this section in accordance with section 3714.04 of the Revised Code. If no such maps have been prepared, the boundaries of a one-hundred-year flood plain shall be determined by the applicant for a permit based upon standard methodologies set forth in "urban hydrology for small watersheds" (soil conservation service technical release number 55) and section 4 of the

"national engineering hydrology handbook" of the soil conservation service of the United States department of agriculture.

(2) Within the boundaries of a sole source aquifer designated by the administrator of the United States environmental protection agency under the "Safe Drinking Water Act," 88 Stat. 1660 (1974), 42 U.S.C.A. 300f, as amended.

(C) Neither the director nor any board shall issue a permit to install under section 3714.051 of the Revised Code to establish a new construction and demolition debris facility when the horizontal limits of construction and demolition debris placement at the new facility are proposed to be located in any of the following locations:

(1) Within one hundred feet of a perennial stream as defined by the United States geological survey seven and one-half minute quadrangle map or a category 3 wetland;

(2) Within one hundred feet of the facility's property line;

(3)(a) Except as provided in division (C)(3)(b) of this section, within five hundred feet of a residential or public water supply well.

(b) Division (C)(3)(a) of this section does not apply to a residential well under any of the circumstances specified in divisions (C)(3)(b)(i) to (iii) of this section as follows:

(i) The well is controlled by the owner or operator of the construction and demolition debris facility.

(ii) The well is hydrologically separated from the horizontal limits of construction and demolition debris placement.

(iii) The well is at least three hundred feet upgradient from the horizontal limits of construction and demolition debris placement and division (D) of this section does not prohibit the issuance of the permit to install.

(4) Within five hundred feet of a park created or operated pursuant to section 301.26, 511.18, 755.08, 1545.04, or 1545.041 of the Revised Code, a state park established or dedicated under Chapter 1541. of the Revised Code, a state park purchase area established under section 1541.02 of the Revised Code, a national recreation area, any unit of the national park system, or any property that lies within the boundaries of a national park or recreation area, but that has not been acquired or is not administered by the secretary of the United States department of the interior, located in this state, or any area located in this state that is recommended by the secretary for study for potential inclusion in the national park system in accordance with "The Act of August 18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended;

(5) Within five hundred feet of a natural area, any area established by

the department of natural resources as a state wildlife area under Chapter 1531. of the Revised Code and rules adopted under it, any area that is formally dedicated as a nature preserve under section 1517.05 of the Revised Code, or any area designated by the United States department of the interior as a national wildlife refuge;

(6) Within five hundred feet of a lake or reservoir of one acre or more that is hydrogeologically connected to ground water. For purposes of division (C)(6) of this section, a lake or reservoir does not include a body of water constructed and used for purposes of surface water drainage or sediment control.

(7) Within five hundred feet of a state forest purchased or otherwise acquired under Chapter 1503. of the Revised Code;

(8) Within five hundred feet of land that is placed on the state registry of historic landmarks under section 149.55 of the Revised Code;

(9) Within five hundred feet of an occupied dwelling unless written permission is given by the owner of the dwelling.

(D) Neither the director nor any board shall issue a permit to install under section 3714.051 of the Revised Code to establish a new construction and demolition debris facility when the limits of construction and demolition debris placement at the new facility are proposed to have an isolation distance of less than five feet from the uppermost aquifer system that consists of material that has a maximum hydraulic conductivity of 1×10^{-5} cm/sec and all of the geologic material comprising the isolation distance has a hydraulic conductivity equivalent to or less than 1×10^{-6} cm/sec.

(E) Neither the director nor any board shall issue a permit to install under section 3714.051 of the Revised Code to establish a new construction and demolition debris facility when the road that is designated by the owner or operator as the main hauling road at the facility to and from the limits of construction and demolition debris placement is proposed to be located within five hundred feet of an occupied dwelling unless written permission is given by the owner of the occupied dwelling.

(F) Neither the director nor any board shall issue a permit to install under section 3714.051 of the Revised Code to establish a new construction and demolition debris facility unless the new facility will have all of the following:

(1) Access roads that shall be constructed in a manner that allows use in all weather conditions and will withstand the anticipated degree of use and minimize erosion and generation of dust;

(2) Surface water drainage and sediment controls that are required by the director;

(3) If the facility is proposed to be located in an area in which an applicable zoning resolution allows residential construction, vegetated earthen berms or an equivalent barrier with a minimum height of six feet separating the facility from adjoining property.

(G)(1) The siting criteria established in this section shall be applied to an application for a permit to install at the time that the application is submitted to the director or a board of health, as applicable. Circumstances related to the siting criteria that change after the application is submitted shall not be considered in approving or disapproving the application.

(2) The siting criteria established in this section by this amendment do not apply to an expansion of a construction and demolition debris facility that was in operation prior to ~~the effective date of this amendment~~ December 22, 2005, onto property within the property boundaries identified in the application for the initial license for that facility or any subsequent license issued for that facility up to and including the license issued for that facility for calendar year 2005. The siting criteria established in this section prior to ~~the effective date of this amendment~~ December 22, 2005, apply to such an expansion.

Sec. 3714.07. (A)(1) For the purpose of assisting boards of health and the environmental protection agency in administering and enforcing this chapter and rules adopted under it, there is hereby levied on the disposal of construction and demolition debris at a construction and demolition debris facility that is licensed under this chapter or at a solid waste facility that is licensed under Chapter 3734. of the Revised Code a fee of thirty cents per cubic yard or sixty cents per ton, as applicable.

(2) The owner or operator of a construction and demolition debris facility or a solid waste facility shall determine if cubic yards or tons will be used as the unit of measurement. In estimating the fee based on cubic yards, the owner or operator shall utilize either the maximum cubic yard capacity of the container, or the hauling volume of the vehicle, that transports the construction and demolition debris to the facility or the cubic yards actually logged for disposal by the owner or operator in accordance with rules adopted under section 3714.02 of the Revised Code. If basing the fee on tonnage, the owner or operator shall use certified scales to determine the tonnage of construction and demolition debris that is transported to the facility for disposal.

(3) The owner or operator of a construction and demolition debris facility or a solid waste facility shall collect the fee levied under division (A) of this section as a trustee for the health district having jurisdiction over the facility, if that district is on the approved list under section 3714.09 of the

Revised Code, or for the state. The owner or operator shall prepare and file with the appropriate board of health or the director of environmental protection monthly returns indicating the total volume or weight, as applicable, of construction and demolition debris received for disposal at the facility and the total amount of money required to be collected on the construction and demolition debris disposed of during that month. Not later than thirty days after the last day of the month to which the return applies, the owner or operator shall mail to the board of health or the director the return for that month together with the money required to be collected on the construction and demolition debris disposed of during that month or may submit the return and money electronically in a manner approved by the director. The owner or operator may request, in writing, an extension of not more than thirty days after the last day of the month to which the return applies. A request for extension may be denied. If the owner or operator submits the money late, the owner or operator shall pay a penalty of ten per cent of the amount of the money due for each month that it is late.

(4) Of the money that is collected from a construction and demolition debris facility or a solid waste facility on a per cubic yard or per ton basis under this section, a board of health shall transmit three cents per cubic yard or six cents per ton, as applicable, to the director not later than forty-five days after the receipt of the money. The money retained by a board of health under this section shall be paid into a special fund, which is hereby created in each health district, and used solely to administer and enforce this chapter and rules adopted under it.

The director shall transmit all money received from the boards of health of health districts under this section and all money from the disposal fee collected by the director under this section to the treasurer of state to be credited to the construction and demolition debris facility oversight fund, which is hereby created in the state treasury. The fund shall be administered by the director, and money credited to the fund shall be used exclusively for the administration and enforcement of this chapter and rules adopted under it.

(B) The board of health of a health district or the director may enter into an agreement with the owner or operator of a construction and demolition debris facility or a solid waste facility for the quarterly payment of the money collected from the disposal fee. The board of health shall notify the director of any such agreement. Not later than forty-five days after receipt of the quarterly payment, the board of health shall transmit the amount established in division (A)(4) of this section to the director. The money retained by the board of health shall be deposited in the special fund of the

district as required under that division. Upon receipt of the money from a board of health, the director shall transmit the money to the treasurer of state to be credited to the construction and demolition debris facility oversight fund.

(C) If a construction and demolition debris facility or a solid waste facility is located within the territorial boundaries of a municipal corporation or the unincorporated area of a township, the municipal corporation or township may appropriate up to four cents per cubic yard or up to eight cents per ton of the disposal fee required to be paid by the facility under division (A) of this section for the same purposes that a municipal corporation or township may levy a fee under division (C) of section 3734.57 of the Revised Code.

The legislative authority of the municipal corporation or township may appropriate the money from the fee by enacting an ordinance or adopting a resolution establishing the amount of the fee to be appropriated. Upon doing so, the legislative authority shall mail a certified copy of the ordinance or resolution to the board of health of the health district in which the construction and demolition debris facility or the solid waste facility is located or, if the facility is located in a health district that is not on the approved list under section 3714.09 of the Revised Code, to the director. Upon receipt of the copy of the ordinance or resolution and not later than forty-five days after receipt of money collected from the fee, the board or the director, as applicable, shall transmit to the treasurer or other appropriate officer of the municipal corporation or clerk of the township that portion of the money collected from the disposal fee by the owner or operator of the facility that is required by the ordinance or resolution to be paid to that municipal corporation or township.

Money received by the treasurer or other appropriate officer of a municipal corporation under this division shall be paid into the general fund of the municipal corporation. Money received by the clerk of a township under this division shall be paid into the general fund of the township. The treasurer or other officer of the municipal corporation or the clerk of the township, as appropriate, shall maintain separate records of the money received under this division.

The legislative authority of a municipal corporation or township may cease collecting money under this division by repealing the ordinance or resolution that was enacted or adopted under this division.

The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing requirements for prorating the amount of the fee that may be appropriated under this division by a municipal corporation or

township in which only a portion of a construction and demolition debris facility is located within the territorial boundaries of the municipal corporation or township.

(D) The board of county commissioners of a county in which a construction and demolition debris facility or a solid waste facility is located may appropriate up to three cents per cubic yard or up to six cents per ton of the disposal fee required to be paid by the facility under division (A) of this section for the same purposes that a solid waste management district may levy a fee under division (B) of section 3734.57 of the Revised Code.

The board of county commissioners may appropriate the money from the fee by adopting a resolution establishing the amount of the fee to be appropriated. Upon doing so, the board of county commissioners shall mail a certified copy of the resolution to the board of health of the health district in which the construction and demolition debris facility or the solid waste facility is located or, if the facility is located in a health district that is not on the approved list under section 3714.09 of the Revised Code, to the director. Upon receipt of the copy of the resolution and not later than forty-five days after receipt of money collected from the fee, the board of health or the director, as applicable, shall transmit to the treasurer of the county that portion of the money collected from the disposal fee by the owner or operator of the facility that is required by the resolution to be paid to that county.

Money received by a county treasurer under this division shall be paid into the general fund of the county. The county treasurer shall maintain separate records of the money received under this division.

A board of county commissioners may cease collecting money under this division by repealing the resolution that was adopted under this division.

(E)(1) This section does not apply to the disposal of construction and demolition debris at a solid waste facility that is licensed under Chapter 3734. of the Revised Code if there is no construction and demolition debris facility licensed under this chapter within thirty-five miles of the solid waste facility as determined by a facility's property boundaries.

(2) This section does not apply to the disposal of construction and demolition debris at a solid waste facility that is licensed under Chapter 3734. of the Revised Code if the owner or operator of the facility chooses to collect fees on the disposal of the construction and demolition debris that are identical to the fees that are collected under Chapters 343. and 3734. of the Revised Code on the disposal of solid wastes at that facility.

(3) This section does not apply to the disposal of source separated

materials that are exclusively composed of reinforced or nonreinforced concrete, asphalt, clay tile, building or paving brick, or building or paving stone at a construction and demolition debris facility that is licensed under this chapter when either of the following applies:

(a) The materials are placed within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, are not placed within the unloading zone of the facility, and are used as a fire prevention measure in accordance with rules adopted by the director under section 3714.02 of the Revised Code.

(b) The materials are not placed within the unloading zone of the facility or within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, but are used as fill material, either alone or in conjunction with clean soil, sand, gravel, or other clean aggregates, in legitimate fill operations for construction purposes at the facility or to bring the facility up to a consistent grade.

Sec. 3715.041. (A)(1) As used in this section, "food processing establishment" has the same meaning as in section 3715.021 of the Revised Code.

(2) A person that operates a food processing establishment shall register the establishment annually with the director of agriculture. The person shall submit an application for registration or renewal on a form prescribed and provided by the director. Except as provided in division (G) of this section, an application for registration or renewal shall be accompanied by a registration fee in an amount established in rules adopted under this section. If a person files an application for registration on or after the first day of August of any year, the fee shall be one-half of the annual registration fee.

(B)(1) The director shall inspect the food processing establishment for which an application for initial registration has been submitted. If, upon inspection, the director finds that the establishment is in compliance with this chapter and Chapter 911., 913., 915., or 925. of the Revised Code, as applicable, or applicable rules adopted under those chapters, the director shall issue a certificate of registration to the food processing establishment. A food processing establishment registration expires on the thirty-first day of January and is valid until that date unless it is suspended or revoked under this section.

(2) A person that is operating a food processing establishment on the effective date of this section shall apply to the director for a certificate of registration not later than ninety days after the effective date of this section.

If an application is not filed with the director or postmarked on or before ninety days after the effective date of this section, the director shall assess a late fee in an amount established in rules adopted under this section.

(C)(1) A food processing establishment registration may be renewed by the director. A person seeking registration renewal shall submit an application for renewal to the director not later than the thirty-first day of January. The director shall issue a renewed certificate of registration on receipt of a complete renewal application except as provided in division (C)(2) of this section.

(2) If a renewal application is not filed with the director or postmarked on or before the thirty-first day of January, the director shall assess a late fee in an amount established in rules adopted under this section. The director shall not renew the registration until the applicant pays the late fee.

(D) A copy of the food processing establishment registration certificate shall be conspicuously displayed in an area of the establishment to which customers of the establishment have access.

(E)(1) The director or the director's designee may issue an order suspending or revoking a food processing establishment registration upon determining that the registration holder is in violation of this chapter or Chapter 911., 913., 915., or 925. of the Revised Code, as applicable, or applicable rules adopted under those chapters. Except as provided in division (E)(2) of this section, a registration shall not be suspended or revoked until the registration holder is provided an opportunity to appeal the suspension or revocation in accordance with Chapter 119. of the Revised Code.

(2) If the director determines that a food processing establishment presents an immediate danger to the public health, the director may issue an order immediately suspending the establishment's registration without affording the registration holder an opportunity for a hearing. The director then shall afford the registration holder a hearing in accordance with Chapter 119. of the Revised Code not later than ten days after the date of suspension.

(F) The director shall adopt rules in accordance with Chapter 119. of the Revised Code that establish all of the following:

(1) The amount of the registration fee that must be submitted with an application for a food processing establishment registration and with an application for renewal;

(2) The amount of the late fee that is required in division (B)(2) of this section;

(3) The amount of the fee for the late renewal of a food processing

establishment registration that is required in division (C)(2) of this section:

(4) Any other procedures and requirements that are necessary to administer and enforce this section.

(G) The following are not required to pay any registration fee that is otherwise required in this section:

(1) Home bakeries registered under section 911.02 of the Revised Code;

(2) Canneries licensed under section 913.02 of the Revised Code;

(3) Soft drink plants licensed under section 913.23 of the Revised Code;

(4) Cold-storage warehouses licensed under section 915.02 of the Revised Code;

(5) Persons licensed under section 915.15 of the Revised Code;

(6) Persons that are engaged in egg production and that maintain annually five hundred or fewer laying hens.

(H) All money that is collected under this section shall be credited to the food safety fund created in section 915.24 of the Revised Code.

Sec. 3715.87. (A) As used in this section and in sections 3715.871, 3715.872, and 3715.873 of the Revised Code:

(1) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(2) "Health care facility" has the same meaning as in section 1337.11 of the Revised Code.

~~(2)~~(3) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

~~(3)~~(4) "Nonprofit clinic" means a charitable nonprofit corporation organized and operated pursuant to Chapter 1702. of the Revised Code, or any charitable organization not organized and not operated for profit, that provides health care services to indigent and uninsured persons as defined in section 2305.234 of the Revised Code. "Nonprofit clinic" does not include a hospital as defined in section 3727.01 of the Revised Code, a facility licensed under Chapter 3721. of the Revised Code, or a facility that is operated for profit.

~~(4)~~(5) "Prescription drug" means any drug to which the following applies:

(a) Under the "Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is required to bear a label containing the legend, "Caution: Federal law prohibits dispensing without prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription.

(b) Under Chapter 3715. or 3719. of the Revised Code, the drug may be

dispensed only upon a prescription.

(B) The state board of pharmacy shall establish a drug repository program to accept and dispense prescription drugs donated or given for the purpose of being dispensed to individuals who are residents of this state and meet eligibility standards established in rules adopted by the board under section 3715.873 of the Revised Code. ~~Only~~ Except as provided in division (C) of this section, all of the following conditions shall apply to the program:

(1) Only drugs in their original sealed and tamper-evident unit dose packaging may be accepted and dispensed. ~~The;~~

(2) ~~The~~ packaging must be unopened, except that drugs packaged in single unit doses may be accepted and dispensed when the outside packaging is opened if the single unit dose packaging is undisturbed. ~~Drugs;~~

(3) ~~Drugs~~ donated by individuals bearing an expiration date that is less than six months from the date the drug is donated shall not be accepted or dispensed. ~~A;~~

(4) ~~A~~ drug shall not be accepted or dispensed if there is reason to believe that it is adulterated as described in section 3715.63 of the Revised Code. ~~Subject~~

(C) Orally administered cancer drugs that are not controlled substances and that do not require refrigeration, freezing, or storage at a special temperature may be accepted and dispensed even if not in original sealed and tamper-evident unit dose packaging, subject to rules adopted by the board pursuant to section 3715.873 of the Revised Code.

(D) Subject to the limitations specified in ~~this division~~ divisions (B) and (C) of this section, unused drugs dispensed for purposes of the medicaid program may be accepted and dispensed under the drug repository program.

Sec. 3715.871. (A) Any person, including a pharmacy, drug manufacturer, or health care facility, or any government entity may donate or give prescription drugs to the drug repository program. The drugs must be donated or given at a pharmacy, hospital, or nonprofit clinic that elects to participate in the drug repository program and meets criteria for participation in the program established in rules adopted by the state board of pharmacy under section 3715.873 of the Revised Code. Participation in the program by pharmacies, hospitals, and nonprofit clinics is voluntary. Nothing in this or any other section of the Revised Code requires a pharmacy, hospital, or nonprofit clinic to participate in the program.

(B) A pharmacy, hospital, or nonprofit clinic eligible to participate in the program shall dispense drugs donated or given under this section to individuals who are residents of this state and meet the eligibility standards

established in rules adopted by the board under section 3715.873 of the Revised Code or to other government entities and nonprofit private entities to be dispensed to individuals who meet the eligibility standards. A drug may be dispensed only pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs, as defined in section 4729.01 of the Revised Code. A pharmacy, hospital, or nonprofit clinic that accepts donated or given drugs shall comply with all applicable federal laws and laws of this state dealing with storage and distribution of dangerous drugs and shall, in accordance with rules adopted pursuant to section 3715.873 of the Revised Code, inspect all drugs prior to dispensing them to determine that they are not adulterated. The pharmacy, hospital, or nonprofit clinic may charge individuals receiving donated or given drugs a handling fee established in accordance with rules adopted by the board under section 3715.873 of the Revised Code. Drugs donated or given to the repository may not be resold.

Sec. 3715.873. In consultation with the director of health, the state board of pharmacy shall adopt rules governing the drug repository program that establish all of the following:

(A) Eligibility criteria for pharmacies, hospitals, and nonprofit clinics to receive and dispense drugs donated or given under the program;

(B) Standards and procedures for accepting, safely storing, and dispensing drugs donated or given;

(C) ~~Standards~~ With respect to drugs that are donated or given, other than orally administered cancer drugs described in division (C) of section 3715.87 of the Revised Code that are not in original sealed and tamper-evident unit dose packaging, standards and procedures for inspecting the drugs donated or given to determine that the original unit dose packaging is sealed and tamper-evident and that the drugs are unadulterated, safe, and suitable for dispensing;

(D) With respect to orally administered cancer drugs described in division (C) of section 3715.87 of the Revised Code that are not in original sealed and tamper-evident unit dose packaging, standards and procedures to determine based on a basic visual inspection that the drugs appear to be unadulterated, safe, and suitable for dispensing;

(E) Eligibility standards based on economic need for individuals to receive drugs;

~~(E)~~(F) A means, such as an identification card, by which an individual who is eligible to receive drugs under the program may demonstrate eligibility to the pharmacy, hospital, or nonprofit clinic dispensing the drugs;

~~(F)~~(G) A form that an individual receiving a drug under the program must sign before receiving the drug to confirm that the individual understands the immunity provisions of the program;

~~(G)~~(H) A formula to determine the amount of a handling fee that pharmacies, hospitals, and nonprofit clinics may charge to drug recipients to cover restocking and dispensing costs;

~~(H)~~(I) In addition, for drugs donated or given to the program by individuals:

(1) A list of drugs, arranged either by category or by individual drug, that the program will accept from individuals; The list shall include orally administered cancer drugs that are described in division (C) of section 3715.87 of the Revised Code.

(2) A list of drugs, arranged either by category or by individual drug, that the program will not accept from individuals. The list shall not include orally administered cancer drugs that are described in division (C) of section 3715.87 of the Revised Code. The list must include a statement as to why the drug is ineligible to be donated or given.

(3) A form each donor must sign stating that the donor is the owner of the drugs and intends to voluntarily donate them to the program.

~~(I)~~(J) In addition, for drugs donated to the program by health care facilities:

(1) A list of drugs, arranged either by category or by individual drug, that the program will accept from health care facilities; The list shall include orally administered cancer drugs that are described in division (C) of section 3715.87 of the Revised Code.

(2) A list of drugs, arranged either by category or by individual drug, that the program will not accept from health care facilities. The list shall not include orally administered cancer drugs that are described in division (C) of section 3715.87 of the Revised Code. The list must include a statement as to why the drug is ineligible to be donated or given.

~~(J)~~(K) Any other standards and procedures the board considers appropriate.

The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 3717.07. (A) For purposes of establishing a licensing fee under sections 3717.25 and 3717.45 of the Revised Code, the director of agriculture and the public health council shall adopt rules establishing a uniform methodology for use in calculating the costs of licensing retail food establishments in the categories specified by the director and a uniform methodology for use in calculating the costs of

licensing food service operations in the categories specified by the council. In adopting the rules, the director of agriculture and the public health council shall consider any recommendations received from advisory boards or other entities representing the interests of retail food establishments and food service operations.

(B) The rules shall include provisions that do all of the following:

(1) Provide for calculations to be made according to fiscal years rather than licensing periods;

(2) Limit the direct costs that may be attributed to the use of sanitarians by establishing appropriate statewide averages that may not be exceeded;

(3) Limit the indirect costs that may be included in the calculation of fees to an amount that does not exceed thirty per cent of the cost of the licensing program;

(4) Provide for a proportionate reduction in the fees to be charged if a licensor included anticipated costs in the immediately preceding calculation of licensing fees and the total amount of the anticipated costs was not incurred;

(5) Provide for a proportionate reduction in the fees to be charged if it is discovered through an audit by the auditor of state or through any other means that the licensor has charged or is charging a licensing fee that exceeds the amount that should have been charged;

(6) Provide for a twenty per cent reduction in the fees to be charged when the reduction is imposed as a penalty under division (C) of section 3717.071 of the Revised Code;

(7) With regard to any fees charged for licensing vending machine locations, the rules shall prohibit a licensor from increasing fees by a percentage of increase over the previous year's fee that exceeds the percentage of increase in the consumer price index for all urban consumers (United States city average, all items), prepared by the United States department of labor, bureau of labor statistics, for the immediately preceding calendar year.

Sec. 3717.23. (A) Each person or government entity seeking a retail food establishment license or the renewal of a license shall apply to the appropriate licensor on a form provided by the licensor. A licensor shall use a form prescribed and furnished to the licensor by the director of agriculture or a form prescribed by the licensor that has been approved by the director. The applicant shall include with the application all information necessary for the licensor to process the application, as requested by the licensor.

An application for a retail food establishment license, other than an application for a mobile retail food establishment license, shall be submitted

to the licensor for the health district in which the retail food establishment is located. An application for a mobile retail food establishment license shall be submitted to the licensor for the health district in which the applicant's business headquarters are located, or, if the headquarters are located outside this state, to the licensor for the district where the applicant will first operate in this state.

(B) The licensor shall review all applications received. The licensor shall issue a license for a new retail food establishment when the applicant submits a complete application and the licensor determines that the applicant meets all other requirements of this chapter and the rules adopted under it for receiving the license. The licensor shall issue a renewed license on receipt of a complete renewal application.

The licensor shall issue licenses for retail food establishments on forms prescribed and furnished by the director of agriculture. If the license is for a mobile retail food establishment, the licensor shall post the establishment's layout, equipment, and items to be sold on the back of the license.

A mobile retail food establishment license issued by one licensor shall be recognized by all other licensors in this state.

(C)(1) A retail food establishment license expires at the end of the licensing period for which the license is issued, except as follows:

(a) A license issued to a new retail food establishment after the first day of December does not expire until the end of the licensing period next succeeding issuance of the license.

(b) A temporary retail food establishment license expires at the end of the period for which it is issued.

(2) All retail food establishment licenses remain valid until scheduled to expire unless earlier suspended or revoked under section 3717.29 or 3717.30 of the Revised Code.

(D) A retail food establishment license may be renewed, except that a temporary retail food establishment license is not renewable. A person or government entity seeking license renewal shall submit an application for renewal to the licensor not later than the first day of March, except in the case of a mobile or seasonal retail food establishment, when the renewal application shall be submitted before commencing operation in a new licensing period. A licensor may renew a license prior to the first day of March or the first day of operation in a new licensing period, but not before the first day of February immediately preceding the licensing period for which the license is being renewed.

If a person or government entity does not file a renewal application with the licensor postmarked on or before the first day of March or, in the case of

a mobile or seasonal retail food establishment, the first day of operation in a new licensing period, the licensor shall assess a penalty if the licensor charges a license renewal fee. The amount of the penalty shall be ~~the lesser of fifty dollars or~~ twenty-five per cent of the fee charged for renewing the license, ~~if the licensor charges renewal fees~~. If an applicant is subject to a penalty, the licensor shall not renew the license until the applicant pays the penalty.

(E)(1) A licensor may issue not more than ten temporary retail food establishment licenses per licensing period to the same person or government entity to operate at different events within the licensor's jurisdiction. For each particular event, a licensor may issue only one temporary retail food establishment license to the same person or government entity.

(2) A licensor may issue a temporary retail food establishment license to operate for more than five consecutive days if both of the following apply:

(a) The establishment will be operated at an event organized by a county agricultural society or independent agricultural society organized under Chapter 1711. of the Revised Code.

(b) The person who will receive the license is a resident of the county or one of the counties for which the agricultural society was organized.

(3) A person may be granted only one temporary retail food establishment license per licensing period pursuant to division (E)(2) of this section.

(F) The licensor may place restrictions or conditions on a retail food establishment license, based on the equipment or facilities of the establishment, limiting the types of food that may be stored, processed, prepared, manufactured, or otherwise held or handled for retail sale. Limitations pertaining to a mobile retail food establishment shall be posted on the back of the license.

(G) The person or government entity holding a license for a retail food establishment shall display the license for that retail food establishment at all times at the licensed location.

(H) With the assistance of the department of agriculture, the licensor, to the extent practicable, shall computerize the process for licensing retail food establishments.

Sec. 3717.25. (A) A licensor may charge fees for issuing and renewing retail food establishment licenses. Any licensing fee charged shall be used solely for the administration and enforcement of the provisions of this chapter and the rules adopted under it applicable to retail food establishments.

Any licensing fee charged under this section shall be based on the licensor's costs of regulating retail food establishments, as determined according to the uniform methodologies established under section 3717.07 of the Revised Code. If the licensor is a board of health, a fee may be disapproved by the district advisory council in the case of a general health district or the legislative authority of the city in the case of a city health district. A disapproved fee shall not be charged by the board of health.

~~At least thirty days prior to establishing~~ Except when a licensing fee is established as an emergency measure, the licensor shall hold a public hearing regarding the proposed fee. At least ~~thirty~~ twenty days prior to ~~the holding~~ a public hearing, the licensor shall give written notice of the hearing to each person or government entity holding a retail food establishment license that may be affected by the proposed fee. The notice shall be mailed to the last known address of the licensee and shall specify the date, time, and place of the hearing and the amount of the proposed fee. On request, the licensor shall provide the completed uniform methodology used in the calculation of the licensor's costs and the proposed fee.

(B) In addition to licensing fees, a licensor may charge fees for any of the following:

(1) Review of facility layout and equipment specifications pertaining to retail food establishments, other than mobile and temporary retail food establishments;

(2) Any necessary collection and bacteriological examination of samples from retail food establishments or similar services specified in rules adopted under this chapter by the director of agriculture;

(3) Attendance at a course of study offered by the licensor in food protection as it pertains to retail food establishments, if the course is approved under section 3717.09 of the Revised Code.

~~(C)(1)~~ The director may determine by rule an amount to be collected from applicants for retail food establishment licenses for use by the director in administering and enforcing the provisions of this chapter and the rules adopted under it applicable to retail food establishments. Licensors shall collect the amount prior to issuing an applicant's new or renewed license. If a licensing fee is charged under this section, the licensor shall collect the amount at the same time the fee is collected. Licensors are not required to provide notice or hold public hearings regarding amounts to be collected ~~under this division~~.

~~Not later than sixty days after the last day of the month in which a license is issued, the~~ (2) A licensor shall certify the amount collected under ~~this division~~ (C)(1) of this section and transmit the amount to the treasurer

of state. ~~All~~ according to the following schedule:

(a) For amounts received by the licensor on or after the first day of January but not later than the thirty-first day of March, transmit the amounts not later than the fifteenth day of May;

(b) For amounts received by the licensor on or after the first day of April but not later than the thirtieth day of June, transmit the amounts not later than the fifteenth day of August;

(c) For amounts received by the licensor on or after the first day of July but not later than the thirtieth day of September, transmit the amounts not later than the fifteenth day of November;

(d) For amounts received by the licensor on or after the first day of October but not later than the thirty-first day of December, transmit the amounts not later than the fifteenth day of February of the following year.

(3) All amounts received under division (C)(2) of this section shall be deposited into the food safety fund created in section 915.24 of the Revised Code. The director shall use the amounts solely for the administration and enforcement of the provisions of this chapter and the rules adopted under it applicable to retail food establishments.

(4) When adopting rules regarding the amounts collected under ~~this~~ division (C)(1) of this section, the director shall make available during the rule making process the current and projected expenses of administering and enforcing the provisions of this chapter and the rules adopted under it applicable to retail food establishments and the total of all amounts that have been deposited in the food safety fund pursuant to ~~this~~ division (C)(3) of this section.

Sec. 3717.43. (A) Each person or government entity requesting a food service operation license or the renewal of a license shall apply to the appropriate licensor on a form provided by the licensor. Licensors shall use a form prescribed and furnished to the licensor by the director of health or a form prescribed by the licensor that has been approved by the director. The applicant shall include with the application all information necessary for the licensor to process the application, as requested by the licensor.

An application for a food service operation license, other than an application for a mobile or catering food service operation license, shall be submitted to the licensor for the health district in which the food service operation is located. An application for a mobile food service operation license shall be submitted to the licensor for the health district in which the applicant's business headquarters are located, or, if the headquarters are located outside this state, to the licensor for the district where the applicant will first operate in this state. An application for a catering food service

operation license shall be submitted to the licensor for the district where the applicant's base of operation is located.

(B) The licensor shall review all applications received. The licensor shall issue a license for a new food service operation when the applicant submits a complete application and the licensor determines that the applicant meets all other requirements of this chapter and the rules adopted under it for receiving the license. The licensor shall issue a renewed license on receipt of a complete renewal application.

The licensor shall issue licenses for food service operations on forms prescribed and furnished by the director of health. If the license is for a mobile food service operation, the licensor shall post the operation's layout, equipment, and menu on the back of the license.

A mobile or catering food service operation license issued by one licensor shall be recognized by all other licensors in this state.

(C)(1) A food service operation license expires at the end of the licensing period for which the license is issued, except as follows:

(a) A license issued to a new food service operation after the first day of December shall not expire until the end of the licensing period next succeeding issuance of the license.

(b) A temporary food service operation license expires at the end of the period for which it is issued.

(2) All food service operation licenses remain valid until they are scheduled to expire unless earlier suspended or revoked under section 3717.49 of the Revised Code.

(D) A food service operation license may be renewed, except that a temporary food service operation license is not renewable. A person or government entity seeking license renewal shall submit an application for renewal to the licensor not later than the first day of March, except that in the case of a mobile or seasonal food service operation the renewal application shall be submitted before commencing operation in a new licensing period. A licensor may renew a license prior to the first day of March or the first day of operation in a new licensing period, but not before the first day of February immediately preceding the licensing period for which the license is being renewed.

If a renewal application is not filed with the licensor or postmarked on or before the first day of March or, in the case of a mobile or seasonal food service operation, the first day of operation in a new licensing period, the licensor shall assess a penalty if the licensor charges a license renewal fee. The amount of the penalty shall be ~~the lesser of fifty dollars or twenty-five per cent of the renewal fee charged for renewing licenses, if the licensor~~

~~charges-renewal-fees.~~ If an applicant is subject to a penalty, the licensor shall not renew the license until the applicant pays the penalty.

(E)(1) A licensor may issue not more than ten temporary food service operation licenses per licensing period to the same person or government entity to operate at different events within the licensor's jurisdiction. For each particular event, a licensor may issue only one temporary food service operation license to the same person or government entity.

(2) A licensor may issue a temporary food service operation license to operate for more than five consecutive days if both of the following apply:

(a) The operation will be operated at an event organized by a county agricultural society or independent agricultural society organized under Chapter 1711. of the Revised Code;

(b) The person who will receive the license is a resident of the county or one of the counties for which the agricultural society was organized.

(3) A person may be granted only one temporary food service operation license per licensing period pursuant to division (E)(2) of this section.

(F) The licensor may place restrictions or conditions on a food service operation license limiting the types of food that may be prepared or served by the food service operation based on the equipment or facilities of the food service operation. Limitations pertaining to a mobile or catering food service operation shall be posted on the back of the license.

(G) The person or government entity holding a license for a food service operation shall display the license for that food service operation at all times at the licensed location. A person or government entity holding a catering food service operation license shall also maintain a copy of the license at each catered event.

(H) With the assistance of the department of health, the licensor, to the extent practicable, shall computerize the process for licensing food service operations.

Sec. 3717.45. (A) A licensor may charge fees for issuing and renewing food service operation licenses. Any licensing fee charged shall be used solely for the administration and enforcement of the provisions of this chapter and the rules adopted under it applicable to food service operations.

Any licensing fee charged under this section shall be based on the licensor's costs of regulating food service operations, as determined according to the uniform ~~methodologies~~ methodology established under section 3717.07 of the Revised Code. If the licensor is a board of health, a fee may be disapproved by the district advisory council in the case of a general health district or the legislative authority of the city in the case of a city health district. A disapproved fee shall not be charged by the board of

health.

~~At least thirty days prior to establishing~~ Except when a licensing fee is established as an emergency measure, the licensor shall hold a public hearing regarding the proposed fee. At least ~~thirty~~ twenty days prior to ~~the holding a~~ public hearing, the licensor shall give written notice of the hearing to each person or government entity holding a food service operation license that may be affected by the proposed fee. The notice shall be mailed to the last known address of the licensee and shall specify the date, time, and place of the hearing and the amount of the proposed fee. On request, the licensor shall provide the completed uniform methodology used in the calculation of the licensor's costs and the proposed fee.

(B) In addition to licensing fees, a licensor may charge fees for the following:

(1) Review of facility layout and equipment specifications pertaining to food service operations, other than mobile and temporary food service operations, or similar reviews conducted for vending machine locations;

(2) Any necessary collection and bacteriological examination of samples from food service operations, or similar services specified in rules adopted under this chapter by the public health council;

(3) Attendance at a course of study offered by the licensor in food protection as it pertains to food service operations, if the course is approved under section 3717.09 of the Revised Code.

(C)(1) The public health council may determine by rule an amount to be collected from applicants for food service operation licenses for use by the director of health in administering and enforcing the provisions of this chapter and the rules adopted under it applicable to food service operations. Licensors shall collect the amount prior to issuing an applicant's new or renewed license. If a licensing fee is charged under this section, the licensor shall collect the amount at the same time the fee is collected. Licensors are not required to provide notice or hold public hearings regarding amounts to be collected under this division.

~~Not later than sixty days after the last day of the month in which a license is issued, the~~

(2) A licensor shall certify the amount collected under this division (C)(1) of this section and transmit the amount to the treasurer of state. All according to the following schedule:

(a) For amounts received by the licensor on or after the first day of January but not later than the thirty-first day of March, transmit the amounts not later than the fifteenth day of May;

(b) For amounts received by the licensor on or after the first day of

April but not later than the thirtieth day of June, transmit the amounts not later than the fifteenth day of August;

(c) For amounts received by the licensor on or after the first day of July but not later than the thirtieth day of September, transmit the amounts not later than the fifteenth day of November;

(d) For amounts received by the licensor on or after the first day of October but not later than the thirty-first day of December, transmit the amounts not later than the fifteenth day of February of the following year.

(3) All amounts received under division (C)(2) of this section shall be deposited into the general operations fund created in section 3701.83 of the Revised Code. The director shall use the amounts solely for the administration and enforcement of the provisions of this chapter and the rules adopted under it applicable to food service operations.

(4) The director may submit recommendations to the public health council regarding the amounts collected under ~~this~~ division (C)(1) of this section. When making recommendations, the director shall submit a report stating the current and projected expenses of administering and enforcing the provisions of this chapter and the rules adopted under it applicable to food service operations and the total of all amounts that have been deposited in the general operations fund pursuant to ~~this~~ division (C)(3) of this section. The director may include in the report any recommendations for modifying the department's administration and enforcement of the provisions of this chapter and the rules adopted under it applicable to food service operations.

Sec. 3718.03. (A) There is hereby created the sewage treatment system technical advisory committee consisting of the director of health or the director's designee and ten members who are knowledgeable about sewage treatment systems and technologies. Of the ten members, four shall be appointed by the governor, three shall be appointed by the president of the senate, and three shall be appointed by the speaker of the house of representatives.

(1) Of the members appointed by the governor, one shall represent academia, one shall be a representative of the public who is not employed by the state or any of its political subdivisions and who does not have a pecuniary interest in household sewage treatment systems, one shall be an engineer from the environmental protection agency, and one shall be selected from among soil scientists in the division of soil and water ~~conservation~~ resources in the department of natural resources.

(2) Of the members appointed by the president of the senate, one shall be a health commissioner who is a member of and recommended by the association of Ohio health commissioners, one shall represent the interests

of manufacturers of household sewage treatment systems, and one shall represent installers and service providers.

(3) Of the members appointed by the speaker of the house of representatives, one shall be a health commissioner who is a member of and recommended by the association of Ohio health commissioners, one shall represent the interests of manufacturers of household sewage treatment systems, and one shall be a sanitarian who is registered under Chapter 4736. of the Revised Code and who is a member of the Ohio environmental health association.

(B) Terms of members appointed to the committee shall be for three years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall serve from the date of appointment until the end of the term for which the member was appointed.

Members may be reappointed. Vacancies shall be filled in the same manner as provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member was appointed shall hold office for the remainder of that term. A member shall continue to serve after the expiration date of the member's term until the member's successor is appointed or until a period of sixty days has elapsed, whichever occurs first. The applicable appointing authority may remove a member from the committee for failure to attend two consecutive meetings without showing good cause for the absences.

(C) The technical advisory committee annually shall select from among its members a chairperson and a vice-chairperson and a secretary to keep a record of its proceedings. A majority vote of the members of the full committee is necessary to take action on any matter. The committee may adopt bylaws governing its operation, including bylaws that establish the frequency of meetings.

(D) Serving as a member of the sewage treatment system technical advisory committee does not constitute holding a public office or position of employment under the laws of this state and does not constitute grounds for removal of public officers or employees from their offices or positions of employment. Members of the committee shall serve without compensation for attending committee meetings.

(E) A member of the committee shall not have a conflict of interest with the position. For the purposes of this division, "conflict of interest" means the taking of any action that violates any provision of Chapter 102. or 2921. of the Revised Code.

(F) The sewage treatment system technical advisory committee shall do all of the following:

(1) Develop with the department of health standards and guidelines for approving or disapproving a sewage treatment system or components of a system under section 3718.04 of the Revised Code;

(2) Develop with the department an application form to be submitted to the director by an applicant for approval or disapproval of a sewage treatment system or components of a system and specify the information that must be included with an application form;

(3) Advise the director on the approval or disapproval of an application sent to the director under section 3718.04 of the Revised Code requesting approval of a sewage treatment system or components of a system;

(4) Pursue and recruit in an active manner the research, development, introduction, and timely approval of innovative and cost-effective household sewage treatment systems and components of a system for use in this state, which shall include conducting pilot projects to assess the effectiveness of a system or components of a system;

(5) By January 1, 2008, provide the household sewage and small flow on-site sewage treatment system study commission created by Am. Sub. H.B. 119 of the 127th general assembly with a list of available alternative systems and the estimated cost of each system.

(G) The chairperson of the committee shall prepare and submit an annual report concerning the activities of the committee to the general assembly not later than ninety days after the end of the calendar year. The report shall discuss the number of applications submitted under section 3718.04 of the Revised Code for the approval of a new sewage treatment system or a component of a system, the number of such systems and components that were approved, any information that the committee considers beneficial to the general assembly, and any other information that the chairperson determines is beneficial to the general assembly. If other members of the committee determine that certain information should be included in the report, they shall submit the information to the chairperson not later than thirty days after the end of the calendar year.

(H) The department shall provide meeting space for the committee. The committee shall be assisted in its duties by the staff of the department.

(I) Sections 101.82 to 101.87 of the Revised Code do not apply to the sewage treatment system technical advisory committee.

Sec. 3718.06. (A)(1) A board of health shall establish fees in accordance with section 3709.09 of the Revised Code for the purpose of carrying out its duties under this chapter and rules adopted under it, including a fee for an installation permit issued by the board. All fees so established and collected by the board shall be deposited in a special fund of the district to be used

exclusively by the board in carrying out those duties.

(2) In accordance with Chapter 119. of the Revised Code, the public health council may establish by rule a fee to be collected from applicants for installation permits issued under rules adopted under this chapter. The director of health shall use the proceeds from that fee for administering and enforcing this chapter and the rules adopted under it by the council. A board of health shall collect and transmit the fee ~~at the same time that it collects the fee established by it under division (A)(1) of this section for installation permits.~~

~~Not later than sixty days after the last day of the month in which an installation permit is issued, a board shall certify the amount collected under division (A)(2) of this section and transmit the amount to the treasurer of state. All money so received shall be deposited in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code to the director pursuant to section 3709.092 of the Revised Code.~~ The director shall use the money so credited solely for the administration and enforcement of this chapter and the rules adopted under it by the public health council.

(B) The director may submit recommendations to the council regarding the amount of the fee collected under division (A)(2) of this section for installation permits. When making the recommendations, the director shall submit a report stating the current and projected expenses of administering and enforcing this chapter and the rules adopted under it by the council and the total of all money that has been deposited to the credit of the general operations fund under division (A)(2) of this section. The director may include in the report any recommendations for modifying the requirements established under this chapter and the rules adopted under it by the council.

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 and 3721.99 of the Revised Code:

(1)(a) "Home" means an institution, residence, or facility that provides, for a period of more than twenty-four hours, whether for a consideration or not, accommodations to three or more unrelated individuals who are dependent upon the services of others, including a nursing home, residential care facility, home for the aging, and a veterans' home operated under Chapter 5907. of the Revised Code.

(b) "Home" also means both of the following:

(i) Any facility that a person, as defined in section 3702.51 of the Revised Code, proposes for certification as a skilled nursing facility or nursing facility under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and for which a certificate

of need, other than a certificate to recategorize hospital beds as described in section 3702.522 of the Revised Code or division (R)(7)(d) of the version of section 3702.51 of the Revised Code in effect immediately prior to April 20, 1995, has been granted to the person under sections 3702.51 to 3702.62 of the Revised Code after August 5, 1989;

(ii) A county home or district home that is or has been licensed as a residential care facility.

(c) "Home" does not mean any of the following:

(i) Except as provided in division (A)(1)(b) of this section, a public hospital or hospital as defined in section 3701.01 or 5122.01 of the Revised Code;

(ii) A residential facility for mentally ill persons as defined under section 5119.22 of the Revised Code;

(iii) A residential facility as defined in section 5123.19 of the Revised Code;

~~(iv) A community alternative home as defined in section 3724.01 of the Revised Code;~~

~~(v) An adult care facility as defined in section 3722.01 of the Revised Code;~~

~~(vi)~~(v) An alcohol or drug addiction program as defined in section 3793.01 of the Revised Code;

~~(vii)~~(vi) A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;

~~(viii)~~(vii) A facility providing services under contract with the department of mental retardation and developmental disabilities under section 5123.18 of the Revised Code;

~~(ix)~~(viii) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;

~~(x)~~(ix) A facility, infirmary, or other entity that is operated by a religious order, provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related, and does not participate in the medicare program established under Title XVIII of the "Social Security Act" or the medical assistance program established under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," if on January 1, 1994, the facility, infirmary, or entity was providing care exclusively to members of the religious order;

~~(xi)~~(x) A county home or district home that has never been licensed as a residential care facility.

(2) "Unrelated individual" means one who is not related to the owner or operator of a home or to the spouse of the owner or operator as a parent, grandparent, child, grandchild, brother, sister, niece, nephew, aunt, uncle, or as the child of an aunt or uncle.

(3) "Mental impairment" does not mean mental illness as defined in section 5122.01 of the Revised Code or mental retardation as defined in section 5123.01 of the Revised Code.

(4) "Skilled nursing care" means procedures that require technical skills and knowledge beyond those the untrained person possesses and that are commonly employed in providing for the physical, mental, and emotional needs of the ill or otherwise incapacitated. "Skilled nursing care" includes, but is not limited to, the following:

(a) Irrigations, catheterizations, application of dressings, and supervision of special diets;

(b) Objective observation of changes in the patient's condition as a means of analyzing and determining the nursing care required and the need for further medical diagnosis and treatment;

(c) Special procedures contributing to rehabilitation;

(d) Administration of medication by any method ordered by a physician, such as hypodermically, rectally, or orally, including observation of the patient after receipt of the medication;

(e) Carrying out other treatments prescribed by the physician that involve a similar level of complexity and skill in administration.

(5)(a) "Personal care services" means services including, but not limited to, the following:

(i) Assisting residents with activities of daily living;

(ii) Assisting residents with self-administration of medication, in accordance with rules adopted under section 3721.04 of the Revised Code;

(iii) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted under section 3721.04 of the Revised Code.

(b) "Personal care services" does not include "skilled nursing care" as defined in division (A)(4) of this section. A facility need not provide more than one of the services listed in division (A)(5)(a) of this section to be considered to be providing personal care services.

(6) "Nursing home" means a home used for the reception and care of individuals who by reason of illness or physical or mental impairment require skilled nursing care and of individuals who require personal care services but not skilled nursing care. A nursing home is licensed to provide personal care services and skilled nursing care.

(7) "Residential care facility" means a home that provides either of the following:

(a) Accommodations for seventeen or more unrelated individuals and supervision and personal care services for three or more of those individuals who are dependent on the services of others by reason of age or physical or mental impairment;

(b) Accommodations for three or more unrelated individuals, supervision and personal care services for at least three of those individuals who are dependent on the services of others by reason of age or physical or mental impairment, and, to at least one of those individuals, any of the skilled nursing care authorized by section 3721.011 of the Revised Code.

(8) "Home for the aging" means a home that provides services as a residential care facility and a nursing home, except that the home provides its services only to individuals who are dependent on the services of others by reason of both age and physical or mental impairment.

The part or unit of a home for the aging that provides services only as a residential care facility is licensed as a residential care facility. The part or unit that may provide skilled nursing care beyond the extent authorized by section 3721.011 of the Revised Code is licensed as a nursing home.

(9) "County home" and "district home" mean a county home or district home operated under Chapter 5155. of the Revised Code.

(B) The public health council may further classify homes. For the purposes of this chapter, any residence, institution, hotel, congregate housing project, or similar facility that meets the definition of a home under this section is such a home regardless of how the facility holds itself out to the public.

(C) For purposes of this chapter, personal care services or skilled nursing care shall be considered to be provided by a facility if they are provided by a person employed by or associated with the facility or by another person pursuant to an agreement to which neither the resident who receives the services nor the resident's sponsor is a party.

(D) Nothing in division (A)(4) of this section shall be construed to permit skilled nursing care to be imposed on an individual who does not require skilled nursing care.

Nothing in division (A)(5) of this section shall be construed to permit personal care services to be imposed on an individual who is capable of performing the activity in question without assistance.

(E) Division (A)(1)(c)~~(*)~~(ix) of this section does not prohibit a facility, infirmary, or other entity described in that division from seeking licensure under sections 3721.01 to 3721.09 of the Revised Code or certification

under Title XVIII or XIX of the "Social Security Act." However, such a facility, infirmary, or entity that applies for licensure or certification must meet the requirements of those sections or titles and the rules adopted under them and obtain a certificate of need from the director of health under section 3702.52 of the Revised Code.

(F) Nothing in this chapter, or rules adopted pursuant to it, shall be construed as authorizing the supervision, regulation, or control of the spiritual care or treatment of residents or patients in any home who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination.

Sec. 3721.02. (A) The director of health shall license homes and establish procedures to be followed in inspecting and licensing homes. The director may inspect a home at any time. Each home shall be inspected by the director at least once prior to the issuance of a license and at least once every fifteen months thereafter. The state fire marshal or a township, municipal, or other legally constituted fire department approved by the marshal shall also inspect a home prior to issuance of a license, at least once every fifteen months thereafter, and at any other time requested by the director. A home does not have to be inspected prior to issuance of a license by the director, state fire marshal, or a fire department if ownership of the home is assigned or transferred to a different person and the home was licensed under this chapter immediately prior to the assignment or transfer. The director may enter at any time, for the purposes of investigation, any institution, residence, facility, or other structure that has been reported to the director or that the director has reasonable cause to believe is operating as a nursing home, residential care facility, or home for the aging without a valid license required by section 3721.05 of the Revised Code or, in the case of a county home or district home, is operating despite the revocation of its residential care facility license. The director may delegate the director's authority and duties under this chapter to any division, bureau, agency, or official of the department of health.

(B) A single facility may be licensed both as a nursing home pursuant to this chapter and as an adult care facility pursuant to Chapter 3722. of the Revised Code if the director determines that the part or unit to be licensed as a nursing home can be maintained separate and discrete from the part or unit to be licensed as an adult care facility.

(C) In determining the number of residents in a home for the purpose of licensing, the director shall consider all the individuals for whom the home provides accommodations as one group unless one of the following is the case:

(1) The home is a home for the aging, in which case all the individuals in the part or unit licensed as a nursing home shall be considered as one group, and all the individuals in the part or unit licensed as a rest home shall be considered as another group.

(2) The home is both a nursing home and an adult care facility. In that case, all the individuals in the part or unit licensed as a nursing home shall be considered as one group, and all the individuals in the part or unit licensed as an adult care facility shall be considered as another group.

(3) The home maintains, in addition to a nursing home or residential care facility, a separate and discrete part or unit that provides accommodations to individuals who do not require or receive skilled nursing care and do not receive personal care services from the home, in which case the individuals in the separate and discrete part or unit shall not be considered in determining the number of residents in the home if the separate and discrete part or unit is in compliance with the Ohio basic building code established by the board of building standards under Chapters 3781. and 3791. of the Revised Code and the home permits the director, on request, to inspect the separate and discrete part or unit and speak with the individuals residing there, if they consent, to determine whether the separate and discrete part or unit meets the requirements of this division.

(D)(1) The director of health shall charge ~~an~~ the following application fee and ~~an~~ annual renewal licensing and inspection fee ~~of one hundred seventy dollars~~ for each fifty persons or part thereof of a home's licensed capacity:

(a) For state fiscal year 2010, two hundred twenty dollars;

(b) For state fiscal year 2011, two hundred seventy dollars;

(c) For each state fiscal year thereafter, three hundred twenty dollars.

~~All~~

(2) All fees collected by the director for the issuance or renewal of licenses shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code for use only in administering and enforcing this chapter and rules adopted under it.

(E)(1) Except as otherwise provided in this section, the results of an inspection or investigation of a home that is conducted under this section, including any statement of deficiencies and all findings and deficiencies cited in the statement on the basis of the inspection or investigation, shall be used solely to determine the home's compliance with this chapter or another chapter of the Revised Code in any action or proceeding other than an action commenced under division (I) of section 3721.17 of the Revised Code. Those results of an inspection or investigation, that statement of

deficiencies, and the findings and deficiencies cited in that statement shall not be used in any court or in any action or proceeding that is pending in any court and are not admissible in evidence in any action or proceeding unless that action or proceeding is an appeal of an action by the department of health under this chapter or is an action by any department or agency of the state to enforce this chapter or another chapter of the Revised Code.

(2) Nothing in division (E)(1) of this section prohibits the results of an inspection or investigation conducted under this section from being used in a criminal investigation or prosecution.

Sec. 3721.071. The buildings in which a home is housed shall be equipped with both an automatic fire extinguishing system and fire alarm system. Such systems shall conform to standards set forth in the regulations of the board of building standards and the state fire marshal.

The time for compliance with the requirements imposed by this section shall be January 1, 1975, except that the date for compliance with the automatic fire extinguishing requirements is extended to January 1, 1976, provided the buildings of the home are otherwise in compliance with fire safety laws and regulations and:

(A) The home within thirty days after August 4, 1975, files a written plan with the state fire marshal's office that:

(1) Outlines the interim safety procedures which shall be carried out to reduce the possibility of a fire;

(2) Provides evidence that the home has entered into an agreement for a fire safety inspection to be conducted not less than monthly by a qualified independent safety engineer consultant or a township, municipal, or other legally constituted fire department, or by a township or municipal fire prevention officer;

(3) Provides verification that the home has entered into a valid contract for the installation of an automatic fire extinguishing system or fire alarm system, or both, as required to comply with this section;

(4) Includes a statement regarding the expected date for the completion of the fire extinguishing system or fire alarm system, or both.

(B) Inspections by a qualified independent safety engineer consultant or a township, municipal, or other legally constituted fire department, or by a township or municipal fire prevention officer are initiated no later than sixty days after August 4, 1975, and are conducted no less than monthly thereafter, and reports of the consultant, fire department, or fire prevention officer identifying existing hazards and recommended corrective actions are submitted to the state fire marshal, the division of ~~industrial compliance~~ labor in the department of commerce, and the department of health.

It is the express intent of the general assembly that the department of job and family services shall terminate payments under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, to those homes which do not comply with the requirements of this section for the submission of a written fire safety plan and the deadline for entering into contracts for the installation of systems.

Sec. 3721.23. (A) The director of health shall receive, review, and investigate allegations of abuse or neglect of a resident or misappropriation of the property of a resident by any individual used by a long-term care facility or residential care facility to provide services to residents.

(B) The director shall make findings regarding alleged abuse, neglect, or misappropriation of property after doing both of the following:

(1) Investigating the allegation and determining that there is a reasonable basis for it;

(2) Giving notice to the individual named in the allegation and affording the individual a reasonable opportunity for a hearing.

Notice to the person named in an allegation shall be given and the hearing shall be conducted pursuant to rules adopted by the director under section 3721.26 of the Revised Code. For purposes of conducting a hearing under this section, the director may issue subpoenas compelling attendance of witnesses or production of documents. The subpoenas shall be served in the same manner as subpoenas and subpoenas duces tecum issued for a trial of a civil action in a court of common pleas. If a person who is served a subpoena fails to attend a hearing or to produce documents, or refuses to be sworn or to answer any questions, the director may apply to the common pleas court of the county in which the person resides, or the county in which the long-term care facility or residential care facility is located, for a contempt order, as in the case of a failure of a person who is served a subpoena issued by the court to attend or to produce documents or a refusal of such person to testify.

(C)(1) If the director finds that an individual used by a long-term care facility or residential care facility has neglected or abused a resident or misappropriated property of a resident, the director shall notify the individual, the facility using the individual, and the attorney general, county prosecutor, or other appropriate law enforcement official. The director also shall do the following:

(a) If the individual is used by a long-term care facility as a nurse aide, the director shall, in accordance with section 3721.32 of the Revised Code, include in the nurse aide registry established under that section a statement detailing the findings pertaining to the individual.

(b) If the individual is a licensed health professional used by a long-term care facility or residential care facility to provide services to residents, the director shall notify the appropriate professional licensing authority established under Title XLVII of the Revised Code.

(c) If the individual is used by a long-term care facility and is neither a nurse aide nor a licensed health professional, or is used by a residential care facility and is not a licensed health professional, the director shall, in accordance with section 3721.32 of the Revised Code, include in the nurse aide registry a statement detailing the findings pertaining to the individual.

(2) A nurse aide or other individual about whom a statement is required by this division to be included in the nurse aide registry may provide the director with a statement disputing the director's findings and explaining the circumstances of the allegation. The statement shall be included in the nurse aide registry with the director's findings.

(D)(1) If the director finds that alleged neglect or abuse of a resident or misappropriation of property of a resident cannot be substantiated, the director shall notify the individual and expunge all files and records of the investigation and the hearing by doing all of the following:

(a) Removing and destroying the files and records, originals and copies, and deleting all index references;

(b) Reporting to the individual the nature and extent of any information about the individual transmitted to any other person or government entity by the director of health;

(c) Otherwise ensuring that any examination of files and records in question show no record whatever with respect to the individual.

(2)(a) If, in accordance with division (C)(1)(a) or (c) of this section, the director includes in the nurse aide registry a statement of a finding of neglect, the individual found to have neglected a resident may, not earlier than one year after the date of the finding, petition the director to rescind the finding and remove the statement and any accompanying information from the nurse aide registry. The director shall consider the petition. If, in the judgment of the director, the neglect was a singular occurrence and the employment and personal history of the individual does not evidence abuse or any other incident of neglect of residents, the director shall notify the individual and remove the statement and any accompanying information from the nurse aide registry. The director shall expunge all files and records of the investigation and the hearing, except the petition for rescission of the finding of neglect and the director's notice that the rescission has been approved.

(b) A petition for rescission of a finding of neglect and the director's

notice that the rescission has been approved are not public records for the purposes of section 149.43 of the Revised Code.

(3) When files and records have been expunged under division (D)(1) or (2) of this section, all rights and privileges are restored, and the individual, the director, and any other person or government entity may properly reply to an inquiry that no such record exists as to the matter expunged.

Sec. 3721.50. As used in sections 3721.50 to 3721.58 of the Revised Code:

(A) "Franchise permit fee rate" means the amount determined as follows:

(1) Determine the difference between the following:

(a) The total net patient revenue, less medicaid per diem payments, of all nursing homes and hospital long-term care units as shown on cost reports filed under section 5111.26 of the Revised Code for the calendar year immediately preceding the fiscal year for which the franchise permit fee is assessed under section 3721.51 of the Revised Code;

(b) The total net patient revenue, less medicaid per diem payments, of all nursing homes and hospital long-term care units as shown on cost reports filed under section 5111.26 of the Revised Code for the calendar year immediately preceding the calendar year that immediately precedes the fiscal year for which the franchise permit fee is assessed under section 3721.51 of the Revised Code.

(2) Multiply the amount determined under division (A)(1) of this section by five and five-tenths per cent;

(3) Divide the amount determined under division (A)(2) of this section by the total number of days in the fiscal year for which the franchise permit fee is assessed under section 3721.51 of the Revised Code;

(4) Subtract eleven dollars and ninety-five cents from the amount determined under division (A)(3) of this section;

(5) Add eleven dollars and ninety-five cents to the amount determined under division (A)(4) of this section.

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

~~(B)~~(C) "Hospital long-term care unit" means any distinct part of a hospital in which any of the following beds are located:

(1) Beds registered pursuant to section 3701.07 of the Revised Code as skilled nursing facility beds or long-term care beds;

(2) Beds licensed as nursing home beds under section 3721.02 or 3721.09 of the Revised Code.

(D) "Inpatient days" means all days during which a resident of a nursing

facility, regardless of payment source, occupies a bed in the nursing facility that is included in the facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.26 of the Revised Code are considered inpatient days proportionate to the percentage of the facility's per resident per day rate paid for those days.

~~(C)~~(E) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

~~(D)~~(F) "Medicaid day" means all days during which a resident who is a medicaid recipient occupies a bed in a nursing facility that is included in the facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.26 of the Revised Code are considered medicaid days proportionate to the percentage of the nursing facility's per resident per day rate for those days.

~~(E)~~(G) "Medicare" means the program established by Title XVIII.

~~(H)~~ "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

~~(F)~~(I)(1) "Nursing home" means all of the following:

(a) A nursing home licensed under section 3721.02 or 3721.09 of the Revised Code, including any part of a home for the aging licensed as a nursing home;

(b) A facility or part of a facility, other than a hospital, that is certified as a skilled nursing facility under Title XVIII;

(c) A nursing facility, other than a portion of a hospital certified as a nursing facility.

(2) "Nursing home" does not include any of the following:

(a) A county home, county nursing home, or district home operated pursuant to Chapter 5155. of the Revised Code;

(b) A nursing home maintained and operated by the Ohio veterans' home agency under section 5907.01 of the Revised Code;

(c) A nursing home or part of a nursing home licensed under section 3721.02 or 3721.09 of the Revised Code that is certified as an intermediate care facility for the mentally retarded under Title XIX.

~~(G)~~(J) "Title XIX" means Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended.

~~(H)~~(K) "Title XVIII" means Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.

Sec. 3721.51. The department of job and family services shall do all of the following:

(A) Subject to ~~division~~ sections 3721.512 and 3721.513 of the Revised Code and divisions (C) and (D) of this section and for the purposes specified

in sections 3721.56 and 3721.561 of the Revised Code, determine an annual franchise permit fee on each nursing home in an amount equal to ~~six dollars and twenty-five cents~~; the franchise permit fee rate multiplied by the product of the following:

(1) The number of beds licensed as nursing home beds, plus any other beds certified as skilled nursing facility beds under Title XVIII or nursing facility beds under Title XIX on the first day of May of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code;

(2) The number of days in the fiscal year beginning on the first day of July of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code.

(B) Subject to ~~division~~ sections 3721.512 and 3721.513 of the Revised Code and divisions (C) and (D) of this section and for the purposes specified in sections 3721.56 and 3721.561 of the Revised Code, determine an annual franchise permit fee on each hospital in an amount equal to ~~six dollars and twenty-five cents~~; the franchise permit fee rate multiplied by the product of the following:

(1) The number of beds registered pursuant to section 3701.07 of the Revised Code as skilled nursing facility beds or long-term care beds, plus any other beds licensed as nursing home beds under section 3721.02 or 3721.09 of the Revised Code, on the first day of May of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code;

(2) The number of days in the fiscal year beginning on the first day of July of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code.

(C) If the total amount of the franchise permit fee assessed under divisions (A) and (B) of this section for a fiscal year exceeds five and one-half per cent of the actual net patient revenue for all nursing homes and hospital long-term care units for that fiscal year, do both of the following:

(1) Recalculate the assessments under divisions (A) and (B) of this section using a per bed per day rate equal to five and one-half per cent of actual net patient revenue for all nursing homes and hospital long-term care units for that fiscal year;

(2) Refund the difference between the amount of the franchise permit fee assessed for that fiscal year under divisions (A) and (B) of this section and the amount recalculated under division (C)(1) of this section as a credit against the assessments imposed under divisions (A) and (B) of this section for the subsequent fiscal year.

(D) If the United States centers for medicare and medicaid services determines that the franchise permit fee established by sections 3721.50 to 3721.58 of the Revised Code is an impermissible health care related tax under section 1903(w) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as amended, take all necessary actions to cease implementation of sections 3721.50 to 3721.58 of the Revised Code in accordance with rules adopted under section 3721.58 of the Revised Code.

Sec. 3721.511. (A) Not later than four months after the effective date of this section, the department of job and family services shall apply to the United States secretary of health and human services for a waiver under 42 U.S.C. 1396b(w)(3)(E) as necessary to do both of the following regarding the franchise permit fee imposed by section 3721.51 of the Revised Code:

(1) Reduce the franchise permit fee to zero dollars for each nursing home licensed under section 3721.02 or 3721.09 of the Revised Code to which either of the following applies:

(a) The nursing home:

(i) Is exempt from state taxation under section 140.08 of the Revised Code or is exempt from state taxation as a home for the aged as defined in section 5701.13 of the Revised Code;

(ii) Is exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986;

(iii) Does not participate in medicaid or medicare; and

(iv) Provides services for the life of each resident without regard to the resident's ability to secure payment for the services.

(b) The nursing home:

(i) Has had a written affiliation agreement with a university in this state for education and research related to Alzheimer's disease for each of the twenty years preceding the effective date of this section and has such an agreement on the effective date of this section;

(ii) Was constructed pursuant to a certificate of need granted under Section 3 of Am. Sub. S.B. 256 of the 116th General Assembly; and

(iii) Does not participate in medicaid or medicare.

(2) For each nursing facility with more than two hundred beds certified as nursing facility beds under Title XIX, reduce the franchise permit fee for a number of the nursing facility's beds specified by the department to the amount necessary to obtain approval of the waiver sought under this section.

(B) The effective date of the waiver sought under this section shall be the first day of the calendar quarter beginning after the United States secretary approves the waiver.

Sec. 3721.512. If the United States secretary of health and human

services approves the waiver sought under section 3721.511 of the Revised Code, the department of job and family services shall, for each nursing home and hospital that qualifies for a reduction of its franchise permit fee under the waiver, reduce the franchise permit fee in accordance with the terms of the waiver. For purposes of the first fiscal year during which the waiver takes effect, the department shall determine the amount of the reduction not later than the effective date of the waiver and shall mail to each nursing home and hospital qualifying for the reduction notice of the reduction not later than the last day of the first month of the calendar quarter that begins after the United States secretary approves the waiver. For purposes of subsequent fiscal years, the department shall make such determinations and mail such notices in accordance with section 3721.53 of the Revised Code.

Sec. 3721.513. (A) If the United States secretary of health and human services approves the waiver sought under section 3721.511 of the Revised Code, the department of job and family services may do both of the following regarding the franchise permit fee imposed by section 3721.51 of the Revised Code:

(1) Determine how much money the franchise permit fee would have raised in a fiscal year if not for the waiver;

(2) For each nursing home and hospital subject to the franchise permit fee, other than a nursing home or hospital that has its franchise permit fee reduced under section 3721.512 of the Revised Code, uniformly increase the amount of the franchise permit fee for a fiscal year to an amount that will have the franchise permit fee raise an amount of money that does not exceed the amount determined under division (A)(1) of this section for that fiscal year.

(B) If the department increases the franchise permit fee in accordance with division (A) of this section for the first fiscal year during which the waiver takes effect, the department shall determine the amount of the increase not later than the effective date of the waiver and shall mail to each nursing home and hospital subject to the increase notice of the increase not later than the last day of the first month of the calendar quarter that begins after the United States secretary approves the waiver. If the department increases the franchise permit fee in accordance with division (A) of this section for a subsequent fiscal year, the department shall make such determinations and mail such notices in accordance with section 3721.53 of the Revised Code.

Sec. 3721.53. (A) Not later than the fifteenth day of ~~August~~ September of each year, the department of job and family services shall determine the

annual franchise permit fee for each nursing home and hospital in accordance with ~~division (A) of~~ section 3721.51 of the Revised Code and ~~the annual franchise permit fee for each hospital~~ any adjustments made in accordance with ~~division (B) of that section~~ sections 3721.512 and 3721.513 of the Revised Code.

(B) Not later than the first day of ~~September~~ October of each year, the department shall mail to each nursing home and hospital notice of the amount of the franchise permit fee that has been determined for the nursing home or hospital.

(C) Each nursing home and hospital shall pay its fee under section 3721.51 of the Revised Code, as adjusted in accordance with sections 3721.512 and 3721.513 of the Revised Code, to the department in ~~quarterly~~ four installment payments not later than forty-five days after the last day of each ~~September~~ October, December, March, and June.

(D) No nursing home or hospital shall directly bill its residents for the fee paid under this section, or otherwise directly pass the fee through to its residents.

Sec. 3721.55. (A) A nursing home or hospital may appeal the fee imposed under section 3721.51 of the Revised Code, as adjusted under section 3721.512 or 3721.513 of the Revised Code, solely on the grounds that the department of job and family services committed a material error in determining the amount of the fee. A request for an appeal must be received by the department not later than fifteen days after the date the department mails the notice of the fee and must include written materials setting forth the basis for the appeal.

(B) If a nursing home or hospital submits a request for an appeal within the time required under division (A) of this section, the department of job and family services shall hold a public hearing in Columbus not later than thirty days after the date the department receives the request for an appeal. The department shall, not later than ten days before the date of the hearing, mail a notice of the date, time, and place of the hearing to the nursing home or hospital. The department may hear all the requested appeals in one public hearing.

(C) On the basis of the evidence presented at the hearing or any other evidence submitted by the nursing home or hospital, the department may adjust a fee. The department's decision is final.

Sec. 3721.56. (A) There is hereby created in the state treasury the home- and community-based services for the aged fund. ~~Sixteen per cent~~ The percentage specified under division (B) of this section of all payments and penalties paid by nursing homes and hospitals under sections 3721.53 and

3721.54 of the Revised Code shall be deposited into the fund. The departments of job and family services and aging shall use the moneys in the fund to fund the following in accordance with rules adopted under section 3721.58 of the Revised Code:

~~(A)(1)~~ The medicaid program established under Chapter 5111. of the Revised Code, including the PASSPORT program established under section 173.40 of the Revised Code;

~~(B)(2)~~ The residential state supplement program established under section 173.35 of the Revised Code.

(B) The percentage specified in this division is the percentage determined by dividing one by the following:

(1) Except as provided in division (B)(2) of this section, the franchise permit fee rate;

(2) If the department of job and family services recalculates the amount of the assessments for a fiscal year under division (C) of section 3721.51 of the Revised Code, the amount of the per bed per day rate so recalculated for that fiscal year.

Sec. 3722.01. (A) As used in this chapter:

(1) "Owner" means the person who owns the business of and who ultimately controls the operation of an adult care facility and to whom the manager, if different from the owner, is responsible.

(2) "Manager" means the person responsible for the daily operation of an adult care facility. The manager and the owner of a facility may be the same person.

(3) "Adult" means an individual eighteen years of age or older.

(4) "Unrelated" means that an adult resident is not related to the owner or manager of an adult care facility or to the owner's or manager's spouse as a parent, grandparent, child, stepchild, grandchild, brother, sister, niece, nephew, aunt, or uncle, or as the child of an aunt or uncle.

(5) "Skilled nursing care" means skilled nursing care as defined in section 3721.01 of the Revised Code.

(6)(a) "Personal care services" means services including, but not limited to, the following:

(i) ~~Assisting residents~~ Assistance with activities of daily living;

(ii) ~~Assisting residents~~ Assistance with self-administration of medication, in accordance with rules adopted by the public health council pursuant to this chapter;

(iii) ~~Preparing~~ Preparation of special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted by the public health

council pursuant to this chapter.

(b) "Personal care services" does not include "skilled nursing care" as defined in section 3721.01 of the Revised Code. A facility need not provide more than one of the services listed in division (A)(6)(a) of this section for the facility to be considered to be providing personal care services.

(7) "Adult family home" means a residence or facility that provides accommodations and supervision to three to five unrelated adults ~~and supervision and personal care services to~~, at least three of ~~those adults~~ whom require personal care services.

(8) "Adult group home" means a residence or facility that provides accommodations and supervision to six to sixteen unrelated adults ~~and provides supervision and personal care services to~~, at least three of ~~the unrelated adults~~ whom require personal care services.

(9) "Adult care facility" means an adult family home or an adult group home. For the purposes of this chapter, any residence, facility, institution, hotel, congregate housing project, or similar facility that provides accommodations and supervision to three to sixteen unrelated adults, at least three of whom ~~are provided~~ require personal care services, is an adult care facility regardless of how the facility holds itself out to the public. "Adult care facility" does not include:

(a) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;

(b) A nursing home, residential care facility, or home for the aging as defined in section 3721.01 of the Revised Code;

~~(c) A community alternative home as defined in section 3724.01 of the Revised Code;~~

~~(d)~~ An alcohol and drug addiction program as defined in section 3793.01 of the Revised Code;

~~(e)~~(d) A residential facility for the mentally ill licensed by the department of mental health under section 5119.22 of the Revised Code;

~~(f)~~(e) A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;

~~(g)~~(f) A residential facility licensed under section 5123.19 of the Revised Code or otherwise regulated by the department of mental retardation and developmental disabilities;

~~(h)~~(g) Any residence, institution, hotel, congregate housing project, or similar facility that provides personal care services to fewer than three residents or that provides, for any number of residents, only housing, housekeeping, laundry, meal preparation, social or recreational activities,

maintenance, security, transportation, and similar services that are not personal care services or skilled nursing care;

~~(h)~~(h) Any facility that receives funding for operating costs from the department of development under any program established to provide emergency shelter housing or transitional housing for the homeless;

~~(i)~~(i) A terminal care facility for the homeless that has entered into an agreement with a hospice care program under section 3712.07 of the Revised Code;

~~(j)~~(j) A facility approved by the veterans administration under section 104(a) of the "Veterans Health Care Amendments of 1983," 97 Stat. 993, 38 U.S.C.A. 630, as amended, and used exclusively for the placement and care of veterans;

~~(l) Until January 1, 1994, the portion of a facility in which care is provided exclusively to members of a religious order if the facility is owned by or part of a nonprofit institution of higher education authorized to award degrees by the Ohio board of regents under Chapter 1713. of the Revised Code.~~

(10) "Residents' rights advocate" means:

(a) An employee or representative of any state or local government entity that has a responsibility for residents of adult care facilities and has registered with the department of health under section 3701.07 of the Revised Code;

(b) An employee or representative, other than a manager or employee of an adult care facility or nursing home, of any private nonprofit corporation or association that qualifies for tax-exempt status under section 501(a) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(a), as amended, that has registered with the department of health under section 3701.07 of the Revised Code, and whose purposes include educating and counseling residents, assisting residents in resolving problems and complaints concerning their care and treatment, and assisting them in securing adequate services.

(11) "Sponsor" means an adult relative, friend, or guardian of a resident of an adult care facility who has an interest in or responsibility for the resident's welfare.

(12) "Ombudsperson" means a "representative of the office of the state long-term care ombudsperson program" as defined in section 173.14 of the Revised Code.

(13) "Mental health agency" means a community mental health agency, as defined in section 5119.22 of the Revised Code, under contract with a an ADAMHS board of alcohol, drug addiction, and mental health services

pursuant to division (A)(8)(a) of section 340.03 of the Revised Code.

(14) "ADAMHS board" means a board of alcohol, drug addiction, and mental health services;

(15) "Mental health resident program participation agreement" means a written agreement between an adult care facility and the ADAMHS board serving the alcohol, drug addiction, and mental health service district in which the facility is located, under which the facility is authorized to admit residents who are receiving or are eligible for publicly funded mental health services.

(16) "PASSPORT administrative agency" means an entity under contract with the department of aging to provide administrative services regarding the PASSPORT program created under section 173.40 of the Revised Code.

(B) For purposes of this chapter, personal care services or skilled nursing care shall be considered to be provided by a facility if they are provided by a person employed by or associated with the facility or by another person pursuant to an agreement to which neither the resident who receives the services nor the resident's sponsor is a party.

(C) Nothing in division (A)(6) of this section shall be construed to permit personal care services to be imposed upon a resident who is capable of performing the activity in question without assistance.

Sec. 3722.011. ~~(A) All medication taken by residents of an adult care facility shall be self-administered, except that medication may be administered to a resident by a home health agency, hospice care program, nursing home staff, mental health agency, or board of alcohol, drug addiction, and mental health services under as part of the skilled nursing care provided in accordance with~~ division (B) of section 3722.16 of the Revised Code. ~~Members of the staff of an adult care facility shall not administer medication to residents.~~ No person shall be admitted to or retained by an adult care facility unless the person is capable of ~~taking self-administering~~ the person's ~~own~~ medication ~~and biologicals~~, as determined in writing by ~~the person's personal~~ a physician, except that a person may be admitted to or retained by such a facility if the person's medication is administered ~~by a home health agency, hospice care program, nursing home staff, mental health agency, or board of alcohol, drug addiction, and mental health services under as part of the skilled nursing care provided in accordance with~~ division (B) of section 3722.16 of the Revised Code. ~~Members~~

(B) Members of the staff of an adult care facility shall not administer medication to residents but may do any of the following:

(A) Remind a resident when to take medication and watch to ensure that the resident follows the directions on the container;

(B) Assist a resident in the self-administration of medication by taking the medication from the locked area where it is stored, in accordance with rules adopted by the public health council pursuant to this chapter, and handing it to the resident. If the resident is physically unable to open the container, a staff member may open the container for the resident.

(C) Assist a physically impaired but mentally alert resident, such as a resident with arthritis, cerebral palsy, or Parkinson's disease, in removing oral or topical medication from containers and in consuming or applying the medication, upon request by or with the consent of the resident. If a resident is physically unable to place a dose of medicine to the resident's mouth without spilling it, a staff member may place the dose in a container and place the container to the mouth of the resident.

Sec. 3722.02. A person seeking a license to operate an adult care facility shall submit to the director of health an application on a form prescribed by the director and the following:

(A) In the case of an adult group home seeking licensure as an adult care facility, evidence that the home has been inspected and approved by a local certified building department or by the division of ~~industrial compliance~~ labor in the department of commerce as meeting the applicable requirements of sections 3781.06 to 3781.18 and 3791.04 of the Revised Code and any rules adopted under those sections and evidence that the home has been inspected by the state fire marshal or fire prevention officer of a municipal, township, or other legally constituted fire department approved by the state fire marshal and found to be in compliance with rules adopted under section 3737.83 of the Revised Code regarding fire prevention and safety in adult group homes;

(B) Valid approvals of the facility's water and sewage systems issued by the responsible governmental entity, if applicable;

(C) A statement of ownership containing the following information:

(1) If the owner is an individual, the owner's name, address, telephone number, business address, business telephone number, and occupation. If the owner is an association, corporation, or partnership, the business activity, address, and telephone number of the entity and the name of every person who has an ownership interest of five per cent or more in the entity.

(2) If the owner does not own the building or if the owner owns only part of the building in which the facility is housed, the name of each person who has an ownership interest of five per cent or more in the building;

(3) The address of any adult care facility and any facility described in

divisions (A)(9)(a) to ~~(h)(j)~~ of section 3722.01 of the Revised Code in which the owner has an ownership interest of five per cent or more;

(4) The identity of the manager of the adult care facility, if different from the owner;

(5) The name and address of any adult care facility and any facility described in divisions (A)(9)(a) to ~~(h)(j)~~ of section 3722.01 of the Revised Code with which either the owner or manager has been affiliated through ownership or employment in the five years prior to the date of the application;

(6) The names and addresses of three persons not employed by or associated in business with the owner who will provide information about the character, reputation, and competence of the owner and the manager and the financial responsibility of the owner;

(7) Information about any arrest of the owner or manager for, or adjudication or conviction of, a criminal offense related to the provision of care in an adult care facility or any facility described in divisions (A)(9)(a) to ~~(h)(j)~~ of section 3722.01 of the Revised Code or the ability to operate a facility;

(8) Any other information the director may require regarding the owner's ability to operate the facility.

(D) If the facility is an adult group home, a balance sheet showing the assets and liabilities of the owner and a statement projecting revenues and expenses for the first twelve months of the facility's operation;

~~(E) Proof of insurance in an amount and type determined in rules adopted by the public health council pursuant to this chapter to be adequate;~~
A statement containing the following information regarding admissions to the facility:

(1) The intended bed capacity of the facility;

(2) If the facility will admit persons referred by or receiving services from an ADAMHS board or a mental health agency, the total number of beds anticipated to be occupied as a result of those admissions.

(F) A nonrefundable license application fee in an amount established in rules adopted by the public health council pursuant to this chapter.

Sec. 3722.021. In determining the number of residents in a facility for the purpose of licensure under this chapter, the director of health shall consider all the individuals for whom the facility provides accommodations as one group unless either of the following is the case:

(A) The In addition to being an adult care facility, the facility is both a nursing home licensed under Chapter 3721. of the Revised Code and an adult care facility, a residential facility licensed under that chapter, or both.

In that case, all the individuals in the part or unit licensed as a nursing home, residential care facility, or both, shall be considered as one group and all the individuals in the part or unit licensed as an adult care facility shall be considered as another group.

(B) The facility maintains, in addition to an adult care facility, a separate and discrete part or unit that provides accommodations to individuals who do not receive supervision or personal care services from the adult care facility, in which case the individuals in the separate and discrete part or unit shall not be considered in determining the number of residents in the adult care facility if the separate and discrete part or unit is in compliance with the Ohio basic building code established by the board of building standards under Chapters 3781. and 3791. of the Revised Code and the adult care facility, to the extent of its authority, permits the director, on request, to inspect the separate and discrete part or unit and speak with the individuals residing there, if they consent, to determine whether the separate and discrete part or unit meets the requirements of this division.

Sec. 3722.022. A person may not apply for a license to operate an adult care facility if the person is or has been the owner or manager of an adult care facility for which a license to operate was revoked or for which renewal of a license was refused for any reason other than nonpayment of the license renewal fee, unless both of the following conditions are met:

(A) A period of not less than two years has elapsed since the date the director of health issued the order revoking or refusing to renew the facility's license.

(B) The director's revocation or refusal to renew the license was not based on an act or omission at the facility that violated a resident's right to be free from abuse, neglect, or exploitation.

Sec. 3722.04. (A)(~~1~~) The director of health shall inspect, license, and regulate adult care facilities. Except as otherwise provided in division (D) of this section, the director shall issue a license to an adult care facility that meets the requirements of section 3722.02 of the Revised Code and that the director determines to be in substantial compliance with the rules adopted by the public health council pursuant to this chapter. The director shall consider the past record of the owner and manager and any individuals who are principal participants in an entity that is the owner or manager in operating facilities providing care to adults. The director may, in accordance with Chapter 119. of the Revised Code, deny a license if the past record indicates that the owner or manager is not suitable to own or manage an adult care facility.

The license shall contain the name and address of the facility for which

it was issued, the date of expiration of the license, and the maximum number of residents that may be accommodated by the facility. A license for an adult care facility shall be valid for a period of two years after the date of issuance. No single facility may be licensed to operate as more than one adult care facility.

~~(2) Notwithstanding division (A)(1) of this section and sections 3722.02 and 3722.041 of the Revised Code, the director may issue a temporary license if the requirements of divisions (C), (D), and (F) of section 3722.02 of the Revised Code have been met. A temporary license shall be valid for a period of ninety days and, except as otherwise provided in division (A)(3) of section 3722.05 of the Revised Code, may be renewed, without payment of an additional application fee, for an additional ninety days.~~

(B) The director shall renew a license for a two-year period if the facility continues to be in compliance with the requirements of this chapter and in substantial compliance with the rules adopted under this chapter. The owner shall submit a nonrefundable license renewal application fee in an amount established in rules adopted by the public health council pursuant to this chapter. Before the license of an adult group home is renewed, if any alterations have been made to the buildings, a certificate of occupancy for the facility shall have been issued by the division of ~~industrial compliance~~ labor in the department of commerce or a local certified building department. The facility shall have water and sewage system approvals, if required by law, and, in the case of an adult group home, documentation of continued compliance with the rules adopted by the state fire marshal under division (F) of section 3737.83 of the Revised Code.

~~(C) The (1) During each licensure period, the director shall make at least one unannounced inspection of an adult care facility during each licensure period in addition to inspecting the facility to determine whether a license should be issued or renewed, and may make additional unannounced inspections as the director considers necessary. Other inspections may be made at any time that the director considers appropriate. The~~

The director shall take all reasonable actions to avoid giving notice of an inspection by the manner in which the inspection is scheduled or performed. ~~Not~~

If an inspection is conducted to investigate an alleged violation of the requirements of this chapter in a facility with residents referred by or receiving services from a mental health agency or ADAMHS board or a facility with residents receiving assistance under the residential state supplement program administered by the department of aging pursuant to section 173.35 of the Revised Code, the director shall coordinate the

inspection with the appropriate mental health agency, ADAMHS board, or PASSPORT administrative agency. As the director considers appropriate, the director shall conduct the inspection jointly with the mental health agency, ADAMHS board, or PASSPORT administrative agency.

Not later than sixty days after the date of an inspection of a facility, the director shall send a report of the inspection to the ombudsperson in whose region the facility is located. ~~The~~

(2) The state fire marshal or fire prevention officer of a municipal, township, or other legally constituted fire department approved by the state fire marshal shall inspect an adult group home seeking a license or renewal under this chapter as an adult care facility prior to issuance of a license or renewal, at least once annually thereafter, and at any other time at the request of the director, to determine compliance with the rules adopted under division (F) of section 3737.83 of the Revised Code.

(D) The director may waive any of the licensing requirements ~~having to do with fire and safety requirements or building standards~~ established by rule adopted by the public health council pursuant to this chapter upon written request of the facility. The director may grant a waiver if the director determines that the strict application of the licensing requirement would cause undue hardship to the facility and that granting the waiver would not jeopardize the health or safety of any resident. The director may provide a facility with an informal hearing concerning the denial of a waiver request, but the facility shall not be entitled to a hearing under Chapter 119. of the Revised Code unless the director takes an action that requires a hearing to be held under section 3722.05 of the Revised Code.

(E)(1) Not later than thirty days after each of the following, the owner of an adult care facility shall submit an inspection fee of twenty dollars for each bed for which the facility is licensed:

(a) Issuance or renewal of a license, ~~other than a temporary license;~~

(b) The unannounced inspection required by division (C)(1) of this section that is in addition to the inspection conducted to determine whether a license should be issued or renewed;

(c) If, during an inspection conducted in addition to the two inspections required by division (C)(1) of this section, the facility was found to be in violation of this chapter or the rules adopted under it, receipt by the facility of the report of that investigation.

(2) The director may revoke the license of any adult care facility that fails to submit the fee within the thirty-day period.

(3) All inspection fees received by the director, all civil penalties assessed under section 3722.08 of the Revised Code, all fines imposed under

section 3722.99 of the Revised Code, and all license application and renewal application fees received under division (F) of section 3722.02 of the Revised Code or under division (B) of this section shall be deposited into the general operations fund created in section 3701.83 of the Revised Code and shall be used only to pay the costs of administering and enforcing the requirements of this chapter and rules adopted under it.

(F)(1) An owner shall inform the director in writing of any changes in the information contained in the statement of ownership made pursuant to division (C) of section 3722.02 of the Revised Code or in the identity of the manager, not later than ten days after the change occurs.

(2) An owner who sells or transfers an adult care facility shall be responsible and liable for the following:

(a) Any civil penalties imposed against the facility under section 3722.08 of the Revised Code for violations that occur before the date of transfer of ownership or during any period in which the seller or the seller's agent operates the facility;

(b) Any outstanding liability to the state, unless the buyer or transferee has agreed, as a condition of the sale or transfer, to accept the outstanding liabilities and to guarantee their payment, except that if the buyer or transferee fails to meet these obligations the seller or transferor shall remain responsible for the outstanding liability.

(G) The director shall annually publish a list of licensed adult care facilities, facilities ~~whose for which~~ licenses have been revoked ~~or not renewed~~, facilities for which license renewal has been refused, any facilities under an order suspending admissions pursuant to section 3722.07 of the Revised Code, and any facilities that have been assessed a civil penalty pursuant to section 3722.08 of the Revised Code. The director shall furnish information concerning the status of licensure of any facility to any person upon request. The director shall annually send a copy of the list to the department of job and family services, to the department of mental health, and to the department of aging.

Sec. 3722.041. (A) Sections 3781.06 to 3781.18 and 3791.04 of the Revised Code do not apply to an adult family home for which application is made to the director of health for licensure as an adult care facility under this chapter. Adult family homes shall not be required to submit evidence to the director of health that the home has been inspected by a local certified building department or the division of ~~industrial compliance~~ labor in the department of commerce or by the state fire marshal or a fire prevention officer under section 3722.02 of the Revised Code, but shall be inspected by the director of health to determine compliance with this section. An

inspection made under this section may be made at the same time as an inspection made under section 3722.04 of the Revised Code.

(B) The director shall not license or renew the license of an adult family home unless it meets the fire protection standards established by rules adopted by the public health council pursuant to this chapter.

Sec. 3722.05. ~~(A)(1)~~ If an adult care facility fails to comply with any requirement of this chapter or with any rule adopted pursuant to this chapter, the director of health may do any one or all of the following:

~~(a)~~(A) In accordance with Chapter 119. of the Revised Code, deny, revoke, or refuse to renew the license of the facility;

~~(b)~~(B) Give the facility an opportunity to correct the violation, in accordance with section 3722.06 of the Revised Code;

~~(c)~~(C) Issue an order suspending the admission of residents to the facility, in accordance with section 3722.07 of the Revised Code;

~~(d)~~(D) Impose a civil penalty in accordance with section 3722.08 of the Revised Code;

~~(e)~~(E) Petition the court of common pleas for injunctive relief in accordance with section 3722.09 of the Revised Code.

~~(2) The director may refuse to renew the temporary license of any adult care facility for failure to make reasonable progress toward compliance with the requirements for licensure under section 3722.02 of the Revised Code and rules adopted by the public health council pursuant to this chapter. The director may revoke a temporary license upon a finding that the facility jeopardizes the health or safety of any of its residents. Proceedings initiated to deny, revoke, or refuse to renew a temporary license are not subject to Chapter 119. of the Revised Code.~~

~~(3) The director may renew a temporary license for the duration of proceedings under Chapter 119. of the Revised Code regarding the denial of a permanent license if he determines that the continued operation of the facility will not jeopardize the health or safety of the residents.~~

Sec. 3722.06. Except as otherwise provided in sections 3722.07 to 3722.09 of the Revised Code and except in cases of violations that jeopardize the health and safety of any of the residents, if the director determines that a licensed adult care facility is in violation of this chapter or of rules adopted pursuant to this chapter, ~~he~~ the director shall give the facility an opportunity to correct the violation. The director shall notify the facility of the violation, ~~prescribe the steps necessary to correct the condition,~~ and specify a reasonable time for making the corrections. Notice of the violation ~~and the prescribed corrections~~ shall be in writing and shall include a citation to the statute or rule violated. The director shall state the

action that ~~he~~ the director will take if the corrections are not made within the specified period of time.

The facility shall submit to the director a plan of correction stating the actions that will be taken to correct the violation. The director shall conduct an inspection to determine whether the facility has corrected the violation in accordance with the plan of correction.

If the director determines that the facility has failed to correct the violation in accordance with the plan of correction, the director may impose a penalty under section 3722.08 of the Revised Code. If the director subsequently determines that the license of the facility should be revoked or should not be renewed because the facility has failed to correct the violation within the time specified or because the violation jeopardizes the health or safety of any of the residents, the director shall revoke or refuse to renew the license in accordance with Chapter 119. of the Revised Code.

Sec. 3722.08. (A) If the director of health determines that an adult care facility is in violation of this chapter or rules adopted under it, the director may impose a civil penalty on the owner of the facility, pursuant to rules adopted by the public health council under this chapter, ~~on the owner of the facility~~. The director shall determine the classification and amount of the penalty by considering the following factors:

(1) The gravity of the violation, the severity of the actual or potential harm, and the extent to which the provisions of this chapter or rules adopted under it were violated;

(2) Actions taken by the owner or manager to correct the violation;

(3) The number, if any, of previous violations by the adult care facility.

(B) The director shall give written notice of the order imposing a civil penalty to the adult care facility by certified mail, return receipt requested, or shall provide for delivery of the notice in person. The notice shall specify the classification of the violation as determined by rules adopted by the public health council pursuant to this chapter, the amount of the penalty and the rate of interest, the action that is required to be taken to correct the violation, the time within which it is to be corrected as specified in division (C) of this section, and the procedures for the facility to follow to request a conference on the order imposing a civil penalty. If the facility requests a conference in a letter mailed or delivered not later than two working days after it has received the notice, the director shall hold a conference with representatives of the facility concerning the civil penalty. The conference shall be held not later than seven days after the director receives the request. The conference shall be conducted as prescribed in division (C) of section 3722.07 of the Revised Code. If the director issues an order upholding the

civil penalty, the facility may request an adjudication hearing pursuant to Chapter 119. of the Revised Code, but the order of the director shall be in effect during proceedings instituted pursuant to that chapter until a final adjudication is made.

(C) The director shall order that the condition or practice constituting a class I violation be abated or eliminated within twenty-four hours or any longer period that the director considers reasonable. The notice for a class II or a class III violation shall specify a time within which the violation is required to be corrected.

(D) If the facility does not request a conference or if, after a conference, it fails to take action to correct a violation in the time prescribed by the director, the director shall issue an order upholding the penalty, plus interest at the rate specified in section 1343.03 of the Revised Code for each day beyond the date set for payment of the penalty. The director may waive the interest payment for the period prior to the conference if the director concludes that the conference was necessitated by a legitimate dispute.

(E) The director may cancel or reduce the penalty for a class I violation if the facility corrects the violation within the time specified in the notice ~~unless, except that the director shall impose the penalty even though the facility has corrected the violation if~~ a resident suffers physical harm because of the violation or ~~unless the facility has been cited previously for the same violation, in which case the director shall impose the penalty even though the facility has corrected the violation.~~ The director shall may cancel the penalty for a class II or class III violation if the facility corrects the violation within the time specified in the notice ~~unless~~ and the facility has not been cited previously for the same violation. Each day of a violation of any class, after the date the director sets for abatement or elimination, constitutes a separate and additional violation.

(F) If an adult care facility fails to pay a penalty imposed under this section, the director may commence a civil action to collect the penalty. The license of an adult care facility that has failed to pay a penalty imposed under this section shall not be renewed until the penalty has been paid.

(G) If a penalty is imposed under this section, a fine shall not be imposed under section 3722.99 of the Revised Code for the same violation.

~~(H) Notwithstanding any other division of this section, the director shall not impose a penalty for a class I violation if all of the following apply:~~

~~(1) A resident has not suffered physical harm because of the violation;~~

~~(2) The violation has been corrected and is no longer occurring;~~

~~(3) The violation is discovered by an inspector authorized to inspect an adult care facility pursuant to this chapter by an examination of the records~~

of the facility.

Sec. 3722.09. (A) If the director of health determines that the operation of an adult care facility jeopardizes the health or safety of any of the residents of the facility or if the director determines that an adult care facility is operating without a license, the director may petition the court of common pleas in the county in which the facility is located for appropriate injunctive relief against the facility. The If injunctive relief is granted against a facility for operating without a license and the facility continues to operate without a license, the director shall refer the case to the attorney general for further action.

(B) The court petitioned under division (A) of this section shall grant injunctive relief upon a showing that the operation of the facility jeopardizes the health or safety of any of the residents of the facility or that the facility is operating without a license. When the court grants injunctive relief in the case of a facility operating without a license, the court shall issue, at a minimum, an order enjoining the facility from admitting new residents to the facility and an order requiring the facility to assist resident rights advocates with the safe and orderly relocation of the facility's residents.

Sec. 3722.10. (A) The public health council shall have the exclusive authority to adopt, and the council shall adopt, rules ~~in accordance with Chapter 119. of the Revised Code~~ governing the licensing and operation of adult care facilities. The rules shall be adopted in accordance with Chapter 119. of the Revised Code and shall specify all of the following:

(1) Procedures for the issuance, renewal, and revocation of licenses ~~and temporary licenses~~, for the granting and denial of waivers, and for the issuance and termination of orders of suspension of admission pursuant to section 3722.07 of the Revised Code;

(2) The qualifications required for owners, managers, and employees of adult care facilities, including character, training, education, experience, and financial resources and the number of staff members required in a facility;

(3) Adequate space, equipment, safety, and sanitation standards for the premises of adult care facilities, and fire protection standards for adult family homes as required by section 3722.041 of the Revised Code;

(4) The personal, social, dietary, and recreational services to be provided to each resident of adult care facilities;

(5) Rights of residents of adult care facilities, in addition to the rights enumerated under section 3722.12 of the Revised Code, and procedures to protect and enforce the rights of these residents;

(6) Provisions for keeping records of residents and for maintaining the confidentiality of the records as required by division (B) of section 3722.12

of the Revised Code. The provisions for maintaining the confidentiality of records shall, at the minimum, meet the requirements for maintaining the confidentiality of records under Title XIX of the "Social Security Act," 49 Stat. 620, 42 U.S.C. 301, as amended, and regulations promulgated thereunder.

(7) Measures to be taken by adult care facilities relative to residents' medication, including policies and procedures concerning medication, storage of medication in a locked area, and disposal of medication and assistance with self-administration of medication, if the facility provides assistance;

(8) Requirements for initial and periodic health assessments of prospective and current adult care facility residents by physicians or other health professionals to ensure that they do not require a level of care beyond that which is provided by the adult care facility, including assessment of their capacity to self-administer the medications prescribed for them;

(9) Requirements relating to preparation of special diets;

(10) The amount of the fees for new and renewal license applications made pursuant to sections 3722.02 and 3722.04 of the Revised Code;

(11) Measures to be taken by any employee of the state or any political subdivision of the state authorized by this chapter to enter an adult care facility to inspect the facility or for any other purpose, to ensure that the employee respects the privacy and dignity of residents of the facility, cooperates with residents of the facility and behaves in a congenial manner toward them, and protects the rights of residents;

(12) How an owner or manager of an adult care facility is to comply with section 3722.18 of the Revised Code. ~~The~~ At a minimum, the rules shall ~~do at least both of the following:~~

~~(a) Establish~~ establish the procedures an owner or manager is to follow under division (A)(2) of section 3722.18 of the Revised Code regarding referrals to the facility of prospective residents with mental illness or severe mental disability and effective arrangements for ongoing mental health services for such prospective residents. The procedures may provide for any of the following:

~~(i)(a) That the owner or manager sign written agreements with the mental health agencies and boards of alcohol, drug addiction, and mental health services that refer such prospective residents to the facility. Each agreement shall cover all such prospective residents referred by the agency or board with which the owner or manager enters into the agreement.~~

~~(ii) and the ADAMHS board serving the alcohol, drug addiction, and mental health service district in which the facility is located sign a mental~~

health resident program participation agreement, as developed by the director of mental health under section 5119.613 of the Revised Code;

(b) That the owner or manager comply with the requirements of its mental health resident program participation agreement;

(c) That the owner or manager and the mental health agencies and ADAMHS boards of alcohol, drug addiction, and mental health services that refer such prospective residents to the facility develop and sign a mental health plan for ongoing mental health services for each such prospective resident;

(d) Any other process established by the public health council in consultation with the director of health and director of mental health regarding referrals and effective arrangements for ongoing mental health services for prospective residents with mental illness.

~~(b) Specify the date an owner or manager must begin to follow the procedures established by division (A)(12)(a) of this section.~~

(13) Any other rules necessary for the administration and enforcement of this chapter.

(B) After consulting with relevant constituencies, the director of mental health shall prepare and submit to the director of health recommendations for the content of rules to be adopted under division (A)(12) of this section. ~~The public health council shall adopt the rules required by division (A)(12) of this section no later than July 1, 2000.~~

(C) The director of health shall advise adult care facilities regarding compliance with the requirements of this chapter and with the rules adopted pursuant to this chapter.

(D) Any duty or responsibility imposed upon the director of health by this chapter may be carried out by an employee of the department of health.

(E) Employees of the department of health may enter, for the purposes of investigation, any institution, residence, facility, or other structure which has been reported to the department as, or that the department has reasonable cause to believe is, operating as an adult care facility without a valid license.

Sec. 3722.13. (A) Each adult care facility shall establish a written residents' rights policy containing the text of sections 3722.12 and 3722.14 of the Revised Code and rules adopted by the public health council pursuant to this chapter, a discussion of the rights and responsibilities of residents under that section, and the text of any additional rule for residents promulgated by the facility. At the time of admission the manager shall give a copy of the residents' rights policy to the resident and ~~his~~ the resident's sponsor, if any, and explain the contents of the policy to them. The facility

shall establish procedures for facilitating the residents' exercise of their rights.

(B) Each adult care facility shall post prominently within the facility a copy of the residents' rights listed in division (B) of section 3722.12 of the Revised Code and any additional residents' rights established by rules adopted by the public health council pursuant to this chapter, ~~and the addresses and telephone numbers of the state long-term care facilities ombudsman~~ ombudsperson and the regional ~~ombudsman~~ long-term care ombudsperson program for the area in which the facility is located, ~~and of the central and district offices of the telephone number maintained by the department of health for accepting complaints.~~

Sec. 3722.14. (A)(1) Except as provided in division (A)(2) of this section, an adult care facility may transfer or discharge a resident, in the absence of a request from the resident, only for the following reasons:

(a) Charges for the resident's accommodations and services have not been paid within thirty days after the date on which they became due;

(b) The mental, emotional, or physical condition of the resident requires a level of care that the facility is unable to provide;

(c) The health, safety, or welfare of the resident or of another resident requires a transfer or discharge;

(d) The facility's license has been revoked or renewal has been denied pursuant to this chapter;

(e) The owner closes the facility;

(f) The resident is relocated as the result of a court's order issued under section 3722.09 of the Revised Code as part of the injunctive relief granted against a facility that is operating without a license;

(g) The resident is receiving publicly funded mental health services and the facility's mental health resident program participation agreement is terminated by the facility or ADAMHS board.

(2) An adult family home may transfer or discharge a resident if transfer or discharge is required for the health, safety, or welfare of an individual who resides in the home but is not a resident for whom supervision or personal services are provided.

(B)(1) The facility shall give a resident thirty days advance notice, in writing, of a proposed transfer or discharge, except that if the transfer or discharge is for a reason given in divisions ~~(A)(1)(b) to (g) or (A)(2) to (5)~~ of this section and an emergency exists, the notice need not be given thirty days in advance. ~~The resident may request and the director of health shall conduct a hearing if the transfer or discharge is based upon division (A)(1), (2), or (3) of this section. The public health council shall adopt rules~~

~~governing the procedure for conducting such a hearing.~~ The facility shall state in the written notice the reasons for the proposed transfer or discharge. If the resident is entitled to a hearing as specified in division (B)(2) of this section, the written notice shall outline the procedure for the resident to follow in requesting a hearing.

(2) A resident may request a hearing if a proposed transfer or discharge is based on reason given in division (A)(1)(a) to (c) or (A)(2) of this section. If the resident seeks a hearing, ~~he~~ the resident shall submit a request to the director not later than ten days after receiving the written notice. The director shall hold the hearing not later than ten days after receiving the request. A representative of the director shall preside over the hearing and shall issue a written recommendation of action to be taken by the director not later than three days after the hearing. The director shall issue an order regarding the transfer or discharge not later than two days after receipt of the recommendation. The order may prohibit or place conditions on the discharge or transfer. In the case of a transfer, the order may require that the transfer be to an institution or facility specified by the director. The hearing is not subject to section 121.22 of the Revised Code. The public health council shall adopt rules governing any additional procedures necessary for conducting the hearing.

(C)(1) The owner of an adult care facility who is closing the facility shall inform the director of health in writing at least thirty days prior to the proposed date of closing. At the same time, the owner or manager shall inform each resident, ~~his~~ the resident's guardian, ~~his~~ the resident's sponsor, or any organization or agency acting on behalf of the resident, of the closing of the facility and the date of the closing.

(2) Immediately upon receiving notice that a facility is to be closed, the director shall monitor the transfer of residents to other facilities and ensure that residents' rights are protected. The director shall notify the ~~ombudsman~~ ombudsperson in the region in which the facility is located of the closing.

(3) All charges shall be prorated as of the date on which the facility closes. If payments have been made in advance, the payments for services not rendered shall be refunded to the resident or the resident's guardian not later than seven days after the closing of the facility.

(4) Immediately upon the closing of a facility, the owner shall surrender the license to the director, and the license shall be canceled.

Sec. 3722.15. (A) The following may enter an adult care facility at any time:

- (1) Employees designated by the director of health;
- (2) Employees designated by the director of aging;

- (3) Employees designated by the attorney general;
 - (4) Employees designated by a county department of job and family services to implement sections 5101.60 to 5101.71 of the Revised Code;
 - (5) Persons employed pursuant to division (M) of section 173.01 of the Revised Code in the long-term care ~~facilities~~ ombudsperson program;
 - (6) Employees of the department of mental health designated by the director of mental health;
 - (7) Employees of a mental health agency, ~~if~~ under any of the following circumstances:
 - (a) When the agency has a client residing in the facility;
 - (b) When the agency is acting as an agent of an ADAMHS board other than the board with which it is under contract;
 - (c) When there is a mental health resident program participation agreement between the facility and the ADAMHS board with which the agency is under contract.
 - (8) Employees of a ~~an ADAMHS board of alcohol, drug addiction, and mental health services, when~~ under any of the following circumstances:
 - (a) When authorized by section 340.05 of the Revised Code ~~or if an individual;~~
 - (b) When a resident of the facility is receiving mental health services provided by ~~the~~ that ADAMHS board or another ADAMHS board pursuant to division (A)(8)(b) of section 340.03 of the Revised Code ~~or;~~
 - (c) When a resident of the facility is receiving services from a mental health agency under contract with ~~the~~ that ADAMHS board ~~resides in the facility~~ or another ADAMHS board;
 - (d) When there is a mental health resident program participation agreement between the facility and that ADAMHS board.
- ~~These~~ The employees specified in divisions (A)(1) to (8) of this section shall be afforded access to all records of the facility, including records pertaining to residents, and may copy the records. Neither these employees nor the director of health shall release, without consent, any information obtained from the records of an adult care facility that reasonably would tend to identify a specific resident of the facility, except as ordered by a court of competent jurisdiction.
- (B) The following persons may enter any adult care facility during reasonable hours:
- (1) A resident's sponsor;
 - (2) Residents' rights advocates;
 - (3) A resident's attorney;
 - (4) A minister, priest, rabbi, or other person ministering to a resident's

religious needs;

(5) A physician or other person providing health care services to a resident;

(6) Employees authorized by county departments of job and family services and local boards of health or health departments to enter adult care facilities;

(7) A prospective resident and prospective resident's sponsor.

(C) The manager of an adult care facility may require a person seeking to enter the facility to present identification sufficient to identify the person as an authorized person under this section.

Sec. 3722.16. (A) No person shall:

(1) Operate an adult care facility unless the facility is validly licensed by the director of health under section 3722.04 of the Revised Code;

(2) Admit to an adult care facility more residents than the number authorized in the facility's license;

(3) Admit a resident to an adult care facility after the director has issued an order pursuant to section 3722.07 of the Revised Code suspending admissions to the facility. Violation of division (A)(3) of this section is cause for revocation of the facility's license.

(4) Interfere with any authorized inspection of an adult care facility conducted pursuant to section 3722.02 or 3722.04 of the Revised Code;

(5) Admit to an adult care facility a resident requiring publicly funded mental health services, unless both of the following conditions are met:

(a) The ADAMHS board serving the alcohol, drug addiction, and mental health service district in which the facility is located is notified;

(b) The facility and ADAMHS board have entered into a mental health resident program participation agreement by using the standardized form approved by the director of mental health under section 5119.613 of the Revised Code.

~~(6) Violate any of the provisions of this chapter or any of the rules adopted pursuant to it.~~

(B) No adult care facility shall provide, or admit or retain any resident in need of, skilled nursing care unless all of the following conditions are ~~the~~ met:

(1) The care will be provided on a part-time, intermittent basis for not more than a total of one hundred twenty days in any twelve-month period.

(2) The care will be provided by one or more of the following:

(a) A home health agency certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;

(b) A hospice care program licensed under Chapter 3712. of the Revised

Code;

(c) A nursing home licensed under Chapter 3721. of the Revised Code and owned and operated by the same person and located on the same site as the adult care facility;

(d) A mental health agency or, pursuant to division (A)(8)(b) of section 340.03 of the Revised Code, a an ADAMHS board of alcohol, drug addiction, and mental health services.

(2)(3) Each individual employed by, under contract with, or otherwise used by any of the entities specified in division (B)(2) of this section to perform the skilled nursing care is authorized under the laws of this state to perform the care by being appropriately licensed, as specified in rules adopted under division (G) of this section.

(4) The staff of the home health agency, hospice care program, nursing home, mental health agency, or board of alcohol, drug addiction, and mental health services one or more entities providing the skilled nursing care does not train the adult care facility staff to provide the skilled nursing care;

(3)(5) The individual to whom the skilled nursing care is provided is suffering from a short-term illness;

(4)(6) If the skilled nursing care is to be provided by the nursing staff of a nursing home, all of the following are the case:

(a) The adult care facility evaluates the individual receiving the skilled nursing care at least once every seven days to determine whether the individual should be transferred to a nursing home;

(b) The adult care facility meets at all times staffing requirements established by rules adopted under section 3722.10 of the Revised Code;

(c) The nursing home does not include the cost of providing skilled nursing care to the adult care facility residents in a cost report filed under section 5111.26 of the Revised Code;

(d) The nursing home meets at all times the nursing home licensure staffing ratios established by rules adopted under section 3721.04 of the Revised Code;

(e) The nursing home staff providing skilled nursing care to adult care facility residents are registered nurses or licensed practical nurses licensed under Chapter 4723. of the Revised Code and meet the personnel qualifications for nursing home staff established by rules adopted under section 3721.04 of the Revised Code;

(f) The skilled nursing care is provided in accordance with rules established for nursing homes under section 3721.04 of the Revised Code;

(g) The nursing home meets the skilled nursing care needs of the adult care facility residents;

(h) Using the nursing home's nursing staff does not prevent the nursing home or adult care facility from meeting the needs of the nursing home and adult care facility residents in a quality and timely manner.

(7) No adult care facility staff shall provide skilled nursing care.

Notwithstanding section 3721.01 of the Revised Code, an adult care facility in which residents receive skilled nursing care as described in division (B) of this section is not a nursing home. ~~No adult care facility shall provide skilled nursing care.~~

(C) A home health agency or hospice care program that provides skilled nursing care pursuant to division (B) of this section may not be associated with the adult care facility unless the facility is part of a home for the aged as defined in section 5701.13 of the Revised Code or the adult care facility is owned and operated by the same person and located on the same site as a nursing home licensed under Chapter 3721. of the Revised Code that is associated with the home health agency or hospice care program. In addition, the following requirements shall be met:

(1) The adult care facility shall evaluate the individual receiving the skilled nursing care not less than once every seven days to determine whether the individual should be transferred to a nursing home;

(2) If the costs of providing the skilled nursing care are included in a cost report filed pursuant to section 5111.26 of the Revised Code by the nursing home that is part of the same home for the aged, the home health agency or hospice care program shall not seek reimbursement for the care under the medical assistance program established under Chapter 5111. of the Revised Code.

~~(D)~~(4) No person knowingly shall place or recommend placement of any person in an adult care facility that is operating without a license.

~~(2)~~(E) No employee of a unit of local or state government, ADAMHS board of alcohol, drug addiction, and mental health services, mental health agency, or PASSPORT administrative agency shall place or recommend placement of any person in an adult care facility if the employee knows ~~that~~ any of the following:

(1) That the facility cannot meet the needs of the potential resident;

(2) That placement of the resident would cause the facility to exceed its licensed capacity;

(3) That an enforcement action initiated by the director of health is pending and may result in the revocation of or refusal to renew the facility's license;

(4) That the potential resident is receiving or is eligible for publicly funded mental health services and the facility has not entered into a mental

health resident program participation agreement.

~~(F)~~(F) No person who has reason to believe that an adult care facility is operating without a license shall fail to report this information to the director of health.

~~(G)~~(G) In accordance with Chapter 119. of the Revised Code, the public health council shall adopt rules ~~that define~~ for purposes of division (B) of this section that do all of the following:

(1) Define a short-term illness for purposes of division (B)~~(3)~~(5) of this section ~~and specify;~~

(2) Specify, consistent with rules pertaining to home health care adopted by the director of job and family services under the medical assistance program established under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, what constitutes a part-time, intermittent basis for purposes of division (B)(1) of this section;

(3) Specify what constitutes being appropriately licensed for purposes of division (B)(3) of this section.

Sec. 3722.17. (A) Any person who believes that an adult care facility is in violation of this chapter or of any of the rules promulgated pursuant to it may report the information to the director of health. The director shall investigate each report made under this section or section 3722.16 of the Revised Code and shall inform the facility of the results of the investigation. When investigating a report made pursuant to section 340.05 of the Revised Code, the director shall consult with the ADAMHS board ~~of alcohol, drug addiction, and mental health services~~ that made the report. The director shall keep a record of the investigation and the action taken as a result of the investigation.

The director shall not reveal, without consent, the identity of a person who makes a report under this section or division ~~(D)(3)~~(G) of section 3722.16 of the Revised Code, the identity of a specific resident or residents referred to in such a report, or any other information that could reasonably be expected to reveal the identity of the person making the report or the resident or residents referred to in the report, except that the director may provide this information to a government agency responsible for enforcing laws applying to adult care facilities.

(B) Any person who believes that a resident's rights under sections 3722.12 to 3722.15 of the Revised Code have been violated may report the information to the state ~~or regional~~ long-term care ~~facilities~~ ombudsperson, the regional long-term care ombudsperson program for the area in which the facility is located, or ~~to~~ the director of health. If the person believes that the

resident has mental illness or severe mental disability and is suffering abuse or neglect, the person may report the information to the ADAMHS board of alcohol, drug addiction, and mental health services serving the alcohol, drug addiction, and mental health service district in which the adult care facility is located or a mental health agency under contract with the board in addition to or instead of the ombudsperson, regional program, or director.

(C) Any person who makes a report pursuant to division (A) or (B) of this section or division ~~(D)(3)~~(G) of section 3722.16 of the Revised Code or any person who participates in an administrative or judicial proceeding resulting from such a report is immune from any civil liability or criminal liability, other than perjury, that might otherwise be incurred or imposed as a result of these actions, unless the person has acted in bad faith or with malicious purpose.

Sec. 3722.18. Before an adult care facility admits a prospective resident who the owner or manager of the facility knows has been assessed as having a mental illness or severe mental disability, the owner or manager ~~shall do~~ is subject to both of the following in accordance with rules adopted under division (A)(12) of section 3722.10 of the Revised Code:

(A) If the prospective resident is referred to the facility by a mental health agency or ADAMHS board of alcohol, drug addiction, and mental health services, ~~do the following:~~

~~(1) Except in an emergency and only until the date an owner or manager of an adult care facility must begin to follow procedures under division (A)(2) of this section, enter into an affiliation agreement with the agency or board. An affiliation agreement with the agency is subject to the board's approval. An affiliation agreement must be consistent with the residential portion of the board's community mental health plan submitted to the department of mental health under section 340.03 of the Revised Code.~~

~~(2) Beginning on the date specified in rules adopted under division (A)(12) of section 3722.10 of the Revised Code, the owner or manager shall follow procedures established in those rules adopted under division (A)(12) of section 3722.10 of the Revised Code regarding referrals and effective arrangements for ongoing mental health services.~~

(B) If the prospective resident is not referred to the facility by a mental health agency or ADAMHS board of alcohol, drug addiction, and mental health services, ~~document that the owner or manager has offered~~ shall offer to assist the prospective resident in obtaining appropriate mental health services and document the offer of assistance in accordance with rules adopted under division (A)(12) of section 3722.10 of the Revised Code.

Sec. 3722.99. Whoever violates division (A) ~~or (B)(1)~~ of section

3722.16 of the Revised Code shall be fined ~~five hundred~~ two thousand dollars for a first offense; for each subsequent offense, such person shall be fined ~~one~~ five thousand dollars.

Whoever violates division (C) of section 3722.12 or division ~~(A)(2), (3), (4), (5) or (6), (B), (C), (D), (E), or (F)~~ of section 3722.16 of the Revised Code shall be fined ~~one~~ five hundred dollars for a first offense; for each subsequent offense, such person shall be fined ~~five hundred~~ one thousand dollars.

Sec. 3727.02. (A) No person and no political subdivision, agency, or instrumentality of this state shall operate a hospital unless it is certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, or is accredited by ~~the joint commission or the American osteopathic association~~ a national accrediting organization approved by the centers for medicare and medicaid services.

(B) No person and no political subdivision, agency, or instrumentality of this state shall hold out as a hospital any health facility that is not certified or accredited as required in division (A) of this section.

Sec. 3729.07. The licenser of a recreational vehicle park, recreation camp, or combined park-camp may charge a fee for an annual license to operate such a park, camp, or park-camp. In the case of a temporary park-camp, the licenser may charge a fee for a license to operate the temporary park-camp for the period specified in division (A) of section 3729.05 of the Revised Code. The fees for both types of licenses shall be determined in accordance with section 3709.09 of the Revised Code and shall include the cost of licensing and all inspections.

Except for the fee for a temporary park-camp license, the fee also shall include any additional amount determined by rule of the public health council, which shall be collected and transmitted by the board of health to ~~the treasurer of state to be credited to the general operations fund created in section 3701.83 of the Revised Code~~ director of health pursuant to section 3709.092 of the Revised Code and used only for the purpose of administering and enforcing this chapter and rules adopted under it. The portion of any fee retained by the board of health shall be paid into a special fund and used only for the purpose of administering and enforcing this chapter and rules adopted under it.

Sec. 3733.02. (A)(1) The public health council, subject to Chapter 119. of the Revised Code, shall adopt, and has the exclusive power to adopt, rules of uniform application throughout the state governing the review of plans, issuance of flood plain management permits, and issuance of licenses for manufactured home parks; the location, layout, density, construction,

drainage, sanitation, safety, and operation of those parks; and notices of flood events concerning, and flood protection at, those parks. The rules pertaining to flood plain management shall be consistent with and not less stringent than the flood plain management criteria of the national flood insurance program adopted under the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended. The rules shall not apply to the construction, erection, or manufacture of any building to which section 3781.06 of the Revised Code is applicable.

(2) The rules pertaining to manufactured home parks constructed after June 30, 1971, shall specify that each home must be placed on its lot to provide not less than fifteen feet between the side of one home and the side of another home, ten feet between the end of one home and the side of another home, and five feet between the ends of two homes placed end to end.

(3) The ~~department of health~~ manufactured homes commission shall determine compliance with the installation, blocking, tiedown, foundation, and base support system standards for manufactured housing located in manufactured home parks adopted by the ~~manufactured homes~~ commission pursuant to section 4781.04 of the Revised Code. All inspections of the installation, blocking, tiedown, foundation, and base support systems of manufactured housing in a manufactured home park that the department of health or a licenser conducts shall be conducted by a person who has completed an installation training course approved by the manufactured homes commission pursuant to division (B)(12) of section 4781.04 of the Revised Code.

As used in division (A)(3) of this section, "manufactured housing" has the same meaning as in section 4781.01 of the Revised Code.

(B) The public health council, in accordance with Chapter 119. of the Revised Code, shall adopt rules of uniform application throughout the state establishing requirements and procedures in accordance with which the director of health may authorize licensers for the purposes of sections 3733.022 and 3733.025 of the Revised Code. The rules shall include at least provisions under which a licenser may enter into contracts for the purpose of fulfilling the licenser's responsibilities under either or both of those sections.

Sec. 3733.04. The licenser of a manufactured home park may charge a fee for an annual license to operate such a park. The fee for a license shall be determined in accordance with section 3709.09 of the Revised Code and shall include the cost of licensing and all inspections.

The fee also shall include any additional amount determined by rule of

the public health council, which shall be collected and transmitted by the board of health to the ~~treasurer of state to be credited to the general operations fund created in section 3701.83 of the Revised Code~~ director of health pursuant to section 3709.092 of the Revised Code and used only for the purpose of administering and enforcing sections 3733.01 to 3733.08 of the Revised Code and the rules adopted under those sections. The portion of any fee retained by the board of health shall be paid into a special fund and used only for the purpose of administering and enforcing sections 3733.01 to 3733.08 of the Revised Code and the rules adopted thereunder.

Sec. 3733.25. Any fee for the license required by section 3733.24 of the Revised Code shall be determined in accordance with section 3709.09 of the Revised Code. The license fee shall include any additional amount determined by rule of the public health council, which shall be collected and transmitted by the board of health district to the director of health ~~for deposit in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code~~ pursuant to section 3709.092 of the Revised Code and shall be used by the director to administer and enforce sections 3733.21 to 3733.30 of the Revised Code and rules adopted thereunder. The portion of any fee retained by the health district shall be paid into a special fund which is hereby created in each health district and shall be used only by the board for the purpose of administering and enforcing sections 3733.21 to 3733.30 of the Revised Code and the rules adopted thereunder. The health district may charge additional reasonable fees for the collection and bacteriological examination of any necessary water samples taken from a marina.

Sec. 3733.43. (A) Except as otherwise provided in this division, prior to the fifteenth day of April in each year, every person who intends to operate an agricultural labor camp shall make application to the licenser for a license to operate such camp, effective for the calendar year in which it is issued. The licenser may accept an application on or after the fifteenth day of April. The license fees specified in this division shall be submitted to the licenser with the application for a license. No agricultural labor camp shall be operated in this state without a license. Any person operating an agricultural labor camp without a current and valid agricultural labor camp license is not excepted from compliance with sections 3733.41 to 3733.49 of the Revised Code by holding a valid and current hotel license. Each person proposing to open an agricultural labor camp shall submit with the application for a license any plans required by any rule adopted under section 3733.42 of the Revised Code. ~~The~~ For any license issued on or after July 1, 2009, the annual license fee is ~~seventy-five~~ one hundred fifty dollars,

unless the application for a license is made on or after the fifteenth day of April in any given year, in which case the annual license fee is one hundred sixty-six dollars. ~~At~~ For any license issued on or after July 1, 2009, an additional fee of ~~ten~~ twenty dollars per housing unit per year shall be assessed to defray the costs of enforcing sections 3733.41 to 3733.49 of the Revised Code, unless the application for a license is made on or after the fifteenth day of April in any given year, in which case an additional fee of ~~fifteen~~ forty-two dollars and fifty cents per housing unit shall be assessed. All fees collected under this division shall be deposited in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code and shall be used for the administration and enforcement of sections 3733.41 to 3733.49 of the Revised Code and rules adopted thereunder.

(B) Any license under this section may be denied, suspended, or revoked by the licensor for violation of sections 3733.41 to 3733.49 of the Revised Code or the rules adopted thereunder. Unless there is an immediate serious public health hazard, no denial, suspension, or revocation of a license shall be made effective until the person operating the agricultural labor camp has been given notice in writing of the specific violations and a reasonable time to make corrections. When the licensor determines that an immediate serious public health hazard exists, the licensor shall issue an order denying or suspending the license without a prior hearing.

(C) All proceedings under this section are subject to Chapter 119. of the Revised Code except as provided in section 3733.431 of the Revised Code.

(D) Every occupant of an agricultural labor camp shall keep that part of the dwelling unit, and premises thereof, that the occupant occupies and controls in a clean and sanitary condition.

Sec. 3734.05. (A)(1) Except as provided in divisions (A)(4), (8), and (9) of this section, no person shall operate or maintain a solid waste facility without a license issued under this division by the board of health of the health district in which the facility is located or by the director of environmental protection when the health district in which the facility is located is not on the approved list under section 3734.08 of the Revised Code.

During the month of December, but before the first day of January of the next year, every person proposing to continue to operate an existing solid waste facility shall procure a license under this division to operate the facility for that year from the board of health of the health district in which the facility is located or, if the health district is not on the approved list under section 3734.08 of the Revised Code, from the director. The

application for such a license shall be submitted to the board of health or to the director, as appropriate, on or before the last day of September of the year preceding that for which the license is sought. In addition to the application fee prescribed in division (A)(2) of this section, a person who submits an application after that date shall pay an additional ten per cent of the amount of the application fee for each week that the application is late. Late payment fees accompanying an application submitted to the board of health shall be credited to the special fund of the health district created in division (B) of section 3734.06 of the Revised Code, and late payment fees accompanying an application submitted to the director shall be credited to the general revenue fund. A person who has received a license, upon sale or disposition of a solid waste facility, and upon consent of the board of health and the director, may have the license transferred to another person. The board of health or the director may include such terms and conditions in a license or revision to a license as are appropriate to ensure compliance with this chapter and rules adopted under it. The terms and conditions may establish the authorized maximum daily waste receipts for the facility. Limitations on maximum daily waste receipts shall be specified in cubic yards of volume for the purpose of regulating the design, construction, and operation of solid waste facilities. Terms and conditions included in a license or revision to a license by a board of health shall be consistent with, and pertain only to the subjects addressed in, the rules adopted under division (A) of section 3734.02 and division (D) of section 3734.12 of the Revised Code.

(2)(a) Except as provided in divisions (A)(2)(b), (8), and (9) of this section, each person proposing to open a new solid waste facility or to modify an existing solid waste facility shall submit an application for a permit with accompanying detail plans and specifications to the environmental protection agency for required approval under the rules adopted by the director pursuant to division (A) of section 3734.02 of the Revised Code and applicable rules adopted under division (D) of section 3734.12 of the Revised Code at least two hundred seventy days before proposed operation of the facility and shall concurrently make application for the issuance of a license under division (A)(1) of this section with the board of health of the health district in which the proposed facility is to be located.

(b) On and after the effective date of the rules adopted under division (A) of section 3734.02 of the Revised Code and division (D) of section 3734.12 of the Revised Code governing solid waste transfer facilities, each person proposing to open a new solid waste transfer facility or to modify an

existing solid waste transfer facility shall submit an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation to the environmental protection agency for required approval under those rules at least two hundred seventy days before commencing proposed operation of the facility and concurrently shall make application for the issuance of a license under division (A)(1) of this section with the board of health of the health district in which the facility is located or proposed.

(c) Each application for a permit under division (A)(2)(a) or (b) of this section shall be accompanied by a nonrefundable application fee of four hundred dollars that shall be credited to the general revenue fund. Each application for an annual license under division (A)(1) or (2) of this section shall be accompanied by a nonrefundable application fee of one hundred dollars. If the application for an annual license is submitted to a board of health on the approved list under section 3734.08 of the Revised Code, the application fee shall be credited to the special fund of the health district created in division (B) of section 3734.06 of the Revised Code. If the application for an annual license is submitted to the director, the application fee shall be credited to the general revenue fund. If a permit or license is issued, the amount of the application fee paid shall be deducted from the amount of the permit fee due under division (Q) of section 3745.11 of the Revised Code or the amount of the license fee due under division (A)(1), (2), (3), or (4) of section 3734.06 of the Revised Code.

(d) As used in divisions (A)(2)(d), (e), and (f) of this section, "modify" means any of the following:

(i) Any increase of more than ten per cent in the total capacity of a solid waste facility;

(ii) Any expansion of the limits of solid waste placement at a solid waste facility;

(iii) Any increase in the depth of excavation at a solid waste facility;

(iv) Any change in the technique of waste receipt or type of waste received at a solid waste facility that may endanger human health, as determined by the director by rules adopted in accordance with Chapter 119. of the Revised Code.

Not later than thirty-five days after submitting an application under division (A)(2)(a) or (b) of this section for a permit to open a new or modify an existing solid waste facility, the applicant, in conjunction with an officer or employee of the environmental protection agency, shall hold a public meeting on the application within the county in which the new or modified solid waste facility is or is proposed to be located or within a contiguous

county. Not less than thirty days before holding the public meeting on the application, the applicant shall publish notice of the meeting in each newspaper of general circulation that is published in the county in which the facility is or is proposed to be located. If no newspaper of general circulation is published in the county, the applicant shall publish the notice in a newspaper of general circulation in the county. The notice shall contain the date, time, and location of the public meeting and a general description of the proposed new or modified facility. Not later than five days after publishing the notice, the applicant shall send by certified mail a copy of the notice and the date the notice was published to the director and the legislative authority of each municipal corporation, township, and county, and to the chief executive officer of each municipal corporation, in which the facility is or is proposed to be located. At the public meeting, the applicant shall provide information and describe the application and respond to comments or questions concerning the application, and the officer or employee of the agency shall describe the permit application process. At the public meeting, any person may submit written or oral comments on or objections to the application. Not more than thirty days after the public meeting, the applicant shall provide the director with a copy of a transcript of the full meeting, copies of any exhibits, displays, or other materials presented by the applicant at the meeting, and the original copy of any written comments submitted at the meeting.

(e) Except as provided in division (A)(2)(f) of this section, prior to taking an action, other than a proposed or final denial, upon an application submitted under division (A)(2)(a) of this section for a permit to open a new or modify an existing solid waste facility, the director shall hold a public information session and a public hearing on the application within the county in which the new or modified solid waste facility is or is proposed to be located or within a contiguous county. If the application is for a permit to open a new solid waste facility, the director shall hold the hearing not less than fourteen days after the information session. If the application is for a permit to modify an existing solid waste facility, the director may hold both the information session and the hearing on the same day unless any individual affected by the application requests in writing that the information session and the hearing not be held on the same day, in which case the director shall hold the hearing not less than fourteen days after the information session. The director shall publish notice of the public information session or public hearing not less than thirty days before holding the information session or hearing, as applicable. The notice shall be published in each newspaper of general circulation that is published in the

county in which the facility is or is proposed to be located. If no newspaper of general circulation is published in the county, the director shall publish the notice in a newspaper of general circulation in the county. The notice shall contain the date, time, and location of the information session or hearing, as applicable, and a general description of the proposed new or modified facility. At the public information session, an officer or employee of the environmental protection agency shall describe the status of the permit application and be available to respond to comments or questions concerning the application. At the public hearing, any person may submit written or oral comments on or objections to the approval of the application. The applicant, or a representative of the applicant who has knowledge of the location, construction, and operation of the facility, shall attend the information session and public hearing to respond to comments or questions concerning the facility directed to the applicant or representative by the officer or employee of the environmental protection agency presiding at the information session and hearing.

(f) The solid waste management policy committee of a county or joint solid waste management district may adopt a resolution requesting expeditious consideration of a specific application submitted under division (A)(2)(a) of this section for a permit to modify an existing solid waste facility within the district. The resolution shall make the finding that expedited consideration of the application without the public information session and public hearing under division (A)(2)(e) of this section is in the public interest and will not endanger human health, as determined by the director by rules adopted in accordance with Chapter 119. of the Revised Code. Upon receiving such a resolution, the director, at the director's discretion, may issue a final action upon the application without holding a public information session or public hearing pursuant to division (A)(2)(e) of this section.

(3) Except as provided in division (A)(10) of this section, and unless the owner or operator of any solid waste facility, other than a solid waste transfer facility or a compost facility that accepts exclusively source separated yard wastes, that commenced operation on or before July 1, 1968, has obtained an exemption from the requirements of division (A)(3) of this section in accordance with division (G) of section 3734.02 of the Revised Code, the owner or operator shall submit to the director an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under division (A) of section 3734.02 of the Revised Code and applicable rules adopted under division (D) of section 3734.12 of

the Revised Code in accordance with the following schedule:

(a) Not later than September 24, 1988, if the facility is located in the city of Garfield Heights or Parma in Cuyahoga county;

(b) Not later than December 24, 1988, if the facility is located in Delaware, Greene, Guernsey, Hamilton, Madison, Mahoning, Ottawa, or Vinton county;

(c) Not later than March 24, 1989, if the facility is located in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, or Washington county, or is located in the city of Brooklyn or Cuyahoga Heights in Cuyahoga county;

(d) Not later than June 24, 1989, if the facility is located in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, Lucas, or Summit county or is located in Cuyahoga county outside the cities of Garfield Heights, Parma, Brooklyn, and Cuyahoga Heights;

(e) Not later than September 24, 1989, if the facility is located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross county;

(f) Not later than December 24, 1989, if the facility is located in a county not listed in divisions (A)(3)(a) to (e) of this section;

(g) Notwithstanding divisions (A)(3)(a) to (f) of this section, not later than December 31, 1990, if the facility is a solid waste facility owned by a generator of solid wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated and if the facility disposes of more than one hundred thousand tons of solid wastes per year, provided that any such facility shall be subject to division (A)(5) of this section.

(4) Except as provided in divisions (A)(8), (9), and (10) of this section, unless the owner or operator of any solid waste facility for which a permit was issued after July 1, 1968, but before January 1, 1980, has obtained an exemption from the requirements of division (A)(4) of this section under division (G) of section 3734.02 of the Revised Code, the owner or operator shall submit to the director an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under those rules.

(5) The director may issue an order in accordance with Chapter 3745. of the Revised Code to the owner or operator of a solid waste facility requiring the person to submit to the director updated engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under division (A) of section 3734.02 of the Revised Code and applicable rules adopted under division

(D) of section 3734.12 of the Revised Code if, in the director's judgment, conditions at the facility constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination. Any person who receives such an order shall submit the updated engineering detail plans, specifications, and information to the director within one hundred eighty days after the effective date of the order.

(6) The director shall act upon an application submitted under division (A)(3) or (4) of this section and any updated engineering plans, specifications, and information submitted under division (A)(5) of this section within one hundred eighty days after receiving them. If the director denies any such permit application, the order denying the application or disapproving the plans shall include the requirements that the owner or operator submit a plan for closure and post-closure care of the facility to the director for approval within six months after issuance of the order, cease accepting solid wastes for disposal or transfer at the facility, and commence closure of the facility not later than one year after issuance of the order. If the director determines that closure of the facility within that one-year period would result in the unavailability of sufficient solid waste management facility capacity within the county or joint solid waste management district in which the facility is located to dispose of or transfer the solid waste generated within the district, the director in the order of denial or disapproval may postpone commencement of closure of the facility for such period of time as the director finds necessary for the board of county commissioners or directors of the district to secure access to or for there to be constructed within the district sufficient solid waste management facility capacity to meet the needs of the district, provided that the director shall certify in the director's order that postponing the date for commencement of closure will not endanger ground water or any property surrounding the facility, allow methane gas migration to occur, or cause or contribute to any other type of environmental damage.

If an emergency need for disposal capacity that may affect public health and safety exists as a result of closure of a facility under division (A)(6) of this section, the director may issue an order designating another solid waste facility to accept the wastes that would have been disposed of at the facility to be closed.

(7) If the director determines that standards more stringent than those applicable in rules adopted under division (A) of section 3734.02 of the Revised Code and division (D) of section 3734.12 of the Revised Code, or standards pertaining to subjects not specifically addressed by those rules, are

necessary to ensure that a solid waste facility constructed at the proposed location will not cause a nuisance, cause or contribute to water pollution, or endanger public health or safety, the director may issue a permit for the facility with such terms and conditions as the director finds necessary to protect public health and safety and the environment. If a permit is issued, the director shall state in the order issuing it the specific findings supporting each such term or condition.

(8) Divisions (A)(1), (2)(a), (3), and (4) of this section do not apply to a solid waste compost facility that accepts exclusively source separated yard wastes and that is registered under division (C) of section 3734.02 of the Revised Code or, unless otherwise provided in rules adopted under division (N)(3) of section 3734.02 of the Revised Code, to a solid waste compost facility if the director has adopted rules establishing an alternative system for authorizing the establishment, operation, or modification of a solid waste compost facility under that division.

(9) Divisions (A)(1) to (7) of this section do not apply to scrap tire collection, storage, monocell, monofill, and recovery facilities. The approval of plans and specifications, as applicable, and the issuance of registration certificates, permits, and licenses for those facilities are subject to sections 3734.75 to 3734.78 of the Revised Code, as applicable, and section 3734.81 of the Revised Code.

(10) Divisions (A)(3) and (4) of this section do not apply to a solid waste incinerator that was placed into operation on or before October 12, 1994, and that is not authorized to accept and treat infectious wastes pursuant to division (B) of this section.

(B)(1) Each person who is engaged in the business of treating infectious wastes for profit at a treatment facility located off the premises where the wastes are generated that is in operation on August 10, 1988, and who proposes to continue operating the facility shall submit to the board of health of the health district in which the facility is located an application for a license to operate the facility.

Thereafter, no person shall operate or maintain an infectious waste treatment facility without a license issued by the board of health of the health district in which the facility is located or by the director when the health district in which the facility is located is not on the approved list under section 3734.08 of the Revised Code.

(2)(a) During the month of December, but before the first day of January of the next year, every person proposing to continue to operate an existing infectious waste treatment facility shall procure a license to operate the facility for that year from the board of health of the health district in

which the facility is located or, if the health district is not on the approved list under section 3734.08 of the Revised Code, from the director. The application for such a license shall be submitted to the board of health or to the director, as appropriate, on or before the last day of September of the year preceding that for which the license is sought. In addition to the application fee prescribed in division (B)(2)(c) of this section, a person who submits an application after that date shall pay an additional ten per cent of the amount of the application fee for each week that the application is late. Late payment fees accompanying an application submitted to the board of health shall be credited to the special infectious waste fund of the health district created in division (C) of section 3734.06 of the Revised Code, and late payment fees accompanying an application submitted to the director shall be credited to the general revenue fund. A person who has received a license, upon sale or disposition of an infectious waste treatment facility and upon consent of the board of health and the director, may have the license transferred to another person. The board of health or the director may include such terms and conditions in a license or revision to a license as are appropriate to ensure compliance with the infectious waste provisions of this chapter and rules adopted under them.

(b) Each person proposing to open a new infectious waste treatment facility or to modify an existing infectious waste treatment facility shall submit an application for a permit with accompanying detail plans and specifications to the environmental protection agency for required approval under the rules adopted by the director pursuant to section 3734.021 of the Revised Code two hundred seventy days before proposed operation of the facility and concurrently shall make application for a license with the board of health of the health district in which the facility is or is proposed to be located. Not later than ninety days after receiving a completed application under division (B)(2)(b) of this section for a permit to open a new infectious waste treatment facility or modify an existing infectious waste treatment facility to expand its treatment capacity, or receiving a completed application under division (A)(2)(a) of this section for a permit to open a new solid waste incineration facility, or modify an existing solid waste incineration facility to also treat infectious wastes or to increase its infectious waste treatment capacity, that pertains to a facility for which a notation authorizing infectious waste treatment is included or proposed to be included in the solid waste incineration facility's license pursuant to division (B)(3) of this section, the director shall hold a public hearing on the application within the county in which the new or modified infectious waste or solid waste facility is or is proposed to be located or within a contiguous

county. Not less than thirty days before holding the public hearing on the application, the director shall publish notice of the hearing in each newspaper that has general circulation and that is published in the county in which the facility is or is proposed to be located. If there is no newspaper that has general circulation and that is published in the county, the director shall publish the notice in a newspaper of general circulation in the county. The notice shall contain the date, time, and location of the public hearing and a general description of the proposed new or modified facility. At the public hearing, any person may submit written or oral comments on or objections to the approval or disapproval of the application. The applicant, or a representative of the applicant who has knowledge of the location, construction, and operation of the facility, shall attend the public hearing to respond to comments or questions concerning the facility directed to the applicant or representative by the officer or employee of the environmental protection agency presiding at the hearing.

(c) Each application for a permit under division (B)(2)(b) of this section shall be accompanied by a nonrefundable application fee of four hundred dollars that shall be credited to the general revenue fund. Each application for an annual license under division (B)(2)(a) of this section shall be accompanied by a nonrefundable application fee of one hundred dollars. If the application for an annual license is submitted to a board of health on the approved list under section 3734.08 of the Revised Code, the application fee shall be credited to the special infectious waste fund of the health district created in division (C) of section 3734.06 of the Revised Code. If the application for an annual license is submitted to the director, the application fee shall be credited to the general revenue fund. If a permit or license is issued, the amount of the application fee paid shall be deducted from the amount of the permit fee due under division (Q) of section 3745.11 of the Revised Code or the amount of the license fee due under division (C) of section 3734.06 of the Revised Code.

(d) The owner or operator of any infectious waste treatment facility that commenced operation on or before July 1, 1968, shall submit to the director an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under section 3734.021 of the Revised Code in accordance with the following schedule:

(i) Not later than December 24, 1988, if the facility is located in Delaware, Greene, Guernsey, Hamilton, Madison, Mahoning, Ottawa, or Vinton county;

(ii) Not later than March 24, 1989, if the facility is located in

Champaign, Clinton, Columbiana, Huron, Paulding, Stark, or Washington county, or is located in the city of Brooklyn, Cuyahoga Heights, or Parma in Cuyahoga county;

(iii) Not later than June 24, 1989, if the facility is located in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, Lucas, or Summit county or is located in Cuyahoga county outside the cities of Brooklyn, Cuyahoga Heights, and Parma;

(iv) Not later than September 24, 1989, if the facility is located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross county;

(v) Not later than December 24, 1989, if the facility is located in a county not listed in divisions (B)(2)(d)(i) to (iv) of this section.

The owner or operator of an infectious waste treatment facility required to submit a permit application under division (B)(2)(d) of this section is not required to pay any permit application fee under division (B)(2)(c) of this section, or permit fee under division (Q) of section 3745.11 of the Revised Code, with respect thereto unless the owner or operator also proposes to modify the facility.

(e) The director may issue an order in accordance with Chapter 3745. of the Revised Code to the owner or operator of an infectious waste treatment facility requiring the person to submit to the director updated engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under section 3734.021 of the Revised Code if, in the director's judgment, conditions at the facility constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination. Any person who receives such an order shall submit the updated engineering detail plans, specifications, and information to the director within one hundred eighty days after the effective date of the order.

(f) The director shall act upon an application submitted under division (B)(2)(d) of this section and any updated engineering plans, specifications, and information submitted under division (B)(2)(e) of this section within one hundred eighty days after receiving them. If the director denies any such permit application or disapproves any such updated engineering plans, specifications, and information, the director shall include in the order denying the application or disapproving the plans the requirement that the owner or operator cease accepting infectious wastes for treatment at the facility.

(3) Division (B) of this section does not apply to an infectious waste treatment facility that meets any of the following conditions:

(a) Is owned or operated by the generator of the wastes and exclusively treats, by methods, techniques, and practices established by rules adopted under division (C)(1) or (3) of section 3734.021 of the Revised Code, wastes that are generated at any premises owned or operated by that generator regardless of whether the wastes are generated on the same premises where the generator's treatment facility is located or, if the generator is a hospital as defined in section 3727.01 of the Revised Code, infectious wastes that are described in division (A)(1)(g), (h), or (i) of section 3734.021 of the Revised Code;

(b) Holds a license or renewal of a license to operate a crematory facility issued under Chapter 4717. and a permit issued under Chapter 3704. of the Revised Code;

(c) Treats or disposes of dead animals or parts thereof, or the blood of animals, and is subject to any of the following:

(i) Inspection under the "Federal Meat Inspection Act," 81 Stat. 584 (1967), 21 U.S.C.A. 603, as amended;

(ii) Chapter 918. of the Revised Code;

(iii) Chapter 953. of the Revised Code.

Nothing in division (B) of this section requires a facility that holds a license issued under division (A) of this section as a solid waste facility and that also treats infectious wastes by the same method, technique, or process to obtain a license under division (B) of this section as an infectious waste treatment facility. However, the solid waste facility license for the facility shall include the notation that the facility also treats infectious wastes.

On and after the effective date of the amendments to the rules adopted under division (C)(2) of section 3734.021 of the Revised Code that are required by Section 6 of Substitute House Bill No. 98 of the 120th General Assembly, the director shall not issue a permit to open a new solid waste incineration facility unless the proposed facility complies with the requirements for the location of new infectious waste incineration facilities established in the required amendments to those rules.

(C) Except for a facility or activity described in division (E)(3) of section 3734.02 of the Revised Code, a person who proposes to establish or operate a hazardous waste facility shall submit a complete application for a hazardous waste facility installation and operation permit and accompanying detail plans, specifications, and such information as the director may require to the environmental protection agency at least one hundred eighty days before the proposed beginning of operation of the facility. The applicant shall notify by certified mail the legislative authority of each municipal corporation, township, and county in which the facility is proposed to be

located of the submission of the application within ten days after the submission or at such earlier time as the director may establish by rule. If the application is for a proposed new hazardous waste disposal or thermal treatment facility, the applicant also shall give actual notice of the general design and purpose of the facility to the legislative authority of each municipal corporation, township, and county in which the facility is proposed to be located at least ninety days before the permit application is submitted to the environmental protection agency.

In accordance with rules adopted under section 3734.12 of the Revised Code, prior to the submission of a complete application for a hazardous waste facility installation and operation permit, the applicant shall hold at least one meeting in the township or municipal corporation in which the facility is proposed to be located, whichever is geographically closer to the proposed location of the facility. The meeting shall be open to the public and shall be held to inform the community of the proposed hazardous waste management activities and to solicit questions from the community concerning the activities.

(D)(1) Except as provided in section 3734.123 of the Revised Code, upon receipt of a complete application for a hazardous waste facility installation and operation permit under division (C) of this section, the director shall consider the application and accompanying information to determine whether the application complies with agency rules and the requirements of division (D)(2) of this section. After making a determination, the director shall issue either a draft permit or a notice of intent to deny the permit. The director, in accordance with rules adopted under section 3734.12 of the Revised Code or with rules adopted to implement Chapter 3745. of the Revised Code, shall provide public notice of the application and the draft permit or the notice of intent to deny the permit, provide an opportunity for public comments, and, if significant interest is shown, schedule a public meeting in the county in which the facility is proposed to be located and give public notice of the date, time, and location of the public meeting in a newspaper of general circulation in that county.

(2) The director shall not approve an application for a hazardous waste facility installation and operation permit or an application for a modification under division (I)(3) of this section unless the director finds and determines as follows:

- (a) The nature and volume of the waste to be treated, stored, or disposed of at the facility;
- (b) That the facility complies with the director's hazardous waste

standards adopted pursuant to section 3734.12 of the Revised Code;

(c) That the facility represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of various alternatives, and other pertinent considerations;

(d) That the facility represents the minimum risk of all of the following:

(i) Fires or explosions from treatment, storage, or disposal methods;

(ii) Release of hazardous waste during transportation of hazardous waste to or from the facility;

(iii) Adverse impact on the public health and safety.

(e) That the facility will comply with this chapter and Chapters 3704. and 6111. of the Revised Code and all rules and standards adopted under them;

(f) That if the owner of the facility, the operator of the facility, or any other person in a position with the facility from which the person may influence the installation and operation of the facility has been involved in any prior activity involving transportation, treatment, storage, or disposal of hazardous waste, that person has a history of compliance with this chapter and Chapters 3704. and 6111. of the Revised Code and all rules and standards adopted under them, the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, and all regulations adopted under it, and similar laws and rules of other states if any such prior operation was located in another state that demonstrates sufficient reliability, expertise, and competency to operate a hazardous waste facility under the applicable provisions of this chapter and Chapters 3704. and 6111. of the Revised Code, the applicable rules and standards adopted under them, and terms and conditions of a hazardous waste facility installation and operation permit, given the potential for harm to the public health and safety and the environment that could result from the irresponsible operation of the facility. For off-site facilities, as defined in section 3734.41 of the Revised Code, the director may use the investigative reports of the attorney general prepared pursuant to section 3734.42 of the Revised Code as a basis for making a finding and determination under division (D)(2)(f) of this section.

(g) That the active areas within a new hazardous waste facility where acute hazardous waste as listed in 40 C.F.R. 261.33 (e), as amended, or organic waste that is toxic and is listed under 40 C.F.R. 261, as amended, is being stored, treated, or disposed of and where the aggregate of the storage design capacity and the disposal design capacity of all hazardous waste in those areas is greater than two hundred fifty thousand gallons, are not located or operated within any of the following:

(i) Two thousand feet of any residence, school, hospital, jail, or prison;

- (ii) Any naturally occurring wetland;
- (iii) Any flood hazard area if the applicant cannot show that the facility will be designed, constructed, operated, and maintained to prevent washout by a one-hundred-year flood.

Division (D)(2)(g) of this section does not apply to the facility of any applicant who demonstrates to the director that the limitations specified in that division are not necessary because of the nature or volume of the waste and the manner of management applied, the facility will impose no substantial danger to the health and safety of persons occupying the structures listed in division (D)(2)(g)(i) of this section, and the facility is to be located or operated in an area where the proposed hazardous waste activities will not be incompatible with existing land uses in the area.

(h) That the facility will not be located within the boundaries of a state park established or dedicated under Chapter 1541. of the Revised Code, a state park purchase area established under section 1541.02 of the Revised Code, any unit of the national park system, or any property that lies within the boundaries of a national park or recreation area, but that has not been acquired or is not administered by the secretary of the United States department of the interior, located in this state, or any candidate area located in this state identified for potential inclusion in the national park system in the edition of the "national park system plan" submitted under paragraph (b) of section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended, current at the time of filing of the application for the permit, unless the facility will be used exclusively for the storage of hazardous waste generated within the park or recreation area in conjunction with the operation of the park or recreation area. Division (D)(2)(h) of this section does not apply to the facility of any applicant for modification of a permit unless the modification application proposes to increase the land area included in the facility or to increase the quantity of hazardous waste that will be treated, stored, or disposed of at the facility.

(3) Not later than one hundred eighty days after the end of the public comment period, the director, without prior hearing, shall issue or deny the permit in accordance with Chapter 3745. of the Revised Code. If the director approves an application for a hazardous waste facility installation and operation permit, the director shall issue the permit, upon such terms and conditions as the director finds are necessary to ensure the construction and operation of the hazardous waste facility in accordance with the standards of this section.

(E); No political subdivision of this state shall require any additional zoning or other approval, consent, permit, certificate, or condition for the

construction or operation of a hazardous waste facility authorized by a hazardous waste facility installation and operation permit issued pursuant to this chapter, nor shall any political subdivision adopt or enforce any law, ordinance, or rule that in any way alters, impairs, or limits the authority granted in the permit.

(F) The director may issue a single hazardous waste facility installation and operation permit to a person who operates two or more adjoining facilities where hazardous waste is stored, treated, or disposed of if the application includes detail plans, specifications, and information on all facilities. For the purposes of this section, "adjoining" means sharing a common boundary, separated only by a public road, or in such proximity that the director determines that the issuance of a single permit will not create a hazard to the public health or safety or the environment.

(G) No person shall falsify or fail to keep or submit any plans, specifications, data, reports, records, manifests, or other information required to be kept or submitted to the director by this chapter or the rules adopted under it.

(H)(1) Each person who holds an installation and operation permit issued under this section and who wishes to obtain a permit renewal shall submit a completed application for an installation and operation permit renewal and any necessary accompanying general plans, detail plans, specifications, and such information as the director may require to the director no later than one hundred eighty days prior to the expiration date of the existing permit or upon a later date prior to the expiration of the existing permit if the permittee can demonstrate good cause for the late submittal. The director shall consider the application and accompanying information, inspection reports of the facility, results of performance tests, a report regarding the facility's compliance or noncompliance with the terms and conditions of its permit and rules adopted by the director under this chapter, and such other information as is relevant to the operation of the facility and shall issue a draft renewal permit or a notice of intent to deny the renewal permit. The director, in accordance with rules adopted under this section or with rules adopted to implement Chapter 3745. of the Revised Code, shall give public notice of the application and draft renewal permit or notice of intent to deny the renewal permit, provide for the opportunity for public comments within a specified time period, schedule a public meeting in the county in which the facility is located if significant interest is shown, and give public notice of the public meeting.

(2) Within sixty days after the public meeting or close of the public comment period, the director, without prior hearing, shall issue or deny the

renewal permit in accordance with Chapter 3745. of the Revised Code. The director shall not issue a renewal permit unless the director determines that the facility under the existing permit has a history of compliance with this chapter, rules adopted under it, the existing permit, or orders entered to enforce such requirements that demonstrates sufficient reliability, expertise, and competency to operate the facility henceforth under this chapter, rules adopted under it, and the renewal permit. If the director approves an application for a renewal permit, the director shall issue the permit subject to the payment of the annual permit fee required under division (E) of section 3734.02 of the Revised Code and upon such terms and conditions as the director finds are reasonable to ensure that continued operation, maintenance, closure, and post-closure care of the hazardous waste facility are in accordance with the rules adopted under section 3734.12 of the Revised Code.

(3) An installation and operation permit renewal application submitted to the director that also contains or would constitute an application for a modification shall be acted upon by the director in accordance with division (I) of this section in the same manner as an application for a modification. In approving or disapproving the renewal portion of a permit renewal application containing an application for a modification, the director shall apply the criteria established under division (H)(2) of this section.

(4) An application for renewal or modification of a permit that does not contain an application for a modification as described in divisions (I)(3)(a) to (d) of this section shall not be subject to division (D)(2) of this section.

(I)(1) As used in this section, "modification" means a change or alteration to a hazardous waste facility or its operations that is inconsistent with or not authorized by its existing permit or authorization to operate. Modifications shall be classified as Class 1, 2, or 3 modifications in accordance with rules adopted under division (K) of this section. Modifications classified as Class 3 modifications, in accordance with rules adopted under that division, shall be further classified by the director as either Class 3 modifications that are to be approved or disapproved by the director under divisions (I)(3)(a) to (d) of this section or as Class 3 modifications that are to be approved or disapproved by the director under division (I)(5) of this section. Not later than thirty days after receiving a request for a modification under division (I)(4) of this section that is not listed in Appendix I to 40 C.F.R. 270.42 or in rules adopted under division (K) of this section, the director shall classify the modification and shall notify the owner or operator of the facility requesting the modification of the classification. Notwithstanding any other law to the contrary, ~~any~~ a

modification that involves the transfer of a hazardous waste facility installation and operation permit to a new owner or operator for any off-site facility as defined in section 3734.41 of the Revised Code shall be classified as a Class 3 modification. The transfer of a hazardous waste facility installation and operation permit to a new owner or operator for a facility that is not an off-site facility shall be classified as a Class 1 modification requiring prior approval of the director.

(2) Except as provided in section 3734.123 of the Revised Code, a hazardous waste facility installation and operation permit may be modified at the request of the director or upon the written request of the permittee only if any of the following applies:

(a) The permittee desires to accomplish alterations, additions, or deletions to the permitted facility or to undertake alterations, additions, deletions, or activities that are inconsistent with or not authorized by the existing permit;

(b) New information or data justify permit conditions in addition to or different from those in the existing permit;

(c) The standards, criteria, or rules upon which the existing permit is based have been changed by new, amended, or rescinded standards, criteria, or rules, or by judicial decision after the existing permit was issued, and the change justifies permit conditions in addition to or different from those in the existing permit;

(d) The permittee proposes to transfer the permit to another person.

(3) The director shall approve or disapprove an application for a modification in accordance with division (D)(2) of this section and rules adopted under division (K) of this section for all of the following categories of Class 3 modifications:

(a) Authority to conduct treatment, storage, or disposal at a site, location, or tract of land that has not been authorized for the proposed category of treatment, storage, or disposal activity by the facility's permit;

(b) Modification or addition of a hazardous waste management unit, as defined in rules adopted under section 3734.12 of the Revised Code, that results in an increase in a facility's storage capacity of more than twenty-five per cent over the capacity authorized by the facility's permit, an increase in a facility's treatment rate of more than twenty-five per cent over the rate so authorized, or an increase in a facility's disposal capacity over the capacity so authorized. The authorized disposal capacity for a facility shall be calculated from the approved design plans for the disposal units at that facility. In no case during a five-year period shall a facility's storage capacity or treatment rate be modified to increase by more than twenty-five

per cent in the aggregate without the director's approval in accordance with division (D)(2) of this section. Notwithstanding any provision of division (I) of this section to the contrary, a request for modification of a facility's annual total waste receipt limit shall be classified and approved or disapproved by the director under division (I)(5) of this section.

(c) Authority to add any of the following categories of regulated activities not previously authorized at a facility by the facility's permit: storage at a facility not previously authorized to store hazardous waste, treatment at a facility not previously authorized to treat hazardous waste, or disposal at a facility not previously authorized to dispose of hazardous waste; or authority to add a category of hazardous waste management unit not previously authorized at the facility by the facility's permit. Notwithstanding any provision of division (I) of this section to the contrary, a request for authority to add or to modify an activity or a hazardous waste management unit for the purposes of performing a corrective action shall be classified and approved or disapproved by the director under division (I)(5) of this section.

(d) Authority to treat, store, or dispose of waste types listed or characterized as reactive or explosive, in rules adopted under section 3734.12 of the Revised Code, or any acute hazardous waste listed in 40 C.F.R. 261.33(e), as amended, at a facility not previously authorized to treat, store, or dispose of those types of wastes by the facility's permit unless the requested authority is limited to wastes that no longer exhibit characteristics meeting the criteria for listing or characterization as reactive or explosive wastes, or for listing as acute hazardous waste, but still are required to carry those waste codes as established in rules adopted under section 3734.12 of the Revised Code because of the requirements established in 40 C.F.R. 261(a) and (e), as amended, that is, the "mixture," "derived-from," or "contained-in" regulations.

(4) A written request for a modification from the permittee shall be submitted to the director and shall contain such information as is necessary to support the request. Requests for modifications shall be acted upon by the director in accordance with this section and rules adopted under it.

(5) Class 1 modification applications that require prior approval of the director, as provided in division (I)(1) of this section or as determined in accordance with rules adopted under division (K) of this section, Class 2 modification applications, and Class 3 modification applications that are not described in divisions (I)(3)(a) to (d) of this section shall be approved or disapproved by the director in accordance with rules adopted under division (K) of this section. The board of county commissioners of the county, the

board of township trustees of the township, and the city manager or mayor of the municipal corporation in which a hazardous waste facility is located shall receive notification of any application for a modification for that facility and shall be considered as interested persons with respect to the director's consideration of the application.

~~For those modification applications for a transfer of a permit to a new owner or operator of a facility, the director also shall determine that, if the transferee owner or operator has been involved in any prior activity involving the transportation, treatment, storage, or disposal of hazardous waste, the transferee owner or operator has a history of compliance with this chapter and Chapters 3704. and 6111. of the Revised Code and all rules and standards adopted under them, the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, and all regulations adopted under it, and similar laws and rules of another state if the transferee owner or operator owns or operates a facility in that state, that demonstrates sufficient reliability, expertise, and competency to operate a hazardous waste facility under this chapter and Chapters 3704. and 6111. of the Revised Code, all rules and standards adopted under them, and terms and conditions of a hazardous waste facility installation and operation permit, given the potential for harm to the public health and safety and the environment that could result from the irresponsible operation of the facility. A permit may be transferred to a new owner or operator only pursuant to a Class 3 permit modification.~~

As used in division (I)(5) of this section:

(a) "Owner" means the person who owns a majority or controlling interest in a facility.

(b) "Operator" means the person who is responsible for the overall operation of a facility.

The director shall approve or disapprove an application for a Class 1 modification that requires the director's approval within sixty days after receiving the request for modification. The director shall approve or disapprove an application for a Class 2 modification within three hundred days after receiving the request for modification. The director shall approve or disapprove an application for a Class 3 modification within three hundred sixty-five days after receiving the request for modification.

(6) The approval or disapproval by the director of a Class 1 modification application is not a final action that is appealable under Chapter 3745. of the Revised Code. The approval or disapproval by the director of a Class 2 modification or a Class 3 modification is a final action that is appealable under that chapter. In approving or disapproving a request

for a modification, the director shall consider all comments pertaining to the request that are received during the public comment period and the public meetings. The administrative record for appeal of a final action by the director in approving or disapproving a request for a modification shall include all comments received during the public comment period relating to the request for modification, written materials submitted at the public meetings relating to the request, and any other documents related to the director's action.

(7) Notwithstanding any other provision of law to the contrary, a change or alteration to a hazardous waste facility described in division (E)(3)(a) or (b) of section 3734.02 of the Revised Code, or its operations, is a modification for the purposes of this section. An application for a modification at such a facility shall be submitted, classified, and approved or disapproved in accordance with divisions (I)(1) to (6) of this section in the same manner as a modification to a hazardous waste facility installation and operation permit.

(J)(1) Except as provided in division (J)(2) of this section, an owner or operator of a hazardous waste facility that is operating in accordance with a permit by rule under rules adopted by the director under division (E)(3)(b) of section 3734.02 of the Revised Code shall submit either a hazardous waste facility installation and operation permit application for the facility or a modification application, whichever is required under division (J)(1)(a) or (b) of this section, within one hundred eighty days after the director has requested the application or upon a later date if the owner or operator demonstrates to the director good cause for the late submittal.

(a) If the owner or operator does not have a hazardous waste facility installation and operation permit for any hazardous waste treatment, storage, or disposal activities at the facility, the owner or operator shall submit an application for such a permit to the director for the activities authorized by the permit by rule. Notwithstanding any other provision of law to the contrary, the director shall approve or disapprove the application for the permit in accordance with the procedures governing the approval or disapproval of permit renewals under division (H) of this section.

(b) If the owner or operator has a hazardous waste facility installation and operation permit for hazardous waste treatment, storage, or disposal activities at the facility other than those authorized by the permit by rule, the owner or operator shall submit to the director a request for modification in accordance with division (I) of this section. Notwithstanding any other provision of law to the contrary, the director shall approve or disapprove the modification application in accordance with division (I)(5) of this section.

(2) The owner or operator of a boiler or industrial furnace that is conducting thermal treatment activities in accordance with a permit by rule under rules adopted by the director under division (E)(3)(b) of section 3734.02 of the Revised Code shall submit a hazardous waste facility installation and operation permit application if the owner or operator does not have such a permit for any hazardous waste treatment, storage, or disposal activities at the facility or, if the owner or operator has such a permit for hazardous waste treatment, storage, or disposal activities at the facility other than thermal treatment activities authorized by the permit by rule, a modification application to add those activities authorized by the permit by rule, whichever is applicable, within one hundred eighty days after the director has requested the submission of the application or upon a later date if the owner or operator demonstrates to the director good cause for the late submittal. The application shall be accompanied by information necessary to support the request. The director shall approve or disapprove an application for a hazardous waste facility installation and operation permit in accordance with division (D) of this section and approve or disapprove an application for a modification in accordance with division (I)(3) of this section, except that the director shall not disapprove an application for the thermal treatment activities on the basis of the criteria set forth in division (D)(2)(g) or (h) of this section.

(3) As used in division (J) of this section:

(a) "Modification application" means a request for a modification submitted in accordance with division (I) of this section.

(b) "Thermal treatment," "boiler," and "industrial furnace" have the same meanings as in rules adopted under section 3734.12 of the Revised Code.

(K) The director shall adopt, and may amend, suspend, or rescind, rules in accordance with Chapter 119. of the Revised Code in order to implement divisions (H) and (I) of this section. Except when in actual conflict with this section, rules governing the classification of and procedures for the modification of hazardous waste facility installation and operation permits shall be substantively and procedurally identical to the regulations governing hazardous waste facility permitting and permit modifications adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended.

Sec. 3734.28. ~~All~~ Except as otherwise provided in section 3734.282 of the Revised Code, moneys collected under sections 3734.122, 3734.13, 3734.20, 3734.22, 3734.24, and 3734.26 of the Revised Code and ~~natural resource damages collected by the state~~ under the "Comprehensive

Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended, shall be paid into the state treasury to the credit of the hazardous waste clean-up fund, which is hereby created. In addition, any moneys recovered for costs paid from the fund for activities described in ~~division~~ divisions (A)(1) and (2) of section 3745.12 of the Revised Code shall be credited to the fund. The environmental protection agency shall use the moneys in the fund for the purposes set forth in division (D) of section 3734.122, sections 3734.19, 3734.20, 3734.21, 3734.23, 3734.25, 3734.26, and 3734.27, ~~and, through October 15, 2005,~~ divisions (A)(1) and (2) of section 3745.12, and Chapter 3746. of the Revised Code, including any related enforcement expenses. In addition, the agency shall use the moneys in the fund to pay the state's long-term operation and maintenance costs or matching share for actions taken under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," as amended. If those moneys are reimbursed by grants or other moneys from the United States or any other person, the moneys shall be placed in the fund and not in the general revenue fund.

The director of environmental protection may enter into contracts and grant agreements with federal, state, or local government agencies, nonprofit organizations, and colleges and universities for the purpose of carrying out the responsibilities of the environmental protection agency for which money may be expended from the fund.

Sec. 3734.281. ~~Notwithstanding any provision of law to the contrary, any moneys set aside by the state for the cleanup and remediation of the Ashtabula river; any~~ Except as otherwise provided in section 3734.282 of the Revised Code, moneys collected from judgements for the state or settlements made by ~~with~~ the director of environmental protection, including those associated with bankruptcies, related to actions brought under Chapter 3714. and section 3734.13, 3734.20, 3734.22, 6111.03, or 6111.04 of the Revised Code; and ~~any~~ moneys received under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C. ~~9602~~ 9601 et seq., as amended, may be paid into the state treasury to the credit of the environmental protection remediation fund, which is hereby created. The environmental protection agency shall use the moneys in the fund only for the purpose of remediating conditions at a hazardous waste facility, a solid waste facility, a construction and demolition debris facility licensed under Chapter 3714. of the Revised Code, or another location at which the director has reason to believe there is a substantial threat to public health or safety or the environment. Remediation may include the direct and indirect costs associated with the overseeing,

supervising, performing, verifying, or reviewing of remediation activities by agency employees. All investment earnings of the fund shall be credited to the fund.

The director of environmental protection may enter into contracts and grant agreements with federal, state, or local government agencies, nonprofit organizations, and colleges and universities for the purpose of carrying out the responsibilities of the environmental protection agency for which money may be expended from the fund.

Sec. 3734.282. All money collected by the state for natural resources damages under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C. 9601 et seq., as amended, the "Oil Pollution Act of 1990," 104 Stat. 484, 33 U.S.C. 2701 et seq., as amended, the "Clean Water Act," 86 Stat. 862, 33 U.S.C. 1321, as amended, or any other applicable federal or state law shall be paid into the state treasury to the credit of the natural resource damages fund, which is hereby created. The director of environmental protection shall use money in the fund only in accordance with the purposes of and the limitations on natural resources damages set forth in the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," as amended, the "Oil Pollution Act of 1990," as amended, the "Clean Water Act," as amended, or another applicable federal or state law. All investment earnings of the fund shall be credited to the fund.

The director of environmental protection may enter into contracts and grant agreements with federal, state, or local government agencies, nonprofit organizations, and colleges and universities for the purpose of carrying out the director's responsibilities for which money may be expended from the fund.

Sec. 3734.53. (A) The solid waste management plan of any county or joint solid waste management district shall be prepared in a format prescribed by the director of environmental protection and shall provide for compliance with the objectives of the state solid waste management plan and rules adopted under section 3734.50 of the Revised Code. The plan shall provide for, demonstrate, and certify the availability of and access to sufficient solid waste management facility capacity to meet the solid waste management needs of the district for the ten-year period covered by the plan. The solid waste management policy committee of a county or joint district created in section 3734.54 of the Revised Code may prepare and submit a solid waste management plan that covers and makes the required demonstration for a longer period of time.

The solid waste management plan shall contain all of the following:

(1) An inventory of the sources, composition, and quantities of solid wastes generated in the district during the current year;

(2) An inventory of all existing facilities where solid wastes are being disposed of, all resource recovery facilities, and all recycling activities within the district. The inventory shall identify each such facility or activity and, for each disposal facility, shall estimate the remaining disposal capacity available at the facility. The inventory shall be accompanied by a map that shows the location of each such existing facility or activity.

(3) An inventory of existing solid waste collection systems and routes, transportation systems and routes, and transfer facilities within the district. The inventory shall identify the entities engaging in solid waste collection within the district.

(4) An inventory of open dumping sites for solid wastes, including solid wastes consisting of scrap tires, and facilities for the disposal of fly ash and bottom ash, foundry sand, and slag within the district. The inventory shall identify each such site or facility and shall be accompanied by a map that shows the location of each of them.

(5) A projection of population changes within the district during the next ten years;

(6) For each year of the forecast period, projections of the amounts and composition of solid wastes that will be generated within the district, the amounts of solid wastes originating outside the district that will be brought into the district for disposal or resource recovery, the nature of industrial activities within the district, and the effect of newly regulated waste streams, solid waste minimization activities, and solid waste recycling and reuse activities on solid waste generation rates. For each year of the forecast period, projections of waste quantities shall be compiled as an aggregate quantity of wastes.

(7) An identification of the additional solid waste management facilities and the amount of additional capacity needed to dispose of the quantities of wastes projected in division (A)(6) of this section;

(8) A strategy for identification of sites for the additional solid waste management facilities and capacity identified under division (A)(7) of this section;

(9) An analysis and comparison of the capital and operating costs of the solid waste disposal facilities, solid waste resource recovery facilities, and solid waste recycling and reuse activities necessary to meet the solid waste management needs of the district, projected in five- and ten-year increments;

(10) An analysis of expenses for which the district is liable under section 3734.35 of the Revised Code;

(11) A projection of solid waste transfer facilities that will be needed in conjunction with existing solid waste facilities and those projected under division (A)(7) of this section;

(12) Such other projections as the district considers necessary or appropriate to ascertain and meet the solid waste management needs of the district during the period covered by the plan;

(13) A schedule for implementation of the plan that, when applicable, contains all of the following:

(a) An identification of the solid waste disposal, transfer, and resource recovery facilities and recycling activities contained in the plan where solid wastes generated within or transported into the district will be taken for disposal, transfer, resource recovery, or recycling. An initial or amended plan prepared and ordered to be implemented by the director under section 3734.521, 3734.55, or 3734.56 of the Revised Code may designate solid waste disposal, transfer, or resource recovery facilities or recycling activities that are owned by a municipal corporation, county, county or joint solid waste management district, township, or township waste disposal district created under section 505.28 of the Revised Code for which debt issued under Chapter 133., 343., or 6123. of the Revised Code is outstanding where solid wastes generated within or transported into the district shall be taken for disposal, transfer, resource recovery, or recycling.

(b) A schedule for closure of existing solid waste facilities, expansion of existing facilities, and establishment of new facilities. The schedule for expansion of existing facilities or establishment of new facilities shall include, without limitation, the approximate dates for filing applications for appropriate permits to install or modify those facilities under section 3734.05 of the Revised Code.

(c) A schedule for implementation of solid waste recycling, reuse, and reduction programs needed to meet the waste reduction, recycling, reuse, and minimization objectives of the state solid waste management plan and rules adopted by the director under section 3734.50 of the Revised Code;

(d) The methods of financing implementation of the plan and a demonstration of the availability of financial resources for that purpose.

(14) A program for providing informational or technical assistance regarding source reduction to solid waste generators, or particular categories of solid waste generators, within the district. The plan shall set forth the types of assistance to be provided by the district and the specific categories of generators that are to be served. The district has the sole discretion to determine the types of assistance that are to be provided under the program and the categories of generators to be served by it.

(B) In addition to the information, projections, demonstrations, and certification required by division (A) of this section, a plan shall do all of the following:

(1) Establish the schedule of fees, if any, to be levied under divisions (B)(1) to (3) of section 3734.57 of the Revised Code;

(2) Establish the fee, if any, to be levied under division (A) of section 3734.573 of the Revised Code;

(3) Contain provisions governing the allocation among the purposes enumerated in divisions (G)(1) to (10) of section 3734.57 of the Revised Code of the moneys credited to the special fund of the district under division (G) of that section that are available for expenditure by the district under that division. The plan shall do all of the following:

(a) Ensure that sufficient of the moneys so credited to and available from the special fund are available for use by the solid waste management policy committee of the district at the time the moneys are needed to monitor implementation of the plan and conduct its periodic review and amendment as required under section 3734.56 of the Revised Code;

(b) Contain provisions governing the allocation and distribution of moneys credited to and available from the special fund of the district to health districts within the county or joint district that have approved programs under section 3734.08 of the Revised Code for the purposes of division (G)(3) of section 3734.57 of the Revised Code;

(c) Contain provisions governing the allocation and distribution of moneys credited to and available from the special fund of the district to the county in which solid waste facilities are or are to be located and operated under the plan for the purposes of division (G)(4) of section 3734.57 of the Revised Code;

(d) Contain provisions governing the allocation and distribution, pursuant to contracts entered into for that purpose, of moneys credited to and available from the special fund of the district to boards of health within the district in which solid waste facilities contained in the district's plan are located for the purposes of division (G)(5) of section 3734.57 of the Revised Code.

(4) Incorporate all solid waste recycling activities that were in operation within the district on the effective date of the plan.

(C) The solid waste management plan of a county or joint district may provide for the adoption of rules under division (G) of section 343.01 of the Revised Code after approval of the plan under section 3734.521 or 3734.55 of the Revised Code doing any or all of the following:

(1) Prohibiting or limiting the receipt at facilities ~~covered by the plan~~

located within the solid waste management district of solid wastes generated outside the district or outside a prescribed service area consistent with the projections under divisions (A)(6) and (7) of this section, ~~except that.~~ However, rules adopted by a board under division (C)(1) of this section may be adopted and enforced with respect to solid waste disposal facilities in the solid waste management district that are not owned by a county or the solid waste management district only if the board submits an application to the director of environmental protection that demonstrates that there is insufficient capacity to dispose of all solid wastes that are generated within the district at the solid waste disposal facilities located within the district and the director approves the application. The demonstration in the application shall be based on projections contained in the plan or amended plan of the district. The director shall establish the form of the application. The approval or disapproval of such an application by the director is an action that is appealable under section 3745.04 of the Revised Code.

In addition, the director of environmental protection may issue an order modifying a rule authorized to be adopted under division (C)(1) of this section to allow the disposal in the district of wastes from another county or joint solid waste management district if all of the following apply:

(a) The district in which the wastes were generated does not have sufficient capacity to dispose of solid wastes generated within it for six months following the date of the director's order;

(b) No new solid waste facilities will begin operation during those six months in the district in which the wastes were generated and, despite good faith efforts to do so, it is impossible to site new solid waste facilities within the district because of its high population density;

(c) The district in which the wastes were generated has made good faith efforts to negotiate with other districts to incorporate its disposal needs within those districts' solid waste management plans, including efforts to develop joint facilities authorized under section 343.02 of the Revised Code, and the efforts have been unsuccessful;

(d) The district in which the wastes were generated has located a facility willing to accept the district's solid wastes for disposal within the receiving district;

(e) The district in which the wastes were generated has demonstrated to the director that the conditions specified in divisions (C)(1)(a) to (d) of this section have been met;

(f) The director finds that the issuance of the order will be consistent with the state solid waste management plan and that receipt of the out-of-district wastes will not limit the capacity of the receiving district to

dispose of its in-district wastes to less than eight years. Any order issued under division (C)(1) of this section shall not become final until thirty days after it has been served by certified mail upon the county or joint solid waste management district that will receive the out-of-district wastes.

(2) Governing the maintenance, protection, and use of solid waste collection, storage, disposal, transfer, recycling, processing, and resource recovery facilities within the district and requiring the submission of general plans and specifications for the construction, enlargement, or modification of any such facility to the board of county commissioners or board of directors of the district for review and approval as complying with the plan or amended plan of the district;

(3) Governing development and implementation of a program for the inspection of solid wastes generated outside the boundaries of the state that are being disposed of at solid waste facilities included in the district's plan;

(4) Exempting the owner or operator of any existing or proposed solid waste facility provided for in the plan from compliance with any amendment to a township zoning resolution adopted under section 519.12 of the Revised Code or to a county rural zoning resolution adopted under section 303.12 of the Revised Code that rezoned or redistricted the parcel or parcels upon which the facility is to be constructed or modified and that became effective within two years prior to the filing of an application for a permit required under division (A)(2)(a) of section 3734.05 of the Revised Code to open a new or modify an existing solid waste facility.

(D) Except for the inventories required by divisions (A)(1), (2), and (4) of this section and the projections required by division (A)(6) of this section, neither this section nor the solid waste management plan of a county or joint district applies to the construction, operation, use, repair, or maintenance of either of the following:

(1) A solid waste facility owned by a generator of solid wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated;

(2) A facility that exclusively disposes of wastes that are generated from the combustion of coal, or from the combustion of primarily coal in combination with scrap tires, that is not combined in any way with garbage at one or more premises owned by the generator.

(E)(1) The initial solid waste management plans prepared by county or joint districts under section 3734.521 of the Revised Code and the amended plans prepared under section 3734.521 or 3734.56 of the Revised Code shall contain a clear statement as to whether the board of county commissioners

or directors is authorized to or precluded from establishing facility designations under section 343.014 of the Revised Code.

(2) A policy committee that is preparing a draft or revised draft plan under section 3734.55 of the Revised Code on October 29, 1993, may include in the draft or revised draft plan only one of the following pertaining to the solid waste facilities or recycling activities where solid wastes generated within or transported into the district are to be taken for disposal, transfer, resource recovery, or recycling:

(a) The designations required under former division (A)(12)(a) of this section as it existed prior to October 29, 1993;

(b) The identifications required in division (A)(12)(a) of this section and the statement required under division (E)(1) of this section;

(c) Both of the following:

(i) The designations required under former division (A)(12)(a) of this section as it existed prior to October 29, 1993, except that those designations only shall pertain to solid waste disposal, transfer, or resource recovery facilities or recycling activities that are owned by a municipal corporation, county, county or joint solid waste management district, township, or township waste disposal district created under section 505.28 of the Revised Code for which debt issued under Chapter 133., 343., or 6123. of the Revised Code is outstanding;

(ii) The identifications required under division (A)(12)(a) of this section, and the statement required under division (E)(1) of this section, pertaining to the solid waste facilities and recycling activities described in division (A) of section 343.014 of the Revised Code.

(F) Notwithstanding section 3734.01 of the Revised Code, "solid wastes" does not include scrap tires and "facility" does not include any scrap tire collection, storage, monocell, monofill, or recovery facility in either of the following circumstances:

(1) For the purposes of an initial plan prepared and ordered to be implemented by the director under section 3734.55 of the Revised Code;

(2) For the purposes of an initial or amended plan prepared and ordered to be implemented by the director under division (D) or (F)(1) or (2) of section 3734.521 of the Revised Code in connection with a change in district composition as defined in that section that involves an existing district that is operating under either an initial plan approved or prepared and ordered to be implemented under section 3734.55 of the Revised Code or an initial or amended plan approved or prepared and ordered to be implemented under section 3734.521 of the Revised Code that does not provide for the management of scrap tires and scrap tire facilities.

(G) Notwithstanding section 3734.01 of the Revised Code, and except as provided in division (A)(4) of this section, "solid wastes" need not include scrap tires and "facility" need not include any scrap tire collection, storage, monocell, monofill, or recovery facility in either of the following circumstances:

(1) For the purposes of an initial plan prepared under sections 3734.54 and 3734.55 of the Revised Code unless the solid waste management policy committee preparing the initial plan chooses to include the management of scrap tires and scrap tire facilities in the plan;

(2) For the purposes of a preliminary demonstration of capacity as defined in section 3734.521 of the Revised Code, if any, and an initial or amended plan prepared under that section by the solid waste management policy committee of a solid waste management district resulting from proceedings for a change in district composition under sections 343.012 and 3734.521 of the Revised Code that involves an existing district that is operating either under an initial plan approved or prepared and ordered to be implemented under section 3734.55 of the Revised Code or under an initial or amended plan approved or prepared and ordered to be implemented under section 3734.521 of the Revised Code that does not provide for the management of scrap tires and scrap tire facilities unless the solid waste management policy committee of the district resulting from the change chooses to include the management of scrap tires and scrap tire facilities in the preliminary demonstration of capacity, if any, and the initial or amended plan prepared under section 3734.521 of the Revised Code in connection with the change proceedings.

If a policy committee chooses to include the management of scrap tires and scrap tire facilities in an initial plan pursuant to division (G)(1) of this section, the initial plan shall incorporate all of the elements required under this section, and may incorporate any of the elements authorized under this section, for the purpose of managing solid wastes that consist of scrap tires and solid waste facilities that are scrap tire collection, storage, monocell, monofill, or recovery facilities. If a policy committee chooses to provide for the management of scrap tires and scrap tire facilities pursuant to division (G)(2) of this section, the preliminary demonstration of capacity, if one is required, shall incorporate all of the elements required under division (E)(1) or (2) of section 3734.521 of the Revised Code, as appropriate, for the purpose of managing solid wastes that consist of scrap tires and solid waste facilities that are scrap tire collection, storage, monocell, monofill, or recovery facilities. The initial or amended plan also shall incorporate all of the elements required under this section, and may incorporate any of the

elements authorized under this section, for the purpose of managing solid wastes that consist of scrap tires and solid waste facilities that are scrap tire collection, storage, monocell, monofill, or recovery facilities.

(H) Neither this section nor the solid waste management plan of a county or joint district applies to the construction, operation, use, repair, or maintenance of any compost facility that exclusively composts raw rendering material.

Sec. 3734.57. (A) The following fees are hereby levied on the transfer or disposal of solid wastes in this state:

(1) One dollar per ton on and after July 1, 2003, through June 30, ~~2010~~ 2012, one-half of the proceeds of which shall be deposited in the state treasury to the credit of the hazardous waste facility management fund created in section 3734.18 of the Revised Code and one-half of the proceeds of which shall be deposited in the state treasury to the credit of the hazardous waste clean-up fund created in section 3734.28 of the Revised Code;

(2) An additional one dollar per ton on and after July 1, 2003, through June 30, ~~2010~~ 2012, the proceeds of which shall be deposited in the state treasury to the credit of the solid waste fund, which is hereby created. The environmental protection agency shall use money in the solid waste fund to pay the costs of administering and enforcing the laws pertaining to solid wastes, infectious wastes, and construction and demolition debris, including, without limitation, ground water evaluations related to solid wastes, infectious wastes, and construction and demolition debris, under this chapter and Chapter 3714. of the Revised Code and any rules adopted under them, providing compliance assistance to small businesses, and paying a share of the administrative costs of the environmental protection agency pursuant to section 3745.014 of the Revised Code.

(3) An additional one dollar and fifty cents per ton on and after July 1, 2005, through June 30, ~~2010~~ 2012, the proceeds of which shall be deposited in the state treasury to the credit of the environmental protection fund created in section 3745.015 of the Revised Code;

(4) An additional one dollar per ton on and after August 1, 2009, through June 30, 2012, the proceeds of which shall be deposited in the state treasury to the credit of the environmental protection fund. The fee established in division (A)(4) of this section does not apply to a solid waste transfer facility or solid waste disposal facility if the facility is located in a county that has a population equal to or greater than four hundred thousand according to the most recent decennial federal census and the property boundary of the facility is located within fifteen miles of the property

boundary of a solid waste disposal facility in another state.

(5) An additional twenty-five cents per ton on and after August 1, 2009, through June 30, 2012, the proceeds of which shall be deposited in the state treasury to the credit of the soil and water conservation district assistance fund created in section 1515.14 of the Revised Code. The fee established in division (A)(5) of this section does not apply to a solid waste transfer facility or solid waste disposal facility if the facility is located in a county that has a population equal to or greater than four hundred thousand according to the most recent decennial federal census and the property boundary of the facility is located within fifteen miles of the property boundary of a solid waste disposal facility in another state.

In the case of solid wastes that are taken to a solid waste transfer facility located in this state prior to being transported for disposal at a solid waste disposal facility located in this state or outside of this state, the fees levied under this division shall be collected by the owner or operator of the transfer facility as a trustee for the state. The amount of fees required to be collected under this division at such a transfer facility shall equal the total tonnage of solid wastes received at the facility multiplied by the fees levied under this division. In the case of solid wastes that are not taken to a solid waste transfer facility located in this state prior to being transported to a solid waste disposal facility, the fees shall be collected by the owner or operator of the solid waste disposal facility as a trustee for the state. The amount of fees required to be collected under this division at such a disposal facility shall equal the total tonnage of solid wastes received at the facility that was not previously taken to a solid waste transfer facility located in this state multiplied by the fees levied under this division. Fees levied under this division do not apply to materials separated from a mixed waste stream for recycling by a generator or materials removed from the solid waste stream through recycling, as "recycling" is defined in rules adopted under section 3734.02 of the Revised Code.

The owner or operator of a solid waste transfer facility or disposal facility, as applicable, shall prepare and file with the director of environmental protection each month a return indicating the total tonnage of solid wastes received at the facility during that month and the total amount of the fees required to be collected under this division during that month. In addition, the owner or operator of a solid waste disposal facility shall indicate on the return the total tonnage of solid wastes received from transfer facilities located in this state during that month for which the fees were required to be collected by the transfer facilities. The monthly returns shall be filed on a form prescribed by the director. Not later than thirty days

after the last day of the month to which a return applies, the owner or operator shall mail to the director the return for that month together with the fees required to be collected under this division during that month as indicated on the return or may submit the return and fees electronically in a manner approved by the director. If the return is filed and the amount of the fees due is paid in a timely manner as required in this division, the owner or operator may retain a discount of three-fourths of one per cent of the total amount of the fees that are required to be paid as indicated on the return.

The owner or operator may request an extension of not more than thirty days for filing the return and remitting the fees, provided that the owner or operator has submitted such a request in writing to the director together with a detailed description of why the extension is requested, the director has received the request not later than the day on which the return is required to be filed, and the director has approved the request. If the fees are not remitted within thirty days after the last day of the month to which the return applies or are not remitted by the last day of an extension approved by the director, the owner or operator shall not retain the three-fourths of one per cent discount and shall pay an additional ten per cent of the amount of the fees for each month that they are late. For purposes of calculating the late fee, the first month in which fees are late begins on the first day after the deadline has passed for timely submitting the return and fees, and one additional month shall be counted every thirty days thereafter.

The owner or operator of a solid waste facility may request a refund or credit of fees levied under this division and remitted to the director that have not been paid to the owner or operator. Such a request shall be made only if the fees have not been collected by the owner or operator, have become a debt that has become worthless or uncollectable for a period of six months or more, and may be claimed as a deduction, including a deduction claimed if the owner or operator keeps accounts on an accrual basis, under the "Internal Revenue Code of 1954," 68A Stat. 50, 26 U.S.C. 166, as amended, and regulations adopted under it. Prior to making a request for a refund or credit, an owner or operator shall make reasonable efforts to collect the applicable fees. A request for a refund or credit shall not include any costs resulting from those efforts to collect unpaid fees.

A request for a refund or credit of fees shall be made in writing, on a form prescribed by the director, and shall be supported by evidence that may be required in rules adopted by the director under this chapter. After reviewing the request, and if the request and evidence submitted with the request indicate that a refund or credit is warranted, the director shall grant a refund to the owner or operator or shall permit a credit to be taken by the

owner or operator on a subsequent monthly return submitted by the owner or operator. The amount of a refund or credit shall not exceed an amount that is equal to ninety days' worth of fees owed to an owner or operator by a particular debtor of the owner or operator. A refund or credit shall not be granted by the director to an owner or operator more than once in any twelve-month period for fees owed to the owner or operator by a particular debtor.

If, after receiving a refund or credit from the director, an owner or operator receives payment of all or part of the fees, the owner or operator shall remit the fees with the next monthly return submitted to the director together with a written explanation of the reason for the submittal.

For purposes of computing the fees levied under this division or division (B) of this section, any solid waste transfer or disposal facility that does not use scales as a means of determining gate receipts shall use a conversion factor of three cubic yards per ton of solid waste or one cubic yard per ton for baled waste, as applicable.

The fees levied under this division and divisions (B) and (C) of this section are in addition to all other applicable fees and taxes and shall be paid by the customer or a political subdivision to the owner or operator of a solid waste transfer or disposal facility. In the alternative, the fees shall be paid by a customer or political subdivision to a transporter of waste who subsequently transfers the fees to the owner or operator of such a facility. The fees shall be paid notwithstanding the existence of any provision in a contract that the customer or a political subdivision may have with the owner or operator or with a transporter of waste to the facility that would not require or allow such payment regardless of whether the contract was entered prior to or after the effective date of this amendment. For those purposes, "customer" means a person who contracts with, or utilizes the solid waste services of, the owner or operator of a solid waste transfer or disposal facility or a transporter of solid waste to such a facility.

(B) For the purposes specified in division (G) of this section, the solid waste management policy committee of a county or joint solid waste management district may levy fees upon the following activities:

(1) The disposal at a solid waste disposal facility located in the district of solid wastes generated within the district;

(2) The disposal at a solid waste disposal facility within the district of solid wastes generated outside the boundaries of the district, but inside this state;

(3) The disposal at a solid waste disposal facility within the district of solid wastes generated outside the boundaries of this state.

The solid waste management plan of the county or joint district approved under section 3734.521 or 3734.55 of the Revised Code and any amendments to it, or the resolution adopted under this division, as appropriate, shall establish the rates of the fees levied under divisions (B)(1), (2), and (3) of this section, if any, and shall specify whether the fees are levied on the basis of tons or cubic yards as the unit of measurement. A solid waste management district that levies fees under this division on the basis of cubic yards shall do so in accordance with division (A) of this section.

The fee levied under division (B)(1) of this section shall be not less than one dollar per ton nor more than two dollars per ton, the fee levied under division (B)(2) of this section shall be not less than two dollars per ton nor more than four dollars per ton, and the fee levied under division (B)(3) of this section shall be not more than the fee levied under division (B)(1) of this section.

Prior to the approval of the solid waste management plan of a district under section 3734.55 of the Revised Code, the solid waste management policy committee of a district may levy fees under this division by adopting a resolution establishing the proposed amount of the fees. Upon adopting the resolution, the committee shall deliver a copy of the resolution to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district and shall prepare and publish the resolution and a notice of the time and location where a public hearing on the fees will be held. Upon adopting the resolution, the committee shall deliver written notice of the adoption of the resolution; of the amount of the proposed fees; and of the date, time, and location of the public hearing to the director and to the fifty industrial, commercial, or institutional generators of solid wastes within the district that generate the largest quantities of solid wastes, as determined by the committee, and to their local trade associations. The committee shall make good faith efforts to identify those generators within the district and their local trade associations, but the nonprovision of notice under this division to a particular generator or local trade association does not invalidate the proceedings under this division. The publication shall occur at least thirty days before the hearing. After the hearing, the committee may make such revisions to the proposed fees as it considers appropriate and thereafter, by resolution, shall adopt the revised fee schedule. Upon adopting the revised fee schedule, the committee shall deliver a copy of the resolution doing so to the board of county commissioners of each county forming the district and to the legislative

authority of each municipal corporation and township under the jurisdiction of the district. Within sixty days after the delivery of a copy of the resolution adopting the proposed revised fees by the policy committee, each such board and legislative authority, by ordinance or resolution, shall approve or disapprove the revised fees and deliver a copy of the ordinance or resolution to the committee. If any such board or legislative authority fails to adopt and deliver to the policy committee an ordinance or resolution approving or disapproving the revised fees within sixty days after the policy committee delivered its resolution adopting the proposed revised fees, it shall be conclusively presumed that the board or legislative authority has approved the proposed revised fees. The committee shall determine if the resolution has been ratified in the same manner in which it determines if a draft solid waste management plan has been ratified under division (B) of section 3734.55 of the Revised Code.

The committee may amend the schedule of fees levied pursuant to a resolution adopted and ratified under this division by adopting a resolution establishing the proposed amount of the amended fees. The committee may repeal the fees levied pursuant to such a resolution by adopting a resolution proposing to repeal them. Upon adopting such a resolution, the committee shall proceed to obtain ratification of the resolution in accordance with this division.

Not later than fourteen days after declaring the new fees to be ratified or the fees to be repealed under this division, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the ratification and the amount of the fees or of the repeal of the fees. Collection of any fees shall commence or collection of repealed fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

Fees levied under this division also may be established, amended, or repealed by a solid waste management policy committee through the adoption of a new district solid waste management plan, the adoption of an amended plan, or the amendment of the plan or amended plan in accordance with sections 3734.55 and 3734.56 of the Revised Code or the adoption or amendment of a district plan in connection with a change in district composition under section 3734.521 of the Revised Code.

Not later than fourteen days after the director issues an order approving a district's solid waste management plan, amended plan, or amendment to a plan or amended plan that establishes, amends, or repeals a schedule of fees levied by the district, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the

fees of the approval of the plan or amended plan, or the amendment to the plan, as appropriate, and the amount of the fees, if any. In the case of an initial or amended plan approved under section 3734.521 of the Revised Code in connection with a change in district composition, other than one involving the withdrawal of a county from a joint district, the committee, within fourteen days after the change takes effect pursuant to division (G) of that section, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees that the change has taken effect and of the amount of the fees, if any. Collection of any fees shall commence or collection of repealed fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

If, in the case of a change in district composition involving the withdrawal of a county from a joint district, the director completes the actions required under division (G)(1) or (3) of section 3734.521 of the Revised Code, as appropriate, forty-five days or more before the beginning of a calendar year, the policy committee of each of the districts resulting from the change that obtained the director's approval of an initial or amended plan in connection with the change, within fourteen days after the director's completion of the required actions, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the district's fees that the change is to take effect on the first day of January immediately following the issuance of the notice and of the amount of the fees or amended fees levied under divisions (B)(1) to (3) of this section pursuant to the district's initial or amended plan as so approved or, if appropriate, the repeal of the district's fees by that initial or amended plan. Collection of any fees set forth in such a plan or amended plan shall commence on the first day of January immediately following the issuance of the notice. If such an initial or amended plan repeals a schedule of fees, collection of the fees shall cease on that first day of January.

If, in the case of a change in district composition involving the withdrawal of a county from a joint district, the director completes the actions required under division (G)(1) or (3) of section 3734.521 of the Revised Code, as appropriate, less than forty-five days before the beginning of a calendar year, the director, on behalf of each of the districts resulting from the change that obtained the director's approval of an initial or amended plan in connection with the change proceedings, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the district's fees that the change is to take effect on the first day of January immediately following the mailing of the notice and of

the amount of the fees or amended fees levied under divisions (B)(1) to (3) of this section pursuant to the district's initial or amended plan as so approved or, if appropriate, the repeal of the district's fees by that initial or amended plan. Collection of any fees set forth in such a plan or amended plan shall commence on the first day of the second month following the month in which notification is sent to the owner or operator. If such an initial or amended plan repeals a schedule of fees, collection of the fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

If the schedule of fees that a solid waste management district is levying under divisions (B)(1) to (3) of this section is amended or repealed, the fees in effect immediately prior to the amendment or repeal shall continue to be collected until collection of the amended fees commences or collection of the repealed fees ceases, as applicable, as specified in this division. In the case of a change in district composition, money so received from the collection of the fees of the former districts shall be divided among the resulting districts in accordance with division (B) of section 343.012 of the Revised Code and the agreements entered into under division (B) of section 343.01 of the Revised Code to establish the former and resulting districts and any amendments to those agreements.

For the purposes of the provisions of division (B) of this section establishing the times when newly established or amended fees levied by a district are required to commence and the collection of fees that have been amended or repealed is required to cease, "fees" or "schedule of fees" includes, in addition to fees levied under divisions (B)(1) to (3) of this section, those levied under section 3734.573 or 3734.574 of the Revised Code.

(C) For the purposes of defraying the added costs to a municipal corporation or township of maintaining roads and other public facilities and of providing emergency and other public services, and compensating a municipal corporation or township for reductions in real property tax revenues due to reductions in real property valuations resulting from the location and operation of a solid waste disposal facility within the municipal corporation or township, a municipal corporation or township in which such a solid waste disposal facility is located may levy a fee of not more than twenty-five cents per ton on the disposal of solid wastes at a solid waste disposal facility located within the boundaries of the municipal corporation or township regardless of where the wastes were generated.

The legislative authority of a municipal corporation or township may levy fees under this division by enacting an ordinance or adopting a

resolution establishing the amount of the fees. Upon so doing the legislative authority shall mail a certified copy of the ordinance or resolution to the board of county commissioners or directors of the county or joint solid waste management district in which the municipal corporation or township is located or, if a regional solid waste management authority has been formed under section 343.011 of the Revised Code, to the board of trustees of that regional authority, the owner or operator of each solid waste disposal facility in the municipal corporation or township that is required to collect the fee by the ordinance or resolution, and the director of environmental protection. Although the fees levied under this division are levied on the basis of tons as the unit of measurement, the legislative authority, in its ordinance or resolution levying the fees under this division, may direct that the fees be levied on the basis of cubic yards as the unit of measurement based upon a conversion factor of three cubic yards per ton generally or one cubic yard per ton for baled wastes.

Not later than five days after enacting an ordinance or adopting a resolution under this division, the legislative authority shall so notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fee. Collection of any fee levied on or after March 24, 1992, shall commence on the first day of the second month following the month in which notification is sent to the owner or operator.

(D)(1) The fees levied under divisions (A), (B), and (C) of this section do not apply to the disposal of solid wastes that:

(a) Are disposed of at a facility owned by the generator of the wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated;

(b) Are disposed of at facilities that exclusively dispose of wastes that are generated from the combustion of coal, or from the combustion of primarily coal in combination with scrap tires, that is not combined in any way with garbage at one or more premises owned by the generator.

(2) Except as provided in section 3734.571 of the Revised Code, any fees levied under division (B)(1) of this section apply to solid wastes originating outside the boundaries of a county or joint district that are covered by an agreement for the joint use of solid waste facilities entered into under section 343.02 of the Revised Code by the board of county commissioners or board of directors of the county or joint district where the wastes are generated and disposed of.

(3) When solid wastes, other than solid wastes that consist of scrap tires, are burned in a disposal facility that is an incinerator or energy recovery

facility, the fees levied under divisions (A), (B), and (C) of this section shall be levied upon the disposal of the fly ash and bottom ash remaining after burning of the solid wastes and shall be collected by the owner or operator of the sanitary landfill where the ash is disposed of.

(4) When solid wastes are delivered to a solid waste transfer facility, the fees levied under divisions (B) and (C) of this section shall be levied upon the disposal of solid wastes transported off the premises of the transfer facility for disposal and shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of.

(5) The fees levied under divisions (A), (B), and (C) of this section do not apply to sewage sludge that is generated by a waste water treatment facility holding a national pollutant discharge elimination system permit and that is disposed of through incineration, land application, or composting or at another resource recovery or disposal facility that is not a landfill.

(6) The fees levied under divisions (A), (B), and (C) of this section do not apply to solid wastes delivered to a solid waste composting facility for processing. When any unprocessed solid waste or compost product is transported off the premises of a composting facility and disposed of at a landfill, the fees levied under divisions (A), (B), and (C) of this section shall be collected by the owner or operator of the landfill where the unprocessed waste or compost product is disposed of.

(7) When solid wastes that consist of scrap tires are processed at a scrap tire recovery facility, the fees levied under divisions (A), (B), and (C) of this section shall be levied upon the disposal of the fly ash and bottom ash or other solid wastes remaining after the processing of the scrap tires and shall be collected by the owner or operator of the solid waste disposal facility where the ash or other solid wastes are disposed of.

(8) The director of environmental protection may issue an order exempting from the fees levied under this section solid wastes, including, but not limited to, scrap tires, that are generated, transferred, or disposed of as a result of a contract providing for the expenditure of public funds entered into by the administrator or regional administrator of the United States environmental protection agency, the director of environmental protection, or the director of administrative services on behalf of the director of environmental protection for the purpose of remediating conditions at a hazardous waste facility, solid waste facility, or other location at which the administrator or regional administrator or the director of environmental protection has reason to believe that there is a substantial threat to public health or safety or the environment or that the conditions are causing or contributing to air or water pollution or soil contamination. An order issued

by the director of environmental protection under division (D)(8) of this section shall include a determination that the amount of the fees not received by a solid waste management district as a result of the order will not adversely impact the implementation and financing of the district's approved solid waste management plan and any approved amendments to the plan. Such an order is a final action of the director of environmental protection.

(E) The fees levied under divisions (B) and (C) of this section shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of as a trustee for the county or joint district and municipal corporation or township where the wastes are disposed of. Moneys from the fees levied under division (B) of this section shall be forwarded to the board of county commissioners or board of directors of the district in accordance with rules adopted under division (H) of this section. Moneys from the fees levied under division (C) of this section shall be forwarded to the treasurer or such other officer of the municipal corporation as, by virtue of the charter, has the duties of the treasurer or to the fiscal officer of the township, as appropriate, in accordance with those rules.

(F) Moneys received by the treasurer or other officer of the municipal corporation under division (E) of this section shall be paid into the general fund of the municipal corporation. Moneys received by the fiscal officer of the township under that division shall be paid into the general fund of the township. The treasurer or other officer of the municipal corporation or the township fiscal officer, as appropriate, shall maintain separate records of the moneys received from the fees levied under division (C) of this section.

(G) Moneys received by the board of county commissioners or board of directors under division (E) of this section or section 3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code shall be paid to the county treasurer, or other official acting in a similar capacity under a county charter, in a county district or to the county treasurer or other official designated by the board of directors in a joint district and kept in a separate and distinct fund to the credit of the district. If a regional solid waste management authority has been formed under section 343.011 of the Revised Code, moneys received by the board of trustees of that regional authority under division (E) of this section shall be kept by the board in a separate and distinct fund to the credit of the district. Moneys in the special fund of the county or joint district arising from the fees levied under division (B) of this section and the fee levied under division (A) of section 3734.573 of the Revised Code shall be expended by the board of county commissioners or directors of the district in accordance with the district's solid waste management plan or amended plan approved under section

3734.521, 3734.55, or 3734.56 of the Revised Code exclusively for the following purposes:

(1) Preparation of the solid waste management plan of the district under section 3734.54 of the Revised Code, monitoring implementation of the plan, and conducting the periodic review and amendment of the plan required by section 3734.56 of the Revised Code by the solid waste management policy committee;

(2) Implementation of the approved solid waste management plan or amended plan of the district, including, without limitation, the development and implementation of solid waste recycling or reduction programs;

(3) Providing financial assistance to boards of health within the district, if solid waste facilities are located within the district, for enforcement of this chapter and rules, orders, and terms and conditions of permits, licenses, and variances adopted or issued under it, other than the hazardous waste provisions of this chapter and rules adopted and orders and terms and conditions of permits issued under those provisions;

(4) Providing financial assistance to each county within the district to defray the added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation of a solid waste facility within the county under the district's approved solid waste management plan or amended plan;

(5) Pursuant to contracts entered into with boards of health within the district, if solid waste facilities contained in the district's approved plan or amended plan are located within the district, for paying the costs incurred by those boards of health for collecting and analyzing samples from public or private water wells on lands adjacent to those facilities;

(6) Developing and implementing a program for the inspection of solid wastes generated outside the boundaries of this state that are disposed of at solid waste facilities included in the district's approved solid waste management plan or amended plan;

(7) Providing financial assistance to boards of health within the district for the enforcement of section 3734.03 of the Revised Code or to local law enforcement agencies having jurisdiction within the district for enforcing anti-littering laws and ordinances;

(8) Providing financial assistance to boards of health of health districts within the district that are on the approved list under section 3734.08 of the Revised Code to defray the costs to the health districts for the participation of their employees responsible for enforcement of the solid waste provisions of this chapter and rules adopted and orders and terms and conditions of permits, licenses, and variances issued under those provisions in the training

and certification program as required by rules adopted under division (L) of section 3734.02 of the Revised Code;

(9) Providing financial assistance to individual municipal corporations and townships within the district to defray their added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation within their boundaries of a composting, energy or resource recovery, incineration, or recycling facility that either is owned by the district or is furnishing solid waste management facility or recycling services to the district pursuant to a contract or agreement with the board of county commissioners or directors of the district;

(10) Payment of any expenses that are agreed to, awarded, or ordered to be paid under section 3734.35 of the Revised Code and of any administrative costs incurred pursuant to that section. In the case of a joint solid waste management district, if the board of county commissioners of one of the counties in the district is negotiating on behalf of affected communities, as defined in that section, in that county, the board shall obtain the approval of the board of directors of the district in order to expend moneys for administrative costs incurred.

Prior to the approval of the district's solid waste management plan under section 3734.55 of the Revised Code, moneys in the special fund of the district arising from the fees shall be expended for those purposes in the manner prescribed by the solid waste management policy committee by resolution.

Notwithstanding division (G)(6) of this section as it existed prior to October 29, 1993, or any provision in a district's solid waste management plan prepared in accordance with division (B)(2)(e) of section 3734.53 of the Revised Code as it existed prior to that date, any moneys arising from the fees levied under division (B)(3) of this section prior to January 1, 1994, may be expended for any of the purposes authorized in divisions (G)(1) to (10) of this section.

(H) The director shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing procedures for collecting and forwarding the fees levied under divisions (B) and (C) of this section to the boards of county commissioners or directors of county or joint solid waste management districts and to the treasurers or other officers of municipal corporations and the fiscal officers of townships. The rules also shall prescribe the dates for forwarding the fees to the boards and officials and may prescribe any other requirements the director considers necessary or appropriate to implement and administer divisions (A), (B), and (C) of this

section.

Sec. 3734.573. (A) For the purposes specified in division (G) of section 3734.57 of the Revised Code, the solid waste management policy committee of a county or joint solid waste management district may levy a fee on the generation of solid wastes within the district.

The initial or amended solid waste management plan of the county or joint district approved under section 3734.521, 3734.55, or 3734.56 of the Revised Code, an amendment to the district's plan adopted under division (E) of section 3734.56 of the Revised Code, or the resolution adopted and ratified under division (B) of this section shall establish the rate of the fee levied under this division and shall specify whether the fee is levied on the basis of tons or cubic yards as the unit of measurement.

(B) Prior to the approval under division (A) of section 3734.56 of the Revised Code of the first amended plan that the district is required to submit for approval under that section, the approval of an initial plan under section 3734.521 of the Revised Code, the approval of an amended plan under section 3734.521 or division (D) of section 3734.56 of the Revised Code, or the amendment of the district's plan under division (E) of section 3734.56 of the Revised Code, the solid waste management policy committee of a county or joint district that is operating under an initial plan approved under section 3734.55 of the Revised Code, or one for which approval of its initial plan is pending before the director of environmental protection on October 29, 1993, under section 3734.55 of the Revised Code, may levy a fee under division (A) of this section by adopting and obtaining ratification of a resolution establishing the amount of the fee. A policy committee that, after December 1, 1993, concurrently proposes to levy a fee under division (A) of this section and to amend the fees levied by the district under divisions (B)(1) to (3) of section 3734.57 of the Revised Code may adopt and obtain ratification of one resolution proposing to do both. The requirements and procedures set forth in division (B) of section 3734.57 of the Revised Code governing the adoption, amendment, and repeal of resolutions levying fees under divisions (B)(1) to (3) of that section, the ratification of those resolutions, and the notification of owners and operators of solid waste facilities required to collect fees levied under those divisions govern the adoption of the resolutions authorized to be adopted under this division, the ratification thereof, and the notification of owners and operators required to collect the fees, except as otherwise specifically provided in division (C) of this section.

(C) Any initial or amended plan of a district adopted under section 3734.521 or 3734.56 of the Revised Code, or resolution adopted under

division (B) of this section, that proposes to levy a fee under division (A) of this section that exceeds five dollars per ton shall be ratified in accordance with the provisions of section 3734.55 or division (B) of section 3734.57 of the Revised Code, as applicable, except that such an initial or amended plan or resolution shall be approved by a combination of municipal corporations and townships with a combined population within the boundaries of the district comprising at least seventy-five per cent, rather than at least sixty per cent, of the total population of the district.

(D) The policy committee of a county or joint district may amend the fee levied by the district under division (A) of this section by adopting and obtaining ratification of a resolution establishing the amount of the amended fee. The policy committee may abolish the fee or an amended fee established under this division by adopting and obtaining ratification of a resolution proposing to repeal it. The requirements and procedures under division (B) and, if applicable, division (C) of this section govern the adoption and ratification of a resolution authorized to be adopted under this division and the notification of owners and operators of solid waste facilities required to collect the fees.

(E) Collection of a fee or amended fee levied under division (A) or (D) of this section shall commence or cease in accordance with division (B) of section 3734.57 of the Revised Code. If a district is levying a fee under section 3734.572 of the Revised Code, collection of that fee shall cease on the date on which collection of the fee levied under division (A) of this section commences in accordance with division (B) of section 3734.57 of the Revised Code.

(F) In the case of solid wastes that are taken to a solid waste transfer facility prior to being transported to a solid waste disposal facility for disposal, the fee levied under division (A) of this section shall be collected by the owner or operator of the transfer facility as a trustee for the district. In the case of solid wastes that are not taken to a solid waste transfer facility prior to being transported to a solid waste disposal facility, the fee shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of. An owner or operator of a solid waste transfer or disposal facility who is required to collect the fee shall collect and forward the fee to the district in accordance with section 3734.57 of the Revised Code and rules adopted under division (H) of that section.

If the owner or operator of a solid waste transfer or disposal facility who did not receive notice pursuant to division (B) of this section to collect the fee levied by a district under division (A) of this section receives solid wastes generated in the district, the owner or operator, within thirty days

after receiving the wastes, shall send written notice of that fact to the board of county commissioners or directors of the district. Within thirty days after receiving such a notice, the board of county commissioners or directors shall send written notice to the owner or operator indicating whether the district is levying a fee under division (A) of this section and, if so, the amount of the fee.

(G) Moneys received by a district levying a fee under division (A) of this section shall be credited to the special fund of the district created in division (G) of section 3734.57 of the Revised Code and shall be used exclusively for the purposes specified in that division. Prior to the approval under division (A) of section 3734.56 of the Revised Code of the first amended plan that the district is required to submit for approval under that section, the approval of an initial plan under section 3734.521 of the Revised Code, the approval of an amended plan under that section or division (D) of section 3734.56 of the Revised Code, or the amendment of the district's plan under division (E) of section 3734.56 of the Revised Code, moneys credited to the special fund arising from the fee levied pursuant to a resolution adopted and ratified under division (B) of this section shall be expended for those purposes in the manner prescribed by the solid waste management policy committee by resolution.

(H) The fee levied under division (A) of this section does not apply to the management of solid wastes that:

(1) Are disposed of at a facility owned by the generator of the wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes were generated;

(2) Are disposed of at facilities that exclusively dispose of wastes that are generated from the combustion of coal, or from the combustion of primarily coal in combination with scrap tires, that is not combined in any way with garbage at one or more premises owned by the generator.

(I) When solid wastes that are burned in a disposal facility that is an incinerator or energy recovery facility are delivered to a solid waste transfer facility prior to being transported to the incinerator or energy recovery facility where they are burned, the fee levied under division (A) of this section shall be levied on the wastes delivered to the transfer facility.

(J) When solid wastes that are burned in a disposal facility that is an incinerator or energy recovery facility are not delivered to a solid waste transfer facility prior to being transported to the incinerator or energy recovery facility where they are burned, the fee levied under division (A) of this section shall be levied on the wastes delivered to the incinerator or

energy recovery facility.

(K) The fee levied under division (A) of this section does not apply to sewage sludge that is generated by a waste water treatment facility holding a national pollutant discharge elimination system permit and that is disposed of through incineration, land application, or composting or at another resource recovery or disposal facility that is not a landfill.

(L) The fee levied under division (A) of this section does not apply to ~~yard waste~~ solid waste delivered to a solid waste composting facility for processing ~~or to a solid waste transfer facility~~. If any unprocessed solid waste or compost product is transported off the premises of a composting facility for disposal at a landfill, the fee levied under division (A) of this section applies and shall be collected by the owner or operator of the landfill.

(M) The fee levied under division (A) of this section does not apply to materials separated from a mixed waste stream for recycling by the generator or materials removed from the solid waste stream as a result of recycling, as "recycling" is defined in rules adopted under section 3734.02 of the Revised Code.

(N) The director of environmental protection may issue an order exempting from the fees levied under this section solid wastes, including, but not limited to, scrap tires, that are generated, transferred, or disposed of as a result of a contract providing for the expenditure of public funds entered into by the administrator or regional administrator of the United States environmental protection agency, the director of environmental protection, or the director of administrative services on behalf of the director of environmental protection for the purpose of remediating conditions at a hazardous waste facility, solid waste facility, or other location at which the administrator or regional administrator or the director of environmental protection has reason to believe that there is a substantial threat to public health or safety or the environment or that the conditions are causing or contributing to air or water pollution or soil contamination. An order issued by the director of environmental protection under this division shall include a determination that the amount of fees not received by a solid waste management district as a result of the order will not adversely impact the implementation and financing of the district's approved solid waste ~~management~~ management plan and any approved amendments to the plan. Such an order is a final action of the director of environmental protection.

Sec. 3734.82. (A) The annual fee for a scrap tire recovery facility license issued under section 3734.81 of the Revised Code shall be in accordance with the following schedule:

Daily Design Input Capacity (Tons)	Annual License Fee
1 or less	\$ 100
2 to 25	500
26 to 50	1,000
51 to 100	1,500
101 to 200	2,500
201 to 500	3,500
501 or more	5,500

For the purpose of determining the applicable license fee under this division, the daily design input capacity shall be the quantity of scrap tires the facility is designed to process daily as set forth in the registration certificate or permit for the facility, and any modifications to the permit, if applicable, issued under section 3734.78 of the Revised Code.

(B) The annual fee for a scrap tire monocell or monofill facility license shall be in accordance with the following schedule:

Authorized Maximum Daily Waste Receipt (Tons)	Annual License Fee
100 or less	\$ 5,000
101 to 200	12,500
201 to 500	30,000
501 or more	60,000

For the purpose of determining the applicable license fee under this division, the authorized maximum daily waste receipt shall be the maximum amount of scrap tires the facility is authorized to receive daily that is established in the permit for the facility, and any modification to that permit, issued under section 3734.77 of the Revised Code.

(C)(1) Except as otherwise provided in division (C)(2) of this section, the annual fee for a scrap tire storage facility license shall equal one thousand dollars times the number of acres on which scrap tires are to be stored at the facility during the license year, as set forth on the application for the annual license, except that the total annual license fee for any such facility shall not exceed three thousand dollars.

(2) The annual fee for a scrap tire storage facility license for a storage facility that is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code is one hundred dollars.

(D)(1) Except as otherwise provided in division (D)(2) of this section, the annual fee for a scrap tire collection facility license is two hundred

dollars.

(2) The annual fee for a scrap tire collection facility license for a collection facility that is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code is fifty dollars.

(E) Except as otherwise provided in divisions (C)(2) and (D)(2) of this section, the same fees apply to private operators and to the state and its political subdivisions and shall be paid within thirty days after the issuance of a license. The fees include the cost of licensing, all inspections, and other costs associated with the administration of the scrap tire provisions of this chapter and rules adopted under them. Each license shall specify that it is conditioned upon payment of the applicable fee to the board of health or the director of environmental protection, as appropriate, within thirty days after the issuance of the license.

(F) The board of health shall retain fifteen thousand dollars of each license fee collected by the board under division (B) of this section, or the entire amount of any such fee that is less than fifteen thousand dollars, and the entire amount of each license fee collected by the board under divisions (A), (C), and (D) of this section. The moneys retained shall be paid into a special fund, which is hereby created in each health district, and used solely to administer and enforce the scrap tire provisions of this chapter and rules adopted under them. The remainder, if any, of each license fee collected by the board under division (B) of this section shall be transmitted to the director within forty-five days after receipt of the fee.

(G) The director shall transmit the moneys received by the director from license fees collected under division (B) of this section to the treasurer of state to be credited to the scrap tire management fund, which is hereby created in the state treasury. The fund shall consist of all federal moneys received by the environmental protection agency for the scrap tire management program; all grants, gifts, and contributions made to the director for that program; and all other moneys that may be provided by law for that program. The director shall use moneys in the fund as follows:

(1) Expend ~~not more than seven hundred fifty thousand dollars during each fiscal year~~ amounts determined necessary by the director to implement, administer, and enforce the scrap tire provisions of this chapter and rules adopted under them;

(2) During each fiscal year, request the director of budget and management to, and the director of budget and management shall, transfer one million dollars to the scrap tire grant fund created in section 1502.12 of the Revised Code for ~~the purposes specified in that section;~~ supporting market development activities for scrap tires and synthetic rubber from tire

manufacturing processes and tire recycling processes. In addition, during a fiscal year, the director of environmental protection may request the director of budget and management to, and the director of budget and management shall, transfer up to an additional five hundred thousand dollars to the scrap tire grant fund for scrap tire amnesty events and scrap tire cleanup events.

~~(3) Expend not more than three million dollars per year during fiscal years 2002 and 2003 to conduct removal actions under section 3734.85 of the Revised Code and to make grants to boards of health under section 3734.042 of the Revised Code. However, more than three million dollars may be expended in fiscal years 2002 and 2003 for the purposes of division (G)(3) of this section if more moneys are collected from the fee levied under division (A)(2) of section 3734.901 of the Revised Code. During each subsequent fiscal year the director shall expend not more than four million five hundred thousand dollars to conduct removal actions under section 3734.85 of the Revised Code and to make grants to boards of health under section 3734.042 of the Revised Code. However, more than four million five hundred thousand dollars may be expended in a fiscal year for the purposes of division (G)(3) of this section if more moneys are collected from the fee levied under division (A)(2) of section 3734.901 of the Revised Code. The director shall request the approval of the controlling board prior to the use of the moneys to conduct removal actions under section 3734.85 of the Revised Code. The request shall be accompanied by a plan describing the removal actions to be conducted during the fiscal year and an estimate of the costs of conducting them. The controlling board shall approve the plan only if it finds that the proposed removal actions are in accordance with the priorities set forth in division (B) of section 3734.85 of the Revised Code and that the costs of conducting them are reasonable. Controlling board approval is not required for grants made to boards of health under section 3734.042 of the Revised Code.~~

~~(H) If, during a fiscal year, more than seven million dollars are credited to the scrap tire management fund, the director, at the conclusion of the fiscal year, shall request the director of budget and management to, and the director of budget and management shall, transfer one half of those excess moneys to the scrap tire grant fund. The director shall expend the remaining excess moneys in the scrap tire management fund to conduct removal actions under section 3734.85 of the Revised Code in accordance with the procedures established under division (I) of this section.~~

~~(I) After the actions in divisions (G)(1) to (3) and (H) of this section are completed during each prior fiscal year, the director may expend up to the balance remaining from prior fiscal years in the scrap tire management fund~~

~~to conduct removal actions under section 3734.85 of the Revised Code. Prior to using any moneys in the fund for that purpose in a fiscal year, the director shall request the approval of the controlling board for that use of the moneys. The request shall be accompanied by a plan describing the removal actions to be conducted during the fiscal year and an estimate of the costs of conducting them. The controlling board shall approve the plan only if the board finds that the proposed removal actions are in accordance with the priorities set forth in division (B) of section 3734.85 of the Revised Code and that the costs of conducting them are reasonable. After the expenditures and transfers are made under divisions (G)(1) and (2) of this section, expend the balance of the money in the scrap tire management fund remaining in each fiscal year to conduct removal actions under section 3734.85 of the Revised Code and to provide grants to boards of health under section 3734.042 of the Revised Code.~~

Sec. 3734.901. (A)(1) For the purpose of providing revenue to defray the cost of administering and enforcing the scrap tire provisions of this chapter, rules adopted under those provisions, and terms and conditions of orders, variances, and licenses issued under those provisions; to abate accumulations of scrap tires; to make grants ~~to promote research regarding alternative methods of recycling scrap tires and supporting market development activities for scrap tires and synthetic rubber from tire manufacturing processes and tire recycling processes and to support scrap tire amnesty and cleanup events; to make~~ loans to promote the recycling or recovery of energy from scrap tires; and to defray the costs of administering and enforcing sections 3734.90 to 3734.9014 of the Revised Code, a fee of fifty cents per tire is hereby levied on the sale of tires. The proceeds of the fee shall be deposited in the state treasury to the credit of the scrap tire management fund created in section 3734.82 of the Revised Code. The fee is levied from the first day of the calendar month that begins next after thirty days from October 29, 1993, through June 30, 2011.

(2) Beginning on September 5, 2001, and ending on June 30, 2011, there is hereby levied an additional fee of fifty cents per tire on the sale of tires the proceeds of which shall be deposited in the state treasury to the credit of the scrap tire management fund ~~created in section 3734.82 of the Revised Code~~ and be used exclusively for the purposes specified in division (G)(3) of that section.

(B) Only one sale of the same article shall be used in computing the amount of the fee due.

Sec. 3734.9010. Two per cent of all amounts paid to the treasurer of state pursuant to sections 3734.90 to 3734.9014 of the Revised Code shall

be certified directly to the credit of the tire fee administrative fund, which is hereby created in the state treasury, for appropriation to the department of taxation for use in administering those sections. The remainder of the amounts paid to the treasurer of state shall be deposited to the credit of the ~~scrap tire management fund created~~ and credited in accordance with section 3734.82 3734.901 of the Revised Code.

Sec. 3737.71. Each insurance company doing business in this state shall pay to the state in installments, at the time of making the payments required by section 5729.05 of the Revised Code, in addition to the taxes required to be paid by it, three-fourths of one per cent on the gross premium receipts derived from fire insurance and that portion of the premium reasonably allocable to insurance against the hazard of fire included in other coverages except life and sickness and accident insurance, after deducting return premiums paid and considerations received for reinsurances as shown by the annual statement of such company made pursuant to sections 3929.30, 3931.06, and 5729.02 of the Revised Code. The money received shall be paid into the state treasury to the credit of the state fire marshal's fund, which is hereby created. The fund shall be used for the maintenance and administration of the office of the fire marshal and the Ohio fire academy established by section 3737.33 of the Revised Code. If the director of commerce certifies to the director of budget and management that the cash balance in the state fire marshal's fund is in excess of the amount needed to pay ongoing operating expenses, the director of commerce, with the approval of the director of budget and management, may use the excess amount to acquire by purchase, lease, or otherwise, real property or interests in real property to be used for the benefit of the office of the state fire marshal, or to construct, acquire, enlarge, equip, furnish, or improve the fire marshal's office facilities or the facilities of the Ohio fire academy. The state fire marshal's fund shall be assessed a proportionate share of the administrative costs of the department of commerce in accordance with procedures prescribed by the director of commerce and approved by the director of budget and management. Such assessment shall be paid from the state fire marshal's fund to the division of administration fund.

Notwithstanding any other provision in this section, if the director of budget and management determines at any time that the money in the state fire marshal's fund exceeds the amount necessary to defray ongoing operating expenses in a fiscal year, the director may transfer the excess to the general revenue fund.

Sec. 3743.04. (A) The license of a manufacturer of fireworks is effective for one year beginning on the first day of December. The state fire

marshal shall issue or renew a license only on that date and at no other time. If a manufacturer of fireworks wishes to continue manufacturing fireworks at the designated fireworks plant after its then effective license expires, it shall apply no later than the first day of October for a new license pursuant to section 3743.02 of the Revised Code. The state fire marshal shall send a written notice of the expiration of its license to a licensed manufacturer at least three months before the expiration date.

(B) If, during the effective period of its licensure, a licensed manufacturer of fireworks wishes to construct, locate, or relocate any buildings or other structures on the premises of its fireworks plant, to make any structural change or renovation in any building or other structure on the premises of its fireworks plant, or to change the nature of its manufacturing of fireworks so as to include the processing of fireworks, the manufacturer shall notify the state fire marshal in writing. The state fire marshal may require a licensed manufacturer also to submit documentation, including, but not limited to, plans covering the proposed construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks, if the state fire marshal determines the documentation is necessary for evaluation purposes in light of the proposed construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks.

Upon receipt of the notification and additional documentation required by the state fire marshal, the state fire marshal shall inspect the premises of the fireworks plant to determine if the proposed construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks conforms to sections 3743.02 to 3743.08 of the Revised Code and the rules adopted by the state fire marshal pursuant to section 3743.05 of the Revised Code. The state fire marshal shall issue a written authorization to the manufacturer for the construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks if the state fire marshal determines, upon the inspection and a review of submitted documentation, that the construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks conforms to those sections and rules. Upon authorizing a change in manufacturing of fireworks to include the processing of fireworks, the state fire marshal shall make notations on the manufacturer's license and in the list of licensed manufacturers in accordance with section 3743.03 of the Revised Code.

On or before June 1, 1998, a licensed manufacturer shall install, in every licensed building in which fireworks are manufactured, stored, or displayed and to which the public has access, interlinked fire detection, smoke

exhaust, and smoke evacuation systems that are approved by the superintendent of ~~the division of industrial compliance~~ labor, and shall comply with floor plans showing occupancy load limits and internal circulation and egress patterns that are approved by the state fire marshal and superintendent, and that are submitted under seal as required by section 3791.04 of the Revised Code. Notwithstanding section 3743.59 of the Revised Code, the construction and safety requirements established in this division are not subject to any variance, waiver, or exclusion.

(C) The license of a manufacturer of fireworks authorizes the manufacturer to engage only in the following activities:

(1) The manufacturing of fireworks on the premises of the fireworks plant as described in the application for licensure or in the notification submitted under division (B) of this section, except that a licensed manufacturer shall not engage in the processing of fireworks unless authorized to do so by its license.

(2) To possess for sale at wholesale and sell at wholesale the fireworks manufactured by the manufacturer, to persons who are licensed wholesalers of fireworks, to out-of-state residents in accordance with section 3743.44 of the Revised Code, to residents of this state in accordance with section 3743.45 of the Revised Code, or to persons located in another state provided the fireworks are shipped directly out of this state to them by the manufacturer. A person who is licensed as a manufacturer of fireworks on June 14, 1988, also may possess for sale and sell pursuant to division (C)(2) of this section fireworks other than those the person manufactures. The possession for sale shall be on the premises of the fireworks plant described in the application for licensure or in the notification submitted under division (B) of this section, and the sale shall be from the inside of a licensed building and from no other structure or device outside a licensed building. At no time shall a licensed manufacturer sell any class of fireworks outside a licensed building.

(3) Possess for sale at retail and sell at retail the fireworks manufactured by the manufacturer, other than 1.4G fireworks as designated by the state fire marshal in rules adopted pursuant to division (A) of section 3743.05 of the Revised Code, to licensed exhibitors in accordance with sections 3743.50 to 3743.55 of the Revised Code, and possess for sale at retail and sell at retail the fireworks manufactured by the manufacturer, including 1.4G fireworks, to out-of-state residents in accordance with section 3743.44 of the Revised Code, to residents of this state in accordance with section 3743.45 of the Revised Code, or to persons located in another state provided the fireworks are shipped directly out of this state to them by the

manufacturer. A person who is licensed as a manufacturer of fireworks on June 14, 1988, may also possess for sale and sell pursuant to division (C)(3) of this section fireworks other than those the person manufactures. The possession for sale shall be on the premises of the fireworks plant described in the application for licensure or in the notification submitted under division (B) of this section, and the sale shall be from the inside of a licensed building and from no other structure or device outside a licensed building. At no time shall a licensed manufacturer sell any class of fireworks outside a licensed building.

A licensed manufacturer of fireworks shall sell under division (C) of this section only fireworks that meet the standards set by the consumer product safety commission or by the American fireworks standard laboratories or that have received an EX number from the United States department of transportation.

(D) The license of a manufacturer of fireworks shall be protected under glass and posted in a conspicuous place on the premises of the fireworks plant. Except as otherwise provided in this division, the license is not transferable or assignable. A license may be transferred to another person for the same fireworks plant for which the license was issued if the assets of the plant are transferred to that person by inheritance or by a sale approved by the state fire marshal. The license is subject to revocation in accordance with section 3743.08 of the Revised Code.

(E) The state fire marshal shall not place the license of a manufacturer of fireworks in a temporarily inactive status while the holder of the license is attempting to qualify to retain the license.

(F) Each licensed manufacturer of fireworks that possesses fireworks for sale and sells fireworks under division (C) of section 3743.04 of the Revised Code, or a designee of the manufacturer, whose identity is provided to the state fire marshal by the manufacturer, annually shall attend a continuing education program. The state fire marshal shall develop the program and the state fire marshal or a person or public agency approved by the state fire marshal shall conduct it. A licensed manufacturer or the manufacturer's designee who attends a program as required under this division, within one year after attending the program, shall conduct in-service training as approved by the state fire marshal for other employees of the licensed manufacturer regarding the information obtained in the program. A licensed manufacturer shall provide the state fire marshal with notice of the date, time, and place of all in-service training. For any program conducted under this division, the state fire marshal shall, in accordance with rules adopted by the state fire marshal under Chapter 119. of the Revised Code, establish

the subjects to be taught, the length of classes, the standards for approval, and time periods for notification by the licensee to the state fire marshal of any in-service training.

(G) A licensed manufacturer shall maintain comprehensive general liability insurance coverage in the amount and type specified under division (B)(2) of section 3743.02 of the Revised Code at all times. Each policy of insurance required under this division shall contain a provision requiring the insurer to give not less than fifteen days' prior written notice to the state fire marshal before termination, lapse, or cancellation of the policy, or any change in the policy that reduces the coverage below the minimum required under this division. Prior to canceling or reducing the amount of coverage of any comprehensive general liability insurance coverage required under this division, a licensed manufacturer shall secure supplemental insurance in an amount and type that satisfies the requirements of this division so that no lapse in coverage occurs at any time. A licensed manufacturer who secures supplemental insurance shall file evidence of the supplemental insurance with the state fire marshal prior to canceling or reducing the amount of coverage of any comprehensive general liability insurance coverage required under this division.

(H) The state fire marshal shall adopt rules for the expansion or contraction of a licensed premises and for approval of such expansions or contractions. The boundaries of a licensed premises, including any geographic expansion or contraction of those boundaries, shall be approved by the state fire marshal in accordance with rules the state fire marshal adopts. If the licensed premises consists of more than one parcel of real estate, those parcels shall be contiguous unless an exception is allowed pursuant to division (I) of this section.

(I)(1) A licensed manufacturer may expand its licensed premises within this state to include not more than two storage locations that are located upon one or more real estate parcels that are noncontiguous to the licensed premises as that licensed premises exists on the date a licensee submits an application as described below, if all of the following apply:

(a) The licensee submits an application to the state fire marshal and an application fee of one hundred dollars per storage location for which the licensee is requesting approval.

(b) The identity of the holder of the license remains the same at the storage location.

(c) The storage location has received a valid certificate of zoning compliance as applicable and a valid certificate of occupancy for each building or structure at the storage location issued by the authority having

jurisdiction to issue the certificate for the storage location, and those certificates permit the distribution and storage of fireworks regulated under this chapter at the storage location and in the buildings or structures. The storage location shall be in compliance with all other applicable federal, state, and local laws and regulations.

(d) Every building or structure located upon the storage location is separated from occupied residential and nonresidential buildings or structures, railroads, highways, or any other buildings or structures on the licensed premises in accordance with the distances specified in the rules adopted by the state fire marshal pursuant to section 3743.05 of the Revised Code.

(e) Neither the licensee nor any person holding, owning, or controlling a five per cent or greater beneficial or equity interest in the licensee has been convicted of or pleaded guilty to a felony under the laws of this state, any other state, or the United States, after September 29, 2005.

(f) The state fire marshal approves the application for expansion.

(2) The state fire marshal shall approve an application for expansion requested under division (I)(1) of this section if the state fire marshal receives the application fee and proof that the requirements of divisions (I)(1)(b) to (e) of this section are satisfied. The storage location shall be considered part of the original licensed premises and shall use the same distinct number assigned to the original licensed premises with any additional designations as the state fire marshal deems necessary in accordance with section 3743.03 of the Revised Code.

(J)(1) A licensee who obtains approval for the use of a storage location in accordance with division (I) of this section shall use the storage location exclusively for the following activities, in accordance with division (C) of this section:

(a) The packaging, assembling, or storing of fireworks, which shall only occur in buildings or structures approved for such hazardous uses by the building code official having jurisdiction for the storage location or, for 1.4G fireworks, in containers or trailers approved for such hazardous uses by the state fire marshal if such containers or trailers are not subject to regulation by the building code adopted in accordance with Chapter 3781. of the Revised Code. All such storage shall be in accordance with the rules adopted by the state fire marshal under division (G) of section 3743.05 of the Revised Code for the packaging, assembling, and storage of fireworks.

(b) Distributing fireworks to other parcels of real estate located on the manufacturer's licensed premises, to licensed wholesalers or other licensed manufacturers in this state or to similarly licensed persons located in another

state or country;

(c) Distributing fireworks to a licensed exhibitor of fireworks pursuant to a properly issued permit in accordance with section 3743.54 of the Revised Code.

(2) A licensed manufacturer shall not engage in any sales activity, including the retail sale of fireworks otherwise permitted under division (C)(2) or (C)(3) of this section, or pursuant to section 3743.44 or 3743.45 of the Revised Code, at the storage location approved under this section.

(3) A storage location may not be relocated for a minimum period of five years after the storage location is approved by the state fire marshal in accordance with division (I) of this section.

(K) The licensee shall prohibit public access to the storage location. The state fire marshal shall adopt rules to describe the acceptable measures a manufacturer shall use to prohibit access to the storage site.

Sec. 3743.25. (A)(1) Except as described in division (A)(2) of this section, all retail sales of 1.4G fireworks by a licensed manufacturer or wholesaler shall only occur from an approved retail sales showroom on a licensed premises or from a representative sample showroom as described in this section on a licensed premises. For the purposes of this section, a retail sale includes the transfer of the possession of the 1.4G fireworks from the licensed manufacturer or wholesaler to the purchaser of the fireworks.

(2) Sales of 1.4G fireworks to a licensed exhibitor for a properly permitted exhibition shall occur in accordance with the provisions of the Revised Code and rules adopted by the state fire marshal under Chapter 119. of the Revised Code. Such rules shall specify, at a minimum, that the licensed exhibitor holds a license under section 3743.51 of the Revised Code, that the exhibitor possesses a valid exhibition permit issued in accordance with section 3743.54 of the Revised Code, and that the fireworks shipped are to be used at the specifically permitted exhibition.

(B) All wholesale sales of fireworks by a licensed manufacturer or wholesaler shall only occur from a licensed premises to persons who intend to resell the fireworks purchased at wholesale. A wholesale sale by a licensed manufacturer or wholesaler may occur as follows:

(1) The direct sale and shipment of fireworks to a person outside of this state;

(2) From an approved retail sales showroom as described in this section;

(3) From a representative sample showroom as described in this section;

(4) By delivery of wholesale fireworks to a purchaser at a licensed premises outside of a structure or building on that premises. All other portions of the wholesale sales transaction may occur at any location on a

licensed premises.

(5) Any other method as described in rules adopted by the state fire marshal under Chapter 119. of the Revised Code.

(C) A licensed manufacturer or wholesaler shall only sell 1.4G fireworks from a representative sample showroom or a retail sales showroom. Each licensed premises shall only contain one sales structure.

A representative sample showroom shall consist of a structure constructed and maintained in accordance with the nonresidential building code adopted under Chapter 3781. of the Revised Code and the fire code adopted under section 3737.82 of the Revised Code for a use and occupancy group that permits mercantile sales. A representative sample showroom shall not contain any pyrotechnics, pyrotechnic materials, fireworks, explosives, explosive materials, or any similar hazardous materials or substances. A representative sample showroom shall be used only for the public viewing of fireworks product representations, including paper materials, packaging materials, catalogs, photographs, or other similar product depictions. The delivery of product to a purchaser of fireworks at a licensed premises that has a representative sample structure shall not occur inside any structure on a licensed premises. Such product delivery shall occur on the licensed premises in a manner prescribed by rules adopted by the state fire marshal pursuant to Chapter 119. of the Revised Code.

If a manufacturer or wholesaler elects to conduct sales from a retail sales showroom, the showroom structures, to which the public may have any access and in which employees are required to work, on all licensed premises, shall comply with the following safety requirements:

(1) A fireworks showroom that is constructed or upon which expansion is undertaken on and after June 30, 1997, shall be equipped with interlinked fire detection, fire suppression, smoke exhaust, and smoke evacuation systems that are approved by the superintendent of ~~the division of industrial compliance~~ labor in the department of commerce.

(2) A fireworks showroom that first begins to operate on or after June 30, 1997, and to which the public has access for retail purposes shall not exceed five thousand square feet in floor area.

(3) A newly constructed or an existing fireworks showroom structure that exists on ~~the effective date of this amendment~~ September 23, 2008, but that, on or after ~~the effective date of this amendment~~ September 23, 2008, is altered or added to in a manner requiring the submission of plans, drawings, specifications, or data pursuant to section 3791.04 of the Revised Code, shall comply with a graphic floor plan layout that is approved by the state fire marshal and superintendent of ~~the division of industrial compliance~~

showing width of aisles, parallel arrangement of aisles to exits, number of exits per wall, maximum occupancy load, evacuation plan for occupants, height of storage or display of merchandise, and other information as may be required by the state fire marshal and superintendent.

(4) A fireworks showroom structure that exists on June 30, 1997, shall be in compliance on or after June 30, 1997, with floor plans showing occupancy load limits and internal circulation and egress patterns that are approved by the state fire marshal and superintendent ~~of industrial compliance~~, and that are submitted under seal as required by section 3791.04 of the Revised Code.

(D) The safety requirements established in division (C) of this section are not subject to any variance, waiver, or exclusion pursuant to this chapter or any applicable building code.

Sec. 3745.015. There is hereby created in the state treasury the environmental protection fund consisting of money credited to the fund under ~~division~~ divisions (A)(3) and (4) of section 3734.57 of the Revised Code. The environmental protection agency shall use money in the fund to pay the agency's costs associated with administering and enforcing, or otherwise conducting activities under, this chapter and Chapters 3704., 3734., 3746., 3747., 3748., 3750., 3751., 3752., 3753., 5709., 6101., 6103., 6105., 6109., 6111., 6112., 6113., 6115., 6117., and 6119. and sections 122.65 and 1521.19 of the Revised Code.

Sec. 3745.05. (A) In hearing the appeal, if an adjudication hearing was conducted by the director of environmental protection in accordance with sections 119.09 and 119.10 of the Revised Code or conducted by a board of health, the environmental review appeals commission is confined to the record as certified to it by the director or the board of health, as applicable. The commission may grant a request for the admission of additional evidence when satisfied that such additional evidence is newly discovered and could not with reasonable diligence have been ascertained prior to the hearing before the director or the board, as applicable. If no adjudication hearing was conducted in accordance with sections 119.09 and 119.10 of the Revised Code or conducted by a board of health, the commission shall conduct a hearing de novo on the appeal.

For the purpose of conducting a de novo hearing, or where the commission has granted a request for the admission of additional evidence, the commission may require the attendance of witnesses and the production of written or printed materials.

When conducting a de novo hearing, or when a request for the admission of additional evidence has been granted, the commission may,

and at the request of any party it shall, issue subpoenas for witnesses or for books, papers, correspondence, memoranda, agreements, or other documents or records relevant or material to the inquiry directed to the sheriff of the counties where the witnesses or documents or records are found, which subpoenas shall be served and returned in the same manner as those allowed by the court of common pleas in criminal cases.

(B) The fees of sheriffs shall be the same as those allowed by the court of common pleas in criminal cases. Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code. The fee and mileage expenses incurred at the request of the appellant shall be paid in advance by the appellant, and the remainder of the expenses shall be paid out of funds appropriated for the expenses of the commission.

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

(D) A witness at any hearing shall testify under oath or affirmation, which any member of the commission may administer. A witness, if the witness requests, shall be permitted to be accompanied, represented, and advised by an attorney, whose participation in the hearing shall be limited to the protection of the rights of the witness, and who may not examine or cross-examine witnesses. A witness shall be advised of the right to counsel before the witness is interrogated.

(E) A stenographic record of the testimony and other evidence submitted shall be taken by an official court shorthand reporter. The record shall include all of the testimony and other evidence and the rulings on the admissibility thereof presented at the hearing. The commission shall pass upon the admissibility of evidence, but any party may at the time object to the admission of any evidence and except to the rulings of the commission thereon, and if the commission refuses to admit evidence the party offering same may make a proffer thereof, and such proffer shall be made a part of the record of such hearing.

Any party may request the stenographic record of the hearing. Promptly after receiving such a request, the commission shall prepare and provide the stenographic record of the hearing to the party who requested it. The commission may charge a fee to the party who requested the stenographic

record that does not exceed the cost to the commission for preparing and transcribing it.

(F) If, upon completion of the hearing, the commission finds that the action appealed from was lawful and reasonable, it shall make a written order affirming the action, or if the commission finds that the action was unreasonable or unlawful, it shall make a written order vacating or modifying the action appealed from. ~~Every~~

The commission shall issue a written order affirming, vacating, or modifying an action pursuant to the following schedule:

(1) For an appeal that was filed with the commission before April 15, 2008, the commission shall issue a written order not later than December 15, 2009.

(2) For all other appeals that have been filed with the commission as of October 15, 2009, the commission shall issue a written order not later than July 15, 2010.

(3) For an appeal that is filed with the commission after October 15, 2009, the commission shall issue a written order not later than twelve months after the filing of the appeal with the commission.

(G) ~~Every~~ order made by the commission shall contain a written finding by the commission of the facts upon which the order is based. Notice of the making of the order shall be given forthwith to each party to the appeal by mailing a certified copy thereof to each party by certified mail, with a statement of the time and method by which an appeal may be perfected.

(H) The order of the commission is final unless vacated or modified upon judicial review.

Sec. 3745.11. (A) Applicants for and holders of permits, licenses, variances, plan approvals, and certifications issued by the director of environmental protection pursuant to Chapters 3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee to the environmental protection agency for each such issuance and each application for an issuance as provided by this section. No fee shall be charged for any issuance for which no application has been submitted to the director.

(B) Each person who is issued a permit to install prior to July 1, 2003, pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees specified in the following schedules:

(1) Fuel-burning equipment (boilers)

Input capacity (maximum)	Permit to install
(million British thermal units per hour)	
Greater than 0, but less than 10	\$ 200
10 or more, but less than 100	400

100 or more, but less than 300	800
300 or more, but less than 500	1500
500 or more, but less than 1000	2500
1000 or more, but less than 5000	4000
5000 or more	6000

Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half of the applicable amount established in division (F)(1) of this section.

(2) Incinerators

Input capacity (pounds per hour)	Permit to install
0 to 100	\$ 100
101 to 500	400
501 to 2000	750
2001 to 20,000	1000
more than 20,000	2500

(3)(a) Process

Process weight rate (pounds per hour)	Permit to install
0 to 1000	\$ 200
1001 to 5000	400
5001 to 10,000	600
10,001 to 50,000	800
more than 50,000	1000

In any process where process weight rate cannot be ascertained, the minimum fee shall be assessed.

(b) Notwithstanding division (B)(3)(a) of this section, any person issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees established in division (B)(3)(c) of this section for a process used in any of the following industries, as identified by the applicable four-digit standard industrial classification code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, 1972, as revised:

- 1211 Bituminous coal and lignite mining;
- 1213 Bituminous coal and lignite mining services;
- 1411 Dimension stone;
- 1422 Crushed and broken limestone;
- 1427 Crushed and broken stone, not elsewhere classified;
- 1442 Construction sand and gravel;
- 1446 Industrial sand;
- 3281 Cut stone and stone products;

3295 Minerals and earth, ground or otherwise treated.

(c) The fees established in the following schedule apply to the issuance of a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code for a process listed in division (B)(3)(b) of this section:

Process weight rate (pounds per hour)	Permit to install
0 to 1000	\$ 200
10,001 to 50,000	300
50,001 to 100,000	400
100,001 to 200,000	500
200,001 to 400,000	600
400,001 or more	700

(4) Storage tanks

Gallons (maximum useful capacity)	Permit to install
0 to 20,000	\$ 100
20,001 to 40,000	150
40,001 to 100,000	200
100,001 to 250,000	250
250,001 to 500,000	350
500,001 to 1,000,000	500
1,000,001 or greater	750

(5) Gasoline/fuel dispensing facilities

For each gasoline/fuel dispensing facility	Permit to install
	\$ 100

(6) Dry cleaning facilities

For each dry cleaning facility (includes all units at the facility)	Permit to install
	\$ 100

(7) Registration status

For each source covered by registration status	Permit to install
	\$ 75

(C)(1) Except as otherwise provided in division (C)(2) of this section, beginning July 1, 1994, each person who owns or operates an air contaminant source and who is required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay the fees set forth in division (C)(1) of this section. For the purposes of that division, total emissions of air contaminants may be calculated using engineering calculations, emissions factors, material balance calculations, or performance testing procedures, as authorized by the director.

The following fees shall be assessed on the total actual emissions from a source in tons per year of the regulated pollutants particulate matter, sulfur

dioxide, nitrogen oxides, organic compounds, and lead:

(a) Fifteen dollars per ton on the total actual emissions of each such regulated pollutant during the period July through December 1993, to be collected no sooner than July 1, 1994;

(b) Twenty dollars per ton on the total actual emissions of each such regulated pollutant during calendar year 1994, to be collected no sooner than April 15, 1995;

(c) Twenty-five dollars per ton on the total actual emissions of each such regulated pollutant in calendar year 1995, and each subsequent calendar year, to be collected no sooner than the fifteenth day of April of the year next succeeding the calendar year in which the emissions occurred.

The fees levied under division (C)(1) of this section do not apply to that portion of the emissions of a regulated pollutant at a facility that exceed four thousand tons during a calendar year.

(2) The fees assessed under division (C)(1) of this section are for the purpose of providing funding for the Title V permit program.

(3) The fees assessed under division (C)(1) of this section do not apply to emissions from any electric generating unit designated as a Phase I unit under Title IV of the federal Clean Air Act prior to calendar year 2000. Those fees shall be assessed on the emissions from such a generating unit commencing in calendar year 2001 based upon the total actual emissions from the generating unit during calendar year 2000 and shall continue to be assessed each subsequent calendar year based on the total actual emissions from the generating unit during the preceding calendar year.

(4) The director shall issue invoices to owners or operators of air contaminant sources who are required to pay a fee assessed under division (C) or (D) of this section. Any such invoice shall be issued no sooner than the applicable date when the fee first may be collected in a year under the applicable division, shall identify the nature and amount of the fee assessed, and shall indicate that the fee is required to be paid within thirty days after the issuance of the invoice.

(D)(1) Except as provided in division (D)(3) of this section, from January 1, 1994, through December 31, 2003, each person who owns or operates an air contaminant source; who is required to apply for a permit to operate pursuant to rules adopted under division (G), or a variance pursuant to division (H), of section 3704.03 of the Revised Code; and who is not required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in

accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility
More than 0, but less than 50	\$ 75
50 or more, but less than 100	300
100 or more	700

(2) Except as provided in division (D)(3) of this section, beginning January 1, 2004, each person who owns or operates an air contaminant source; who is required to apply for a permit to operate pursuant to rules adopted under division (G), or a variance pursuant to division (H), of section 3704.03 of the Revised Code; and who is not required to apply for and obtain a Title V permit under section 3704.03 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility
More than 0, but less than 10	\$ 100
10 or more, but less than 50	200
50 or more, but less than 100	300
100 or more	700

(3)(a) As used in division (D) of this section, "synthetic minor facility" means a facility for which one or more permits to install or permits to operate have been issued for the air contaminant sources at the facility that include terms and conditions that lower the facility's potential to emit air contaminants below the major source thresholds established in rules adopted under section 3704.036 of the Revised Code.

(b) Beginning January 1, 2000, through June 30, ~~2010~~ 2012, each person who owns or operates a synthetic minor facility shall pay an annual fee based on the sum of the actual annual emissions from the facility of particulate matter, sulfur dioxide, nitrogen dioxide, organic compounds, and lead in accordance with the following schedule:

Combined total tons per year of all regulated pollutants emitted	Annual fee per facility
Less than 10	\$ 170
10 or more, but less than 20	340

20 or more, but less than 30	670
30 or more, but less than 40	1,010
40 or more, but less than 50	1,340
50 or more, but less than 60	1,680
60 or more, but less than 70	2,010
70 or more, but less than 80	2,350
80 or more, but less than 90	2,680
90 or more, but less than 100	3,020
100 or more	3,350

(4) The fees assessed under division (D)(1) of this section shall be collected annually no sooner than the fifteenth day of April, commencing in 1995. The fees assessed under division (D)(2) of this section shall be collected annually no sooner than the fifteenth day of April, commencing in 2005. The fees assessed under division (D)(3) of this section shall be collected no sooner than the fifteenth day of April, commencing in 2000. The fees assessed under division (D) of this section in a calendar year shall be based upon the sum of the actual emissions of those regulated pollutants during the preceding calendar year. For the purpose of division (D) of this section, emissions of air contaminants may be calculated using engineering calculations, emission factors, material balance calculations, or performance testing procedures, as authorized by the director. The director, by rule, may require persons who are required to pay the fees assessed under division (D) of this section to pay those fees biennially rather than annually.

(E)(1) Consistent with the need to cover the reasonable costs of the Title V permit program, the director annually shall increase the fees prescribed in division (C)(1) of this section by the percentage, if any, by which the consumer price index for the most recent calendar year ending before the beginning of a year exceeds the consumer price index for calendar year 1989. Upon calculating an increase in fees authorized by division (E)(1) of this section, the director shall compile revised fee schedules for the purposes of division (C)(1) of this section and shall make the revised schedules available to persons required to pay the fees assessed under that division and to the public.

(2) For the purposes of division (E)(1) of this section:

(a) The consumer price index for any year is the average of the consumer price index for all urban consumers published by the United States department of labor as of the close of the twelve-month period ending on the thirty-first day of August of that year.

(b) If the 1989 consumer price index is revised, the director shall use the revision of the consumer price index that is most consistent with that for

calendar year 1989.

(F) Each person who is issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code on or after July 1, 2003, shall pay the fees specified in the following schedules:

(1) Fuel-burning equipment (boilers, furnaces, or process heaters used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer)

Input capacity (maximum) (million British thermal units per hour)	Permit to install
Greater than 0, but less than 10	\$ 200
10 or more, but less than 100	400
100 or more, but less than 300	1000
300 or more, but less than 500	2250
500 or more, but less than 1000	3750
1000 or more, but less than 5000	6000
5000 or more	9000

Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half the applicable amount shown in division (F)(1) of this section.

(2) Combustion turbines and stationary internal combustion engines designed to generate electricity

Generating capacity (mega watts)	Permit to install
0 or more, but less than 10	\$ 25
10 or more, but less than 25	150
25 or more, but less than 50	300
50 or more, but less than 100	500
100 or more, but less than 250	1000
250 or more	2000

(3) Incinerators

Input capacity (pounds per hour)	Permit to install
0 to 100	\$ 100
101 to 500	500
501 to 2000	1000
2001 to 20,000	1500
more than 20,000	3750

(4)(a) Process

Process weight rate (pounds per hour)	Permit to install
0 to 1000	\$ 200
1001 to 5000	500
5001 to 10,000	750

10,001 to 50,000	1000
more than 50,000	1250

In any process where process weight rate cannot be ascertained, the minimum fee shall be assessed. A boiler, furnace, combustion turbine, stationary internal combustion engine, or process heater designed to provide direct heat or power to a process not designed to generate electricity shall be assessed a fee established in division (F)(4)(a) of this section. A combustion turbine or stationary internal combustion engine designed to generate electricity shall be assessed a fee established in division (F)(2) of this section.

(b) Notwithstanding division (F)(4)(a) of this section, any person issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees set forth in division (F)(4)(c) of this section for a process used in any of the following industries, as identified by the applicable two-digit, three-digit, or four-digit standard industrial classification code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, 1987, as revised:

- Major group 10, metal mining;
- Major group 12, coal mining;
- Major group 14, mining and quarrying of nonmetallic minerals;
- Industry group 204, grain mill products;
- 2873 Nitrogen fertilizers;
- 2874 Phosphatic fertilizers;
- 3281 Cut stone and stone products;
- 3295 Minerals and earth, ground or otherwise treated;
- 4221 Grain elevators (storage only);
- 5159 Farm related raw materials;
- 5261 Retail nurseries and lawn and garden supply stores.

(c) The fees set forth in the following schedule apply to the issuance of a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code for a process identified in division (F)(4)(b) of this section:

Process weight rate (pounds per hour)	Permit to install
0 to 10,000	\$ 200
10,001 to 50,000	400
50,001 to 100,000	500
100,001 to 200,000	600
200,001 to 400,000	750

400,001 or more	900
(5) Storage tanks	
Gallons (maximum useful capacity)	Permit to install
0 to 20,000	\$ 100
20,001 to 40,000	150
40,001 to 100,000	250
100,001 to 500,000	400
500,001 or greater	750
(6) Gasoline/fuel dispensing facilities	
For each gasoline/fuel	
dispensing facility (includes all	Permit to install
units at the facility)	\$ 100
(7) Dry cleaning facilities	
For each dry cleaning	
facility (includes all units	Permit to install
at the facility)	\$ 100
(8) Registration status	
For each source covered	Permit to install
by registration status	\$ 75

(G) An owner or operator who is responsible for an asbestos demolition or renovation project pursuant to rules adopted under section 3704.03 of the Revised Code shall pay the fees set forth in the following schedule:

Action	Fee
Each notification	\$75
Asbestos removal	\$3/unit
Asbestos cleanup	\$4/cubic yard

For purposes of this division, "unit" means any combination of linear feet or square feet equal to fifty.

(H) A person who is issued an extension of time for a permit to install an air contaminant source pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay a fee equal to one-half the fee originally assessed for the permit to install under this section, except that the fee for such an extension shall not exceed two hundred dollars.

(I) A person who is issued a modification to a permit to install an air contaminant source pursuant to rules adopted under section 3704.03 of the Revised Code shall pay a fee equal to one-half of the fee that would be assessed under this section to obtain a permit to install the source. The fee assessed by this division only applies to modifications that are initiated by the owner or operator of the source and shall not exceed two thousand dollars.

(J) Notwithstanding division (B) or (F) of this section, a person who applies for or obtains a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code after the date actual construction of the source began shall pay a fee for the permit to install that is equal to twice the fee that otherwise would be assessed under the applicable division unless the applicant received authorization to begin construction under division (W) of section 3704.03 of the Revised Code. This division only applies to sources for which actual construction of the source begins on or after July 1, 1993. The imposition or payment of the fee established in this division does not preclude the director from taking any administrative or judicial enforcement action under this chapter, Chapter 3704., 3714., 3734., or 6111. of the Revised Code, or a rule adopted under any of them, in connection with a violation of rules adopted under division (F) of section 3704.03 of the Revised Code.

As used in this division, "actual construction of the source" means the initiation of physical on-site construction activities in connection with improvements to the source that are permanent in nature, including, without limitation, the installation of building supports and foundations and the laying of underground pipework.

(K) Fifty cents per ton of each fee assessed under division (C) of this section on actual emissions from a source and received by the environmental protection agency pursuant to that division shall be deposited into the state treasury to the credit of the small business assistance fund created in section 3706.19 of the Revised Code. The remainder of the moneys received by the division pursuant to that division and moneys received by the agency pursuant to divisions (D), (F), (G), (H), (I), and (J) of this section shall be deposited in the state treasury to the credit of the clean air fund created in section 3704.035 of the Revised Code.

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) or (c) of this section, a person issued a water discharge permit or renewal of a water discharge permit pursuant to Chapter 6111. of the Revised Code shall pay a fee based on each point source to which the issuance is applicable in accordance with the following schedule:

Design flow discharge (gallons per day)	Fee
0 to 1000	\$ 0
1,001 to 5000	100
5,001 to 50,000	200
50,001 to 100,000	300
100,001 to 300,000	525
over 300,000	750

(b) Notwithstanding the fee schedule specified in division (L)(1)(a) of this section, the fee for a water discharge permit that is applicable to coal mining operations regulated under Chapter 1513. of the Revised Code shall be two hundred fifty dollars per mine.

(c) Notwithstanding the fee schedule specified in division (L)(1)(a) of this section, the fee for a water discharge permit for a public discharger identified by I in the third character of the permittee's NPDES permit number shall not exceed seven hundred fifty dollars.

(2) A person applying for a plan approval for a wastewater treatment works pursuant to section 6111.44, 6111.45, or 6111.46 of the Revised Code shall pay a fee of one hundred dollars plus sixty-five one-hundredths of one per cent of the estimated project cost through June 30, ~~2010~~ 2012, and one hundred dollars plus two-tenths of one per cent of the estimated project cost on and after July 1, ~~2010~~ 2012, except that the total fee shall not exceed fifteen thousand dollars through June 30, ~~2010~~ 2012, and five thousand dollars on and after July 1, ~~2010~~ 2012. The fee shall be paid at the time the application is submitted.

(3) A person issued a modification of a water discharge permit shall pay a fee equal to one-half the fee that otherwise would be charged for a water discharge permit, except that the fee for the modification shall not exceed four hundred dollars.

(4) A person who has entered into an agreement with the director under section 6111.14 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons who have entered into agreements under that section, or who have applied for agreements, of the amount of the fee.

(5)(a)(i) Not later than January 30, ~~2008~~ 2010, and January 30, ~~2009~~ 2011, a person holding an NPDES discharge permit issued pursuant to Chapter 6111. of the Revised Code with an average daily discharge flow of five thousand gallons or more shall pay a nonrefundable annual discharge fee. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required annual discharge fee.

(ii) The billing year for the annual discharge fee established in division (L)(5)(a)(i) of this section shall consist of a twelve-month period beginning on the first day of January of the year preceding the date when the annual discharge fee is due. In the case of an existing source that permanently ceases to discharge during a billing year, the director shall reduce the annual

discharge fee, including the surcharge applicable to certain industrial facilities pursuant to division (L)(5)(c) of this section, by one-twelfth for each full month during the billing year that the source was not discharging, but only if the person holding the NPDES discharge permit for the source notifies the director in writing, not later than the first day of October of the billing year, of the circumstances causing the cessation of discharge.

(iii) The annual discharge fee established in division (L)(5)(a)(i) of this section, except for the surcharge applicable to certain industrial facilities pursuant to division (L)(5)(c) of this section, shall be based upon the average daily discharge flow in gallons per day calculated using first day of May through thirty-first day of October flow data for the period two years prior to the date on which the fee is due. In the case of NPDES discharge permits for new sources, the fee shall be calculated using the average daily design flow of the facility until actual average daily discharge flow values are available for the time period specified in division (L)(5)(a)(iii) of this section. The annual discharge fee may be prorated for a new source as described in division (L)(5)(a)(ii) of this section.

(b) An NPDES permit holder that is a public discharger shall pay the fee specified in the following schedule:

Average daily discharge flow	Fee due by January 30, 2008 <u>2010</u> , and January 30, 2009 <u>2011</u>
5,000 to 49,999	\$ 200
50,000 to 100,000	500
100,001 to 250,000	1,050
250,001 to 1,000,000	2,600
1,000,001 to 5,000,000	5,200
5,000,001 to 10,000,000	10,350
10,000,001 to 20,000,000	15,550
20,000,001 to 50,000,000	25,900
50,000,001 to 100,000,000	41,400
100,000,001 or more	62,100

Public dischargers owning or operating two or more publicly owned treatment works serving the same political subdivision, as "treatment works" is defined in section 6111.01 of the Revised Code, and that serve exclusively political subdivisions having a population of fewer than one hundred thousand shall pay an annual discharge fee under division (L)(5)(b) of this section that is based on the combined average daily discharge flow of

the treatment works.

(c) An NPDES permit holder that is an industrial discharger, other than a coal mining operator identified by P in the third character of the permittee's NPDES permit number, shall pay the fee specified in the following schedule:

Average daily discharge flow	Fee due by January 30, 2008 <u>2010</u> , and January 30, 2009 <u>2011</u>
5,000 to 49,999	\$ 250
50,000 to 250,000	1,200
250,001 to 1,000,000	2,950
1,000,001 to 5,000,000	5,850
5,000,001 to 10,000,000	8,800
10,000,001 to 20,000,000	11,700
20,000,001 to 100,000,000	14,050
100,000,001 to 250,000,000	16,400
250,000,001 or more	18,700

In addition to the fee specified in the above schedule, an NPDES permit holder that is an industrial discharger classified as a major discharger during all or part of the annual discharge fee billing year specified in division (L)(5)(a)(ii) of this section shall pay a nonrefundable annual surcharge of seven thousand five hundred dollars not later than January 30, ~~2008~~ 2010, and not later than January 30, ~~2009~~ 2011. Any person who fails to pay the surcharge at that time shall pay an additional amount that equals ten per cent of the amount of the surcharge.

(d) Notwithstanding divisions (L)(5)(b) and (c) of this section, a public discharger identified by I in the third character of the permittee's NPDES permit number and an industrial discharger identified by I, J, L, V, W, X, Y, or Z in the third character of the permittee's NPDES permit number shall pay a nonrefundable annual discharge fee of one hundred eighty dollars not later than January 30, ~~2008~~ 2010, and not later than January 30, ~~2009~~ 2011. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee.

(6) Each person obtaining a national pollutant discharge elimination system general or individual permit for municipal storm water discharge shall pay a nonrefundable storm water discharge fee of one hundred dollars per square mile of area permitted. The fee shall not exceed ten thousand dollars and shall be payable on or before January 30, 2004, and the thirtieth

day of January of each year thereafter. Any person who fails to pay the fee on the date specified in division (L)(6) of this section shall pay an additional amount per year equal to ten per cent of the annual fee that is unpaid.

(7) The director shall transmit all moneys collected under division (L) of this section to the treasurer of state for deposit into the state treasury to the credit of the surface water protection fund created in section 6111.038 of the Revised Code.

(8) As used in division (L) of this section:

(a) "NPDES" means the federally approved national pollutant discharge elimination system program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits and imposing and enforcing pretreatment requirements under Chapter 6111. of the Revised Code and rules adopted under it.

(b) "Public discharger" means any holder of an NPDES permit identified by P in the second character of the NPDES permit number assigned by the director.

(c) "Industrial discharger" means any holder of an NPDES permit identified by I in the second character of the NPDES permit number assigned by the director.

(d) "Major discharger" means any holder of an NPDES permit classified as major by the regional administrator of the United States environmental protection agency in conjunction with the director.

(M) Through June 30, ~~2010~~ 2012, a person applying for a license or license renewal to operate a public water system under section 6109.21 of the Revised Code shall pay the appropriate fee established under this division at the time of application to the director. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

Except as provided in division (M)(4) of this section, fees required under this division shall be calculated and paid in accordance with the following schedule:

(1) For the initial license required under division (A)(1) of section 6109.21 of the Revised Code for any public water system that is a community water system as defined in section 6109.01 of the Revised Code, and for each license renewal required for such a system prior to January 31, ~~2010~~ 2012, the fee is:

Number of service connections	Fee amount
Not more than 49	\$ 112

Number of service connections	Average cost per connection
50 to 99	176
100 to 2,499	\$ 1.92
2,500 to 4,999	1.48
5,000 to 7,499	1.42
7,500 to 9,999	1.34
10,000 to 14,999	1.16
15,000 to 24,999	1.10
25,000 to 49,999	1.04
50,000 to 99,999	.92
100,000 to 149,999	.86
150,000 to 199,999	.80
200,000 or more	.76

A public water system may determine how it will pay the total amount of the fee calculated under division (M)(1) of this section, including the assessment of additional user fees that may be assessed on a volumetric basis.

As used in division (M)(1) of this section, "service connection" means the number of active or inactive pipes, goosenecks, pigtails, and any other fittings connecting a water main to any building outlet.

(2) For the initial license required under division (A)(2) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a nontransient population, and for each license renewal required for such a system prior to January 31, ~~2010~~ 2012, the fee is:

Population served	Fee amount
Fewer than 150	\$ 112
150 to 299	176
300 to 749	384
750 to 1,499	628
1,500 to 2,999	1,268
3,000 to 7,499	2,816
7,500 to 14,999	5,510
15,000 to 22,499	9,048
22,500 to 29,999	12,430
30,000 or more	16,820

As used in division (M)(2) of this section, "population served" means the total number of individuals receiving water from the water supply during a twenty-four-hour period for at least sixty days during any calendar year. In the absence of a specific population count, that number shall be calculated at

the rate of three individuals per service connection.

(3) For the initial license required under division (A)(3) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a transient population, and for each license renewal required for such a system prior to January 31, ~~2010~~ 2012, the fee is:

Number of wells supplying system	Fee amount
1	\$112
2	112
3	176
4	278
5	568
System designated as using a surface water source	792

As used in division (M)(3) of this section, "number of wells supplying system" means those wells that are physically connected to the plumbing system serving the public water system.

(4) A public water system designated as using a surface water source shall pay a fee of seven hundred ninety-two dollars or the amount calculated under division (M)(1) or (2) of this section, whichever is greater.

(N)(1) A person applying for a plan approval for a public water supply system under section 6109.07 of the Revised Code shall pay a fee of one hundred fifty dollars plus thirty-five hundredths of one per cent of the estimated project cost, except that the total fee shall not exceed twenty thousand dollars through June 30, ~~2010~~ 2012, and fifteen thousand dollars on and after July 1, ~~2010~~ 2012. The fee shall be paid at the time the application is submitted.

(2) A person who has entered into an agreement with the director under division (A)(2) of section 6109.07 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons that have entered into agreements under that division, or who have applied for agreements, of the amount of the fee.

(3) Through June 30, ~~2010~~ 2012, the following fee, on a per survey basis, shall be charged any person for services rendered by the state in the evaluation of laboratories and laboratory personnel for compliance with accepted analytical techniques and procedures established pursuant to Chapter 6109. of the Revised Code for determining the qualitative

characteristics of water:

microbiological	
MMO-MUG	\$2,000
MF	2,100
MMO-MUG and MF	2,550
organic chemical	5,400
trace metals	5,400
standard chemistry	2,800
limited chemistry	1,550

On and after July 1, ~~2010~~ 2012, the following fee, on a per survey basis, shall be charged any such person:

microbiological	\$ 1,650
organic chemicals	3,500
trace metals	3,500
standard chemistry	1,800
limited chemistry	1,000

The fee for those services shall be paid at the time the request for the survey is made. Through June 30, ~~2010~~ 2012, an individual laboratory shall not be assessed a fee under this division more than once in any three-year period unless the person requests the addition of analytical methods or analysts, in which case the person shall pay eighteen hundred dollars for each additional survey requested.

As used in division (N)(3) of this section:

- (a) "MF" means microfiltration.
- (b) "MMO" means minimal medium ONPG.
- (c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide.
- (d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(O) Any person applying to the director for examination for certification as an operator of a water supply system or wastewater system under Chapter 6109. or 6111. of the Revised Code, at the time the application is submitted, shall pay an application fee of forty-five dollars through November 30, ~~2010~~ 2012, and twenty-five dollars on and after December 1, ~~2010~~ 2012. Upon approval from the director that the applicant is eligible to take the examination therefor, the applicant shall pay a fee in accordance with the following schedule through November 30, ~~2010~~ 2012:

Class A operator	\$35
Class I operator	60

Class II operator	75
Class III operator	85
Class IV operator	100

On and after December 1, ~~2010~~ 2012, the applicant shall pay a fee in accordance with the following schedule:

Class A operator	\$25
Class I operator	\$45
Class II operator	55
Class III operator	65
Class IV operator	75

A person shall pay a biennial certification renewal fee for each applicable class of certification in accordance with the following schedule:

Class A operator	\$25
Class I operator	35
Class II operator	45
Class III operator	55
Class IV operator	65

If a certification renewal fee is received by the director more than thirty days, but not more than one year after the expiration date of the certification, the person shall pay a certification renewal fee in accordance with the following schedule:

Class A operator	\$45
Class I operator	55
Class II operator	65
Class III operator	75
Class IV operator	85

A person who requests a replacement certificate shall pay a fee of twenty-five dollars at the time the request is made.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(P) Any person submitting an application for an industrial water pollution control certificate under section 6111.31 of the Revised Code, as that section existed before its repeal by H.B. 95 of the 125th general assembly, shall pay a nonrefundable fee of five hundred dollars at the time the application is submitted. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code. A person paying a certificate fee under this division shall not pay an application fee under division (S)(1) of this section. On and after June 26, 2003, persons

shall file such applications and pay the fee as required under sections 5709.20 to 5709.27 of the Revised Code, and proceeds from the fee shall be credited as provided in section 5709.212 of the Revised Code.

(Q) Except as otherwise provided in division (R) of this section, a person issued a permit by the director for a new solid waste disposal facility other than an incineration or composting facility, a new infectious waste treatment facility other than an incineration facility, or a modification of such an existing facility that includes an increase in the total disposal or treatment capacity of the facility pursuant to Chapter 3734. of the Revised Code shall pay a fee of ten dollars per thousand cubic yards of disposal or treatment capacity, or one thousand dollars, whichever is greater, except that the total fee for any such permit shall not exceed eighty thousand dollars. A person issued a modification of a permit for a solid waste disposal facility or an infectious waste treatment facility that does not involve an increase in the total disposal or treatment capacity of the facility shall pay a fee of one thousand dollars. A person issued a permit to install a new, or modify an existing, solid waste transfer facility under that chapter shall pay a fee of two thousand five hundred dollars. A person issued a permit to install a new or to modify an existing solid waste incineration or composting facility, or an existing infectious waste treatment facility using incineration as its principal method of treatment, under that chapter shall pay a fee of one thousand dollars. The increases in the permit fees under this division resulting from the amendments made by Amended Substitute House Bill 592 of the 117th general assembly do not apply to any person who submitted an application for a permit to install a new, or modify an existing, solid waste disposal facility under that chapter prior to September 1, 1987; any such person shall pay the permit fee established in this division as it existed prior to June 24, 1988. In addition to the applicable permit fee under this division, a person issued a permit to install or modify a solid waste facility or an infectious waste treatment facility under that chapter who fails to pay the permit fee to the director in compliance with division (V) of this section shall pay an additional ten per cent of the amount of the fee for each week that the permit fee is late.

Permit and late payment fees paid to the director under this division shall be credited to the general revenue fund.

(R)(1) A person issued a registration certificate for a scrap tire collection facility under section 3734.75 of the Revised Code shall pay a fee of two hundred dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of twenty-five dollars.

(2) A person issued a registration certificate for a new scrap tire storage facility under section 3734.76 of the Revised Code shall pay a fee of three hundred dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of twenty-five dollars.

(3) A person issued a permit for a scrap tire storage facility under section 3734.76 of the Revised Code shall pay a fee of one thousand dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of fifty dollars.

(4) A person issued a permit for a scrap tire monocell or monofill facility under section 3734.77 of the Revised Code shall pay a fee of ten dollars per thousand cubic yards of disposal capacity or one thousand dollars, whichever is greater, except that the total fee for any such permit shall not exceed eighty thousand dollars.

(5) A person issued a registration certificate for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one hundred dollars.

(6) A person issued a permit for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one thousand dollars.

(7) In addition to the applicable registration certificate or permit fee under divisions (R)(1) to (6) of this section, a person issued a registration certificate or permit for any such scrap tire facility who fails to pay the registration certificate or permit fee to the director in compliance with division (V) of this section shall pay an additional ten per cent of the amount of the fee for each week that the fee is late.

(8) The registration certificate, permit, and late payment fees paid to the director under divisions (R)(1) to (7) of this section shall be credited to the scrap tire management fund created in section 3734.82 of the Revised Code.

(S)(1) Except as provided by divisions (L), (M), (N), (O), (P), and (S)(2) of this section, division (A)(2) of section 3734.05 of the Revised Code, section 3734.79 of the Revised Code, and rules adopted under division (T)(1) of this section, any person applying for a registration certificate under section 3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, variance, or plan approval under Chapter 3734. of the Revised Code shall pay a nonrefundable fee of fifteen dollars at the time the application is submitted.

Except as otherwise provided, any person applying for a permit, variance, or plan approval under Chapter 6109. or 6111. of the Revised Code shall pay a nonrefundable fee of one hundred dollars at the time the

application is submitted through June 30, ~~2010~~ 2012, and a nonrefundable fee of fifteen dollars at the time the application is submitted on and after July 1, ~~2010~~ 2012. Through June 30, ~~2010~~ 2012, any person applying for a national pollutant discharge elimination system permit under Chapter 6111. of the Revised Code shall pay a nonrefundable fee of two hundred dollars at the time of application for the permit. On and after July 1, ~~2010~~ 2012, such a person shall pay a nonrefundable fee of fifteen dollars at the time of application.

In addition to the application fee established under division (S)(1) of this section, any person applying for a national pollutant discharge elimination system general storm water construction permit shall pay a nonrefundable fee of twenty dollars per acre for each acre that is permitted above five acres at the time the application is submitted. However, the per acreage fee shall not exceed three hundred dollars. In addition, any person applying for a national pollutant discharge elimination system general storm water industrial permit shall pay a nonrefundable fee of one hundred fifty dollars at the time the application is submitted.

The director shall transmit all moneys collected under division (S)(1) of this section pursuant to Chapter 6109. of the Revised Code to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

The director shall transmit all moneys collected under division (S)(1) of this section pursuant to Chapter 6111. of the Revised Code to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code.

If a registration certificate is issued under section 3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of the application fee paid shall be deducted from the amount of the registration certificate fee due under division (R)(1), (2), or (5) of this section, as applicable.

If a person submits an electronic application for a registration certificate, permit, variance, or plan approval for which an application fee is established under division (S)(1) of this section, the person shall pay the applicable application fee as expeditiously as possible after the submission of the electronic application. An application for a registration certificate, permit, variance, or plan approval for which an application fee is established under division (S)(1) of this section shall not be reviewed or processed until the applicable application fee, and any other fees established under this division, are paid.

(2) Division (S)(1) of this section does not apply to an application for a registration certificate for a scrap tire collection or storage facility submitted

under section 3734.75 or 3734.76 of the Revised Code, as applicable, if the owner or operator of the facility or proposed facility is a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code.

(T) The director may adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code that do all of the following:

(1) Prescribe fees to be paid by applicants for and holders of any license, permit, variance, plan approval, or certification required or authorized by Chapter 3704., 3734., 6109., or 6111. of the Revised Code that are not specifically established in this section. The fees shall be designed to defray the cost of processing, issuing, revoking, modifying, denying, and enforcing the licenses, permits, variances, plan approvals, and certifications.

The director shall transmit all moneys collected under rules adopted under division (T)(1) of this section pursuant to Chapter 6109. of the Revised Code to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

The director shall transmit all moneys collected under rules adopted under division (T)(1) of this section pursuant to Chapter 6111. of the Revised Code to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code.

(2) Exempt the state and political subdivisions thereof, including education facilities or medical facilities owned by the state or a political subdivision, or any person exempted from taxation by section 5709.07 or 5709.12 of the Revised Code, from any fee required by this section;

(3) Provide for the waiver of any fee, or any part thereof, otherwise required by this section whenever the director determines that the imposition of the fee would constitute an unreasonable cost of doing business for any applicant, class of applicants, or other person subject to the fee;

(4) Prescribe measures that the director considers necessary to carry out this section.

(U) When the director reasonably demonstrates that the direct cost to the state associated with the issuance of a permit to install, license, variance, plan approval, or certification exceeds the fee for the issuance or review specified by this section, the director may condition the issuance or review on the payment by the person receiving the issuance or review of, in addition to the fee specified by this section, the amount, or any portion thereof, in excess of the fee specified under this section. The director shall not so condition issuances for which fees are prescribed in divisions (B)(7) and (L)(1)(b) of this section.

(V) Except as provided in divisions (L), (M), and (P) of this section or

unless otherwise prescribed by a rule of the director adopted pursuant to Chapter 119. of the Revised Code, all fees required by this section are payable within thirty days after the issuance of an invoice for the fee by the director or the effective date of the issuance of the license, permit, variance, plan approval, or certification. If payment is late, the person responsible for payment of the fee shall pay an additional ten per cent of the amount due for each month that it is late.

(W) As used in this section, "fuel-burning equipment," "fuel-burning equipment input capacity," "incinerator," "incinerator input capacity," "process," "process weight rate," "storage tank," "gasoline dispensing facility," "dry cleaning facility," "design flow discharge," and "new source treatment works" have the meanings ascribed to those terms by applicable rules or standards adopted by the director under Chapter 3704. or 6111. of the Revised Code.

(X) As used in divisions (B), (C), (D), (E), (F), (H), (I), and (J) of this section, and in any other provision of this section pertaining to fees paid pursuant to Chapter 3704. of the Revised Code:

(1) "Facility," "federal Clean Air Act," "person," and "Title V permit" have the same meanings as in section 3704.01 of the Revised Code.

(2) "Title V permit program" means the following activities as necessary to meet the requirements of Title V of the federal Clean Air Act and 40 C.F.R. part 70, including at least:

(a) Preparing and adopting, if applicable, generally applicable rules or guidance regarding the permit program or its implementation or enforcement;

(b) Reviewing and acting on any application for a Title V permit, permit revision, or permit renewal, including the development of an applicable requirement as part of the processing of a permit, permit revision, or permit renewal;

(c) Administering the permit program, including the supporting and tracking of permit applications, compliance certification, and related data entry;

(d) Determining which sources are subject to the program and implementing and enforcing the terms of any Title V permit, not including any court actions or other formal enforcement actions;

(e) Emission and ambient monitoring;

(f) Modeling, analyses, or demonstrations;

(g) Preparing inventories and tracking emissions;

(h) Providing direct and indirect support to small business stationary sources to determine and meet their obligations under the federal Clean Air

Act pursuant to the small business stationary source technical and environmental compliance assistance program required by section 507 of that act and established in sections 3704.18, 3704.19, and 3706.19 of the Revised Code.

(Y)(1) Except as provided in divisions (Y)(2), (3), and (4) of this section, each sewage sludge facility shall pay a nonrefundable annual sludge fee equal to three dollars and fifty cents per dry ton of sewage sludge, including the dry tons of sewage sludge in materials derived from sewage sludge, that the sewage sludge facility treats or disposes of in this state. The annual volume of sewage sludge treated or disposed of by a sewage sludge facility shall be calculated using the first day of January through the thirty-first day of December of the calendar year preceding the date on which payment of the fee is due.

(2)(a) Except as provided in division (Y)(2)(d) of this section, each sewage sludge facility shall pay a minimum annual sewage sludge fee of one hundred dollars.

(b) The annual sludge fee required to be paid by a sewage sludge facility that treats or disposes of exceptional quality sludge in this state shall be thirty-five per cent less per dry ton of exceptional quality sludge than the fee assessed under division (Y)(1) of this section, subject to the following exceptions:

(i) Except as provided in division (Y)(2)(d) of this section, a sewage sludge facility that treats or disposes of exceptional quality sludge shall pay a minimum annual sewage sludge fee of one hundred dollars.

(ii) A sewage sludge facility that treats or disposes of exceptional quality sludge shall not be required to pay the annual sludge fee for treatment or disposal in this state of exceptional quality sludge generated outside of this state and contained in bags or other containers not greater than one hundred pounds in capacity.

A thirty-five per cent reduction for exceptional quality sludge applies to the maximum annual fees established under division (Y)(3) of this section.

(c) A sewage sludge facility that transfers sewage sludge to another sewage sludge facility in this state for further treatment prior to disposal in this state shall not be required to pay the annual sludge fee for the tons of sewage sludge that have been transferred. In such a case, the sewage sludge facility that disposes of the sewage sludge shall pay the annual sludge fee. However, the facility transferring the sewage sludge shall pay the one-hundred-dollar minimum fee required under division (Y)(2)(a) of this section.

In the case of a sewage sludge facility that treats sewage sludge in this

state and transfers it out of this state to another entity for disposal, the sewage sludge facility in this state shall be required to pay the annual sludge fee for the tons of sewage sludge that have been transferred.

(d) A sewage sludge facility that generates sewage sludge resulting from an average daily discharge flow of less than five thousand gallons per day is not subject to the fees assessed under division (Y) of this section.

(3) No sewage sludge facility required to pay the annual sludge fee shall be required to pay more than the maximum annual fee for each disposal method that the sewage sludge facility uses. The maximum annual fee does not include the additional amount that may be charged under division (Y)(5) of this section for late payment of the annual sludge fee. The maximum annual fee for the following methods of disposal of sewage sludge is as follows:

(a) Incineration: five thousand dollars;

(b) Preexisting land reclamation project or disposal in a landfill: five thousand dollars;

(c) Land application, land reclamation, surface disposal, or any other disposal method not specified in division (Y)(3)(a) or (b) of this section: twenty thousand dollars.

(4)(a) In the case of an entity that generates sewage sludge or a sewage sludge facility that treats sewage sludge and transfers the sewage sludge to an incineration facility for disposal, the incineration facility, and not the entity generating the sewage sludge or the sewage sludge facility treating the sewage sludge, shall pay the annual sludge fee for the tons of sewage sludge that are transferred. However, the entity or facility generating or treating the sewage sludge shall pay the one-hundred-dollar minimum fee required under division (Y)(2)(a) of this section.

(b) In the case of an entity that generates sewage sludge and transfers the sewage sludge to a landfill for disposal or to a sewage sludge facility for land reclamation or surface disposal, the entity generating the sewage sludge, and not the landfill or sewage sludge facility, shall pay the annual sludge fee for the tons of sewage sludge that are transferred.

(5) Not later than the first day of April of the calendar year following March 17, 2000, and each first day of April thereafter, the director shall issue invoices to persons who are required to pay the annual sludge fee. The invoice shall identify the nature and amount of the annual sludge fee assessed and state the first day of May as the deadline for receipt by the director of objections regarding the amount of the fee and the first day of July as the deadline for payment of the fee.

Not later than the first day of May following receipt of an invoice, a

person required to pay the annual sludge fee may submit objections to the director concerning the accuracy of information regarding the number of dry tons of sewage sludge used to calculate the amount of the annual sludge fee or regarding whether the sewage sludge qualifies for the exceptional quality sludge discount established in division (Y)(2)(b) of this section. The director may consider the objections and adjust the amount of the fee to ensure that it is accurate.

If the director does not adjust the amount of the annual sludge fee in response to a person's objections, the person may appeal the director's determination in accordance with Chapter 119. of the Revised Code.

Not later than the first day of June, the director shall notify the objecting person regarding whether the director has found the objections to be valid and the reasons for the finding. If the director finds the objections to be valid and adjusts the amount of the annual sludge fee accordingly, the director shall issue with the notification a new invoice to the person identifying the amount of the annual sludge fee assessed and stating the first day of July as the deadline for payment.

Not later than the first day of July, any person who is required to do so shall pay the annual sludge fee. Any person who is required to pay the fee, but who fails to do so on or before that date shall pay an additional amount that equals ten per cent of the required annual sludge fee.

(6) The director shall transmit all moneys collected under division (Y) of this section to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code. The moneys shall be used to defray the costs of administering and enforcing provisions in Chapter 6111. of the Revised Code and rules adopted under it that govern the use, storage, treatment, or disposal of sewage sludge.

(7) Beginning in fiscal year 2001, and every two years thereafter, the director shall review the total amount of moneys generated by the annual sludge fees to determine if that amount exceeded six hundred thousand dollars in either of the two preceding fiscal years. If the total amount of moneys in the fund exceeded six hundred thousand dollars in either fiscal year, the director, after review of the fee structure and consultation with affected persons, shall issue an order reducing the amount of the fees levied under division (Y) of this section so that the estimated amount of moneys resulting from the fees will not exceed six hundred thousand dollars in any fiscal year.

If, upon review of the fees under division (Y)(7) of this section and after the fees have been reduced, the director determines that the total amount of moneys collected and accumulated is less than six hundred thousand dollars,

the director, after review of the fee structure and consultation with affected persons, may issue an order increasing the amount of the fees levied under division (Y) of this section so that the estimated amount of moneys resulting from the fees will be approximately six hundred thousand dollars. Fees shall never be increased to an amount exceeding the amount specified in division (Y)(7) of this section.

Notwithstanding section 119.06 of the Revised Code, the director may issue an order under division (Y)(7) of this section without the necessity to hold an adjudicatory hearing in connection with the order. The issuance of an order under this division is not an act or action for purposes of section 3745.04 of the Revised Code.

(8) As used in division (Y) of this section:

(a) "Sewage sludge facility" means an entity that performs treatment on or is responsible for the disposal of sewage sludge.

(b) "Sewage sludge" means a solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works as defined in section 6111.01 of the Revised Code. "Sewage sludge" includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment processes. "Sewage sludge" does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator, grit and screenings generated during preliminary treatment of domestic sewage in a treatment works, animal manure, residue generated during treatment of animal manure, or domestic septage.

(c) "Exceptional quality sludge" means sewage sludge that meets all of the following qualifications:

(i) Satisfies the class A pathogen standards in 40 C.F.R. 503.32(a);

(ii) Satisfies one of the vector attraction reduction requirements in 40 C.F.R. 503.33(b)(1) to (b)(8);

(iii) Does not exceed the ceiling concentration limitations for metals listed in table one of 40 C.F.R. 503.13;

(iv) Does not exceed the concentration limitations for metals listed in table three of 40 C.F.R. 503.13.

(d) "Treatment" means the preparation of sewage sludge for final use or disposal and includes, but is not limited to, thickening, stabilization, and dewatering of sewage sludge.

(e) "Disposal" means the final use of sewage sludge, including, but not limited to, land application, land reclamation, surface disposal, or disposal in a landfill or an incinerator.

(f) "Land application" means the spraying or spreading of sewage sludge onto the land surface, the injection of sewage sludge below the land

surface, or the incorporation of sewage sludge into the soil for the purposes of conditioning the soil or fertilizing crops or vegetation grown in the soil.

(g) "Land reclamation" means the returning of disturbed land to productive use.

(h) "Surface disposal" means the placement of sludge on an area of land for disposal, including, but not limited to, monofills, surface impoundments, lagoons, waste piles, or dedicated disposal sites.

(i) "Incinerator" means an entity that disposes of sewage sludge through the combustion of organic matter and inorganic matter in sewage sludge by high temperatures in an enclosed device.

(j) "Incineration facility" includes all incinerators owned or operated by the same entity and located on a contiguous tract of land. Areas of land are considered to be contiguous even if they are separated by a public road or highway.

(k) "Annual sludge fee" means the fee assessed under division (Y)(1) of this section.

(l) "Landfill" means a sanitary landfill facility, as defined in rules adopted under section 3734.02 of the Revised Code, that is licensed under section 3734.05 of the Revised Code.

(m) "Preexisting land reclamation project" means a property-specific land reclamation project that has been in continuous operation for not less than five years pursuant to approval of the activity by the director and includes the implementation of a community outreach program concerning the activity.

Sec. 3748.01. As used in this chapter:

(A) "Byproduct material" means either of the following:

(1) Any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to radiation incident to the process of producing or utilizing special nuclear material;

(2) The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

(B) "Certified radiation expert" means an individual who has complied with all of the following:

(1) Applied to the director of health for certification as a radiation expert under section 3748.12 of the Revised Code;

(2) Met minimum education and experience requirements established in rules adopted under division (C) of section 3748.04 of the Revised Code;

(3) Been granted a certificate as a radiation expert by the director under section 3748.12 of the Revised Code.

(C) "Closure" or "site closure" refers to a facility for the disposal of low-level radioactive waste or a byproduct material site, as "byproduct material" is defined in division (A)(2) of this section, and means all activities performed at a licensed operation, such as stabilization and contouring, to ensure that the site where the operation occurred is in a stable condition so that only minor custodial care, surveillance, and monitoring are necessary at the site following the termination of the licensed operation.

(D) "Decommissioning" means to safely remove any licensed operation from service and reduce residual radioactivity to a level that permits release of the licensee's property for unrestricted use. With regard to a facility for the disposal of low-level radioactive waste or a byproduct material site, as "byproduct material" is defined in division (A)(2) of this section, "decommissioning" does not include the reduction of residual radioactivity to a level that permits release of the facility for unrestricted use.

(E) "Director of health" includes a designee or authorized representative of the director.

(F) "Disposal," with regard to low-level radioactive waste, means the permanent isolation of that waste in accordance with requirements established by the United States nuclear regulatory commission or the licensing agreement state.

(G) "Disposal site" means that portion of a facility that is used for the disposal of low-level radioactive waste and that consists of disposal units and a buffer zone. "Disposal unit" means a discrete portion of such a facility into which low-level radioactive waste is placed for disposal.

(H)(1) Except as provided in division (H)(2) of this section, "facility" means the state, any political subdivision, person, public or private institution, or group, or any unit of one of those entities, but does not include the federal government or any of its agencies.

(2) For the purposes of the disposal of low-level radioactive waste, "facility" has the same meaning as in section 3747.01 of the Revised Code.

(I) "Handle" means receive, possess, use, store, transfer, install, service, or dispose of sources of radiation unless possession is solely for the purpose of transportation.

(J) "Handler" means a facility that handles sources of radiation unless possession is solely for the purpose of transportation.

(K) "Inspection" means an official review, examination, or observation, including, without limitation, tests, surveys, and monitoring, that is used to determine compliance with rules, orders, requirements, and conditions of the department of health and that is conducted by the director of health.

(L) "Low-level radioactive waste" has the same meaning as in section

3747.01 of the Revised Code with regard to the disposal of low-level radioactive waste. In regard to regulatory control at locations other than a disposal facility, "low-level radioactive waste" has the same meaning as in 42 U.S.C.A. 2021b.

(M) "Quality assurance program" means a program providing for verification by written procedures such as testing, auditing, and inspection to ensure that deficiencies, deviations, defective equipment, or unsafe practices, or a combination thereof, relating to the use, disposal, management, or manufacture of radiation sources are identified, promptly corrected, and reported to the appropriate regulatory authorities.

(N) "Radiation" means ionizing and nonionizing radiation.

(1) "Ionizing radiation" means gamma rays and X-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other nuclear particles, but does not include sound or radio waves or visible, infrared, or ultraviolet light.

(2) "Nonionizing radiation" means any electromagnetic radiation, other than ionizing electromagnetic radiation, or any sonic, ultrasonic, or infrasonic wave.

(O) "Radioactive material" means any solid, liquid, or gaseous material that emits ionizing radiation spontaneously. "Radioactive material" includes accelerator-produced and naturally occurring materials and byproduct, source, and special nuclear material.

(P) "Radiation-generating equipment" means any manufactured product or device, or component of such a product or device, or any machine or system that during operation can generate or emit radiation, except those that emit radiation only from radioactive material. "Radiation-generating equipment" does not include either of the following:

(1) Diathermy machines;

(2) Microwave ovens, including food service microwave ovens used for commercial and industrial uses, television receivers, electric lamps, and other household appliances and products that generate very low levels of radiation.

(Q) "Source material" means uranium, thorium, or any combination thereof in any physical or chemical form, or any ores that contain by weight at least one-twentieth of one per cent of uranium, thorium, or any combination thereof. "Source material" does not include special nuclear material.

(R) "Source of radiation" means radioactive material or radiation-generating equipment.

(S) "Special nuclear material" means either of the following:

(1) Plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material that the United States nuclear regulatory commission determines to be special nuclear material, but does not include source material pursuant to section 51 of the "Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2071."

(2) Except for any source material, any material artificially enriched by any of the materials identified in division (S)(1) of this section.

(T) "Storage" means the retention of radioactive materials, including low-level radioactive waste, prior to disposal in a manner that allows for surveillance, control, and subsequent retrieval.

(U) "Medical practitioner" means a person who is authorized pursuant to Chapter 4715. of the Revised Code to practice dentistry; pursuant to Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery; or pursuant to Chapter 4734. of the Revised Code to practice chiropractic.

(V) "Medical-practitioner group" means a corporation, partnership, or other business entity, other than a hospital as defined in section 3727.01 of the Revised Code, consisting of medical practitioners.

Sec. 3748.04. The public health council, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend or rescind rules doing all of the following:

(A) Listing types of radioactive material for which licensure by its handler is required and types of radiation-generating equipment for which registration by its handler is required, and establishing requirements governing them. Rules adopted under division (A) of this section shall be compatible with applicable federal regulations and shall establish all of the following, without limitation:

(1) Requirements governing both of the following:

(a) The licensing and inspection of handlers of radioactive material. Standards established in rules adopted under division (A)(1)(a) of this section regarding byproduct material or any activity that results in the production of that material, to the extent practicable, shall be equivalent to or more stringent than applicable standards established by the United States nuclear regulatory commission.

(b) The registration and inspection of handlers of radiation-generating equipment. Standards established in rules adopted under division (A)(1)(b) of this section, to the extent practicable, shall be equivalent to applicable standards established by the food and drug administration in the United States department of health and human services.

(2) Identification of and requirements governing possession and use of

specifically licensed and generally licensed quantities of radioactive material as either sealed sources or unsealed sources;

(3) A procedure for the issuance of and the frequency of renewal of the licenses of handlers of radioactive material, other than a license for a facility for the disposal of low-level radioactive waste, and of the certificates of registration of handlers of radiation-generating equipment;

(4) Procedures for suspending and revoking the licenses of handlers of radioactive material and the certificates of registration of handlers of radiation-generating equipment;

(5) Criteria to be used by the director of health in amending the license of a handler of radioactive material or the certificate of registration of a handler of radiation-generating equipment subsequent to its issuance;

(6) Criteria for achieving and maintaining compliance with this chapter and rules adopted under it by licensees and registrants;

(7) Criteria governing environmental monitoring of licensed and registered activities to assess compliance with this chapter and rules adopted under it;

(8) ~~Except as otherwise provided in division (A)(8) of this section, fees~~ Fees for the both of the following:

(a) The licensing of handlers of radioactive material, other than a facility facilities for the disposal of low-level radioactive waste, and the of radioactive material;

(b) The registration of handlers, other than facilities that are, or are operated by, medical practitioners or medical-practitioner groups, of radiation-generating equipment and a.

(9) A fee schedule for their both of the following that includes fees for reviews, conducted during an inspection, of shielding plans or the adequacy of shielding:

(a) The inspection of handlers of radioactive material;

(b) The inspection of handlers, other than facilities that are, or are operated by, medical practitioners or medical-practitioner groups, of radiation-generating equipment. Rules adopted under division (A)(8) of this section shall not revise any fees established in section 3748.07 or 3748.13 of the Revised Code to be paid by any handler of radiation-generating equipment that is a medical practitioner or a corporation, partnership, or other business entity consisting of medical practitioners, other than a hospital as defined in section 3727.01 of the Revised Code.

As used in division (A)(8) of this section, "medical practitioner" means a person who is authorized to practice dentistry pursuant to Chapter 4715. of the Revised Code; medicine and surgery, osteopathic medicine and surgery,

~~or podiatry pursuant to Chapter 4731. of the Revised Code; or chiropractic pursuant to Chapter 4734. of the Revised Code.~~

(B)(1) Identifying sources of radiation, circumstances of possession, use, or disposal of sources of radiation, and levels of radiation that constitute an unreasonable or unnecessary risk to human health or the environment;

(2) Establishing requirements for the achievement and maintenance of compliance with standards for the receipt, possession, use, storage, installation, transfer, servicing, and disposal of sources of radiation to prevent levels of radiation that constitute an unreasonable or unnecessary risk to human health or the environment;

(3) Requiring the maintenance of records on the receipt, use, storage, transfer, and disposal of radioactive material and on the radiological safety aspects of the use and maintenance of radiation-generating equipment.

In adopting rules under divisions (A) and (B) of this section, the council shall use standards no less stringent than the "suggested state regulations for control of radiation" prepared by the conference of radiation control program directors, inc., and regulations adopted by the United States nuclear regulatory commission, the United States environmental protection agency, and the United States department of health and human services and shall consider reports of the national council on radiation protection and measurement and the relevant standards of the American national standards institute.

(C) Establishing fees, procedures, and requirements for certification as a radiation expert, including all of the following, without limitation:

- (1) Minimum training and experience requirements;
- (2) Procedures for applying for certification;
- (3) Procedures for review of applications and issuance of certificates;
- (4) Procedures for suspending and revoking certification.

(D) Establishing a schedule for inspection of sources of radiation and their shielding and surroundings;

(E) Establishing the responsibilities of a radiation expert;

(F) Establishing criteria for quality assurance programs for licensees of radioactive material and registrants of radiation-generating equipment;

(G) Establishing fees to be paid by any facility that, on September 8, 1995, holds a license from the United States nuclear regulatory commission in order to provide moneys necessary for the transfer of licensing and other regulatory authority from the commission to the state pursuant to section 3748.03 of the Revised Code. Rules adopted under this division shall stipulate that fees so established do not apply to any functions dealing specifically with a facility for the disposal of low-level radioactive waste.

Fees collected under this division shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it.

(H) Establishing fees to be collected annually from generators of low-level radioactive waste, which shall be based upon the volume and radioactivity of the waste generated and the costs of administering low-level radioactive waste management activities under this chapter and rules adopted under it. All fees collected under this division shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it. Any fee required under this division that has not been paid within ninety days after the invoice date shall be assessed at two times the original invoiced fee. Any fee that has not been paid within one hundred eighty days after the invoice date shall be assessed at five times the original invoiced fee.

(I) Establishing requirements governing closure, decontamination, decommissioning, reclamation, and long-term surveillance and care of a facility licensed under this chapter and rules adopted under it. Rules adopted under division (I) of this section shall include, without limitation, all of the following:

(1) Standards and procedures to ensure that a licensee prepares a decommissioning funding plan that provides an adequate financial guaranty to permit the completion of all requirements governing the closure, decontamination, decommissioning, and reclamation of sites, structures, and equipment used in conjunction with a licensed activity;

(2) For licensed activities where radioactive material that will require surveillance or care is likely to remain at the site after the licensed activities cease, as indicated in the application for the license submitted under section 3748.07 of the Revised Code, standards and procedures to ensure that the licensee prepares an additional decommissioning funding plan for long-term surveillance and care, before termination of the license, that provides an additional adequate financial guaranty as necessary to provide for that surveillance and care;

(3) For the purposes of the decommissioning funding plans required in rules adopted under divisions (I)(1) and (2) of this section, the types of acceptable financial guaranties, which shall include bonds issued by fidelity or surety companies authorized to do business in the state, certificates of deposit, deposits of government securities, irrevocable letters or lines of credit, trust funds, escrow accounts, or other similar types of arrangements,

but shall not include any arrangement that constitutes self-insurance;

(4) A requirement that the decommissioning funding plans required in rules adopted under divisions (I)(1) and (2) of this section contain financial guaranties in amounts sufficient to ensure compliance with any standards established by the United States nuclear regulatory commission, or by the state if it has become an agreement state pursuant to section 3748.03 of the Revised Code, pertaining to closure, decontamination, decommissioning, reclamation, and long-term surveillance and care of licensed activities and sites of licensees.

Standards established in rules adopted under division (I) of this section regarding any activity that resulted in the production of byproduct material, as defined in division (A)(2) of section 3748.01 of the Revised Code, to the extent practicable, shall be equivalent to or more stringent than standards established by the United States nuclear regulatory commission for sites at which ores were processed primarily for their source material content and at which byproduct material, as defined in division (A)(2) of section 3748.01 of the Revised Code, is deposited.

(J) Establishing criteria governing inspections of a facility for the disposal of low-level radioactive waste, including, without limitation, the establishment of a resident inspector program at such a facility;

(K) Establishing requirements and procedures governing the filing of complaints under section 3748.16 of the Revised Code, including, without limitation, those governing intervention in a hearing held under division (B)(3) of that section.

Sec. 3748.07. (A) Every facility that proposes to handle radioactive material or radiation-generating equipment for which licensure or registration, respectively, by its handler is required shall apply in writing to the director of health on forms prescribed and provided by the director for licensure or registration. Terms and conditions of licenses and certificates of registration may be amended in accordance with rules adopted under section 3748.04 of the Revised Code or orders issued by the director pursuant to section 3748.05 of the Revised Code.

~~(B) Until rules are adopted under section 3748.04 of the Revised Code, an application~~

(1) An applicant proposing to handle radioactive material shall pay for a license or renewal of a license the appropriate fee specified in rules adopted under section 3748.04 of the Revised Code and listed on an invoice provided by the director. The applicant shall pay the fee on receipt of the invoice.

(2)(a) Except as provided in division (B)(2)(b) of this section, until fees

are established in rules adopted under division (A)(8)(b) of section 3748.04 of the Revised Code, an applicant proposing to handle radiation-generating equipment shall pay for a certificate of registration or renewal of a certificate a biennial registration fee of two hundred sixty-two dollars.

Except as provided in division (B)(2)(b) of this section, on and after the effective date of the rules in which fees are established under division (A)(8)(b) of section 3748.04 of the Revised Code, an applicant proposing to handle radiation-generating equipment shall pay for a certificate of registration or renewal of a certificate the appropriate fee established in those rules.

The applicant shall pay the fees described in division (B)(2)(a) of this section at the time of applying for a certificate of registration or renewal of a certificate.

(b) An applicant that is, or is operated by, a medical practitioner or medical-practitioner group and proposes to handle radiation-generating equipment shall pay for a certificate of registration ~~shall be accompanied by~~ or renewal of a certificate a biennial registration fee of two hundred ~~eighteen~~ sixty-two dollars. ~~On and after the effective date of those rules, an applicant for a license, registration certificate, or renewal of either shall pay the appropriate fee established in those rules~~ The applicant shall pay the fee at the time of applying for a certificate of registration or renewal of the certificate.

(C) All fees collected under this section shall be deposited in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it.

(D) Any fee required under this section that has not been paid within ninety days after the invoice date shall be assessed at two times the original invoiced fee. Any fee that has not been paid within one hundred eighty days after the invoice date shall be assessed at five times the original invoiced fee.

~~(E)~~ (E) The director shall grant a license or registration to any applicant who has paid the required fee and is in compliance with this chapter and rules adopted under it.

~~Until rules are adopted under section 3748.04 of the Revised Code, certificates of registration shall be effective for two years from the date of issuance. On and after the effective date of those rules~~ (F) Except as provided in division (B)(2) of this section, licenses and certificates of registration shall be effective for the applicable period established in those rules adopted under section 3748.04 of the Revised Code. Licenses and

certificates of registration shall be renewed in accordance with the ~~standard~~ renewal procedure established in ~~Chapter 4745~~; rules adopted under section 3748.04 of the Revised Code.

Sec. 3748.12. The director of health shall certify radiation experts pursuant to rules adopted under division (C) of section 3748.04 of the Revised Code. The director shall issue a certificate to each person certified under this section. An individual certified by the director is qualified to develop, provide periodic review of, and conduct audits of the quality assurance program for sources of radiation for which such a program is required under division (A) of section 3748.13 of the Revised Code.

The public health council shall establish an application fee for applying for certification and a biennial certification renewal fee in rules adopted under division (C) of section 3748.04 of the Revised Code. ~~Until those rules are adopted, the application fee for initial certification shall be fifty dollars plus an additional twenty five dollars for each type of radiation generating equipment listed in division (B) of section 3748.13 of the Revised Code for which application is being made. The certification renewal fee shall be one hundred fifteen dollars.~~ A certificate issued under this section shall expire two years after the date of its issuance. To maintain certification, a radiation expert shall apply to the director for renewal of certification in accordance with the standard renewal procedures established in Chapter 4745. of the Revised Code. The certification renewal fee is not required for initial certification, but shall be paid for every renewal of certification. Fees collected under this section shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it. Any fee required under this section that has not been paid within ninety days after the invoice date shall be assessed at two times the original invoiced fee. Any fee that has not been paid within one hundred eighty days after the invoice date shall be assessed at five times the original invoiced fee.

Sec. 3748.13. (A) The director of health shall inspect sources of radiation for which licensure or registration by the handler is required, and the sources' shielding and surroundings, according to the schedule established in rules adopted under division (D) of section 3748.04 of the Revised Code. In accordance with rules adopted under ~~that~~ section 3748.04 of the Revised Code, the director shall inspect all records and operating procedures of handlers that install or service sources of radiation and all sources of radiation for which licensure of radioactive material or registration of radiation-generating equipment by the handler is required.

The director may make other inspections upon receiving complaints or other evidence of a violation of this chapter or rules adopted under it.

The director shall require any hospital registered under division (A) of section 3701.07 of the Revised Code to develop and maintain a quality assurance program for all sources of radiation-generating equipment. A certified radiation expert shall conduct oversight and maintenance of the program and shall file a report of audits of the program with the director on forms prescribed by the director. The audit reports shall become part of the inspection record.

~~(B) Until rules are adopted under division (A)(8) of section 3748.04 of the Revised Code (1) Except as provided in division (B)(2) of this section, a facility shall pay inspection fees for radioactive material and radiation-generating equipment according to the following schedule and categories established in rules adopted under division (A)(9) of section 3748.04 of the Revised Code.~~

(2) A facility that is, or is operated by, a medical practitioner or medical-practitioner group shall pay inspection fees for radiation-generating equipment according to the following schedule and categories:

First dental x-ray tube	\$ 129.00 <u>155.00</u>
Each additional dental x-ray tube at the same location	\$ 64.00 <u>77.00</u>
First medical x-ray tube	\$ 256.00 <u>307.00</u>
Each additional medical x-ray tube at the same location	\$ 136.00 <u>163.00</u>
Each unit of ionizing radiation-generating equipment capable of operating at or above 250 kilovoltage peak	\$ 508.00 <u>610.00</u>
First nonionizing radiation-generating equipment of any kind	\$ 256.00 <u>307.00</u>
Each additional nonionizing radiation-generating equipment of any kind at the same location	\$ 136.00 <u>163.00</u>
Assembler-maintainer inspection consisting of an inspection of records and operating procedures of handlers that install sources of radiation	\$ 317.00

~~Until rules are adopted under division (A)(8) of section 3748.04 of the~~

~~Revised Code, the fee for an inspection to determine whether violations cited in a previous inspection have been corrected is fifty per cent of the fee applicable under the schedule in this division. Until those rules are adopted~~
(C)(1) Except as provided in division (C)(2) of this section, the fee for the inspection of a facility that proposes to handle radioactive material or radiation-generating equipment and is not licensed or registered, and for which no license or registration application is pending at the time of inspection, is three hundred ninety-five seventy-four dollars plus the applicable fee specified in rules adopted under division (A)(9) of section 3748.04 of the Revised Code.

(2) For a facility that is, or is operated by, a medical practitioner or medical-practitioner group and proposes to handle radiation-generating equipment, the fee for an inspection if the facility is not licensed or registered, and no license or registration is pending at the time of inspection, is four hundred seventy-four dollars plus the fee applicable under the schedule in this division (B)(2) of this section.

(D)(1) Except as provided in division (D)(2) of this section, for a facility that handles radioactive material or radiation-generating equipment, the fee for an inspection to determine whether violations cited in a previous inspection have been corrected is the amount specified in rules adopted under division (A)(9) of section 3748.04 of the Revised Code.

(2) For a facility that is, or is operated by, a medical practitioner or medical-practitioner group and handles radiation-generating equipment, the fee for an inspection to determine whether violations cited in a previous inspection have been corrected is fifty per cent of the applicable fee under the schedule in division (B)(2) of this section.

(E) The director may conduct a review of shielding plans or the adequacy of shielding on the request of a licensee or registrant or an applicant for licensure or registration or during an inspection when the director considers a review to be necessary. ~~Until rules are adopted under division (A)(8) of section 3748.04 of the Revised Code~~

(1) Except as provided in division (E)(2) of this section, the fee for the review is ~~six~~ the applicable amount specified in rules adopted under division (A)(9) of section 3748.04 of the Revised Code.

(2) For a facility that is, or is operated by, a medical practitioner or medical-practitioner group and handles or proposes to handle radiation-generating equipment, the fee for the review is seven hundred ~~thirty-five~~ sixty-two dollars for each room where a source of radiation is used and is in addition to any other fee applicable under the schedule in this division (B)(2) of this section.

(F) All fees shall be paid to the department of health no later than thirty days after the invoice for the fee is mailed. Fees shall be deposited in the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it.

(G) Any fee required under this section that has not been paid within ninety days after the invoice date shall be assessed at two times the original invoiced fee. Any fee that has not been paid within one hundred eighty days after the invoice date shall be assessed at five times the original invoiced fee.

~~(G)~~(H) If the director determines that a board of health of a city or general health district is qualified to conduct inspections of radiation-generating equipment, the director may delegate to the board, by contract, the authority to conduct such inspections. In making a determination of the qualifications of a board of health to conduct those inspections, the director shall evaluate the credentials of the individuals who are to conduct the inspections of radiation-generating equipment and the radiation detection and measuring equipment available to them for that purpose. If a contract is entered into, the board shall have the same authority to make inspections of radiation-generating equipment as the director has under this chapter and rules adopted under it. The contract shall stipulate that only individuals approved by the director as qualified shall be permitted to inspect radiation-generating equipment under the contract's provisions. The contract shall provide for such compensation for services as is agreed to by the director and the board of health of the contracting health district. The director may reevaluate the credentials of the inspection personnel and their radiation detecting and measuring equipment as often as the director considers necessary and may terminate any contract with the board of health of any health district that, in the director's opinion, is not satisfactorily performing the terms of the contract.

~~(D)~~(I) The director may enter at all reasonable times upon any public or private property to determine compliance with this chapter and rules adopted under it.

Sec. 3749.04. (A) No person shall operate or maintain a public swimming pool, public spa, or special-use pool without a license issued by the licensor having jurisdiction.

(B) Every person who intends to operate or maintain an existing public swimming pool, public spa, or special-use pool shall, during the month of April of each year, apply to the licensor having jurisdiction for a license to operate the pool or spa. Any person proposing to operate or maintain a new

or otherwise unlicensed public swimming pool, public spa, or special-use pool shall apply to the licensor having jurisdiction at least thirty days prior to the intended start of operation of the pool or spa. Within thirty days of receipt of an application for licensure of a public swimming pool, public spa, or special-use pool, the licensor shall process the application and either issue a license or otherwise respond to the applicant regarding the application.

(C) Each license issued shall be effective from the date of issuance until the last day of May of the following year.

(D) Each licensor administering and enforcing sections 3749.01 to 3749.09 of the Revised Code and the rules adopted thereunder may establish licensing and inspection fees in accordance with section 3709.09 of the Revised Code, which shall not exceed the cost of licensing and inspecting public swimming pools, public spas, and special-use pools.

(E) Except as provided in division (F) of this section and in division (B) of section 3749.07 of the Revised Code, all license fees collected by a licensor shall be deposited into a swimming pool fund, which is hereby created in each health district. The fees shall be used by the licensor solely for the purpose of administering and enforcing this chapter and the rules adopted under this chapter.

(F) An annual license fee established under division (D) of this section shall include any additional amount determined by rule of the public health council, which the ~~licensor~~ board of health shall collect and transmit to the ~~treasurer of state to be deposited in the general operations fund created by section 3701.83 of the Revised Code~~ director of health pursuant to section 3709.092 of the Revised Code. The amounts collected under this division shall be administered by the director of health and shall be used solely for the administration and enforcement of this chapter and the rules adopted under this chapter.

Sec. 3767.41. (A) As used in this section:

(1) "Building" means, except as otherwise provided in this division, any building or structure that is used or intended to be used for residential purposes. "Building" includes, but is not limited to, a building or structure in which any floor is used for retail stores, shops, salesrooms, markets, or similar commercial uses, or for offices, banks, civic administration activities, professional services, or similar business or civic uses, and in which the other floors are used, or designed and intended to be used, for residential purposes. "Building" does not include any building or structure that is occupied by its owner and that contains three or fewer residential units.

(2)(a) "Public nuisance" means a building that is a menace to the public health, welfare, or safety; that is structurally unsafe, unsanitary, or not provided with adequate safe egress; that constitutes a fire hazard, is otherwise dangerous to human life, or is otherwise no longer fit and habitable; or that, in relation to its existing use, constitutes a hazard to the public health, welfare, or safety by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment.

(b) "Public nuisance" as it applies to subsidized housing means subsidized housing that fails to meet the following standards as specified in the federal rules governing each standard:

(i) Each building on the site is structurally sound, secure, habitable, and in good repair, as defined in 24 C.F.R. 5.703(b);

(ii) Each building's domestic water, electrical system, elevators, emergency power, fire protection, HVAC, and sanitary system is free of health and safety hazards, functionally adequate, operable, and in good repair, as defined in 24 C.F.R. 5.703(c);

(iii) Each dwelling unit within the building is structurally sound, habitable, and in good repair, and all areas and aspects of the dwelling unit are free of health and safety hazards, functionally adequate, operable, and in good repair, as defined in 24 C.F.R. 5.703(d)(1);

(iv) Where applicable, the dwelling unit has hot and cold running water, including an adequate source of potable water, as defined in 24 C.F.R. 5.703(d)(2);

(v) If the dwelling unit includes its own sanitary facility, it is in proper operating condition, usable in privacy, and adequate for personal hygiene, and the disposal of human waste, as defined in 24 C.F.R. 5.703(d)(3);

(vi) The common areas are structurally sound, secure, and functionally adequate for the purposes intended. The basement, garage, carport, restrooms, closets, utility, mechanical, community rooms, daycare, halls, corridors, stairs, kitchens, laundry rooms, office, porch, patio, balcony, and trash collection areas are free of health and safety hazards, operable, and in good repair. All common area ceilings, doors, floors, HVAC, lighting, smoke detectors, stairs, walls, and windows, to the extent applicable, are free of health and safety hazards, operable, and in good repair, as defined in 24 C.F.R. 5.703(e);

(vii) All areas and components of the housing are free of health and safety hazards. These areas include, but are not limited to, air quality, electrical hazards, elevators, emergency/fire exits, flammable materials, garbage and debris, handrail hazards, infestation, and lead-based paint, as defined in 24 C.F.R. 5.703(f).

(3) "Abate" or "abatement" in connection with any building means the removal or correction of any conditions that constitute a public nuisance and the making of any other improvements that are needed to effect a rehabilitation of the building that is consistent with maintaining safe and habitable conditions over its remaining useful life. "Abatement" does not include the closing or boarding up of any building that is found to be a public nuisance.

(4) "Interested party" means any owner, mortgagee, lienholder, tenant, or person that possesses an interest of record in any property that becomes subject to the jurisdiction of a court pursuant to this section, and any applicant for the appointment of a receiver pursuant to this section.

(5) "Neighbor" means any owner of property, including, but not limited to, any person who is purchasing property by land installment contract or under a duly executed purchase contract, that is located within five hundred feet of any property that becomes subject to the jurisdiction of a court pursuant to this section, and any occupant of a building that is so located.

(6) "Tenant" has the same meaning as in section 5321.01 of the Revised Code.

(7) "Subsidized housing" means a property consisting of more than four dwelling units that, in whole or in part, receives project-based assistance pursuant to a contract under any of the following federal housing programs:

(a) The new construction or substantial rehabilitation program under section 8(b)(2) of the "United States Housing Act of 1937," Pub. L. No. 75-412, 50 Stat. 888, 42 U.S.C. 1437f(b)(2) as that program was in effect immediately before the first day of October, 1983;

(b) The moderate rehabilitation program under section 8(e)(2) of the "United States Housing Act of 1937," Pub. L. No. 75-412, 50 Stat. 888, 42 U.S.C. 1437f(e)(2);

(c) The loan management assistance program under section 8 of the "United States Housing Act of 1937," Pub. L. No. 75-412, 50 Stat. 888, 42 U.S.C. 1437f;

(d) The rent supplement program under section 101 of the "Housing and Urban Development Act of 1965," Pub. L. No. 89-174, 79 Stat. 667, 12 U.S.C. 1701s;

(e) Section 8 of the "United States Housing Act of 1937," Pub. L. No. 75-412, 50 Stat. 888, 42 U.S.C. 1437f, following conversion from assistance under section 101 of the "Housing and Urban Development Act of 1965," Pub. L. No. 89-174, 79 Stat. 667, 12 U.S.C. 1701s;

(f) The program of supportive housing for the elderly under section 202 of the "Housing Act of 1959," Pub. L. No. 86-372, 73 Stat. 654, 12 U.S.C.

1701q;

(g) The program of supportive housing for persons with disabilities under section 811 of the "National Affordable Housing Act of 1990," Pub. L. No. 101-625, 104 Stat. 4313, 42 U.S.C. 8013;

(h) The rental assistance program under section 521 of the "United States Housing Act of 1949," Pub. L. No. 90-448, 82 Stat. 551, as amended by Pub. L. No. 93-383, 88 Stat. 696, 42 U.S.C. 1490a.

(8) "Project-based assistance" means the assistance is attached to the property and provides rental assistance only on behalf of tenants who reside in that property.

(9) "Landlord" has the same meaning as in section 5321.01 of the Revised Code.

(B)(1)(a) In any civil action to enforce any local building, housing, air pollution, sanitation, health, fire, zoning, or safety code, ordinance, resolution, or regulation applicable to buildings, that is commenced in a court of common pleas, municipal court, housing or environmental division of a municipal court, or county court, or in any civil action for abatement commenced in a court of common pleas, municipal court, housing or environmental division of a municipal court, or county court, by a municipal corporation or township in which the building involved is located, by any neighbor, tenant, or by a nonprofit corporation that is duly organized and has as one of its goals the improvement of housing conditions in the county or municipal corporation in which the building involved is located, if a building is alleged to be a public nuisance, the municipal corporation, township, neighbor, tenant, or nonprofit corporation may apply in its complaint for an injunction or other order as described in division (C)(1) of this section, or for the relief described in division (C)(2) of this section, including, if necessary, the appointment of a receiver as described in divisions (C)(2) and (3) of this section, or for both such an injunction or other order and such relief. The municipal corporation, township, neighbor, tenant, or nonprofit corporation commencing the action is not liable for the costs, expenses, and fees of any receiver appointed pursuant to divisions (C)(2) and (3) of this section.

(b) Prior to commencing a civil action for abatement when the property alleged to be a public nuisance is subsidized housing, the municipal corporation, township, neighbor, tenant, or nonprofit corporation commencing the action shall provide the landlord of that property with written notice that specifies one or more defective conditions that constitute a public nuisance as that term applies to subsidized housing and states that if the landlord fails to remedy the condition within sixty days of the service of

the notice, a claim pursuant to this section may be brought on the basis that the property constitutes a public nuisance in subsidized housing. Any party authorized to bring an action against the landlord shall make reasonable attempts to serve the notice in the manner prescribed in the Rules of Civil Procedure to the landlord or the landlord's agent for the property at the property's management office, or at the place where the tenants normally pay or send rent. If the landlord is not the owner of record, the party bringing the action shall make a reasonable attempt to serve the owner. If the owner does not receive service the person bringing the action shall certify the attempts to serve the owner.

(2)(a) In a civil action described in division (B)(1) of this section, a copy of the complaint and a notice of the date and time of a hearing on the complaint shall be served upon the owner of the building and all other interested parties in accordance with the Rules of Civil Procedure. If certified mail service, personal service, or residence service of the complaint and notice is refused or certified mail service of the complaint and notice is not claimed, and if the municipal corporation, township, neighbor, tenant, or nonprofit corporation commencing the action makes a written request for ordinary mail service of the complaint and notice, or uses publication service, in accordance with the Rules of Civil Procedure, then a copy of the complaint and notice shall be posted in a conspicuous place on the building.

(b) The judge in a civil action described in division (B)(1) of this section shall conduct a hearing at least twenty-eight days after the owner of the building and the other interested parties have been served with a copy of the complaint and the notice of the date and time of the hearing in accordance with division (B)(2)(a) of this section.

(c) In considering whether subsidized housing is a public nuisance, the judge shall construe the standards set forth in division (A)(2)(b) of this section in a manner consistent with department of housing and urban development and judicial interpretations of those standards. The judge shall deem that the property is not a public nuisance if during the twelve months prior to the service of the notice that division (B)(1)(b) of this section requires, the department of housing and urban development's real estate assessment center issued a score of seventy-five or higher out of a possible one hundred points pursuant to its regulations governing the physical condition of multifamily properties pursuant to 24 C.F.R. part 200, subpart P, and since the most recent inspection, there has been no significant change in the property's conditions that would create a serious threat to the health, safety, or welfare of the property's tenants.

(C)(1) If the judge in a civil action described in division (B)(1) of this

section finds at the hearing required by division (B)(2) of this section that the building involved is a public nuisance, if the judge additionally determines that the owner of the building previously has not been afforded a reasonable opportunity to abate the public nuisance or has been afforded such an opportunity and has not refused or failed to abate the public nuisance, and if the complaint of the municipal corporation, township, neighbor, tenant, or nonprofit corporation commencing the action requested the issuance of an injunction as described in this division, then the judge may issue an injunction requiring the owner of the building to abate the public nuisance or issue any other order that the judge considers necessary or appropriate to cause the abatement of the public nuisance. If an injunction is issued pursuant to this division, the owner of the building involved shall be given no more than thirty days from the date of the entry of the judge's order to comply with the injunction, unless the judge, for good cause shown, extends the time for compliance.

(2) If the judge in a civil action described in division (B)(1) of this section finds at the hearing required by division (B)(2) of this section that the building involved is a public nuisance, if the judge additionally determines that the owner of the building previously has been afforded a reasonable opportunity to abate the public nuisance and has refused or failed to do so, and if the complaint of the municipal corporation, township, neighbor, tenant, or nonprofit corporation commencing the action requested relief as described in this division, then the judge shall offer any mortgagee, lienholder, or other interested party associated with the property on which the building is located, in the order of the priority of interest in title, the opportunity to undertake the work and to furnish the materials necessary to abate the public nuisance. Prior to selecting any interested party, the judge shall require the interested party to demonstrate the ability to promptly undertake the work and furnish the materials required, to provide the judge with a viable financial and construction plan for the rehabilitation of the building as described in division (D) of this section, and to post security for the performance of the work and the furnishing of the materials.

If the judge determines, at the hearing, that no interested party is willing or able to undertake the work and to furnish the materials necessary to abate the public nuisance, or if the judge determines, at any time after the hearing, that any party who is undertaking corrective work pursuant to this division cannot or will not proceed, or has not proceeded with due diligence, the judge may appoint a receiver pursuant to division (C)(3) of this section to take possession and control of the building.

(3)(a) The judge in a civil action described in division (B)(1) of this

section shall not appoint any person as a receiver unless the person first has provided the judge with a viable financial and construction plan for the rehabilitation of the building involved as described in division (D) of this section and has demonstrated the capacity and expertise to perform the required work and to furnish the required materials in a satisfactory manner. An appointed receiver may be a financial institution that possesses an interest of record in the building or the property on which it is located, a nonprofit corporation as described in divisions (B)(1) and (C)(3)(b) of this section, including, but not limited to, a nonprofit corporation that commenced the action described in division (B)(1) of this section, or any other qualified property manager.

(b) To be eligible for appointment as a receiver, no part of the net earnings of a nonprofit corporation shall inure to the benefit of any private shareholder or individual. Membership on the board of trustees of a nonprofit corporation appointed as a receiver does not constitute the holding of a public office or employment within the meaning of sections 731.02 and 731.12 or any other section of the Revised Code and does not constitute a direct or indirect interest in a contract or expenditure of money by any municipal corporation. A member of a board of trustees of a nonprofit corporation appointed as a receiver shall not be disqualified from holding any public office or employment, and shall not forfeit any public office or employment, by reason of membership on the board of trustees, notwithstanding any law to the contrary.

(D) Prior to ordering any work to be undertaken, or the furnishing of any materials, to abate a public nuisance under this section, the judge in a civil action described in division (B)(1) of this section shall review the submitted financial and construction plan for the rehabilitation of the building involved and, if it specifies all of the following, shall approve that plan:

(1) The estimated cost of the labor, materials, and any other development costs that are required to abate the public nuisance;

(2) The estimated income and expenses of the building and the property on which it is located after the furnishing of the materials and the completion of the repairs and improvements;

(3) The terms, conditions, and availability of any financing that is necessary to perform the work and to furnish the materials;

(4) If repair and rehabilitation of the building are found not to be feasible, the cost of demolition of the building or of the portions of the building that constitute the public nuisance.

(E) Upon the written request of any of the interested parties to have a

building, or portions of a building, that constitute a public nuisance demolished because repair and rehabilitation of the building are found not to be feasible, the judge may order the demolition. However, the demolition shall not be ordered unless the requesting interested parties have paid the costs of demolition and, if any, of the receivership, and, if any, all notes, certificates, mortgages, and fees of the receivership.

(F) Before proceeding with the duties of receiver, any receiver appointed by the judge in a civil action described in division (B)(1) of this section may be required by the judge to post a bond in an amount fixed by the judge, but not exceeding the value of the building involved as determined by the judge.

The judge may empower the receiver to do any or all of the following:

(1) Take possession and control of the building and the property on which it is located, operate and manage the building and the property, establish and collect rents and income, lease and rent the building and the property, and evict tenants;

(2) Pay all expenses of operating and conserving the building and the property, including, but not limited to, the cost of electricity, gas, water, sewerage, heating fuel, repairs and supplies, custodian services, taxes and assessments, and insurance premiums, and hire and pay reasonable compensation to a managing agent;

(3) Pay pre-receivership mortgages or installments of them and other liens;

(4) Perform or enter into contracts for the performance of all work and the furnishing of materials necessary to abate, and obtain financing for the abatement of, the public nuisance;

(5) Pursuant to court order, remove and dispose of any personal property abandoned, stored, or otherwise located in or on the building and the property that creates a dangerous or unsafe condition or that constitutes a violation of any local building, housing, air pollution, sanitation, health, fire, zoning, or safety code, ordinance, or regulation;

(6) Obtain mortgage insurance for any receiver's mortgage from any agency of the federal government;

(7) Enter into any agreement and do those things necessary to maintain and preserve the building and the property and comply with all local building, housing, air pollution, sanitation, health, fire, zoning, or safety codes, ordinances, resolutions, and regulations;

(8) Give the custody of the building and the property, and the opportunity to abate the nuisance and operate the property, to its owner or any mortgagee or lienholder of record;

(9) Issue notes and secure them by a mortgage bearing interest, and upon terms and conditions, that the judge approves. When sold or transferred by the receiver in return for valuable consideration in money, material, labor, or services, the notes or certificates shall be freely transferable. Any mortgages granted by the receiver shall be superior to any claims of the receiver. Priority among the receiver's mortgages shall be determined by the order in which they are recorded.

(G) A receiver appointed pursuant to this section is not personally liable except for misfeasance, malfeasance, or nonfeasance in the performance of the functions of the office of receiver.

(H)(1) The judge in a civil action described in division (B)(1) of this section may assess as court costs, the expenses described in division (F)(2) of this section, and may approve receiver's fees to the extent that they are not covered by the income from the property. Subject to that limitation, a receiver appointed pursuant to divisions (C)(2) and (3) of this section is entitled to receive fees in the same manner and to the same extent as receivers appointed in actions to foreclose mortgages.

(2)(a) Pursuant to the police powers vested in the state, all expenditures of a mortgagee, lienholder, or other interested party that has been selected pursuant to division (C)(2) of this section to undertake the work and to furnish the materials necessary to abate a public nuisance, and any expenditures in connection with the foreclosure of the lien created by this division, is a first lien upon the building involved and the property on which it is located and is superior to all prior and subsequent liens or other encumbrances associated with the building or the property, including, but not limited to, those for taxes and assessments, upon the occurrence of both of the following:

(i) The prior approval of the expenditures by, and the entry of a judgment to that effect by, the judge in the civil action described in division (B)(1) of this section;

(ii) The recordation of a certified copy of the judgment entry and a sufficient description of the property on which the building is located with the county recorder in the county in which the property is located within sixty days after the date of the entry of the judgment.

(b) Pursuant to the police powers vested in the state, all expenses and other amounts paid in accordance with division (F) of this section by a receiver appointed pursuant to divisions (C)(2) and (3) of this section, the amounts of any notes issued by the receiver in accordance with division (F) of this section, all mortgages granted by the receiver in accordance with that division, the fees of the receiver approved pursuant to division (H)(1) of this

section, and any amounts expended in connection with the foreclosure of a mortgage granted by the receiver in accordance with division (F) of this section or with the foreclosure of the lien created by this division, are a first lien upon the building involved and the property on which it is located and are superior to all prior and subsequent liens or other encumbrances associated with the building or the property, including, but not limited to, those for taxes and assessments, upon the occurrence of both of the following:

(i) The approval of the expenses, amounts, or fees by, and the entry of a judgment to that effect by, the judge in the civil action described in division (B)(1) of this section; or the approval of the mortgages in accordance with division (F)(9) of this section by, and the entry of a judgment to that effect by, that judge;

(ii) The recordation of a certified copy of the judgment entry and a sufficient description of the property on which the building is located, or, in the case of a mortgage, the recordation of the mortgage, a certified copy of the judgment entry, and such a description, with the county recorder of the county in which the property is located within sixty days after the date of the entry of the judgment.

(c) Priority among the liens described in divisions (H)(2)(a) and (b) of this section shall be determined as described in division (I) of this section. Additionally, the creation pursuant to this section of a mortgage lien that is prior to or superior to any mortgage of record at the time the mortgage lien is so created, does not disqualify the mortgage of record as a legal investment under Chapter 1107. or 1151. or any other chapter of the Revised Code.

(I)(1) If a receiver appointed pursuant to divisions (C)(2) and (3) of this section files with the judge in the civil action described in division (B)(1) of this section a report indicating that the public nuisance has been abated, if the judge confirms that the receiver has abated the public nuisance, and if the receiver or any interested party requests the judge to enter an order directing the receiver to sell the building and the property on which it is located, the judge may enter that order after holding a hearing as described in division (I)(2) of this section and otherwise complying with that division.

(2)(a) The receiver or interested party requesting an order as described in division (I)(1) of this section shall cause a notice of the date and time of a hearing on the request to be served on the owner of the building involved and all other interested parties in accordance with division (B)(2)(a) of this section. The judge in the civil action described in division (B)(1) of this section shall conduct the scheduled hearing. At the hearing, if the owner or

any interested party objects to the sale of the building and the property, the burden of proof shall be upon the objecting person to establish, by a preponderance of the evidence, that the benefits of not selling the building and the property outweigh the benefits of selling them. If the judge determines that there is no objecting person, or if the judge determines that there is one or more objecting persons but no objecting person has sustained the burden of proof specified in this division, the judge may enter an order directing the receiver to offer the building and the property for sale upon terms and conditions that the judge shall specify.

(b) In any sale of subsidized housing that is ordered pursuant to this section, the judge shall specify that the subsidized housing not be conveyed unless that conveyance complies with applicable federal law and applicable program contracts for that housing. Any such conveyance shall be subject to the condition that the purchaser enter into a contract with the department of housing and urban development or the rural housing service of the federal department of agriculture under which the property continues to be subsidized housing and the owner continues to operate that property as subsidized housing unless the secretary of housing and urban development or the administrator of the rural housing service terminates that property's contract prior to or upon the conveyance of the property.

(3) If a sale of a building and the property on which it is located is ordered pursuant to divisions (I)(1) and (2) of this section and if the sale occurs in accordance with the terms and conditions specified by the judge in the judge's order of sale, then the receiver shall distribute the proceeds of the sale and the balance of any funds that the receiver may possess, after the payment of the costs of the sale, in the following order of priority and in the described manner:

(a) First, in satisfaction of any notes issued by the receiver pursuant to division (F) of this section, in their order of priority;

(b) Second, any unreimbursed expenses and other amounts paid in accordance with division (F) of this section by the receiver, and the fees of the receiver approved pursuant to division (H)(1) of this section;

(c) Third, all expenditures of a mortgagee, lienholder, or other interested party that has been selected pursuant to division (C)(2) of this section to undertake the work and to furnish the materials necessary to abate a public nuisance, provided that the expenditures were approved as described in division (H)(2)(a) of this section and provided that, if any such interested party subsequently became the receiver, its expenditures shall be paid prior to the expenditures of any of the other interested parties so selected;

(d) Fourth, the amount due for delinquent taxes, assessments, charges,

penalties, and interest owed to this state or a political subdivision of this state, provided that, if the amount available for distribution pursuant to division (I)(3)(d) of this section is insufficient to pay the entire amount of those taxes, assessments, charges, penalties, and interest, the proceeds and remaining funds shall be paid to each claimant in proportion to the amount of those taxes, assessments, charges, penalties, and interest that each is due.

(e) The amount of any pre-receivership mortgages, liens, or other encumbrances, in their order of priority.

(4) Following a distribution in accordance with division (I)(3) of this section, the receiver shall request the judge in the civil action described in division (B)(1) of this section to enter an order terminating the receivership. If the judge determines that the sale of the building and the property on which it is located occurred in accordance with the terms and conditions specified by the judge in the judge's order of sale under division (I)(2) of this section and that the receiver distributed the proceeds of the sale and the balance of any funds that the receiver possessed, after the payment of the costs of the sale, in accordance with division (I)(3) of this section, and if the judge approves any final accounting required of the receiver, the judge may terminate the receivership.

(J)(1) A receiver appointed pursuant to divisions (C)(2) and (3) of this section may be discharged at any time in the discretion of the judge in the civil action described in division (B)(1) of this section. The receiver shall be discharged by the judge as provided in division (I)(4) of this section, or when all of the following have occurred:

(a) The public nuisance has been abated;

(b) All costs, expenses, and approved fees of the receivership have been paid;

(c) Either all receiver's notes issued and mortgages granted pursuant to this section have been paid, or all the holders of the notes and mortgages request that the receiver be discharged.

(2) If a judge in a civil action described in division (B)(1) of this section determines that, and enters of record a declaration that, a public nuisance has been abated by a receiver, and if, within three days after the entry of the declaration, all costs, expenses, and approved fees of the receivership have not been paid in full, then, in addition to the circumstances specified in division (I) of this section for the entry of such an order, the judge may enter an order directing the receiver to sell the building involved and the property on which it is located. Any such order shall be entered, and the sale shall occur, only in compliance with division (I) of this section.

(K) The title in any building, and in the property on which it is located,

that is sold at a sale ordered under division (I) or (J)(2) of this section shall be incontestable in the purchaser and shall be free and clear of all liens for delinquent taxes, assessments, charges, penalties, and interest owed to this state or any political subdivision of this state, that could not be satisfied from the proceeds of the sale and the remaining funds in the receiver's possession pursuant to the distribution under division (I)(3) of this section. All other liens and encumbrances with respect to the building and the property shall survive the sale, including, but not limited to, a federal tax lien notice properly filed in accordance with section 317.09 of the Revised Code prior to the time of the sale, and the easements and covenants of record running with the property that were created prior to the time of the sale.

(L)(1) Nothing in this section shall be construed as a limitation upon the powers granted to a court of common pleas, a municipal court or a housing or environmental division of a municipal court under Chapter 1901. of the Revised Code, or a county court under Chapter 1907. of the Revised Code.

(2) The monetary and other limitations specified in Chapters 1901. and 1907. of the Revised Code upon the jurisdiction of municipal and county courts, and of housing or environmental divisions of municipal courts, in civil actions do not operate as limitations upon any of the following:

(a) Expenditures of a mortgagee, lienholder, or other interested party that has been selected pursuant to division (C)(2) of this section to undertake the work and to furnish the materials necessary to abate a public nuisance;

(b) Any notes issued by a receiver pursuant to division (F) of this section;

(c) Any mortgage granted by a receiver in accordance with division (F) of this section;

(d) Expenditures in connection with the foreclosure of a mortgage granted by a receiver in accordance with division (F) of this section;

(e) The enforcement of an order of a judge entered pursuant to this section;

(f) The actions that may be taken pursuant to this section by a receiver or a mortgagee, lienholder, or other interested party that has been selected pursuant to division (C)(2) of this section to undertake the work and to furnish the materials necessary to abate a public nuisance.

(3) A judge in a civil action described in division (B)(1) of this section, or the judge's successor in office, has continuing jurisdiction to review the condition of any building that was determined to be a public nuisance pursuant to this section.

(4) Nothing in this section shall be construed to limit or prohibit a

municipal corporation or township that has filed with the superintendent of insurance a certified copy of an adopted resolution, ordinance, or regulation authorizing the procedures described in divisions (C) and (D) of section 3929.86 of the Revised Code from receiving insurance proceeds under section 3929.86 of the Revised Code.

Sec. 3770.03. (A) The state lottery commission shall promulgate rules under which a statewide lottery may be conducted, which includes, and since the original enactment of this section has included, the authority for the commission to operate video lottery terminal games. Any reference in this chapter to tickets shall not be construed to in any way limit the authority of the commission to operate video lottery terminal games. Nothing in this chapter shall restrict the authority of the commission to promulgate rules related to the operation of games utilizing video lottery terminals as described in section 3770.21 of the Revised Code. The rules shall be promulgated pursuant to Chapter 119. of the Revised Code, except that instant game rules shall be promulgated pursuant to section 111.15 of the Revised Code but are not subject to division (D) of that section. Subjects covered in these rules shall include, but need not be limited to, the following:

- (1) The type of lottery to be conducted;
- (2) The prices of tickets in the lottery;
- (3) The number, nature, and value of prize awards, the manner and frequency of prize drawings, and the manner in which prizes shall be awarded to holders of winning tickets.

(B) The commission shall promulgate rules, in addition to those described in division (A) of this section, pursuant to Chapter 119. of the Revised Code under which a statewide lottery and statewide joint lottery games may be conducted. Subjects covered in these rules shall include, but not be limited to, the following:

- (1) The locations at which lottery tickets may be sold and the manner in which they are to be sold. These rules may authorize the sale of lottery tickets by commission personnel or other licensed individuals from traveling show wagons at the state fair, and at any other expositions the director of the commission considers acceptable. These rules shall prohibit commission personnel or other licensed individuals from soliciting from an exposition the right to sell lottery tickets at that exposition, but shall allow commission personnel or other licensed individuals to sell lottery tickets at an exposition if the exposition requests commission personnel or licensed individuals to do so. These rules may also address the accessibility of sales agent locations to commission products in accordance with the "Americans with Disabilities

Act of 1990," 104 Stat. 327, 42 U.S.C.A. 12101 et seq.

(2) The manner in which lottery sales revenues are to be collected, including authorization for the director to impose penalties for failure by lottery sales agents to transfer revenues to the commission in a timely manner;

(3) The amount of compensation to be paid licensed lottery sales agents;

(4) The substantive criteria for the licensing of lottery sales agents consistent with section 3770.05 of the Revised Code, and procedures for revoking or suspending their licenses consistent with Chapter 119. of the Revised Code. If circumstances, such as the nonpayment of funds owed by a lottery sales agent, or other circumstances related to the public safety, convenience, or trust, require immediate action, the director may suspend a license without affording an opportunity for a prior hearing under section 119.07 of the Revised Code.

(5) Special game rules to implement any agreements signed by the governor that the director enters into with other lottery jurisdictions under division (J) of section 3770.02 of the Revised Code to conduct statewide joint lottery games. The rules shall require that the entire net proceeds of those games that remain, after associated operating expenses, prize disbursements, lottery sales agent bonuses, commissions, and reimbursements, and any other expenses necessary to comply with the agreements or the rules are deducted from the gross proceeds of those games, be transferred to the lottery profits education fund under division (B) of section 3770.06 of the Revised Code.

(6) Any other subjects the commission determines are necessary for the operation of video lottery terminal games, including the establishment of any fees, fines, or payment schedules.

(C) Chapter 2915. of the Revised Code does not apply to, affect, or prohibit lotteries conducted pursuant to this chapter.

(D) The commission may promulgate rules, in addition to those described in divisions (A) and (B) of this section, that establish standards governing the display of advertising and celebrity images on lottery tickets and on other items that are used in the conduct of, or to promote, the statewide lottery and statewide joint lottery games. Any revenue derived from the sale of advertising displayed on lottery tickets and on those other items shall be considered, for purposes of section 3770.06 of the Revised Code, to be related proceeds in connection with the statewide lottery or gross proceeds from statewide joint lottery games, as applicable.

~~(D)~~(E)(1) The commission shall meet with the director at least once each month and shall convene other meetings at the request of the

chairperson or any five of the members. No action taken by the commission shall be binding unless at least five of the members present vote in favor of the action. A written record shall be made of the proceedings of each meeting and shall be transmitted forthwith to the governor, the president of the senate, the senate minority leader, the speaker of the house of representatives, and the house minority leader.

(2) The director shall present to the commission a report each month, showing the total revenues, prize disbursements, and operating expenses of the state lottery for the preceding month. As soon as practicable after the end of each fiscal year, the commission shall prepare and transmit to the governor and the general assembly a report of lottery revenues, prize disbursements, and operating expenses for the preceding fiscal year and any recommendations for legislation considered necessary by the commission.

Sec. 3770.05. (A) As used in this section, "person" means any person, association, corporation, partnership, club, trust, estate, society, receiver, trustee, person acting in a fiduciary or representative capacity, instrumentality of the state or any of its political subdivisions, or any other combination of individuals meeting the requirements set forth in this section or established by rule or order of the state lottery commission.

(B) The director of the state lottery commission may license any person as a lottery sales agent. No license shall be issued to any person or group of persons to engage in the sale of lottery tickets as the person's or group's sole occupation or business.

Before issuing any license to a lottery sales agent, the director shall consider all of the following:

(1) The financial responsibility and security of the applicant and the applicant's business or activity;

(2) The accessibility of the applicant's place of business or activity to the public;

(3) The sufficiency of existing licensed agents to serve the public interest;

(4) The volume of expected sales by the applicant;

(5) Any other factors pertaining to the public interest, convenience, or trust.

(C) Except as otherwise provided in division (F) of this section, the director of the state lottery commission shall refuse to grant, or shall suspend or revoke, a license if the applicant or licensee:

(1) Has been convicted of a felony or has been convicted of a crime involving moral turpitude;

(2) Has been convicted of an offense that involves illegal gambling;

(3) Has been found guilty of fraud or misrepresentation in any connection;

(4) Has been found to have violated any rule or order of the commission; or

(5) Has been convicted of illegal trafficking in ~~food stamps~~ supplemental nutrition assistance program benefits.

(D) Except as otherwise provided in division (F) of this section, the director of the state lottery commission shall refuse to grant, or shall suspend or revoke, a license if the applicant or licensee is a corporation and any of the following applies:

(1) Any of the corporation's directors, officers, or controlling shareholders has been found guilty of any of the activities specified in divisions (C)(1) to (5) of this section;

(2) It appears to the director of the state lottery commission that, due to the experience, character, or general fitness of any director, officer, or controlling shareholder of the corporation, the granting of a license as a lottery sales agent would be inconsistent with the public interest, convenience, or trust;

(3) The corporation is not the owner or lessee of the business at which it would conduct a lottery sales agency pursuant to the license applied for;

(4) Any person, firm, association, or corporation other than the applicant or licensee shares or will share in the profits of the applicant or licensee, other than receiving dividends or distributions as a shareholder, or participates or will participate in the management of the affairs of the applicant or licensee.

(E)(1) The director of the state lottery commission shall refuse to grant a license to an applicant for a lottery sales agent license and shall revoke a lottery sales agent license if the applicant or licensee is or has been convicted of a violation of division (A) or (C)(1) of section 2913.46 of the Revised Code.

(2) The director shall refuse to grant a license to an applicant for a lottery sales agent license that is a corporation and shall revoke the lottery sales agent license of a corporation if the corporation is or has been convicted of a violation of division (A) or (C)(1) of section 2913.46 of the Revised Code.

(F) The director of the state lottery commission shall request the bureau of criminal identification and investigation, the department of public safety, or any other state, local, or federal agency to supply the director with the criminal records of any applicant for a lottery sales agent license, and may periodically request the criminal records of any person to whom a lottery

sales agent license has been issued. At or prior to the time of making such a request, the director shall require an applicant or licensee to obtain fingerprint impressions on fingerprint cards prescribed by the superintendent of the bureau of criminal identification and investigation at a qualified law enforcement agency, and the director shall cause those fingerprint cards to be forwarded to the bureau of criminal identification and investigation, to the federal bureau of investigation, or to both bureaus. The commission shall assume the cost of obtaining the fingerprint cards.

The director shall pay to each agency supplying criminal records for each investigation a reasonable fee, as determined by the agency.

The commission may adopt uniform rules specifying time periods after which the persons described in divisions (C)(1) to (5) and (D)(1) to (4) of this section may be issued a license and establishing requirements for those persons to seek a court order to have records sealed in accordance with law.

(G)(1) Each applicant for a lottery sales agent license shall do both of the following:

(a) Pay to the state lottery commission, at the time the application is submitted, a fee in an amount that the director of the state lottery commission determines by rule adopted under Chapter 119. of the Revised Code and that the controlling board approves;

(b) Prior to approval of the application, obtain a surety bond in an amount the director determines by rule adopted under Chapter 119. of the Revised Code or, alternatively, with the director's approval, deposit the same amount into a dedicated account for the benefit of the state lottery. The director also may approve the obtaining of a surety bond to cover part of the amount required, together with a dedicated account deposit to cover the remainder of the amount required.

A surety bond may be with any company that complies with the bonding and surety laws of this state and the requirements established by rules of the commission pursuant to this chapter. A dedicated account deposit shall be conducted in accordance with policies and procedures the director establishes.

A surety bond, dedicated account, or both, as applicable, may be used to pay for the lottery sales agent's failure to make prompt and accurate payments for lottery ticket sales, for missing or stolen lottery tickets, or for damage to equipment or materials issued to the lottery sales agent, or to pay for expenses the commission incurs in connection with the lottery sales agent's license.

(2) A lottery sales agent license is effective for one year.

A licensed lottery sales agent, on or before the date established by the

director, shall renew the agent's license and provide at that time evidence to the director that the surety bond, dedicated account deposit, or both, required under division (G)(1)(b) of this section has been renewed or is active, whichever applies.

Before the commission renews a lottery sales agent license, the lottery sales agent shall submit a renewal fee to the commission in an amount that the director determines by rule adopted under Chapter 119. of the Revised Code and that the controlling board approves. The renewal fee shall not exceed the actual cost of administering the license renewal and processing changes reflected in the renewal application. The renewal of the license is effective for up to one year.

(3) A lottery sales agent license shall be complete, accurate, and current at all times during the term of the license. Any changes to an original license application or a renewal application may subject the applicant or lottery sales agent, as applicable, to paying an administrative fee that shall be in an amount that the director determines by rule adopted under Chapter 119. of the Revised Code, that the controlling board approves, and that shall not exceed the actual cost of administering and processing the changes to an application.

(4) The relationship between the commission and a lottery sales agent is one of trust. A lottery sales agent collects funds on behalf of the commission through the sale of lottery tickets for which the agent receives a compensation.

(H) Pending a final resolution of any question arising under this section, the director of the state lottery commission may issue a temporary lottery sales agent license, subject to the terms and conditions the director considers appropriate.

(I) If a lottery sales agent's rental payments for the lottery sales agent's premises are determined, in whole or in part, by the amount of retail sales the lottery sales agent makes, and if the rental agreement does not expressly provide that the amount of those retail sales includes the amounts the lottery sales agent receives from lottery ticket sales, only the amounts the lottery sales agent receives as compensation from the state lottery commission for selling lottery tickets shall be considered to be amounts the lottery sales agent receives from the retail sales the lottery sales agent makes, for the purpose of computing the lottery sales agent's rental payments.

Sec. 3770.21. (A) "Video lottery terminal" means any electronic device approved by the state lottery commission that provides immediate prize determinations for participants on an electronic display.

(B) The state lottery commission shall include, in any rules adopted

concerning video lottery terminals, the level of minimum investments that must be made by video lottery terminal licensees in the buildings and grounds at the facilities, including temporary facilities, in which the terminals will be located, along with any standards and timetables for such investments.

(C) No license or excise tax or fee not in effect on the effective date of this section shall be assessed upon or collected from a video lottery terminal licensee by any county, township, municipal corporation, school district, or other political subdivision of the state that has authority to assess or collect a tax or fee by reason of the video lottery terminal related conduct authorized by section 3770.03 of the Revised Code. This division does not prohibit the imposition of taxes under Chapter 718. or 3769. of the Revised Code.

(D) The supreme court shall have exclusive, original jurisdiction over any claim asserting that this section or section 3770.03 of the Revised Code or any portion of those sections or any rule adopted under those sections violates any provision of the Ohio Constitution, any claim asserting that any action taken by the governor or the lottery commission pursuant to those sections violates any provision of the Ohio Constitution or any provision of the Revised Code, or any claim asserting that any portion of this section violates any provision of the Ohio Constitution. If any claim over which the supreme court is granted exclusive, original jurisdiction by this division is filed in any lower court, the claim shall be dismissed by the court on the ground that the court lacks jurisdiction to review it.

(E) Should any portion of this section or of section 3770.03 of the Revised Code be found to be unenforceable or invalid, it shall be severed and the remaining portions remain in full force and effect.

Sec. 3773.35. Any person who wishes to conduct a public or private competition that involves boxing or, wrestling ~~match or exhibition~~, mixed martial arts, kick boxing, tough man contests, tough guy contests, or any other form of boxing or martial arts shall apply to the Ohio athletic commission for a promoter's license. Each application shall be filed with the commission on forms provided by the commission, and shall be accompanied by an application fee as prescribed in section 3773.43 of the Revised Code and, with the exception of wrestling events, by a ~~cash bond, certified check, bank draft, or~~ surety bond of not less than ~~five~~ twenty thousand dollars conditioned for compliance with sections 3773.31 to 3773.57 of the Revised Code and the rules of the commission. ~~The applicant shall verify the application under oath.~~

The commission shall prescribe the form of the application for the promoter's license. The application shall include the name of the applicant,

the post office address of the applicant, and any other information the commission requires.

Sec. 3773.36. Upon the proper filing of an application to conduct any public or private competition that involves boxing or wrestling matches or exhibitions, mixed martial arts, kick boxing, tough man contests, tough guy contests, or any other form of boxing or martial arts, accompanied by the ~~cash bond, certified check, bank draft, or surety bond required by section 3773.35;~~ and the application fee ~~required by section 3773.43 of the Revised Code,~~ or upon the proper filing of an application to conduct any public or private competition that involves wrestling accompanied by the application fee, the Ohio athletic commission shall issue a promoter's license to the applicant if it finds that the applicant is not in default on any payment, obligation, or debt payable to the state under sections 3773.31 to 3773.57 of the Revised Code, is financially responsible, and is knowledgeable in the proper conduct of such matches or exhibitions.

Each license issued pursuant to this section shall bear the name of the licensee, the post office address of the licensee, the date of ~~issue~~ expiration, ~~a serial~~ an identification number designated by the commission, and the seal of the commission, ~~and the signature of the commission chairperson.~~

A promoter's license shall expire twelve months after its date of issuance and shall become invalid on that date unless renewed. A promoter's license may be renewed upon application to the commission and upon payment of the renewal fee prescribed in section 3773.43 of the Revised Code. The commission shall renew the license unless it denies the application for renewal for one or more reasons stated in section 3123.47 or 3773.53 of the Revised Code.

Sec. 3773.43. The Ohio athletic commission shall charge the following fees:

(A) For an application for or renewal of a promoter's license for a public or private competition that involves boxing matches or exhibitions, mixed martial arts, kick boxing, tough man contests, tough guy contests, or any other form of boxing or martial arts, one hundred dollars.

(B) For an application for or renewal of a license to participate in a public boxing match or exhibition as a contestant, or as a referee, judge, matchmaker, manager, timekeeper, trainer, or second of a contestant, twenty dollars.

(C) For a permit to conduct a public boxing match or exhibition, fifty dollars.

(D) For an application for or renewal of a promoter's license for ~~professional~~ a public or private competition that involves wrestling matches

~~or exhibitions~~, two hundred dollars.

(E) For a permit to conduct a professional wrestling match or exhibition, one hundred dollars.

The commission, subject to the approval of the controlling board, may establish fees in excess of the amounts provided in this section, provided that such fees do not exceed the amounts permitted by this section by more than fifty per cent.

The fees prescribed by this section shall be paid to the treasurer of state, who shall deposit the fees in the occupational licensing and regulatory fund.

~~Sec. 3773.45. (A) Each contestant in a public boxing match or exhibition shall be examined not more than twenty four hours before entering the ring by a licensed physician, a physician assistant, a clinical nurse specialist, a certified nurse practitioner, or a certified nurse midwife. Each contestant who has had a previous match or exhibition on or after July 27, 1981, and was knocked out at that match or exhibition shall present to the examiner a record of the physical examination performed at the conclusion of that match or exhibition. If, after reviewing such record and performing a physical examination of the contestant, the examiner determines that the contestant is physically fit to compete, the physician shall certify that fact on the contestant's physical examination form. No physician, physician assistant, clinical nurse specialist, certified nurse practitioner, or certified nurse midwife shall certify a contestant as physically fit to compete if the physician, physician assistant, clinical nurse specialist, certified nurse practitioner, or certified nurse midwife determines that the contestant was knocked out in a contest that took place within the preceding thirty days. No contestant shall compete in a public boxing match or exhibition unless the contestant has been certified as physically fit in accordance with this section.~~

~~Immediately after the end of a match or exhibition, the examiner shall examine each contestant who was knocked out in the match or exhibition, and record the outcome of the match or exhibition and any physical injuries sustained by the contestant on the contestant's physical examination form.~~

~~Within twenty four hours after the match or exhibition, the examiner shall mail one copy of the examination report to the Ohio athletic commission and one copy to the contestant. The commission shall furnish blank copies of the examination report to the examiner. The examiner shall answer all questions on the form. The person conducting the match or exhibition shall compensate the examiner. No person shall conduct such a match or exhibition unless an examiner appointed by the commission is in attendance. The Ohio athletic commission shall adopt, and may amend or~~

rescind, rules that do both of the following:

(1) Require the physical examination by appropriate medical personnel of each contestant in any public competition that involves boxing, mixed martial arts, kick boxing, karate, tough man contests, or any other form of boxing or martial arts within a specified time period before and after the competition to determine whether the contestant is physically fit to compete in the competition under specified standards, has sustained physical injuries in the competition, or requires follow-up examination; and

(2) Require the reporting of each examination to the commission.

(B) No holder of a promoter's license shall conduct a boxing match or exhibition that exceeds twelve rounds. Each round shall be not more than three minutes in length. A period of at least one minute, during which no boxing or sparring takes place, shall occur between rounds.

No holder of a promoter's license or a permit issued under section 3773.39 of the Revised Code shall allow a professional boxer to participate in more than twelve rounds of boxing within a period of seventy-two consecutive hours. For any match or exhibition or for a class of contestants, the commission may limit the number of rounds within the maximum of twelve rounds.

(C) No person shall conduct a boxing match or exhibition unless a licensed referee appointed by the commission and paid by the person is present. The referee shall direct and control the match or exhibition. Before each match or exhibition the referee shall obtain from each contestant the name of the contestant's chief second and shall hold the chief second responsible for the conduct of any assistant seconds during the match or exhibition. The referee may declare a prize, remuneration, or purse or any part thereof to which a contestant is otherwise entitled withheld if, in the referee's judgment, the contestant is not competing or did not compete honestly. A contestant may appeal the referee's decision in a hearing before the commission conducted in accordance with section 3773.52 of the Revised Code.

(D) No person shall hold or conduct a boxing match or exhibition unless three licensed judges appointed by the commission and paid by the person are present. Each judge shall render a decision at the end of each match or exhibition. The judges shall determine the outcome of the match or exhibition, and their decision shall be final.

(E) Each contestant in a boxing match or exhibition shall wear gloves weighing not less than six ounces during the boxing match or exhibition.

Sec. 3773.53. The Ohio athletic commission may revoke, suspend, or refuse to renew any license issued under sections 3773.31 to 3773.57 of the

Revised Code if the licensee:

(A) Has committed an act detrimental to any sport regulated by this chapter or to the public interest, convenience, or necessity;

(B) Is associating or consorting with any person who has been convicted of a crime involving the sports regulated by the commission, including a conviction under sections 2913.02, 2915.05, or 2921.02 of the Revised Code;

(C) Is or has been consorting with bookmakers or gamblers, or has engaged in similar pursuits;

(D) Is financially irresponsible;

(E) Has been found guilty of any fraud or misrepresentation in connection with any sport regulated by this chapter;

(F) Has violated any law with respect to any sport regulated by this chapter or any rule or order of the commission;

(G) Has been convicted of or pleaded guilty to a violation of sections 2913.02, 2915.05, or 2921.02 of the Revised Code;

(H) Has engaged in any other activity that the commission determines is detrimental to any sport regulated by this chapter.

The commission, in addition to any other action it may take under this chapter, may impose a fine ~~of not more than one hundred dollars in an amount to be determined by rule of the commission adopted under Chapter 119. of the Revised Code~~ against any person licensed under sections 3773.31 to 3773.57 of the Revised Code for a violation of any of these sections or a violation of any rule or order of the commission. The amount of fines collected shall be deposited into the general revenue fund.

Sec. 3781.03. (A) The state fire marshal, the fire chief of a municipal corporation that has a fire department, or the fire chief of a township that has a fire department shall enforce the provisions of this chapter and Chapter 3791. of the Revised Code that relate to fire prevention.

(B) The superintendent of ~~the division of industrial compliance labor~~, or the building inspector or commissioner of buildings in a municipal corporation, county, or township in which the building department is certified by the board of building standards under section 3781.10 of the Revised Code shall enforce in the jurisdiction of each entity all the provisions in this chapter and Chapter 3791. of the Revised Code and any rules adopted pursuant to those chapters that relate to the construction, arrangement, and erection of all buildings or parts of buildings, as defined in section 3781.06 of the Revised Code, including the sanitary condition of those buildings in relation to heating and ventilation.

(C) The division of ~~industrial compliance labor~~ in the department of

commerce, boards of health of health districts, certified departments of building inspection of municipal corporations, and county building departments that have authority to perform inspections pursuant to a contract under division (C)(1) of section 3703.01 of the Revised Code, subject to Chapter 3703. of the Revised Code, shall enforce this chapter and Chapter 3791. of the Revised Code and the rules adopted pursuant to those chapters that relate to plumbing. Building drains are considered plumbing for the purposes of enforcement of those chapters.

(D)(1) In accordance with Chapter 3703. of the Revised Code, the department of the city engineer, in cities having such departments, the boards of health of health districts, or the sewer purveyor, as appropriate, shall have complete authority to supervise and regulate the entire sewerage and drainage system in the jurisdiction in which it is exercising the authority described in this division, including the building sewer and all laterals draining into the street sewers.

(2) In accordance with Chapter 3703. of the Revised Code, the department of the city engineer, the boards of health of health districts, or the sewer purveyor, as appropriate, shall control and supervise the installation and construction of all drains and sewers that become a part of the sewerage system and shall issue all the necessary permits and licenses for the construction and installation of all building sewers and of all other lateral drains that empty into the main sewers. The department of the city engineer, the boards of health of health districts, and the sewer purveyor, as appropriate, shall keep a permanent record of the installation and location of every drain and sewer of the drainage and sewerage system of the jurisdiction in which it has exercised the authority described in this division.

(E) This section does not exempt any officer or department from the obligation to enforce this chapter and Chapter 3791. of the Revised Code.

Sec. 3781.07. There is hereby established in the department of commerce a board of building standards consisting of ~~eleven~~ fifteen members appointed by the governor with the advice and consent of the senate. The board shall appoint a secretary who shall serve in the unclassified civil service for a term of six years at a salary fixed pursuant to Chapter 124. of the Revised Code. The board may employ additional staff in the classified civil service. The secretary may be removed by the board under the rules the board adopts. Terms of office shall be for four years, commencing on the fourteenth day of October and ending on the thirteenth day of October. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for

which the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. One of the members appointed to the board shall be an attorney at law, admitted to the bar of this state; two shall be registered architects; two shall be professional engineers, one in the field of mechanical and one in the field of structural engineering, each of whom shall be duly licensed to practice such profession in this state; one shall be a person of recognized ability, broad training, and fifteen years experience in problems and practice incidental to the construction and equipment of buildings specified in section 3781.06 of the Revised Code; one shall be a person with recognized ability and experience in the manufacture and construction of industrialized units as defined in section 3781.06 of the Revised Code; one shall be a member of the fire service with recognized ability and broad training in the field of fire protection and suppression; one shall be a person with at least ten years of experience and recognized expertise in building codes and standards and the manufacture of construction materials; one shall be a general contractor with experience in residential and commercial construction; two, chosen from a list of ten names the Ohio home builders association submits to the governor, shall be general contractors who have recognized ability in the construction of residential buildings; one shall be a person with recognized ability and experience in the use of advanced and renewable energy in the construction of commercial and residential buildings; one shall be a person with recognized ability and experience in the use of energy conservation in the construction of commercial and residential buildings; and one, chosen from a list of three names the Ohio municipal league submits to the governor, shall be the mayor of a municipal corporation in which the Ohio residential and nonresidential building codes are being enforced in the municipal corporation by a certified building department. Each member of the board, not otherwise required to take an oath of office, shall take the oath prescribed by the constitution. Each member shall receive as compensation an amount fixed pursuant to division (J) of section 124.15 of the Revised Code, and shall receive actual and necessary expenses in the performance of official duties. The amount of such expenses shall be certified by the secretary of the board and paid in the same manner as the expenses of employees of the department of commerce are paid.

Sec. 3781.10. (A)(1) The board of building standards shall formulate and adopt rules governing the erection, construction, repair, alteration, and

maintenance of all buildings or classes of buildings specified in section 3781.06 of the Revised Code, including land area incidental to those buildings, the construction of industrialized units, the installation of equipment, and the standards or requirements for materials used in connection with those buildings. The board shall incorporate those rules into separate residential and nonresidential building codes. The standards shall relate to the conservation of energy and the safety and sanitation of those buildings.

(2) The rules governing nonresidential buildings are the lawful minimum requirements specified for those buildings and industrialized units, except that no rule other than as provided in division (C) of section 3781.108 of the Revised Code that specifies a higher requirement than is imposed by any section of the Revised Code is enforceable. The rules governing residential buildings are uniform requirements for residential buildings in any area with a building department certified to enforce the state residential building code. In no case shall any local code or regulation differ from the state residential building code unless that code or regulation addresses subject matter not addressed by the state residential building code or is adopted pursuant to section 3781.01 of the Revised Code.

(3) The rules adopted pursuant to this section are complete, lawful alternatives to any requirements specified for buildings or industrialized units in any section of the Revised Code. The Except as otherwise provided in division (I) of this section, the board shall, on its own motion or on application made under sections 3781.12 and 3781.13 of the Revised Code, formulate, propose, adopt, modify, amend, or repeal the rules to the extent necessary or desirable to effectuate the purposes of sections 3781.06 to 3781.18 of the Revised Code.

(B) The board shall report to the general assembly proposals for amendments to existing statutes relating to the purposes declared in section 3781.06 of the Revised Code that public health and safety and the development of the arts require and shall recommend any additional legislation to assist in carrying out fully, in statutory form, the purposes declared in that section. The board shall prepare and submit to the general assembly a summary report of the number, nature, and disposition of the petitions filed under sections 3781.13 and 3781.14 of the Revised Code.

(C) On its own motion or on application made under sections 3781.12 and 3781.13 of the Revised Code, and after thorough testing and evaluation, the board shall determine by rule that any particular fixture, device, material, process of manufacture, manufactured unit or component, method of manufacture, system, or method of construction complies with

performance standards adopted pursuant to section 3781.11 of the Revised Code. The board shall make its determination with regard to adaptability for safe and sanitary erection, use, or construction, to that described in any section of the Revised Code, wherever the use of a fixture, device, material, method of manufacture, system, or method of construction described in that section of the Revised Code is permitted by law. The board shall amend or annul any rule or issue an authorization for the use of a new material or manufactured unit on any like application. No department, officer, board, or commission of the state other than the board of building standards or the board of building appeals shall permit the use of any fixture, device, material, method of manufacture, newly designed product, system, or method of construction at variance with what is described in any rule the board of building standards adopts or issues or that is authorized by any section of the Revised Code. Nothing in this section shall be construed as requiring approval, by rule, of plans for an industrialized unit that conforms with the rules the board of building standards adopts pursuant to section 3781.11 of the Revised Code.

(D) The board shall recommend rules, codes, and standards to help carry out the purposes of section 3781.06 of the Revised Code and to help secure uniformity of state administrative rulings and local legislation and administrative action to the bureau of workers' compensation, the director of commerce, any other department, officer, board, or commission of the state, and to legislative authorities and building departments of counties, townships, and municipal corporations, and shall recommend that they audit those recommended rules, codes, and standards by any appropriate action that they are allowed pursuant to law or the constitution.

(E)(1) The board shall certify municipal, township, and county building departments and the personnel of those building departments, and persons and employees of individuals, firms, or corporations as described in division (E)(7) of this section to exercise enforcement authority, to accept and approve plans and specifications, and to make inspections, pursuant to sections 3781.03, 3791.04, and 4104.43 of the Revised Code.

(2) The board shall certify departments, personnel, and persons to enforce the state residential building code, to enforce the nonresidential building code, or to enforce both the residential and the nonresidential building codes. Any department, personnel, or person may enforce only the type of building code for which certified.

(3) The board shall not require a building department, its personnel, or any persons that it employs to be certified for residential building code enforcement if that building department does not enforce the state

residential building code. The board shall specify, in rules adopted pursuant to Chapter 119. of the Revised Code, the requirements for certification for residential and nonresidential building code enforcement, which shall be consistent with this division. The requirements for residential and nonresidential certification may differ. Except as otherwise provided in this division, the requirements shall include, but are not limited to, the satisfactory completion of an initial examination and, to remain certified, the completion of a specified number of hours of continuing building code education within each three-year period following the date of certification which shall be not less than thirty hours. The rules shall provide that continuing education credits and certification issued by the council of American building officials, national model code organizations, and agencies or entities the board recognizes are acceptable for purposes of this division. The rules shall specify requirements that are compatible, to the extent possible, with requirements the council of American building officials and national model code organizations establish.

(4) The board shall establish and collect a certification and renewal fee for building department personnel, and persons and employees of persons, firms, or corporations as described in this section, who are certified pursuant to this division.

(5) Any individual certified pursuant to this division shall complete the number of hours of continuing building code education that the board requires or, for failure to do so, forfeit certification.

(6) This division does not require or authorize the board to certify personnel of municipal, township, and county building departments, and persons and employees of persons, firms, or corporations as described in this section, whose responsibilities do not include the exercise of enforcement authority, the approval of plans and specifications, or making inspections under the state residential and nonresidential building codes.

(7) Enforcement authority for approval of plans and specifications and enforcement authority for inspections may be exercised, and plans and specifications may be approved and inspections may be made on behalf of a municipal corporation, township, or county, by any of the following who the board of building standards certifies:

(a) Officers or employees of the municipal corporation, township, or county;

(b) Persons, or employees of persons, firms, or corporations, pursuant to a contract to furnish architectural, engineering, or other services to the municipal corporation, township, or county;

(c) Officers or employees of, and persons under contract with, a

municipal corporation, township, county, health district, or other political subdivision, pursuant to a contract to furnish architectural, engineering, or other services.

(8) Municipal, township, and county building departments have jurisdiction within the meaning of sections 3781.03, 3791.04, and 4104.43 of the Revised Code, only with respect to the types of buildings and subject matters for which they are certified under this section.

(9) Certification shall be granted upon application by the municipal corporation, the board of township trustees, or the board of county commissioners and approval of that application by the board of building standards. The application shall set forth:

(a) Whether the certification is requested for residential or nonresidential buildings, or both;

(b) The number and qualifications of the staff composing the building department;

(c) The names, addresses, and qualifications of persons, firms, or corporations contracting to furnish work or services pursuant to division (E)(7)(b) of this section;

(d) The names of any other municipal corporation, township, county, health district, or political subdivision under contract to furnish work or services pursuant to division (E)(7) of this section;

(e) The proposed budget for the operation of the building department.

(10) The board of building standards shall adopt rules governing all of the following:

(a) The certification of building department personnel and persons and employees of persons, firms, or corporations exercising authority pursuant to division (E)(7) of this section. The rules shall disqualify any employee of the department or person who contracts for services with the department from performing services for the department when that employee or person would have to pass upon, inspect, or otherwise exercise authority over any labor, material, or equipment the employee or person furnishes for the construction, alteration, or maintenance of a building or the preparation of working drawings or specifications for work within the jurisdictional area of the department. The department shall provide other similarly qualified personnel to enforce the residential and nonresidential building codes as they pertain to that work.

(b) The minimum services to be provided by a certified building department.

(11) The board of building standards may revoke or suspend certification to enforce the residential and nonresidential building codes, on

petition to the board by any person affected by that enforcement or approval of plans, or by the board on its own motion. Hearings shall be held and appeals permitted on any proceedings for certification or revocation or suspension of certification in the same manner as provided in section 3781.101 of the Revised Code for other proceedings of the board of building standards.

(12) Upon certification, and until that authority is revoked, any county or township building department shall enforce the residential and nonresidential building codes for which it is certified without regard to limitation upon the authority of boards of county commissioners under Chapter 307. of the Revised Code or boards of township trustees under Chapter 505. of the Revised Code.

(F) In addition to hearings sections 3781.06 to 3781.18 and 3791.04 of the Revised Code require, the board of building standards shall make investigations and tests, and require from other state departments, officers, boards, and commissions information the board considers necessary or desirable to assist it in the discharge of any duty or the exercise of any power mentioned in this section or in sections 3781.06 to 3781.18, 3791.04, and 4104.43 of the Revised Code.

(G) The board shall adopt rules and establish reasonable fees for the review of all applications submitted where the applicant applies for authority to use a new material, assembly, or product of a manufacturing process. The fee shall bear some reasonable relationship to the cost of the review or testing of the materials, assembly, or products and for the notification of approval or disapproval as provided in section 3781.12 of the Revised Code.

(H) The residential construction advisory committee shall provide the board with a proposal for a state residential building code that the committee recommends pursuant to division ~~(E)~~(D)(1) of section 4740.14 of the Revised Code. Upon receiving a recommendation from the committee that is acceptable to the board, the board shall adopt rules establishing that code as the state residential building code.

(I)(1) The committee may provide the board with proposed rules to update or amend the state residential building code that the committee recommends pursuant to division (E) of section 4740.14 of the Revised Code.

(2) If the board receives a proposed rule to update or amend the state residential building code as provided in division (I)(1) of this section, the board either may accept or reject the proposed rule for incorporation into the residential building code. If the board does not act to either accept or reject

the proposed rule within ninety days after receiving the proposed rule from the committee as described in division (I)(1) of this section, the proposed rule shall become part of the residential building code.

(J) The board shall cooperate with the director of job and family services when the director promulgates rules pursuant to section 5104.05 of the Revised Code regarding safety and sanitation in type A family day-care homes.

~~(J)~~(K) The board shall adopt rules to implement the requirements of section 3781.108 of the Revised Code.

Sec. 3781.102. (A) Any county or municipal building department certified pursuant to division (E) of section 3781.10 of the Revised Code as of September 14, 1970, and that, as of that date, was inspecting single-family, two-family, and three-family residences, and any township building department certified pursuant to division (E) of section 3781.10 of the Revised Code, is hereby declared to be certified to inspect single-family, two-family, and three-family residences containing industrialized units, and shall inspect the buildings or classes of buildings subject to division (E) of section 3781.10 of the Revised Code.

(B) Each board of county commissioners may adopt, by resolution, rules establishing standards and providing for the licensing of electrical and heating, ventilating, and air conditioning contractors who are not required to hold a valid and unexpired license pursuant to Chapter 4740. of the Revised Code.

Rules adopted by a board of county commissioners pursuant to this division may be enforced within the unincorporated areas of the county and within any municipal corporation where the legislative authority of the municipal corporation has contracted with the board for the enforcement of the county rules within the municipal corporation pursuant to section 307.15 of the Revised Code. The rules shall not conflict with rules adopted by the board of building standards pursuant to section 3781.10 of the Revised Code or by the department of commerce pursuant to Chapter 3703. of the Revised Code. This division does not impair or restrict the power of municipal corporations under Section 3 of Article XVIII, Ohio Constitution, to adopt rules concerning the erection, construction, repair, alteration, and maintenance of buildings and structures or of establishing standards and providing for the licensing of specialty contractors pursuant to section 715.27 of the Revised Code.

A board of county commissioners, pursuant to this division, may require all electrical contractors and heating, ventilating, and air conditioning contractors, other than those who hold a valid and unexpired license issued

pursuant to Chapter 4740. of the Revised Code, to successfully complete an examination, test, or demonstration of technical skills, and may impose a fee and additional requirements for a license to engage in their respective occupations within the jurisdiction of the board's rules under this division.

(C) No board of county commissioners shall require any specialty contractor who holds a valid and unexpired license issued pursuant to Chapter 4740. of the Revised Code to successfully complete an examination, test, or demonstration of technical skills in order to engage in the type of contracting for which the license is held, within the unincorporated areas of the county and within any municipal corporation whose legislative authority has contracted with the board for the enforcement of county regulations within the municipal corporation, pursuant to section 307.15 of the Revised Code.

(D) A board may impose a fee for registration of a specialty contractor who holds a valid and unexpired license issued pursuant to Chapter 4740. of the Revised Code before that specialty contractor may engage in the type of contracting for which the license is held within the unincorporated areas of the county and within any municipal corporation whose legislative authority has contracted with the board for the enforcement of county regulations within the municipal corporation, pursuant to section 307.15 of the Revised Code, provided that the fee is the same for all specialty contractors who wish to engage in that type of contracting. If a board imposes such a fee, the board immediately shall permit a specialty contractor who presents proof of holding a valid and unexpired license and pays the required fee to engage in the type of contracting for which the license is held within the unincorporated areas of the county and within any municipal corporation whose legislative authority has contracted with the board for the enforcement of county regulations within the municipal corporation, pursuant to section 307.15 of the Revised Code.

(E) The political subdivision associated with each municipal, township, and county building department the board of building standards certifies pursuant to division (E) of section 3781.10 of the Revised Code may prescribe fees to be paid by persons, political subdivisions, or any department, agency, board, commission, or institution of the state, for the acceptance and approval of plans and specifications, and for the making of inspections, pursuant to sections 3781.03 and 3791.04 of the Revised Code.

(F) Each political subdivision that prescribes fees pursuant to division (E) of this section shall collect, on behalf of the board of building standards, fees equal to the following:

(1) Three per cent of the fees the political subdivision collects in

connection with nonresidential buildings;

(2) One per cent of the fees the political subdivision collects in connection with residential buildings.

(G)(1) The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, specifying the manner in which the fee assessed pursuant to division (F) of this section shall be collected and remitted monthly to the board. The board shall pay the fees into the state treasury to the credit of the ~~industrial compliance~~ labor operating fund created in section 121.084 of the Revised Code.

(2) All money credited to the ~~industrial compliance~~ labor operating fund under this division shall be used exclusively for the following:

(a) Operating costs of the board;

(b) Providing services, including educational programs, for the building departments that are certified by the board pursuant to division (E) of section 3781.10 of the Revised Code;

(c) Paying the expenses of the residential construction advisory committee, including the expenses of committee members as provided in section 4740.14 of the Revised Code.

(H) A board of county commissioners that adopts rules providing for the licensing of electrical and heating, ventilating, and air conditioning contractors, pursuant to division (B) of this section, may accept, for purposes of satisfying the requirements of rules adopted under that division, a valid and unexpired license issued pursuant to Chapter 4740. of the Revised Code that is held by an electrical or heating, ventilating, and air conditioning contractor, for the construction, replacement, maintenance, or repair of one-family, two-family, or three-family dwelling houses or accessory structures incidental to those dwelling houses.

(I) A board of county commissioners shall not register a specialty contractor who is required to hold a license under Chapter 4740. of the Revised Code but does not hold a valid license issued under that chapter.

(J) As used in this section, "specialty contractor" means a heating, ventilating, and air conditioning contractor, refrigeration contractor, electrical contractor, plumbing contractor, or hydronics contractor, as those contractors are described in Chapter 4740. of the Revised Code.

Sec. 3781.11. (A) The rules of the board of building standards shall:

(1) For nonresidential buildings, provide uniform minimum standards and requirements, and for residential buildings, provide standards and requirements that are uniform throughout the state, for construction and construction materials, including construction of industrialized units, to make residential and nonresidential buildings safe and sanitary as defined in

section 3781.06 of the Revised Code;

(2) Formulate such standards and requirements, so far as may be practicable, in terms of performance objectives, so as to make adequate performance for the use intended the test of acceptability;

(3) Permit, to the fullest extent feasible, the use of materials and technical methods, devices, and improvements, including the use of industrialized units which tend to reduce the cost of construction and erection without affecting minimum requirements for the health, safety, and security of the occupants or users of buildings or industrialized units and without preferential treatment of types or classes of materials or products or methods of construction;

(4) Encourage, so far as may be practicable, the standardization of construction practices, methods, equipment, material, and techniques, including methods employed to produce industrialized units;

(5) Not require any alteration or repair of any part of a school building owned by a chartered nonpublic school or a city, local, exempted village, or joint vocational school district and operated in conjunction with any primary or secondary school program that is not being altered or repaired if all of the following apply:

(a) The school building meets all of the applicable building code requirements in existence at the time of the construction of the building.

(b) The school building otherwise satisfies the requirements of section 3781.06 of the Revised Code.

(c) The part of the school building altered or repaired conforms to all rules of the board existing on the date of the repair or alteration.

(6) Not require any alteration or repair to any part of a workshop or factory that is not otherwise being altered, repaired, or added to if all of the following apply:

(a) The workshop or factory otherwise satisfies the requirements of section 3781.06 of the Revised Code.

(b) The part of the workshop or factory altered, repaired, or added conforms to all rules of the board existing on the date of plan approval of the repair, alteration, or addition.

(B) The rules of the board shall supersede and govern any order, standard, or rule of the division of ~~industrial compliance~~ labor in the department of commerce, division of the state fire marshal, the department of health, and of counties and townships, in all cases where such orders, standards, or rules are in conflict with the rules of the board, except that rules adopted and orders issued by the state fire marshal pursuant to Chapter 3743. of the Revised Code prevail in the event of a conflict.

(C) The construction, alteration, erection, and repair of buildings including industrialized units, and the materials and devices of any kind used in connection with them and the heating and ventilating of them and the plumbing and electric wiring in them shall conform to the statutes of this state or the rules adopted and promulgated by the board, and to provisions of local ordinances not inconsistent therewith. Any building, structure, or part thereof, constructed, erected, altered, manufactured, or repaired not in accordance with the statutes of this state or with the rules of the board, and any building, structure, or part thereof in which there is installed, altered, or repaired any fixture, device, and material, or plumbing, heating, or ventilating system, or electric wiring not in accordance with such statutes or rules is a public nuisance.

(D) As used in this section:

(1) "Nonpublic school" means a chartered school for which minimum standards are prescribed by the state board of education pursuant to division (D) of section 3301.07 of the Revised Code.

(2) "Workshop or factory" includes manufacturing, mechanical, electrical, mercantile, art, and laundering establishments, printing, telegraph, and telephone offices, railroad depots, and memorial buildings, but does not include hotels and tenement and apartment houses.

Sec. 3781.12. (A)(1) Any person may petition the board of building standards to adopt, amend, or annul a rule adopted pursuant to section 3781.10 of the Revised Code, or to permit the use of any particular fixture, device, material, system, method of manufacture, product of a manufacturing process, or method or manner of construction or installation that complies with performance standards adopted pursuant to section 3781.11 of the Revised Code, as regards the purposes declared in section 3781.06 of the Revised Code, of the fixtures, devices, materials, systems, or methods or manners of construction, manufacture or installation described in any section of the Revised Code relating to those purposes, where the use is permitted by law.

(2) Any person may petition the residential construction advisory committee to recommend a rule to update or amend the state residential building code.

(B) Upon petition under division (A) of this section, the board shall cause to be conducted testing and evaluation that the board determines desirable of any fixture, device, material, system, assembly or product of a manufacturing process, or method or manner of construction or installation sought to be used under the rules the board adopts pursuant to section 3781.10 of the Revised Code.

(C) If the board, after hearing, determines it advisable to adopt the rule, amendment, or annulment, or to permit the use of the materials or assemblages petitioned for under division (A) of this section, it shall give at least thirty days' notice of the time and place of a public hearing as provided by section 119.03 of the Revised Code. No rule shall be adopted, amended, or annulled or the use of materials or assemblages authorized until after the public hearing. A copy of every rule, amendment, or annulment, and a copy of every approved material or assembly authorization signed by the chairperson of the board of building standards and sealed with the seal of the department of commerce shall, after final adoption or authorization by the board, be filed with the secretary of state and published as the board determines. The issuance of the authorization for the use of the materials or assemblages described in the petition constitutes approval for their use anywhere in this state. Any rule, amendment, or annulment does not take effect until a date the board fixes and states. No rule, amendment, or annulment applies to any building for which the plans or drawings, specifications, and data were approved prior to the time the rule, amendment, or annulment becomes effective. All hearings of the board are open to the public. Each member of the board may administer oaths in the performance of the member's duties.

Sec. 3781.19. There is hereby established in the department of commerce a board of building appeals consisting of five members who shall be appointed by the governor with the advice and consent of the senate. Terms of office shall be for four years, commencing on the fourteenth day of October and ending on the thirteenth day of October. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of the member's term until a successor takes office, or until a period of sixty days has elapsed, whichever occurs first. One member shall be an attorney-at-law, admitted to the bar of this state and of the remaining members, one shall be a registered architect and one shall be a professional engineer, each of whom shall be duly licensed to practice their respective professions in this state, one shall be a fire prevention officer qualified under section 3737.66 of the Revised Code, and one shall be a person with recognized ability in the plumbing or pipefitting profession. No member of the board of building standards shall be a member of the board of building appeals. Each member shall be paid an amount fixed pursuant to Chapter

124. of the Revised Code per diem. The department shall provide and assign to the board such employees as are required by the board to perform its functions. The board may adopt its own rules of procedure not inconsistent with sections 3781.06 to 3781.18 and 3791.04 of the Revised Code, and may change them in its discretion. The board may establish reasonable fees, based on actual costs for administration of filing and processing, not to exceed two hundred dollars, for the costs of filing and processing appeals. A full and complete record of all proceedings of the board shall be kept and be open to public inspection.

In the enforcement by any department of the state or any political subdivision of this chapter and Chapter 3791., and sections 3737.41, 3737.42, 4104.02, 4104.06, 4104.43, 4104.44, 4104.45, 4105.011, and 4105.11 of the Revised Code and any rule made thereunder, such department is the agency referred to in sections 119.07, 119.08, and 119.10 of the Revised Code.

The appropriate municipal or county board of appeals, where one exists, certified pursuant to section 3781.20 of the Revised Code shall conduct the adjudication hearing referred to in sections 119.09 to 119.13 and required by section 3781.031 of the Revised Code. If there is no certified municipal or county board of appeals, the board of building appeals shall conduct the adjudication hearing. If the adjudication hearing concerns section 3781.111 of the Revised Code or any rule made thereunder, reasonable notice of the time, date, place, and subject of the hearing shall be given to any local corporation, association, or other organization composed of or representing handicapped persons, as defined in section 3781.111 of the Revised Code, or if there is no local organization, then to any statewide corporation, association, or other organization composed of or representing handicapped persons.

In addition to the provisions of Chapter 119. of the Revised Code, the municipal, county, or state board of building appeals, as the agency conducting the adjudication hearing, may reverse or modify the order of the enforcing agency if it finds that the order is contrary to this chapter and Chapters 3791. and 4104., and sections 3737.41, 3737.42, 4105.011, and 4105.11 of the Revised Code and any rule made thereunder or to a fair interpretation or application of such laws or any rule made thereunder, or that a variance from the provisions of such laws or any rule made thereunder, in the specific case, will not be contrary to the public interest where a literal enforcement of such provisions will result in unnecessary hardship.

The state board of building appeals or a certified municipal or county

board of appeals shall render its decision within thirty days after the date of the adjudication hearing. Following the adjudication hearing, any municipal or county officer, official municipal or county board, or person who was a party to the hearing before the municipal or county board of appeals may apply to the state board of appeals for a de novo hearing before the state board, or may appeal directly to the court of common pleas pursuant to section 3781.031 of the Revised Code.

In addition, any local corporation, association, or other organization composed of or representing handicapped persons as defined in section 3781.111 of the Revised Code, or, if no local corporation, association, or organization exists, then any statewide corporation, association, or other organization composed of or representing handicapped persons may apply for the de novo hearing or appeal to the court of common pleas from any decision of a certified municipal or county board of appeals interpreting, applying, or granting a variance from section 3781.111 of the Revised Code and any rule made thereunder. Application for a de novo hearing before the state board shall be made no later than thirty days after the municipal or county board renders its decision.

The state board of building appeals or the appropriate certified local board of building appeals shall grant variances and exemptions from the requirements of section 3781.108 of the Revised Code in accordance with rules adopted by the board of building standards pursuant to division ~~(J)~~(K) of section 3781.10 of the Revised Code.

The state board of building appeals or the appropriate certified local board of building appeals shall, in granting a variance or exemption from section 3781.108 of the Revised Code, in addition to any other considerations the state or the appropriate local board determines appropriate, consider the architectural and historical significance of the building.

Sec. 3783.05. The board of building standards, in accordance with Chapters 119., 3781., and 3791. of the Revised Code, shall adopt, amend, or repeal such rules as may be reasonably necessary to administer this chapter. All fees collected by the board pursuant to this chapter shall be paid into the state treasury to the credit of the ~~industrial compliance~~ labor operating fund created in section 121.084 of the Revised Code.

Sec. 3791.02. No owner, or person having the control as an officer or member of a board or committee or otherwise of any opera house, hall, theater, church, schoolhouse, college, academy, seminary, infirmary, sanitarium, children's home, hospital, medical institute, asylum, memorial building, armory, assembly hall, or other building for the assemblage or

betterment of people shall fail to obey any order of the state fire marshal, boards of health of city and general health districts, the building inspector or commissioner in cities having a building inspection department, or the superintendent of ~~the division of industrial compliance~~ labor in the department of commerce under Chapters 3781. and 3791. of the Revised Code or rules or regulations adopted pursuant thereto.

Whoever violates this section shall be fined not more than one thousand dollars.

Sec. 3791.04. (A)(1) Before beginning the construction, erection, or manufacture of any building to which section 3781.06 of the Revised Code applies, including all industrialized units, the owner of that building, in addition to any other submission required by law, shall submit plans or drawings, specifications, and data prepared for the construction, erection, equipment, alteration, or addition that indicate the portions that have been approved pursuant to section 3781.12 of the Revised Code and for which no further approval is required, to the municipal, township, or county building department having jurisdiction unless one of the following applies:

(a) If no municipal, township, or county building department certified for nonresidential buildings pursuant to division (E) of section 3781.10 of the Revised Code has jurisdiction, the owner shall make the submissions described in division (A)(1) of this section to the superintendent of ~~the division of industrial compliance~~ labor.

(b) If no certified municipal, township, or county building department certified for residential buildings pursuant to division (E) of section 3781.10 of the Revised Code has jurisdiction, the owner is not required to make the submissions described in division (A)(1) of this section.

(2)(a) The seal of an architect registered under Chapter 4703. of the Revised Code or an engineer registered under Chapter 4733. of the Revised Code is required for any plans, drawings, specifications, or data submitted for approval, unless the plans, drawings, specifications, or data are permitted to be prepared by persons other than registered architects pursuant to division (C) or (D) of section 4703.18 of the Revised Code, or by persons other than registered engineers pursuant to division (C) or (D) of section 4733.18 of the Revised Code.

(b) No seal is required for any plans, drawings, specifications, or data submitted for approval for any residential buildings, as defined in section 3781.06 of the Revised Code, or erected as industrialized one-, two-, or three-family units or structures within the meaning of "industrialized unit" as defined in section 3781.06 of the Revised Code.

(c) No seal is required for approval of the installation of replacement

equipment or systems that are similar in type or capacity to the equipment or systems being replaced. No seal is required for approval for any new construction, improvement, alteration, repair, painting, decorating, or other modification of any buildings or structures subject to sections 3781.06 to 3781.18 and 3791.04 of the Revised Code if the proposed work does not involve technical design analysis, as defined by rule adopted by the board of building standards.

(B) No owner shall proceed with the construction, erection, alteration, or equipment of any building until the plans or drawings, specifications, and data have been approved as this section requires, or the industrialized unit inspected at the point of origin. No plans or specifications shall be approved or inspection approval given unless the building represented would, if constructed, repaired, erected, or equipped, comply with Chapters 3781. and 3791. of the Revised Code and any rule made under those chapters.

(C) The approval of plans or drawings and specifications or data pursuant to this section is invalid if construction, erection, alteration, or other work upon the building has not commenced within twelve months of the approval of the plans or drawings and specifications. One extension shall be granted for an additional twelve-month period if the owner requests at least ten days in advance of the expiration of the permit and upon payment of a fee not to exceed one hundred dollars. If in the course of construction, work is delayed or suspended for more than six months, the approval of plans or drawings and specifications or data is invalid. Two extensions shall be granted for six months each if the owner requests at least ten days in advance of the expiration of the permit and upon payment of a fee for each extension of not more than one hundred dollars. Before any work may continue on the construction, erection, alteration, or equipment of any building for which the approval is invalid, the owner of the building shall resubmit the plans or drawings and specifications for approval pursuant to this section.

(D) Subject to section 3791.042 of the Revised Code, the board of building standards or the legislative authority of a municipal corporation, township, or county, by rule, may regulate the requirements for the submission of plans and specifications to the respective enforcing departments and for processing by those departments. The board of building standards or the legislative authority of a municipal corporation, township, or county may adopt rules to provide for the approval, subject to section 3791.042 of the Revised Code, by the department having jurisdiction of the plans for construction of a foundation or any other part of a building or structure before the complete plans and specifications for the entire building

or structure are submitted. When any plans are approved by the department having jurisdiction, the structure and every particular represented by and disclosed in those plans shall, in the absence of fraud or a serious safety or sanitation hazard, be conclusively presumed to comply with Chapters 3781. and 3791. of the Revised Code and any rule issued pursuant to those chapters, if constructed, altered, or repaired in accordance with those plans and any rule in effect at the time of approval.

(E) The approval of plans and specifications, including inspection of industrialized units, under this section is a "license" and the failure to approve plans or specifications as submitted or to inspect the unit at the point of origin within thirty days after the plans or specifications are filed or the request to inspect the industrialized unit is made, the disapproval of plans and specifications, or the refusal to approve an industrialized unit following inspection at the point of origin is "an adjudication order denying the issuance of a license" requiring an "adjudication hearing" as provided by sections 119.07 to 119.13 of the Revised Code and as modified by sections 3781.031 and 3781.19 of the Revised Code. An adjudication order denying the issuance of a license shall specify the reasons for that denial.

(F) The board of building standards shall not require the submission of site preparation plans or plot plans to the division of ~~industrial compliance~~ labor when industrialized units are used exclusively as one-, two-, or three-family dwellings.

(G) Notwithstanding any procedures the board establishes, if the agency having jurisdiction objects to any portion of the plans or specifications, the owner or the owner's representative may request the agency to issue conditional approval to proceed with construction up to the point of the objection. Approval shall be issued only when the objection results from conflicting interpretations of the rules of the board of building standards rather than the application of specific technical requirements of the rules. Approval shall not be issued where the correction of the objection would cause extensive changes in the building design or construction. The giving of conditional approval is a "conditional license" to proceed with construction up to the point where the construction or materials objected to by the agency are to be incorporated into the building. No construction shall proceed beyond that point without the prior approval of the agency or another agency that conducts an adjudication hearing relative to the objection. The agency having jurisdiction shall specify its objections to the plans or specifications, which is an "adjudication order denying the issuance of a license" and may be appealed pursuant to sections 119.07 to 119.13 of the Revised Code and as modified by sections 3781.031 and 3781.19 of the

Revised Code.

(H) A certified municipal, township, or county building department having jurisdiction, or the superintendent ~~of the division of industrial compliance~~, as appropriate, shall review any plans, drawings, specifications, or data described in this section that are submitted to it or to the superintendent.

(I) No owner or persons having control as an officer, or as a member of a board or committee, or otherwise, of a building to which section 3781.06 of the Revised Code is applicable, and no architect, designer, engineer, builder, contractor, subcontractor, or any officer or employee of a municipal, township, or county building department shall violate this section.

(J) Whoever violates this section shall be fined not more than five hundred dollars.

Sec. 3791.05. No owner, lessee, agent, factor, architect, or contractor engaged in and having supervision or charge of the building, erection, or construction of a block, building, or structure, shall neglect or refuse to place or have placed upon the joists of each story thereof, as soon as joists are in position, counter floors of such quality and strength as to render perfectly safe the going to and from thereon of all mechanics, laborers, and other persons engaged upon the work of construction or supervision, or in placing materials for such construction.

Whoever violates this section shall be fined not less than twenty-five nor more than two hundred dollars.

Each day that such person neglects or refuses to have such counter floors so placed, after notice is given by a building inspector, a chief inspector, or deputy inspector of the city building inspection department in cities where such department is organized, or by the superintendent of ~~the division of industrial compliance~~ labor of the state, in cities where such departments are not organized, or from a person whose life or personal safety may be endangered by such neglect or refusal, is a separate offense.

Sec. 3791.07. (A) The board of building standards may establish such reasonable inspection fee schedules as it determines necessary or desirable relating to the inspection of all plans and specifications submitted for approval to the division of ~~industrial compliance~~ labor, and all industrialized units inspected at the point of origin and at the construction site of the building. The inspection fee schedule established shall bear some reasonable relationship to the cost of administering and enforcing the provisions of Chapters 3781. and 3791. of the Revised Code.

(B) In addition to the fee assessed in division (A) of this section, the

board shall assess a fee of not more than five dollars for each application for acceptance and approval of plans and specifications and for making inspections pursuant to section 3791.04 of the Revised Code. The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, specifying the manner by which the superintendent of ~~the division of industrial compliance~~ labor shall collect and remit to the board the fees assessed under this division and requiring that remittance of the fees be made at least quarterly.

(C) Any person who fails to pay an inspection fee required for any inspection conducted by the department of commerce pursuant to Chapters 3781. and 3791. of the Revised Code, except for fees charged for the inspection of plans and specifications, within forty-five days after the inspection is conducted, shall pay a late payment fee equal to twenty-five per cent of the inspection fee.

(D) The board shall pay the fees assessed under this section into the state treasury to the credit of the ~~industrial compliance~~ labor operating fund created in section 121.084 of the Revised Code.

Sec. 3793.02. (A) The department of alcohol and drug addiction services shall promote, assist in developing, and coordinate or conduct programs of education and research for the prevention of alcohol and drug addiction, the prevention of gambling addiction, the treatment, including intervention, of alcoholics and persons who abuse drugs of abuse, including anabolic steroids, and the treatment, including intervention, of persons with gambling addictions. Programs established by the department shall include abstinence-based prevention and treatment programs.

(B) In addition to the other duties prescribed by this chapter, the department shall do all of the following:

(1) Promote and coordinate efforts in the provision of alcohol and drug addiction services and of gambling addiction services by other state agencies, as defined in section 1.60 of the Revised Code; courts; hospitals; clinics; physicians in private practice; public health authorities; boards of alcohol, drug addiction, and mental health services; alcohol and drug addiction programs; law enforcement agencies; gambling addiction programs; and related groups;

(2) Provide for education and training in prevention, diagnosis, treatment, and control of alcohol and drug addiction and of gambling addiction for medical students, physicians, nurses, social workers, professional counselors, psychologists, and other persons who provide alcohol and drug addiction services or gambling addiction services;

(3) Provide training and consultation for persons who supervise alcohol

and drug addiction programs and facilities or gambling addiction programs and facilities;

(4) Develop measures for evaluating the effectiveness of alcohol and drug addiction services, including services that use methadone treatment, and of gambling addiction services, and for increasing the accountability of alcohol and drug addiction programs and of gambling addiction programs;

(5) Provide to each court of record, and biennially update, a list of the treatment and education programs within that court's jurisdiction that the court may require an offender, sentenced pursuant to section 4511.19 of the Revised Code, to attend;

(6) ~~Print and distribute~~ Make the warning sign described in sections 3313.752, 3345.41, and 3707.50 of the Revised Code available on the department's internet web site;

(7) Provide a program of gambling addiction services on behalf of the state lottery commission, pursuant to an agreement entered into with the director of the commission under division (K) of section 3770.02 of the Revised Code.

(C) The department may accept and administer grants from public or private sources for carrying out any of the duties enumerated in this section.

(D) Pursuant to Chapter 119. of the Revised Code, the department shall adopt a rule defining the term "intervention" as it is used in this chapter in connection with alcohol and drug addiction services and in connection with gambling addiction services. The department may adopt other rules as necessary to implement the requirements of this chapter.

Sec. 3793.04. The department of alcohol and drug addiction services shall develop, administer, and revise as necessary a comprehensive statewide alcohol and drug addiction services plan for the implementation of this chapter. The plan shall emphasize abstinence from the use of alcohol and drugs of abuse as the primary goal of alcohol and drug addiction services. The council on alcohol and drug addiction services shall advise the department in the development and implementation of the plan.

The plan shall provide for the allocation of state and federal funds for service furnished by alcohol and drug addiction programs under contract with boards of alcohol, drug addiction, and mental health services and for distribution of the funds to such boards. The plan shall specify the methodology that the department will use for determining how funds will be allocated and distributed. A portion of the funds shall be allocated on the basis of the ratio of the population of each alcohol, drug addiction, and mental health service district to the total population of the state as determined from the most recent federal census or the most recent official

estimate made by the United States census bureau.

The plan shall ensure that alcohol and drug addiction services of a high quality are accessible to, and responsive to the needs of, all persons, especially those who are members of underserved groups, including, but not limited to, African Americans, Hispanics, native Americans, Asians, juvenile and adult offenders, women, and persons with special services needs due to age or disability. The plan shall include a program to promote and protect the rights of those who receive services.

To aid in formulating the plan and in evaluating the effectiveness and results of alcohol and drug addiction services, the department, in consultation with the department of mental health, shall establish and maintain an information system or systems. The department of alcohol and drug addiction services shall specify the information that must be provided by boards of alcohol, drug addiction, and mental health services and by alcohol and drug addiction programs for inclusion in the system. The department shall not collect any personal information ~~for the purpose of identifying by name any person who receives a service through a board, from the boards~~ except as required or permitted by the state or federal law ~~to validate appropriate reimbursement for purposes related to payment, health care operations, program and service evaluation, reporting activities, research, system administration, and oversight.~~

In consultation with boards, programs, and persons receiving services, the department shall establish guidelines for the use of state and federal funds and for the boards' development of plans for services required by sections 340.033 and 3793.05 of the Revised Code.

In any fiscal year, the department shall spend, or allocate to boards, for methadone maintenance programs or any similar programs not more than eight per cent of the total amount appropriated to the department for the fiscal year.

Sec. 3793.21. (A) As used in this section, "administrative function" means a function related to one or more of the following:

(1) Continuous quality improvement;

(2) Utilization review;

(3) Resource development;

(4) Fiscal administration;

(5) General administration;

(6) Any other function related to administration that is required by Chapter 340. of the Revised Code.

(B) Each board of alcohol, drug addiction, and mental health services shall submit an annual report to the department of alcohol and drug

addiction services specifying how the board used state and federal funds allocated to the board, according to the methodology the department specifies under section 3793.04 of the Revised Code, for administrative functions in the year preceding the report's submission. The director of alcohol and drug addiction shall establish the date by which the report must be submitted each year.

Sec. 3901.381. (A) Except as provided in sections 3901.382, 3901.383, 3901.384, and 3901.386 of the Revised Code, a third-party payer shall process a claim for payment for health care services rendered by a provider to a beneficiary in accordance with this section.

(B)(1) Unless division (B)(2) or (3) of this section applies, when a third-party payer receives from a provider or beneficiary a claim on the standard claim form prescribed in rules adopted by the superintendent of insurance under section 3902.22 of the Revised Code, the third-party payer shall pay or deny the claim not later than thirty days after receipt of the claim. When a third-party payer denies a claim, the third-party payer shall notify the provider and the beneficiary. The notice shall state, with specificity, why the third-party payer denied the claim.

(2)(a) Unless division (B)(3) of this section applies, when a provider or beneficiary has used the standard claim form, but the third-party payer determines that reasonable supporting documentation is needed to establish the third-party payer's responsibility to make payment, the third-party payer shall pay or deny the claim not later than forty-five days after receipt of the claim. Supporting documentation includes the verification of employer and beneficiary coverage under a benefits contract, confirmation of premium payment, medical information regarding the beneficiary and the services provided, information on the responsibility of another third-party payer to make payment or confirmation of the amount of payment by another third-party payer, and information that is needed to correct material deficiencies in the claim related to a diagnosis or treatment or the provider's identification.

Not later than thirty days after receipt of the claim, the third-party payer shall notify all relevant external sources that the supporting documentation is needed. All such notices shall state, with specificity, the supporting documentation needed. If the notice was not provided in writing, the provider, beneficiary, or third-party payer may request the third-party payer to provide the notice in writing, and the third-party payer shall then provide the notice in writing. If any of the supporting documentation is under the control of the beneficiary, the beneficiary shall provide the supporting documentation to the third-party payer.

The number of days that elapse between the third-party payer's last request for supporting documentation within the thirty-day period and the third-party payer's receipt of all of the supporting documentation that was requested shall not be counted for purposes of determining the third-party payer's compliance with the time period of not more than forty-five days for payment or denial of a claim. Except as provided in division (B)(2)(b) of this section, if the third-party payer requests additional supporting documentation after receiving the initially requested documentation, the number of days that elapse between making the request and receiving the additional supporting documentation shall be counted for purposes of determining the third-party payer's compliance with the time period of not more than forty-five days.

(b) If a third-party payer determines, after receiving initially requested documentation, that it needs additional supporting documentation pertaining to a beneficiary's preexisting condition, which condition was unknown to the third-party payer and about which it was reasonable for the third-party payer to have no knowledge at the time of its initial request for documentation, and the third-party payer subsequently requests this additional supporting documentation, the number of days that elapse between making the request and receiving the additional supporting documentation shall not be counted for purposes of determining the third-party payer's compliance with the time period of not more than forty-five days.

(c) When a third-party payer denies a claim, the third-party payer shall notify the provider and the beneficiary. The notice shall state, with specificity, why the third-party payer denied the claim.

(d) If a third-party payer determines that supporting documentation related to medical information is routinely necessary to process a claim for payment of a particular health care service, the third-party payer shall establish a description of the supporting documentation that is routinely necessary and make the description available to providers in a readily accessible format.

Third-party payers and providers shall, in connection with a claim, use the most current CPT code in effect, as published by the American medical association, the most current ICD-9 code in effect, as published by the United States department of health and human services, the most current CDT code in effect, as published by the American dental association, or the most current HCPCS code in effect, as published by the United States health care financing administration.

(3) When a provider or beneficiary submits a claim by using the

standard claim form prescribed in the superintendent's rules, but the information provided in the claim is materially deficient, the third-party payer shall notify the provider or beneficiary not later than fifteen days after receipt of the claim. The notice shall state, with specificity, the information needed to correct all material deficiencies. Once the material deficiencies are corrected, the third-party payer shall proceed in accordance with division (B)(1) or (2) of this section.

It is not a violation of the notification time period of not more than fifteen days if a third-party payer fails to notify a provider or beneficiary of material deficiencies in the claim related to a diagnosis or treatment or the provider's identification. A third-party payer may request the information necessary to correct these deficiencies after the end of the notification time period. Requests for such information shall be made as requests for supporting documentation under division (B)(2) of this section, and payment or denial of the claim is subject to the time periods specified in that division.

(C) For purposes of this section, if a dispute exists between a provider and a third-party payer as to the day a claim form was received by the third-party payer, both of the following apply:

(1) If the provider or a person acting on behalf of the provider submits a claim directly to a third-party payer by mail and retains a record of the day the claim was mailed, there exists a rebuttable presumption that the claim was received by the third-party payer on the fifth business day after the day the claim was mailed, unless it can be proven otherwise.

(2) If the provider or a person acting on behalf of the provider submits a claim directly to a third-party payer electronically, there exists a rebuttable presumption that the claim was received by the third-party payer twenty-four hours after the claim was submitted, unless it can be proven otherwise.

(D) Nothing in this section requires a third-party payer to provide more than one notice to an employer whose premium for coverage of employees under a benefits contract has not been received by the third-party payer.

(E) Compliance with the provisions of division (B)(3) of this section shall be determined separately from compliance with the provisions of divisions (B)(1) and (2) of this section.

(F) A third party payer shall transmit electronically any payment with respect to claims that the third party payer receives electronically and pays to a contracted provider under this section and under sections 3901.383, 3901.384, and 3901.386 of the Revised Code. A provider shall not refuse to accept a payment made under this section or sections 3901.383, 3901.384, and 3901.386 of the Revised Code on the basis that the payment was

transmitted electronically.

Sec. 3901.3812. (A) If, after completion of an examination involving information collected from a six-month period, the superintendent finds that a third-party payer has committed a series of violations that, taken together, constitutes a consistent pattern or practice of violating division (A) of section 3901.3811 of the Revised Code, the superintendent may impose on the third-party payer any of the administrative remedies specified in division (B) of this section. In making a finding under this division, the superintendent shall apply the error tolerance standards for claims processing contained in the market conduct examiners handbook issued by the national association of insurance commissioners in effect at the time the claims were processed.

Before imposing an administrative remedy, the superintendent shall provide written notice to the third-party payer informing the third-party payer of the reasons for the superintendent's finding, the administrative remedy the superintendent proposes to impose, and the opportunity to submit a written request for an administrative hearing regarding the finding and proposed remedy. If the third-party payer requests a hearing, the superintendent shall conduct the hearing in accordance with Chapter 119. of the Revised Code not later than fifteen days after receipt of the request.

(B)(1) In imposing administrative remedies under division (A) of this section for violations of section 3901.381 of the Revised Code, the superintendent may do any of the following:

(a) Levy a monetary penalty in an amount determined in accordance with division (B)(3) of this section;

(b) Order the payment of interest directly to the provider in accordance with section 3901.389 of the Revised Code;

(c) Order the third-party payer to cease and desist from engaging in the violations;

(d) If a monetary penalty is not levied under division (B)(1)(a) of this section, impose any of the administrative remedies provided for in section 3901.22 of the Revised Code, other than those specified in divisions (D)(4) and (5) and (G) of that section.

(2) In imposing administrative remedies under division (A) of this section for violations of sections 3901.384 to 3901.3810 of the Revised Code, the superintendent may do any of the following:

(a) Levy a monetary penalty in an amount determined in accordance with division (B)(3) of this section;

(b) Order the payment of interest directly to the provider in accordance with section 3901.38 of the Revised Code;

(c) Order the third-party payer to cease and desist from engaging in the violations;

(d) If a monetary penalty is not levied under division (B)(2)(a) of this section, impose any of the administrative remedies provided for in section 3901.22 of the Revised Code, other than those specified in divisions (D)(4) and (5) and (G) of that section. For violations of sections 3901.384 to 3901.3810 of the Revised Code that did not comply with section 3901.381 of the Revised Code, the superintendent may also use section 3901.22 of the Revised Code except divisions (D)(4) and (5) of that section.

(3) A finding by the superintendent that a third-party payer has committed a series of violations that, taken together, constitutes a consistent pattern or practice of violating division (A) of section 3901.3811 of the Revised Code, shall constitute a single offense for purposes of levying a fine under division (B)(1)(a) and (B)(2)(a) of this section. For a first offense, the superintendent may levy a fine of not more than one hundred thousand dollars. For a second offense that occurs on or earlier than four years from the first offense, the superintendent may levy a fine of not more than one hundred fifty thousand dollars. For a third or additional offense that occurs on or earlier than seven years after a first offense, the superintendent may levy a fine of not more than three hundred thousand dollars. In determining the amount of a fine to be levied within the specified limits, the superintendent shall consider the following factors:

(a) The extent and frequency of the violations;

(b) Whether the violations were due to circumstances beyond the third-party payer's control;

(c) Any remedial actions taken by the third-party payer to prevent future violations;

(d) The actual or potential harm to others resulting from the violations;

(e) If the third-party payer knowingly and willingly committed the violations;

(f) The third-party payer's financial condition;

(g) Any other factors the superintendent considers appropriate.

(C) The remedies imposed by the superintendent under this section are in addition to, and not in lieu of, such other remedies as providers and beneficiaries may otherwise have by law.

(D) Any fine collected under this section shall be paid into the state treasury as follows:

(1) Twenty-five per cent of the total to the credit of the department of insurance operating fund created by section 3901.021 of the Revised Code;

(2) Sixty-five per cent of the total to the credit of the general revenue

fund;

(3) Ten per cent of the total to the credit of claims processing education ~~fund~~ account, which is hereby created within the department of insurance operating fund created by section 3901.021 of the Revised Code.

All money credited to the claims processing education ~~fund~~ account shall be used by the department of insurance to make technical assistance available to third-party payers, providers, and beneficiaries for effective implementation of the provisions of sections 3901.38 and 3901.381 to 3901.3814 of the Revised Code.

Sec. 3903.77. (A) Every property and casualty insurance company doing business in this state, except as exempted by the superintendent of insurance, annually, shall cause to be prepared by a qualified actuary, appointed by the company, the following documents:

(1) An actuarial opinion that certifies to the reasonableness of the insurance company's reserves and that shall be entitled a "statement of actuarial opinion":

(2) A summary that shall be in support of the statement of actuarial opinion and that shall be entitled an "actuarial opinion summary." An insurance company licensed but not domiciled in this state need not include the actuarial opinion summary in its submissions to the superintendent but shall make the summary available to the superintendent upon request.

(B) The insurance company annually shall submit the documents prepared pursuant to division (A) of this section to the superintendent in accordance with the national association of insurance commissioners' property and casualty annual statement instructions.

(C)(1) Every property and casualty insurance company doing business in this state shall prepare an actuarial report and underlying work papers to support the statement of actuarial opinion and the actuarial opinion summary required under division (A) of this section in accordance with the national association of insurance commissioners' property and casualty statement instructions. The insurance company shall make the actuarial report and underlying work papers available to the superintendent upon request.

(2) If an insurance company fails to provide the actuarial report or work papers at the request of the superintendent pursuant to division (C)(1) of this section or the superintendent determines that the actuarial report or work papers provided are unacceptable, the superintendent may contract with a qualified actuary at the expense of the insurance company to review the statement of actuarial opinion provided by the insurance company pursuant to division (A) of this section and the basis for that opinion and to prepare

an actuarial report and work papers.

(D) Except in cases of fraud or willful misconduct on the part of the actuary, no actuary appointed by an insurance company to prepare the statement of actuarial opinion and actuarial opinion summary required under division (A) of this section is liable for damages to any person except the insurance company and the superintendent for any act, error, omission, decision, or conduct with respect to the actuary's opinion.

(E) The statement of actuarial opinion required under division (A) of this section is a public document and a public record as defined in section 149.43 of the Revised Code. However, the actuarial opinion summary, actuarial report, work papers, and any documents, materials or other information provided in support of the statement of actuarial opinion are privileged and confidential, are not a public record, and are not subject to subpoena or to discovery, and are not admissible in evidence in any private civil action.

Neither the superintendent nor any person who receives documents, materials, or other information required to be kept confidential under this division while acting under the authority of the superintendent shall testify in any private civil action concerning any documents, materials, or other information required to be kept confidential under this division.

This section shall not be construed to limit the superintendent's authority to release documents to the actuarial board for counseling and discipline so long as the documents are necessary for the purpose of professional disciplinary proceedings and the actuarial board for counseling and discipline establishes procedures satisfactory to the superintendent for preserving the confidentiality of the documents. Neither shall this section be construed to limit the superintendent's authority to use documents, materials, nor other information in furtherance of any regulatory or legal action brought as part of the superintendent's official duties.

(F) In order to assist in the performance of the superintendent's duties, the superintendent may do all of the following:

(1) Share documents, materials, or other information, including any documents, materials, or other information required to be kept confidential under division (E) of this section, with other state, federal, and international regulatory and law enforcement agencies and with the national association of insurance commissioners including its affiliates and subsidiaries if the recipient agrees to maintain the confidentiality and privileged status of the document, material, or other information and has the legal authority to maintain confidentiality;

(2) Receive documents, materials, or other information, including

otherwise confidential and privileged documents, materials, and information from other state, federal, and international regulatory and law enforcement agencies and from the national association of insurance commissioners including its affiliates and subsidiaries. The superintendent shall maintain the confidentiality and privileged status of any document, material, or other information received with notice of confidential and privileged status under the laws of the jurisdiction that is the source of the document, material, or information.

(3) Enter into agreements consistent with divisions (E) and (F) of this section for the sharing and use of information.

(G) No waiver of any privilege or claim of confidentiality of documents, materials, or other information shall occur as a result of any disclosure to the superintendent under this section or as a result of any sharing of documents, materials, or other information authorized by the superintendent under division (G) of this section.

(H) As used in this section, "qualified actuary" means a person who is a member in good standing of the American academy of actuaries and who meets the requirements identified in the national association of insurance commissioners' property and casualty statement instructions.

Sec. 3923.021. (A) As used in this section, ~~"benefits:~~

(1) "Benefits provided are not unreasonable in relation to the premium charged" means the rates were calculated in accordance with sound actuarial principles.

(2) "Individual policy of sickness and accident insurance" includes sickness and accident insurance made available by insurers in the individual market to individuals, with or without family members or dependents, through group policies issued to one or more associations or entities.

(B) With respect to any filing, made pursuant to section 3923.02 of the Revised Code, of any premium rates for any individual policy of sickness and accident insurance or certificates made available by an insurer to individuals in the individual market through a group policy or for any indorsement or rider pertaining thereto, the superintendent of insurance may, within thirty days after filing:

(1) Disapprove such filing after finding that the benefits provided are unreasonable in relation to the premium charged. Such disapproval shall be effected by written order of the superintendent, a copy of which shall be mailed to the insurer that has made the filing. In the order, the superintendent shall specify the reasons for the disapproval and state that a hearing will be held within fifteen days after requested in writing by the insurer. If a hearing is so requested, the superintendent shall also give such

public notice as the superintendent considers appropriate. The superintendent, within fifteen days after the commencement of any hearing, shall issue a written order, a copy of which shall be mailed to the insurer that has made the filing, either affirming the prior disapproval or approving such filing after finding that the benefits provided are not unreasonable in relation to the premium charged.

(2) Set a date for a public hearing to commence no later than forty days after the filing. The superintendent shall give the insurer making the filing twenty days' written notice of the hearing and shall give such public notice as the superintendent considers appropriate. The superintendent, within twenty days after the commencement of a hearing, shall issue a written order, a copy of which shall be mailed to the insurer that has made the filing, either approving such filing if the superintendent finds that the benefits provided are not unreasonable in relation to the premium charged, or disapproving such filing if the superintendent finds that the benefits provided are unreasonable in relation to the premium charged. This division does not apply to any insurer organized or transacting the business of insurance under Chapter 3907. or 3909. of the Revised Code.

(3) Take no action, in which case such filing shall be deemed to be approved and shall become effective upon the thirty-first day after such filing, unless the superintendent has previously given to the insurer a written approval.

(C) At any time after any filing has been approved pursuant to this section, the superintendent may, after a hearing of which at least twenty days' written notice has been given to the insurer that has made such filing and for which such public notice as the superintendent considers appropriate has been given, withdraw approval of such filing after finding that the benefits provided are unreasonable in relation to the premium charged. Such withdrawal of approval shall be effected by written order of the superintendent, a copy of which shall be mailed to the insurer that has made the filing, which shall state the ground for such withdrawal and the date, not less than forty days after the date of such order, when the withdrawal or approval shall become effective.

(D) The superintendent may retain at the insurer's expense such attorneys, actuaries, accountants, and other experts not otherwise a part of the superintendent's staff as shall be reasonably necessary to assist in the preparation for and conduct of any public hearing under this section. The expense for retaining such experts and the expenses of the department of insurance incurred in connection with such public hearing shall be assessed against the insurer in an amount not to exceed one one-hundredth of one per

cent of the sum of premiums earned plus net realized investment gain or loss of such insurer as reflected in the most current annual statement on file with the superintendent. Any person retained shall be under the direction and control of the superintendent and shall act in a purely advisory capacity.

Sec. 3923.022. (A) As used in this section:

(1)(a) "Administrative expense" means the amount resulting from the following: the amount of premiums ~~received~~ earned by the insurer for sickness and accident insurance business plus the amount of losses recovered from reinsurance coverage minus the sum of the amount of claims for losses paid; the amount of losses incurred but not reported; the amount ~~paid~~ incurred for state fees, federal and state taxes, and reinsurance; and the incurred costs and expenses related, either directly or indirectly, to the payment of commissions, measures to control fraud, and managed care.

(b) "Administrative expense" does not include any amounts collected, or administrative expenses incurred, by an insurer for the administration of an employee health benefit plan subject to regulation by the federal "Employee Retirement Income Security Act of 1974," 88 Stat. 832, 29 U.S.C.A. 1001, as amended. "Amounts collected or administrative expenses incurred" means the total amount paid to an administrator for the administration and payment of claims minus the sum of the amount of claims for losses paid and the amount of losses incurred but not reported.

(2) "Insurer" means any insurance company authorized under Title XXXIX of the Revised Code to do the business of sickness and accident insurance in this state.

(3) "Sickness and accident insurance business" does not include coverage provided by an insurer for specific diseases or accidents only; any hospital indemnity, medicare supplement, long-term care, disability income, one-time-limited-duration policy of no longer than six months, or other policy that offers only supplemental benefits; or coverage provided to individuals who are not residents of this state.

(4) "Individual business" includes both individual sickness and accident insurance and sickness and accident insurance made available by insurers in the individual market to individuals, with or without family members or dependents, through group policies issued to one or more associations or entities.

(B) Notwithstanding section 3941.14 of the Revised Code, ~~the following apply to every insurer:~~

~~(1) For calendar year 1993, each insurer shall have aggregate administrative expenses of no more than forty per cent of the premium income of the insurer, based on the premiums received in that year on the~~

~~sickness and accident insurance business of the insurer.~~

~~(2) For calendar year 1994, each insurer shall have aggregate administrative expenses of no more than thirty per cent of the premium income of the insurer, based on the premiums received in that year on the sickness and accident insurance business of the insurer.~~

~~(3) For calendar year 1995, each insurer shall have aggregate administrative expenses of no more than twenty five per cent of the premium income of the insurer, based on the premiums received in that year on the sickness and accident insurance business of the insurer.~~

~~(4) For calendar year 1996 and every calendar year thereafter, each insurer shall have aggregate administrative expenses of no more than twenty per cent of the premium income of the insurer, based on the premiums received earned in that year on the sickness and accident insurance business of the insurer.~~

(C)(1) Each insurer, on the first day of January or within sixty days thereafter, shall annually prepare, under oath, and deposit in the office of the superintendent of insurance a statement of the aggregate administrative expenses of the insurer, based on the premiums ~~received~~ earned in the immediately preceding calendar year on the sickness and accident insurance business of the insurer. The statement shall itemize and separately detail all of the following information with respect to the insurer's sickness and accident insurance business:

(a) The amount of premiums earned by the insurer both before and after any costs related to the insurer's purchase of reinsurance coverage;

(b) The total amount of claims for losses paid by the insurer both before and after any reimbursement from reinsurance coverage;

(c) The amount of any losses incurred by the insurer but not reported by the insurer in the current or prior year;

(d) The amount of costs incurred by the insurer for state fees and federal and state taxes;

(e) The amount of costs incurred by the insurer for reinsurance coverage;

(f) The amount of costs incurred by the insurer that are related to the insurer's payment of commissions;

(g) The amount of costs incurred by the insurer that are related to the insurer's fraud prevention measures;

(h) The amount of costs incurred by the insurer that are related to managed care; and

(i) Any other administrative expenses incurred by the insurer.

(2) The statement also shall include all of the information required

under division (C)(1) of this section separately detailed for the insurer's individual business, small group business, and large group business.

(D) No insurer shall fail to comply with ~~division (B)~~ of this section.

(E) If the superintendent determines that an insurer has violated ~~division (D)~~ of this section, the superintendent, pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code, may order the suspension of the insurer's license to do the business of sickness and accident insurance in this state until the superintendent is satisfied that the insurer is in compliance with ~~division (B)~~ of this section. If the insurer continues to do the business of sickness and accident insurance in this state while under the suspension order, the superintendent shall order the insurer to pay one thousand dollars for each day of the violation.

(F) Any money collected by the superintendent under division (E) of this section shall be deposited by ~~him~~ the superintendent into the state treasury to the credit of the department of insurance operating fund.

(G) The statement of aggregate expenses filed pursuant to this section separately detailing an insurer's individual, small group, and large group business shall be considered work papers resulting from the conduct of a market analysis of an entity subject to examination by the superintendent under division (C) of section 3901.48 of the Revised Code, except that the superintendent may share aggregated market information that identifies the premiums earned as reported under division (C)(1)(a) of this section, the administrative expenses reported under division (C)(1)(i) of this section, the amount of commissions reported under division (C)(1)(f) of this section, the amount of taxes paid as reported under division (C)(1)(d) of this section, the total of the remaining benefit costs as reported under divisions (C)(1)(b) and (c) of this section, and the amount of fraud and managed care expenses reported under divisions (C)(1)(g) and (h) of this section.

Sec. 3923.11. (A) Sickness and accident insurance on a franchise plan is that form of sickness and accident insurance issued to either of the following:

~~(A)(1)~~ (1) Five or more or, with respect to long-term care or disability income insurance, two or more employees of any corporation, copartnership, or individual employer, or of any governmental corporation or agency or a department thereof;

~~(B)(2)~~ (2) Ten or more or, with respect to long-term care or disability income insurance, two or more members of any trade or professional association, or labor union, or any other association having had an active existence for at least two years where such association or union has a constitution or bylaws and is formed in good faith for purposes other than

that of obtaining insurance. ~~It~~

(B) In order that such sickness and accident insurance be considered as issued on a franchise plan, such employees or such members, with or without one or more of their dependents and members of their immediate families, must be issued the same form of an individual policy, varying only as to amounts and kinds of coverage applied for by such employees or such members, under an arrangement by which the premiums on such policies may be paid to the insurer periodically by the employer, with or without payroll deductions, or by the association for its members, or by some designated person acting on behalf of such employer or association.

Sec. 3923.122. (A) Every policy of group sickness and accident insurance providing hospital, surgical, or medical expense coverage for other than specific diseases or accidents only, and delivered, issued for delivery, or renewed in this state on or after January 1, 1976, shall include a provision giving each insured the option to convert to the following:

(1) In the case of an individual who is not a federally eligible individual, any of the individual policies of hospital, surgical, or medical expense insurance then being issued by the insurer with benefit limits not to exceed those in effect under the group policy;

(2) In the case of a federally eligible individual, a basic or standard plan established ~~by the board of directors of the Ohio health reinsurance program~~ in accordance with section 3924.10 of the Revised Code or plans substantially similar to the basic and standard plan in benefit design and scope of covered services. For purposes of division (A)(2) of this section, the superintendent of insurance shall determine whether a plan is substantially similar to the basic or standard plan in benefit design and scope of covered services.

(B) An option for conversion to an individual policy shall be available without evidence of insurability to every insured, including any person eligible under division (D) of this section, who terminates employment or membership in the group holding the policy after having been continuously insured thereunder for at least one year.

Upon receipt of the insured's written application and upon payment of at least the first quarterly premium not later than thirty-one days after the termination of coverage under the group policy, the insurer shall issue a converted policy on a form then available for conversion. The premium shall be in accordance with the insurer's table of premium rates in effect on the later of the following dates:

- (1) The effective date of the converted policy;
- (2) The date of application therefor; and shall be applicable to the class

of risk to which each person covered belongs and to the form and amount of the policy at the person's then attained age. However, premiums charged federally eligible individuals may not exceed ~~an amount that is two times the midpoint of the standard~~ the amounts specified below:

(a) For calendar years 2010 and 2011, an amount that is two times the base rate charged any other individual of a group to which the insurer is currently accepting new business and for which similar copayments and deductibles are applied;

(b) For calendar year 2012 and every year thereafter, an amount that is one and one-half times the base rate charged any other individual of a group to which the insurer is currently accepting new business and for which similar copayments and deductibles are applied, unless the superintendent of insurance determines that the amendments by this act to sections 3923.58 and 3923.581 of the Revised Code, have resulted in the market-wide average medical loss ratio for coverage sold to individual insureds and nonemployer group insureds in this state, including open enrollment insureds, to increase by more than five and one quarter percentage points during calendar year 2010. If the superintendent makes that determination, the premium limit established by division (B)(2)(a) of this section shall remain in effect.

At the election of the insurer, a separate converted policy may be issued to cover any dependent of an employee or member of the group.

Except as provided in division (H) of this section, any converted policy shall become effective as of the day following the date of termination of insurance under the group policy.

Any probationary or waiting period set forth in the converted policy is deemed to commence on the effective date of the insured's coverage under the group policy.

(C) No insurer shall be required to issue a converted policy to any person who is, or is eligible to be, covered for benefits at least comparable to the group policy under:

- (1) Title XVIII of the Social Security Act, as amended or superseded;
- (2) Any act of congress or law under this or any other state of the United States that duplicates coverage offered under division (C)(1) of this section;
- (3) Any policy that duplicates coverage offered under division (C)(1) of this section;
- (4) Any other group sickness and accident insurance providing hospital, surgical, or medical expense coverage for other than specific diseases or accidents only.

(D) The option for conversion shall be available:

(1) Upon the death of the employee or member, to the surviving spouse with respect to such of the spouse and dependents as are then covered by the group policy;

(2) To a child solely with respect to the child upon attaining the limiting age of coverage under the group policy while covered as a dependent thereunder;

(3) Upon the divorce, dissolution, or annulment of the marriage of the employee or member, to the divorced spouse, or former spouse in the event of annulment, of such employee or member, or upon the legal separation of the spouse from such employee or member, to the spouse.

Persons possessing the option for conversion pursuant to this division shall be considered members for the purposes of division (H) of this section.

(E) If coverage is continued under a group policy on an employee following retirement prior to the time the employee is, or is eligible to be, covered by Title XVIII of the Social Security Act, the employee may elect, in lieu of the continuance of group insurance, to have the same conversion rights as would apply had the employee's insurance terminated at retirement by reason of termination of employment.

(F) If the insurer and the group policyholder agree upon one or more additional plans of benefits to be available for converted policies, the applicant for the converted policy may elect such a plan in lieu of a converted policy.

(G) The converted policy may contain provisions for avoiding duplication of benefits provided pursuant to divisions (C)(1), (2), (3), and (4) of this section or provided under any other insured or noninsured plan or program.

(H) If an employee or member becomes entitled to obtain a converted policy pursuant to this section, and if the employee or member has not received notice of the conversion privilege at least fifteen days prior to the expiration of the thirty-one-day conversion period provided in division (B) of this section, then the employee or member has an additional period within which to exercise the privilege. This additional period shall expire fifteen days after the employee or member receives notice, but in no event shall the period extend beyond sixty days after the expiration of the thirty-one-day conversion period.

Written notice presented to the employee or member, or mailed by the policyholder to the last known address of the employee or member as indicated on its records, constitutes notice for the purpose of this division. In the case of a person who is eligible for a converted policy under division (D)(2) or (D)(3) of this section, a policyholder shall not be responsible for

presenting or mailing such notice, unless such policyholder has actual knowledge of the person's eligibility for a converted policy.

If an additional period is allowed by an employee or member for the exercise of a conversion privilege, and if written application for the converted policy, accompanied by at least the first quarterly premium, is made after the expiration of the thirty-one-day conversion period, but within the additional period allowed an employee or member in accordance with this division, the effective date of the converted policy shall be the date of application.

(I) The converted policy may provide that any hospital, surgical, or medical expense benefits otherwise payable with respect to any person may be reduced by the amount of any such benefits payable under the group policy for the same loss after termination of coverage.

(J) The converted policy may contain:

(1) Any exclusion, reduction, or limitation contained in the group policy or customarily used in individual policies issued by the insurer;

(2) Any provision permitted in this section;

(3) Any other provision not prohibited by law.

Any provision required or permitted in this section may be made a part of any converted policy by means of an endorsement or rider.

(K) The time limit specified in a converted policy for certain defenses with respect to any person who was covered by a group policy shall commence on the effective date of such person's coverage under the group policy.

(L) No insurer shall use deterioration of health as the basis for refusing to renew a converted policy.

(M) No insurer shall use age or health status as the basis for refusing to renew a converted policy.

(N) A converted policy made available pursuant to this section shall, if delivery of the policy is to be made in this state, comply with this section. If delivery of a converted policy is to be made in another state, it may be on a form offered by the insurer in the jurisdiction where the delivery is to be made and which provides benefits substantially in compliance with those required in a policy delivered in this state.

(O) As used in this section, "~~federally~~:"

(1) "Base rate" means, as to any health benefit plan that is issued by an insurer in the individual market, the lowest premium rate for new or existing business prescribed by the insurer for the same or similar coverage under a plan or arrangement covering any individual of a group with similar case characteristics.

(2) "Federally eligible individual" means an eligible individual as defined in 45 C.F.R. 148.103.

Sec. 3923.24. ~~Every~~ (A) Notwithstanding section 3901.71 of the Revised Code, every certificate furnished by an insurer in connection with, or pursuant to any provision of, any group sickness and accident insurance policy delivered, issued for delivery, renewed, or used in this state on or after January 1, 1972, and every policy of sickness and accident insurance delivered, issued for delivery, renewed, or used in this state on or after January 1, 1972, and every multiple employer welfare arrangement offering an insurance program, which provides that coverage of an unmarried dependent child of a parent or legal guardian will terminate upon attainment of the limiting age for dependent children specified in the contract shall also provide in substance that both of the following:

(1) Once an unmarried child has attained the limiting age for dependent children, as provided in the policy, upon the request of the insured, the insurer shall offer to cover the unmarried child until the child attains twenty-eight years of age if all of the following are true:

(a) The child is the natural child, stepchild, or adopted child of the insured.

(b) The child is a resident of this state or a full-time student at an accredited public or private institution of higher education.

(c) The child is not employed by an employer that offers any health benefit plan under which the child is eligible for coverage.

(d) After having attained the limiting age, the child has been continuously covered under any health benefit plan.

(e) The child is not eligible for coverage under the medicaid program established under Chapter 5111. of the Revised Code or the medicare program established under Title XVIII of the "Social Security Act," 42 U.S.C. 1395.

(2) That attainment of such the limiting age for dependent children shall not operate to terminate the coverage of such a dependent child if the child is and continues to be both of the following:

~~(A)~~(a) Incapable of self-sustaining employment by reason of mental retardation or physical handicap;

~~(B)~~(b) Primarily dependent upon the policyholder or certificate holder for support and maintenance.

(B) Proof of such incapacity and dependence for purposes of division (A)(2) of this section shall be furnished by the policyholder or by the certificate holder to the insurer within thirty-one days of the child's attainment of the limiting age. Upon request, but not more frequently than

annually after the two-year period following the child's attainment of the limiting age, the insurer may require proof satisfactory to it of the continuance of such incapacity and dependency.

(C) Nothing in this section shall require an insurer to cover a dependent child who is mentally retarded or physically handicapped if the contract is underwritten on evidence of insurability based on health factors set forth in the application, or if such dependent child does not satisfy the conditions of the contract as to any requirement for evidence of insurability or other provision of the contract, satisfaction of which is required for coverage thereunder to take effect. In any such case, the terms of the contract shall apply with regard to the coverage or exclusion of the dependent from such coverage. Nothing in this section shall apply to accidental death or dismemberment benefits provided by any such policy of sickness and accident insurance.

(D) Nothing in this section shall do any of the following:

(1) Require that any policy offer coverage for dependent children or provide coverage for an unmarried dependent child's children as dependents on the policy;

(2) Require an employer to pay for any part of the premium for an unmarried dependent child that has attained the limiting age for dependents, as provided in the policy;

(3) Require an employer to offer health insurance coverage to the dependents of any employee.

(E) This section does not apply to any policies or certificates covering only accident, credit, dental, disability income, long-term care, hospital indemnity, medicare supplement, specified disease, or vision care; coverage under a one-time-limited-duration policy of not longer than six months; coverage issued as a supplement to liability insurance; insurance arising out of a workers' compensation or similar law; automobile medical-payment insurance; or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(F) As used in this section, "health benefit plan" has the same meaning as in section 3924.01 of the Revised Code and also includes both of the following:

(1) A public employee benefit plan;

(2) A health benefit plan as regulated under the "Employee Retirement Income Security Act of 1974," 29 U.S.C. 1001, et seq.

Sec. 3923.241. (A) Notwithstanding section 3901.71 of the Revised Code, any public employee benefit plan that provides that coverage of an

unmarried dependent child will terminate upon attainment of the limiting age for dependent children specified in the plan shall also provide in substance both of the following:

(1) Once an unmarried child has attained the limiting age for dependent children, as provided in the plan, upon the request of the employee, the public employee benefit plan shall offer to cover the unmarried child until the child attains twenty-eight years of age if all of the following are true:

(a) The child is the natural child, stepchild, or adopted child of the employee.

(b) The child is a resident of this state or a full-time student at an accredited public or private institution of higher education.

(c) The child is not employed by an employer that offers any health benefit plan under which the child is eligible for coverage.

(d) After having attained the limiting age, the child has been continuously covered under any health benefit plan.

(e) The child is not eligible for coverage under the medicaid program established under Chapter 5111. of the Revised Code or the medicare program established under Title XVIII of the "Social Security Act," 42 U.S.C. 1395.

(2) That attainment of the limiting age for dependent children shall not operate to terminate the coverage of a dependent child if the child is and continues to be both of the following:

(a) Incapable of self-sustaining employment by reason of mental retardation or physical handicap;

(b) Primarily dependent upon the plan member for support and maintenance.

(B) Proof of incapacity and dependence for purposes of division (A)(2) of this section shall be furnished to the public employee benefit plan within thirty-one days of the child's attainment of the limiting age. Upon request, but not more frequently than annually, the public employee benefit plan may require proof satisfactory to it of the continuance of such incapacity and dependency.

(C) Nothing in this section shall do any of the following:

(1) Require that any public employee benefit plan offer coverage for dependent children or provide coverage for an unmarried dependent child's children as dependents on the public employee benefit plan;

(2) Require an employer to pay for any part of the premium for an unmarried dependent child that has attained the limiting age for dependents, as provided in the plan;

(3) Require an employer to offer health insurance coverage to the

dependents of any employee.

(D) This section does not apply to any public employee benefit plan covering only accident, credit, dental, disability income, long-term care, hospital indemnity, medicare supplement, specified disease, or vision care; coverage under a one-time-limited-duration policy of not longer than six months; coverage issued as a supplement to liability insurance; insurance arising out of a workers' compensation or similar law; automobile medical-payment insurance; or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(E) As used in this section, "health benefit plan" has the same meaning as in section 3924.01 of the Revised Code and also includes both of the following:

(1) A public employee benefit plan;

(2) A health benefit plan as regulated under the "Employee Retirement Income Security Act of 1974," 29 U.S.C. 1001, et seq.

Sec. 3923.58. (A) As used in sections 3923.58 and 3923.59 of the Revised Code:

(1) "Health "Base rate" means, as to any health benefit plan that is issued by a carrier in the individual market, the lowest premium rate for new or existing business prescribed by the carrier for the same or similar coverage under a plan or arrangement covering any individual with similar case characteristics.

(2) "Carrier," "health benefit plan," and "MEWA" have the same meanings as in section 3924.01 of the Revised Code.

~~(2) "Insurer" means any sickness and accident insurance company authorized to do business in this state, or MEWA authorized to issue insured health benefit plans in this state. "Insurer" does not include any health insuring corporation that is owned or operated by an insurer.~~

(3) "Network plan" means a health benefit plan of a carrier under which the financing and delivery of medical care, including items and services paid for as medical care, are provided, in whole or in part, through a defined set of providers under contract with the carrier.

(4) "Ohio health care basic and standard plans" means those plans established under section 3924.10 of the Revised Code.

(5) "Pre-existing conditions provision" means a policy provision that excludes or limits coverage for charges or expenses incurred during a specified period following the insured's effective date of coverage as to a condition which, during a specified period immediately preceding the effective date of coverage, had manifested itself in such a manner as would

cause an ordinarily prudent person to seek medical advice, diagnosis, care, or treatment or for which medical advice, diagnosis, care, or treatment was recommended or received, or a pregnancy existing on the effective date of coverage.

(B) Beginning in January of each year, ~~insurers~~ carriers in the business of issuing ~~individual policies of sickness and accident insurance as contemplated by section 3923.021 of the Revised Code~~ health benefit plans to individuals and nonemployer groups, except individual ~~policies~~ health benefit plans issued pursuant to ~~section~~ sections 1751.16 and 3923.122 of the Revised Code, shall accept applicants for open enrollment coverage, as set forth in this division, in the order in which they apply for coverage and subject to the limitation set forth in division (G) of this section. ~~Insurers~~ Carriers shall accept for coverage pursuant to this section individuals to whom both of the following conditions apply:

(1) The individual is not applying for coverage as an employee of an employer, as a member of an association, or as a member of any other group.

(2) The individual is not covered, and is not eligible for coverage, under any other private or public health benefits arrangement, including the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, or any other act of congress or law of this or any other state of the United States that provides benefits comparable to the benefits provided under this section, any medicare supplement policy, or any continuation of coverage policy under state or federal law.

(C) ~~An insurer~~ A carrier shall offer to any individual accepted under this section the Ohio health care basic and standard plans ~~established by the board of directors of the Ohio health reinsurance program under division (A) of section 3924.10 of the Revised Code~~ or health benefit plans that are substantially similar to the Ohio health care basic and standard plans in benefit plan design and scope of covered services.

~~An insurer~~ A carrier may offer other health benefit plans in addition to, but not in lieu of, the plans required to be offered under this division. A basic health benefit plan shall provide, at a minimum, the coverage provided by the Ohio health care basic plan or any health benefit plan that is substantially similar to the Ohio health care basic plan in benefit plan design and scope of covered services. A standard health benefit plan shall provide, at a minimum, the coverage provided by the Ohio health care standard plan or any health benefit plan that is substantially similar to the Ohio health care standard plan in benefit plan design and scope of covered services.

For purposes of this division, the superintendent of insurance shall determine whether a health benefit plan is substantially similar to the Ohio health care basic and standard plans in benefit plan design and scope of covered services.

(D)(1) Health benefit plans issued under this section may establish pre-existing conditions provisions that exclude or limit coverage for a period of up to twelve months following the individual's effective date of coverage and that may relate only to conditions during the six months immediately preceding the effective date of coverage. A health insuring corporation may apply a pre-existing condition provision for any basic health care service related to a transplant of a body organ if the transplant occurs within one year after the effective date of an enrollee's coverage under this section except with respect to a newly born child who meets the requirements for coverage under section 1751.61 of the Revised Code.

(2) In determining whether a pre-existing conditions provision applies to an insured or dependent, each policy shall credit the time the insured or dependent was covered under a previous policy, contract, or plan if the previous coverage was continuous to a date not more than sixty-three days prior to the effective date of the new coverage, exclusive of any applicable service waiting period under the policy.

(E) Premiums charged to individuals under this section may not exceed ~~an amount that is two and one-half times the highest~~ the amounts specified below:

(1) For calendar years 2010 and 2011, an amount that is two times the base rate ~~charged~~ for coverage offered to any other individual to which the ~~insurer~~ carrier is currently accepting new business, and for which similar copayments and deductibles are applied;

(2) For calendar year 2012 and every year thereafter, an amount that is one and one-half times the base rate for coverage offered to any other individual to which the carrier is currently accepting new business and for which similar copayments and deductibles are applied, unless the superintendent of insurance determines that the amendments by this act to this section and section 3923.581 of the Revised Code, have resulted in the market-wide average medical loss ratio for coverage sold to individual insureds and nonemployer group insureds in this state, including open enrollment insureds, to increase by more than five and one quarter percentage points during calendar year 2010. If the superintendent makes that determination, the premium limit established by division (E)(1) of this section shall remain in effect. The superintendent's determination shall be supported by a signed letter from a member of the American academy of

actuaries.

(F) In offering health benefit plans under this section, ~~an insurer a~~ carrier may require the purchase of health benefit plans that condition the reimbursement of health services upon the use of a specific network of providers.

(G)(1) ~~In no event shall an insurer~~ A carrier shall not be required to accept ~~annually new applicants under this section if the total number of the~~ carrier's current insureds with open enrollment coverage issued under this section ~~individuals who, in the aggregate, would cause the insurer to have a~~ total number of new insureds that is more than one-half per cent of its total ~~number of insured individuals in this state per year, as contemplated by~~ section 3923.021 of the Revised Code, calculated as of the immediately ~~section 3923.021 of the Revised Code, calculated as of the immediately~~ preceding thirty-first day of December and excluding the insurer's carrier's ~~medicare supplement policies and conversion or continuation of coverage~~ policies under state or federal law and any policies described in division (L) ~~of this section meets the following limits:~~ of this section meets the following limits:

(a) For calendar years 2010 and 2011, four per cent of the carrier's total number of individual or nonemployer group insureds in this state;

(b) For calendar year 2012 and every year thereafter, eight per cent of the carrier's total number of insured individuals and nonemployer group insureds in this state, unless the superintendent of insurance determines that the amendments by this act to this section and section 3923.581 of the Revised Code, have resulted in the market-wide average medical loss ratio for coverage sold to individual insureds and nonemployer group insureds in this state, including open enrollment insureds, to increase by more than five and one quarter percentage points during calendar year 2010. If the superintendent makes that determination, the enrollment limit established by division (G)(1)(a) of this section shall remain in effect. The superintendent's determination shall be supported by a signed letter from a member of the American academy of actuaries.

(2) An officer of the ~~insurer~~ carrier shall certify to the department of insurance when it has met the enrollment limit set forth in division (G)(1) of this section. Upon providing such certification, the ~~insurer~~ carrier shall be relieved of its open enrollment requirement under this section ~~for the remainder of the calendar year~~ as long as the carrier continues to meet the open enrollment limit. If the total number of the carrier's current insureds with open enrollment coverage issued under this section falls below the enrollment limit, the carrier shall accept new applicants. A carrier may establish a waiting list if the carrier has met the open enrollment limit and shall notify the superintendent if the carrier has a waiting list in effect.

(H) ~~An insurer~~ A carrier shall not be required to accept under this section applicants who, at the time of enrollment, are confined to a health care facility because of chronic illness, permanent injury, or other infirmity that would cause economic impairment to the ~~insurer~~ carrier if the applicants were accepted, ~~or~~ A carrier shall not be required to make the effective date of benefits for individuals accepted under this section earlier than ninety days after the date of acceptance, except that when the individual had prior coverage with a health benefit plan that was terminated by a carrier because the carrier exited the market and the individual was accepted for open enrollment under this section within sixty-three days of that termination, the effective date of benefits shall be the date of enrollment.

(I) The requirements of this section do not apply to any ~~insurer~~ carrier that is currently in a state of supervision, insolvency, or liquidation. If ~~an insurer~~ a carrier demonstrates to the satisfaction of the superintendent that the requirements of this section would place the ~~insurer~~ carrier in a state of supervision, insolvency, or liquidation, or would otherwise jeopardize the carrier's economic viability overall or in the individual market, the superintendent may waive or modify the requirements of division (B) or (G) of this section. The actions of the superintendent under this division shall be effective for a period of not more than one year. At the expiration of such time, a new showing of need for a waiver or modification by the ~~insurer~~ carrier shall be made before a new waiver or modification is issued or imposed.

(J) No hospital, health care facility, or health care practitioner, and no person who employs any health care practitioner, shall balance bill any individual or dependent of an individual for any health care supplies or services provided to the individual or dependent who is insured under a policy issued under this section. The hospital, health care facility, or health care practitioner, or any person that employs the health care practitioner, shall accept payments made to it by the ~~insurer~~ carrier under the terms of the policy or contract insuring or covering such individual as payment in full for such health care supplies or services.

As used in this division, "hospital" has the same meaning as in section 3727.01 of the Revised Code; "health care practitioner" has the same meaning as in section 4769.01 of the Revised Code; and "balance bill" means charging or collecting an amount in excess of the amount reimbursable or payable under the policy or health care service contract issued to an individual under this section for such health care supply or service. "Balance bill" does not include charging for or collecting copayments or deductibles required by the policy or contract.

(K) ~~An insurer shall~~ A carrier may pay an agent a commission in the amount of not more than five per cent of the premium charged for initial placement or for otherwise securing the issuance of a policy or contract issued to an individual under this section, and not more than four per cent of the premium charged for the renewal of such a policy or contract. The superintendent may adopt, in accordance with Chapter 119. of the Revised Code, such rules as are necessary to enforce this division.

(L) This section does not apply to any policy that provides coverage for specific diseases or accidents only, or to any hospital indemnity, medicare supplement, long-term care, disability income, one-time-limited-duration policy of no longer than six months, or other policy that offers only supplemental benefits.

(M) If a carrier offers a health benefit plan in the individual market through a network plan, the carrier may do both of the following:

(1) Limit the individuals that may apply for such coverage to those who live, work, or reside in the service area of the network plan:

(2) Within the service area of the network plan, deny the coverage to individuals if the carrier has demonstrated both of the following to the superintendent:

(a) The carrier will not have the capacity to deliver services adequately to any additional individuals because of the carrier's obligations to existing group contract holders and individuals.

(b) The carrier is applying division (M)(2) of this section uniformly to all individuals without regard to any health status-related factors of those individuals.

(N) A carrier that, pursuant to division (M)(2) of this section, denies coverage to an individual in the service area of a network plan, shall not offer coverage in the individual market within that service area for at least one hundred eighty days after the date the carrier denies the coverage.

Sec. 3923.581. (A) As used in this section:

(1) "Base rate" means, as to any health benefit plan that is issued by a carrier in the individual market, the lowest premium rate for new or existing business prescribed by the carrier for the same or similar coverage under a plan or arrangement covering any individual with similar case characteristics.

(2) "Carrier," "health benefit plan," "MEWA," and "pre-existing conditions provision" have the same meanings as in section 3924.01 of the Revised Code.

(2)(3) "Federally eligible individual" means an eligible individual as defined in 45 C.F.R. 148.103.

~~(3)~~(4) "Health status-related factor" means any of the following:

- (a) Health status;
- (b) Medical condition, including both physical and mental illnesses;
- (c) Claims experience;
- (d) Receipt of health care;
- (e) Medical history;
- (f) Genetic information;
- (g) Evidence of insurability, including conditions arising out of acts of domestic violence;
- (h) Disability.

~~(4) "Midpoint rate" means, for individuals with similar case characteristics and plan designs and as determined by the applicable carrier for a rating period, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.~~

(5) "Network plan" means a health benefit plan of a carrier under which the financing and delivery of medical care, including items and services paid for as medical care, are provided, in whole or in part, through a defined set of providers under contract with the carrier.

(6) "Ohio health care basic and standard plans" means those plans established under section 3924.10 of the Revised Code.

(B) Beginning in January of each year, carriers in the business of issuing health benefit plans to individuals or nonemployer groups shall accept federally eligible individuals for open enrollment coverage, as provided in this section, in the order in which they apply for coverage and subject to the limitation set forth in division (J) of this section.

(C) No carrier shall do either of the following:

(1) Decline to offer such coverage to, or deny enrollment of, such individuals;

(2) Apply any pre-existing conditions provision to such coverage.

(D) A carrier shall offer to federally eligible individuals the Ohio health care basic and standard plan established by the board of directors of the Ohio health reinsurance program plans or plans substantially similar to the basic and standard ~~plan plans~~ in benefit design and scope of covered services. For purposes of this division, the superintendent of insurance shall determine whether a plan is substantially similar to the basic or standard plan in benefit design and scope of covered services.

(E) Premiums charged to individuals under this section may not exceed an amount that is two times the midpoint the amounts specified below:

(1) For calendar years 2010 and 2011, an amount that is two times the base rate charged for coverage offered to any other individual to which the

carrier is currently accepting new business, and for which similar copayments and deductibles are applied;

(2) For calendar year 2012 and every calendar year thereafter, an amount that is one and one-half times the base rate for coverage offered to any other individual to which the carrier is currently accepting new business and for which similar copayments and deductibles are applied, unless the superintendent of insurance determines that the amendments by this act to this section and section 3923.58 of the Revised Code, have resulted in a market-wide average medical loss ratio for coverage sold to individual insureds and nonemployer group insureds in this state, including open enrollment insureds, to increase by more than five and one quarter percentage points during calendar year 2010. If the superintendent makes that determination, the premium limit established by division (E)(1) of this section shall remain in effect. The superintendent's determination shall be supported by a signed letter from a member of the American academy of actuaries.

(F) If a carrier offers a health benefit plan in the individual market through a network plan, the carrier may do both of the following:

(1) Limit the federally eligible individuals that may apply for such coverage to those who live, work, or reside in the service area of the network plan;

(2) Within the service area of the network plan, deny the coverage to federally eligible individuals if the carrier has demonstrated both of the following to the superintendent:

(a) The carrier will not have the capacity to deliver services adequately to any additional individuals because of the carrier's obligations to existing group contract holders and individuals.

(b) The carrier is applying division (F)(2) of this section uniformly to all federally eligible individuals without regard to any health status-related factor of those individuals.

(G) A carrier that, pursuant to division (F)(2) of this section, denies coverage to an individual in the service area of a network plan, shall not offer coverage in the individual market within that service area for at least one hundred eighty days after the date the coverage is denied.

(H) A carrier may refuse to issue health benefit plans to federally eligible individuals if the carrier has demonstrated both of the following to the superintendent:

(1) The carrier does not have the financial reserves necessary to underwrite additional coverage.

(2) The carrier is applying division (H) of this section uniformly to all

federally eligible individuals in this state consistent with the applicable laws and rules of this state and without regard to any health status-related factor relating to those individuals.

(I) A carrier that, pursuant to division (H) of this section, refuses to issue health benefit plans to federally eligible individuals, shall not offer health benefit plans in the individual market in this state for at least one hundred eighty days after the date the coverage is denied or until the carrier has demonstrated to the superintendent that the carrier has sufficient financial reserves to underwrite additional coverage, whichever is later.

(J)(1) Except as provided in division (J)(2) of this section, a carrier shall not be required to accept ~~annually new applicants~~ federally eligible individuals who, in the aggregate, would cause the carrier to have a total number of new insureds that is more than one-half per cent of its total number of insured individuals and nonemployer groups in this state per year, if the total number of the carrier's current insureds with open enrollment coverage issued under this section calculated as of the immediately preceding thirty-first day of December and excluding the carrier's medicare supplement policies and conversion or continuation of coverage policies under state or federal law and any policies described in division ~~(M)(L)~~ of section 3923.58 of the Revised Code meets the following limits:

(a) For calendar years 2010 and 2011, four per cent of the carrier's total number of individual or nonemployer group insureds in this state;

(b) For calendar year 2012 and every year thereafter, eight per cent of the carrier's total number of insured individuals and nonemployer group insureds in this state, unless the superintendent of insurance determines that the amendments by this act to this section and section 3923.58 of the Revised Code, have resulted in the market-wide average medical loss ratio for coverage sold to individual insureds and nonemployer group insureds in this state, including open enrollment insureds, to increase by more than five and one quarter percentage points during calendar year 2010. If the superintendent makes that determination, the enrollment limit established by division (J)(1)(a) shall remain in effect. The superintendent's determination shall be supported by a signed letter from a member of the American academy of actuaries.

(2) An officer of the carrier shall certify to the department of insurance when it has met the enrollment limit set forth in division (J)(1) of this section. Upon providing such certification, the carrier shall be relieved of its open enrollment requirement under this section for ~~the remainder of the calendar year unless, prior to the end of the calendar year, as long as the~~

carrier continues to meet the open enrollment limit. If the total number of the carrier's current insureds with open enrollment coverage issued under this section falls below the enrollment limit, the carrier shall accept new applicants. A carrier may establish a waiting list if the carrier has met the open enrollment limit and shall notify the superintendent if the carrier has a waiting list in effect. In the event that all the carriers subject to this section have individually met the enrollment limit set forth in division (J)(1) of this section. ~~In that event in a calendar year,~~ carriers shall again accept applicants for open enrollment coverage pursuant to this section, subject to ~~the~~ an additional enrollment limit equal to one-half of the limitation set forth in division (J)(1) of this section.

(K) The superintendent may provide for the application of this section on a service-area-specific basis.

(L) The requirements of this section do not apply to any health benefit plan described in division ~~(M)~~(L) of section 3923.58 of the Revised Code.

(M) A carrier may pay an agent a commission in the amount of not more than five per cent of the premium charged for initial placement or for otherwise securing the issuance of a policy or contract issued to an individual under this section, and not more than four per cent of the premium charged for the renewal of such a policy or contract. The superintendent may adopt, in accordance with Chapter 119. of the Revised Code, such rules as are necessary to enforce this division.

Sec. 3923.582. (A) The superintendent of insurance may adopt rules in accordance with Chapter 119. of the Revised Code to implement sections 3923.58 and 3923.581 of the Revised Code, including, but not limited to, rules relating to both of the following:

(1) Requirements for adequate notice by carriers to consumers of the availability and premium rates of open enrollment coverage;

(2) Reporting and data collection requirements for implementation of the open enrollment program and to evaluate the performance of the open enrollment program and the individual health insurance market of this state.

(B) On or before June 30, beginning calendar year 2011 and continuing every year thereafter, the superintendent shall issue a report to the governor and the general assembly on the open enrollment program and the performance of the individual health insurance market in this state. The report shall include a determination by the superintendent, supported by a signed letter from a member of the American academy of actuaries, as to whether the amendments by this act to sections 3923.58 and 3923.581 of the Revised Code, have caused the market-wide average medical loss ratio for coverage sold to individual insureds and nonemployer group insureds in this

state, including open enrollment insureds, to increase and, if so, by how many percentage points.

Sec. 3923.66. (A) As used in sections 3923.66 to 3923.70 of the Revised Code:

(1) "Clinical peer" and "physician" have the same meanings as in section 1751.77 of the Revised Code.

(2) "Authorized person" means a parent, guardian, or other person authorized to act on behalf of an insured with respect to health care decisions.

(B) Sections 3923.66 to 3923.70 of the Revised Code do not apply to any individual or group policy of sickness and accident insurance covering only accident, credit, dental, disability income, long-term care, hospital indemnity, medicare supplement, medicare, tricare, specified disease, or vision care; coverage issued as a supplement to liability insurance; insurance arising out of workers' compensation or similar law; automobile medical payment insurance; or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(C) The superintendent of insurance shall establish and maintain a system for receiving and reviewing requests for review from insureds who have been denied coverage of a health care service on the grounds that the service is not a service covered under the terms of the insured's policy or certificate.

On receipt of a written request from an insured or authorized person, the superintendent shall consider whether the health care service is a service covered under the terms of the insured's policy or certificate, except that the superintendent shall not conduct a review under this section unless the insured has exhausted the insurer's internal review process. The insurer and the insured or authorized person shall provide the superintendent with any information required by the superintendent that is in their possession and is germane to the review.

Unless the superintendent is not able to do so because making the determination requires resolution of a medical issue, the superintendent shall determine whether the health care service at issue is a service covered under the terms of the insured's policy or certificate. The superintendent shall notify the insured, or authorized person, and the insurer of its determination or that it is not able to make a determination because the determination requires the resolution of a medical issue.

If the superintendent notifies the insurer that making the determination requires the resolution of a medical issue, the insurer shall ~~afford the insured~~

~~an opportunity for~~ initiate an external review under section 3923.67 or 3923.68 of the Revised Code. If the superintendent notifies the insurer that the health care service is not a covered service, the insurer is not required to cover the service or afford the insured an external review.

Sec. 3923.67. (A) Except as provided in divisions (B) and (C) of this section, an insurer shall afford an insured an opportunity for an external review of a coverage denial when requested by the insured or authorized person, if both of the following are the case:

(1) The insurer has denied, reduced, or terminated coverage for what would be a covered health care service except that the insurer has determined that the health care service is not medically necessary.

(2) Except in the case of expedited review, the proposed service, plus any ancillary services and follow-up care, will cost the insured more than five hundred dollars if the proposed service is not covered by the insurer.

External review shall be conducted in accordance with this section, except that if an insured with a terminal condition meets all of the criteria of division (A) of section 3923.68 of the Revised Code, an external review shall be conducted under that section.

(B) An insured need not be afforded a review under this section in any of the following circumstances:

(1) The superintendent of insurance has determined under section 3923.66 of the Revised Code that the health care service is not a service covered under the terms of the insured's policy or certificate.

(2) The insured has failed to exhaust the insurer's internal review process.

(3) The insured has previously afforded an external review for the same denial of coverage, and no new clinical information has been submitted to the insurer.

(C)(1) An insurer may deny a request from an insured for an external review of an adverse decision from the insurer's internal appeal process if it is requested later than sixty one hundred eighty days after receipt ~~by the insured~~ of notice ~~from the superintendent of insurance under section 3923.66 of the Revised Code that making a determination requires the resolution of a medical issue~~ from the insurer of the adverse decision. An external review may be requested by the insured, an authorized person, the insured's provider, or a health care facility rendering health care service to the insured. The insured may request a review without the approval of the provider or the health care facility rendering the health care service. The provider or health care facility may not request a review without the prior consent of the insured.

(2) An external review must be requested in writing, except that if the insured has a condition that requires expedited review, the review may be requested orally or by electronic means. When an oral or electronic request for review is made, written confirmation of the request must be submitted to the insurer not later than five days after the request is made.

Except in the case of an expedited review, a request for an external review must be accompanied by written certification from the insured's provider or the health care facility rendering the health care service to the insured that the proposed service, plus any ancillary services and follow-up care, will cost the insured more than five hundred dollars if the proposed service is not covered by the insurer.

(3) For an expedited review, the insured's provider must certify that the insured's condition could, in the absence of immediate medical attention, result in any of the following:

(a) Placing the health of the insured or, with respect to a pregnant woman, the health of the insured or the unborn child, in serious jeopardy;

(b) Serious impairment to bodily functions;

(c) Serious dysfunction of any bodily organ or part.

(D) The procedures used in conducting an external review shall include all of the following:

(1) The review shall be conducted by an independent review organization assigned by the superintendent of insurance under section 3901.80 of the Revised Code.

(2) Except as provided in divisions (D)(3) and (4) of this section, neither the clinical peer nor any health care facility with which the clinical peer is affiliated shall have any professional, familial, or financial affiliation with any of the following:

(a) The insurer or any officer, director, or managerial employee of the insurer;

(b) The insured, the insured's provider, or the practice group of the insured's provider;

(c) The health care facility at which the health care service requested by the insured would be provided;

(d) The development or manufacture of the principal drug, device, procedure, or therapy proposed for the insured.

(3) Division (D)(2) of this section does not prohibit a clinical peer from conducting a review under any of the following circumstances:

(a) The clinical peer is affiliated with an academic medical center that provides health care services to insureds of the insurer.

(b) The clinical peer has staff privileges at a health care facility that

provides health care services to insureds of the insurer.

(c) The clinical peer has a contractual relationship with the insurer but was not involved with the insurer's coverage decision.

(4) Division (D)(2) of this section does not prohibit the insurer from paying the independent review organization for the conduct of the review.

(5) An insured shall not be required to pay for any part of the cost of the review. The cost of the review shall be borne by the insurer.

(6)(a) The insurer shall provide to the independent review organization conducting the review a copy of those records in its possession that are relevant to the insured's medical condition and the review.

Records shall be used solely for the purpose of this division. At the request of the independent review organization, the insurer, insured, provider, or health care facility rendering health care services to the insured shall provide any additional information the independent review organization requests to complete the review. A request for additional information may be made in writing, orally, or by electronic means. The independent review organization shall submit the request to the insured and insurer. If a request is submitted orally or by electronic means to an insured or insurer, not later than five days after the request is submitted, the independent review organization shall provide written confirmation of the request. If the review was initiated by a provider or health care facility, a copy of the request shall be submitted to the provider or health care facility.

(b) An independent review organization is not required to make a decision if it has not received any requested information that it considers necessary to complete a review. An independent review organization that does not make a decision for this reason shall notify the insured and the insurer that a decision is not being made. The notice may be made in writing, orally, or by electronic means. An oral or electronic notice shall be confirmed in writing not later than five days after the oral or electronic notice is made. If the review was initiated by a provider or health care facility, a copy of the notice shall be submitted to the provider or health care facility.

(7) The insurer may elect to cover the service requested and terminate the review. The insurer shall notify the insured and all other parties involved with the decision by mail, or with the consent or approval of the insured, by electronic means.

(8) In making its decision, an independent review organization conducting the review shall take into account all of the following:

(a) Information submitted by the insurer, the insured, the insured's provider, and the health care facility rendering the health care service,

including the following:

(i) The insured's medical records;

(ii) The standards, criteria, and clinical rationale used by the insurer to make its decision.

(b) Findings, studies, research, and other relevant documents of government agencies and nationally recognized organizations, including the national institutes of health or any board recognized by the national institutes of health, the national cancer institute, the national academy of sciences, the United States food and drug administration, the health care financing administration of the United States department of health and human services, and the agency for health care policy and research;

(c) Relevant findings in peer-reviewed medical or scientific literature, published opinions of nationally recognized medical experts, and clinical guidelines adopted by relevant national medical societies.

(9)(a) In the case of an expedited review, the independent review organization shall issue a written decision not later than seven days after the filing of the request for review. In all other cases, the independent review organization shall issue a written decision not later than thirty days after the filing of the request. The independent review organization shall send a copy of its decision to the insurer and the insured. If the insured's provider or the health care facility rendering health care services to the insured requested the review, the independent review organization shall also send a copy of its decision to the insured's provider or the health care facility.

(b) The independent review organization's decision shall include a description of the insured's condition and the principal reasons for the decision and an explanation of the clinical rationale for the decision.

(E) The independent review organization shall base its decision on the information submitted under division (D)(8) of this section. In making its decision, the independent review organization shall consider safety, efficacy, appropriateness, and cost-effectiveness.

(F) The insurer shall provide any coverage determined by the independent review organization's decision to be medically necessary, subject to the other terms, limitations, and conditions of the insured's policy or certificate.

Sec. 3923.68. (A) Each insurer shall establish a reasonable external, independent review process to examine the insurer's coverage decisions for insureds who meet all of the following criteria:

(1) The insured has a terminal condition that, according to the current diagnosis of the insured's physician, has a high probability of causing death within two years.

(2) The insured requests a review not later than ~~sixty~~ one hundred eighty days after receipt by the insured of notice from the ~~superintendent of insurance under section 3923.66 of the Revised Code that making a determination requires resolution of a medical issue~~ insurer of the adverse decision.

(3) The insured's physician certifies that the insured has the condition described in division (A)(1) of this section and any of the following situations are applicable:

(a) Standard therapies have not been effective in improving the condition of the insured.

(b) Standard therapies are not medically appropriate for the insured.

(c) There is no standard therapy covered by the insurer that is more beneficial than therapy described in division (A)(4) of this section.

(4) The insured's physician has recommended a drug, device, procedure, or other therapy that the physician certifies, in writing, is likely to be more beneficial to the insured, in the physician's opinion, than standard therapies, or the insured has requested a therapy that has been found in a preponderance of peer-reviewed published studies to be associated with effective clinical outcomes for the same condition.

(5) The insured has been denied coverage by the insurer for a drug, device, procedure, or other therapy recommended or requested pursuant to division (A)(4) of this section, and has exhausted the insurer's internal review process.

(6) The drug, device, procedure, or other therapy, for which coverage has been denied, would be a covered health care service except for the insurer's determination that the drug, device, procedure, or other therapy is experimental or investigational.

(B) A review shall be requested in writing, except that if the insured's physician determines that a therapy would be significantly less effective if not promptly initiated, the review may be requested orally or by electronic means. When an oral or electronic request for review is made, written confirmation of the request shall be submitted to the insurer not later than five days after the oral or written request is submitted.

(C) The external, independent review process established by an insurer shall meet all of the following criteria:

(1) Except as provided in division (E) of this section, the process shall afford all insureds who meet the criteria set forth in division (A) of this section the opportunity to have the insurer's decision to deny coverage of the recommended or requested therapy reviewed under the process. Each eligible insured shall be notified of that opportunity within thirty business

days after the insurer denies coverage.

(2) The review shall be conducted by an independent review organization assigned by the superintendent of insurance under section 3901.80 of the Revised Code.

The independent review organization shall select a panel to conduct the review, which panel shall be composed of at least three physicians or other providers who, through clinical experience in the past three years, are experts in the treatment of the insured's medical condition and knowledgeable about the recommended or requested therapy.

In either of the following circumstances, an exception may be made to the requirement that the review be conducted by an expert panel composed of a minimum of three physicians or other providers:

(a) A review may be conducted by an expert panel composed of only two physicians or other providers if an insured has consented in writing to a review by the smaller panel.

(b) A review may be conducted by a single expert physician or other provider if only the expert physician or other provider is available for the review.

(3) Neither the insurer nor the insured shall choose, or control the choice of, the physician or other provider experts.

(4) The selected experts, any health care facility with which an expert is affiliated, and the independent review organization arranging for the experts' review shall not have any professional, familial, or financial affiliation with any of the following:

(a) The insurer or any officer, director, or managerial employee of the insurer;

(b) The insured, the insured's physician, ~~or~~ or the practice group of the insured's physician;

(c) The health care facility at which the recommended or requested therapy would be provided;

(d) The development or manufacture of the principal drug, device, procedure, or therapy involved in the recommended or requested therapy.

However, experts affiliated with academic medical centers who provide health care services to insureds of the insurer may serve as experts on the review panel. Further, experts with staff privileges at a health care facility that provides health care services to insureds of the insurer, as well as experts who have a contractual relationship with the insurer, but who were not involved with the insurer's denial of coverage for the therapy under review, may serve as experts on the review panel. These nonaffiliation provisions do not preclude an insurer from paying for the experts' review, as

specified in division (C)(5) of this section.

(5) Insureds shall not be required to pay for any part of the cost of the review. The cost of the review shall be borne by the insurer.

(6) The insurer shall provide to the independent review organization arranging for the experts' review a copy of those records in the insurer's possession that are relevant to the insured's medical condition and the review. The records shall be disclosed solely to the expert reviewers and shall be used solely for the purpose of this section. At the request of the expert reviewers, the insurer or the physician requesting the therapy shall provide any additional information that the expert reviewers request to complete the review. An expert reviewer is not required to render an opinion if the reviewer has not received any requested information that the reviewer considers necessary to complete the review.

(7)(a) In the case of an expedited review, the independent review organization shall issue a written decision not later than seven days after the filing of the request for review. In all other cases, the independent review organization shall issue a written decision not later than thirty days after the filing of the request. The independent review organization shall send a copy of its decision to the insurer and the insured. If the insured's provider or the health care facility rendering health care services to the insured requested the review, the independent review organization shall also send a copy of its decision to the insured's provider or the health care facility.

(b) In conducting the review, the experts on the panel shall take into account all of the following:

(i) Information submitted by the insurer, the insured, and the insured's physician, including the insured's medical records and the standards, criteria, and clinical rationale used by the insurer to reach its coverage decision;

(ii) Findings, studies, research, and other relevant documents of government agencies and nationally recognized organizations;

(iii) Relevant findings in peer-reviewed medical or scientific literature and published opinions of nationally recognized medical experts;

(iv) Clinical guidelines adopted by relevant national medical societies;

(v) Safety, efficacy, appropriateness, and cost effectiveness.

(8) Each expert on the panel shall provide the independent review organization with a professional opinion as to whether there is sufficient evidence to demonstrate that the recommended or requested therapy is likely to be more beneficial to the insured than standard therapies.

(9) Each expert's opinion shall be presented in written form and shall include the following information:

(a) A description of the insured's condition;

(b) A description of the indicators relevant to determining whether there is sufficient evidence to demonstrate that the recommended or requested therapy is more likely than not to be more beneficial to the insured than standard therapies;

(c) A description and analysis of any relevant findings published in peer-reviewed medical or scientific literature or the published opinions of medical experts or specialty societies;

(d) A description of the insured's suitability to receive the recommended or requested therapy according to a treatment protocol in a clinical trial, if applicable.

(10) The independent review organization shall provide the insurer with the opinions of the experts. The insurer shall make the experts' opinions available to the insured and the insured's physician, upon request.

(11) The opinion of the majority of the experts on the panel, rendered pursuant to division (C)(8) of this section, is binding on the insurer with respect to that insured. If the opinions of the experts on the panel are evenly divided as to whether the therapy should be covered, the insurer's final decision shall be in favor of coverage. If less than a majority of the experts on the panel recommend coverage of the therapy, the insurer may, in its discretion, cover the therapy. However, any coverage provided pursuant to division (C)(11) of this section is subject to the terms, limitations, and conditions of the insured's policy or certificate with the insurer.

(12) The insurer shall have written policies describing the external, independent review process.

(D) If an insurer's initial denial of coverage for a therapy recommended or requested pursuant to division (A)(3) of this section is based upon an external, independent review of that therapy meeting the requirements of division (C) of this section, this section shall not be a basis for requiring a second external, independent review of the recommended or requested therapy.

(E) At any time during the external, independent review process, the insurer may elect to cover the recommended or requested health care service and terminate the review. The insurer shall notify the insured and all other parties involved by mail or, with consent or approval of the insured, by electronic means.

(F) The insurer shall annually file a certificate with the superintendent of insurance certifying its compliance with the requirements of this section.

Sec. 3923.75. (A) As used in sections 3923.75 to 3923.79 of the Revised Code:

(1) "Clinical peer" and "physician" have the same meanings as in

section 1751.77 of the Revised Code.

(2) "Authorized person" means a parent, guardian, or other person authorized to act on behalf of a plan member with respect to health care decisions.

(B) Sections 3923.75 to 3923.79 of the Revised Code do not apply to any public employee benefit plan covering only accident, credit, dental, disability income, long-term care, hospital indemnity, medicare supplement, medicare, tricare, specified disease, or vision care; coverage issued as a supplement to liability insurance; insurance arising out of workers' compensation or similar law; automobile medical payment insurance; or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(C) The superintendent of insurance shall establish and maintain a system for receiving and reviewing requests for review from plan members who have been denied coverage of a health care service on the grounds that the service is not a service covered under the terms of the public employee benefit plan.

On receipt of a written request from a plan member or authorized person, the superintendent shall consider whether the health care service is a service covered under the terms of the plan, except that the superintendent shall not conduct a review under this section unless the plan member has exhausted the plan's internal review process. The plan and the plan member or authorized person shall provide the superintendent with any information required by the superintendent that is in their possession and is germane to the review.

Unless the superintendent is not able to do so because making the determination requires resolution of a medical issue, the superintendent shall determine whether the health care service at issue is a service covered under the terms of the plan. The superintendent shall notify the plan member, or authorized person, and the plan of its determination or that it is not able to make a determination because the determination requires the resolution of a medical issue.

If the superintendent notifies the plan that making the determination requires the resolution of a medical issue, the plan shall ~~afford the plan member~~ initiate an opportunity for external review under section 3923.76 or 3923.77 of the Revised Code. If the superintendent notifies the plan that the health care service is not a covered service, the plan is not required to cover the service or afford the plan member an external review.

Sec. 3923.76. (A) Except as provided in divisions (B) and (C) of this

section, a public employee benefit plan shall afford a plan member an opportunity for an external review of a coverage denial when requested by the plan member or authorized person, if both of the following are the case:

(1) The plan has denied, reduced, or terminated coverage for what would be a covered health care service except that the plan has determined that the health care service is not medically necessary.

(2) Except in the case of expedited review, the proposed service, plus any ancillary services and follow-up care, will cost the plan member more than five hundred dollars if the proposed service is not covered by the plan.

External review shall be conducted in accordance with this section, except that if a plan member with a terminal condition meets all of the criteria of division (A) of section 3923.77 of the Revised Code, an external review shall be conducted under that section.

(B) A plan member need not be afforded a review under this section in any of the following circumstances:

(1) The superintendent of insurance has determined under section 3923.75 of the Revised Code that the health care service is not a service covered under the terms of the plan.

(2) The plan member has failed to exhaust the plan's internal review process.

(3) The plan member has previously been afforded an external review for the same denial of coverage, and no new clinical information has been submitted to the plan.

(C)(1) A plan may deny a request from a plan member for an external review of an adverse decision from the plan's internal appeal process if it is requested later than sixty one hundred eighty days after receipt by the plan member of notice from the ~~superintendent of insurance under section 3923.75 of the Revised Code that making the determination requires the resolution of a medical issue~~ plan of the adverse decision. An external review may be requested by the plan member, an authorized person, the plan member's provider, or a health care facility rendering health care service to the plan member. The plan member may request a review without the approval of the provider or the health care facility rendering the health care service. The provider or health care facility may not request a review without the prior consent of the plan member.

(2) An external review must be requested in writing, except that if the plan member has a condition that requires expedited review, the review may be requested orally or by electronic means. When an oral or electronic request for review is made, written confirmation of the request must be submitted to the plan not later than five days after the request is made.

Except in the case of an expedited review, a request for an external review must be accompanied by written certification from the plan member's provider or the health care facility rendering the health care service to the plan member that the proposed service, plus any ancillary services and follow-up care, will cost the plan member more than five hundred dollars if the proposed service is not covered by the plan.

(3) For an expedited review, the plan member's provider must certify that the plan member's condition could, in the absence of immediate medical attention, result in any of the following:

(a) Placing the health of the plan member or, with respect to a pregnant woman, the health of the plan member or the unborn child, in serious jeopardy;

(b) Serious impairment to bodily functions;

(c) Serious dysfunction of any bodily organ or part.

(D) The procedures used in conducting an external review shall include all of the following:

(1) The review shall be conducted by an independent review organization assigned by the superintendent of insurance under section 3901.80 of the Revised Code.

(2) Except as provided in divisions (D)(3) and (4) of this section, neither the clinical peer nor any health care facility with which the clinical peer is affiliated shall have any professional, familial, or financial affiliation with any of the following:

(a) The plan or any officer, director, or managerial employee of the plan;

(b) The plan member, the plan member's provider, or the practice group of the plan member's provider;

(c) The health care facility at which the health care service requested by the plan member would be provided;

(d) The development or manufacture of the principal drug, device, procedure, or therapy proposed for the plan member.

(3) Division (D)(2) of this section does not prohibit a clinical peer from conducting a review under any of the following circumstances:

(a) The clinical peer is affiliated with an academic medical center that provides health care services to members of the plan.

(b) The clinical peer has staff privileges at a health care facility that provides health care services to members of the plan.

(c) The clinical peer has a contractual relationship with the plan but was not involved with the plan's coverage decision.

(4) Division (D)(2) of this section does not prohibit the plan from

paying the independent review organization for the conduct of the review.

(5) A plan member shall not be required to pay for any part of the cost of the review. The cost of the review shall be borne by the plan.

(6)(a) The plan shall provide to the independent review organization conducting the review a copy of those records in its possession that are relevant to the plan member's medical condition and the review.

Records shall be used solely for the purpose of this division. At the request of the independent review organization, the plan, plan member, provider, or health care facility rendering health care services to the plan member shall provide any additional information the independent review organization requests to complete the review. A request for additional information may be made in writing, orally, or by electronic means. The independent review organization shall submit the request to the plan member and the plan. If a request is submitted orally or by electronic means to a plan member or plan, not later than five days after the request is submitted, the independent review organization shall provide written confirmation of the request. If the review was initiated by a provider or health care facility, a copy of the request shall be submitted to the provider or health care facility.

(b) An independent review organization is not required to make a decision if it has not received any requested information that it considers necessary to complete a review. An independent review organization that does not make a decision for this reason shall notify the plan member and the plan that a decision is not being made. The notice may be made in writing, orally, or by electronic means. An oral or electronic notice shall be confirmed in writing not later than five days after the oral or electronic notice is made. If the review was initiated by a provider or health care facility, a copy of the notice shall be submitted to the provider or health care facility.

(7) The plan may elect to cover the service requested and terminate the review. The plan shall notify the plan member and all other parties involved with the decision by mail, or with the consent or approval of the plan member, by electronic means.

(8) In making its decision, an independent review organization conducting the review shall take into account all of the following:

(a) Information submitted by the plan, the plan member, the plan member's provider, and the health care facility rendering the health care service, including the following:

(i) The plan member's medical records;

(ii) The standards, criteria, and clinical rationale used by the plan to

make its decision.

(b) Findings, studies, research, and other relevant documents of government agencies and nationally recognized organizations, including the national institutes of health or any board recognized by the national institutes of health, the national cancer institute, the national academy of sciences, the United States food and drug administration, the health care financing administration of the United States department of health and human services, and the agency for health care policy and research;

(c) Relevant findings in peer-reviewed medical or scientific literature, published opinions of nationally recognized medical experts, and clinical guidelines adopted by relevant national medical societies.

(9)(a) In the case of an expedited review, the independent review organization shall issue a written decision not later than seven days after the filing of the request for review. In all other cases, the independent review organization shall issue a written decision not later than thirty days after the filing of the request. The independent review organization shall send a copy of its decision to the plan and the plan member. If the plan member's provider or the health care facility rendering health care services to the plan member requested the review, the independent review organization shall also send a copy of its decision to the plan member's provider or the health care facility.

(b) The independent review organization's decision shall include a description of the plan member's condition and the principal reasons for the decision and an explanation of the clinical rationale for the decision.

(E) The independent review organization shall base its decision on the information submitted under division (D)(8) of this section. In making its decision, the independent review organization shall consider safety, efficacy, appropriateness, and cost-effectiveness.

(F) The plan shall provide any coverage determined by the independent review organization's decision to be medically necessary, subject to the other terms, limitations, and conditions of the plan.

Sec. 3923.77. (A) Each public employee benefit plan shall establish a reasonable external review process to examine the plan's coverage decisions for plan members who meet all of the following criteria:

(1) The plan member has a terminal condition that, according to the current diagnosis of the plan member's physician, has a high probability of causing death within two years.

(2) The plan member requests a review not later than ~~sixty~~ one hundred eighty days after receipt by the plan member of notice from the ~~superintendent of insurance under section 3923.75 of the Revised Code that~~

~~making a determination requires resolution of a medical issue~~ plan of the adverse decision.

(3) The plan member's physician certifies that the plan member has the condition described in division (A)(1) of this section and any of the following situations are applicable:

(a) Standard therapies have not been effective in improving the condition of the plan member.

(b) Standard therapies are not medically appropriate for the plan member.

(c) There is no standard therapy covered by the plan that is more beneficial than therapy described in division (A)(4) of this section.

(4) The plan member's physician has recommended a drug, device, procedure, or other therapy that the physician certifies, in writing, is likely to be more beneficial to the plan member, in the physician's opinion, than standard therapies, or the plan member has requested a therapy that has been found in a preponderance of peer-reviewed published studies to be associated with effective clinical outcomes for the same condition.

(5) The plan member has been denied coverage by the plan for a drug, device, procedure, or other therapy recommended or requested pursuant to division (A)(4) of this section, and has exhausted all internal appeals.

(6) The drug, device, procedure, or other therapy, for which coverage has been denied, would be a covered health care service except for the plan's determination that the drug, device, procedure, or other therapy is experimental or investigational.

(B) A review shall be requested in writing, except that if the plan member's physician determines that a therapy would be significantly less effective if not promptly initiated, the review may be requested orally or by electronic means. When an oral or electronic request for review is made, written confirmation of the request shall be submitted to the plan not later than five days after the oral or written request is submitted. For an expedited review, the plan member's provider must certify that the requested or recommended therapy would be significantly less effective if not promptly initiated.

(C) The external review process established by a plan shall meet all of the following criteria:

(1) Except as provided in division (E) of this section, the process shall afford all plan members who meet the criteria set forth in division (A) of this section the opportunity to have the plan's decision to deny coverage of the recommended or requested therapy reviewed under the process. Each eligible plan member shall be notified of that opportunity within thirty

business days after the plan denies coverage.

(2) The review shall be conducted by an independent review organization assigned by the superintendent of insurance under section 3901.80 of the Revised Code. The independent review organization shall select a panel to conduct the review, which panel shall be composed of at least three physicians or other providers who, through clinical experience in the past three years, are experts in the treatment of the plan member's medical condition and knowledgeable about the recommended or requested therapy. If the independent review organization retained by the plan is an academic medical center, the panel may include experts affiliated with or employed by the academic medical center.

In either of the following circumstances, an exception may be made to the requirement that the review be conducted by an expert panel composed of a minimum of three physicians or other providers:

(a) A review may be conducted by an expert panel composed of only two physicians or other providers if a plan member has consented in writing to a review by the smaller panel.

(b) A review may be conducted by a single expert physician or other provider if only the expert physician or other provider is available for the review.

(3) Neither the plan nor the plan member shall choose, or control the choice of, the physician or other provider experts.

(4) The selected experts, any health care facility with which an expert is affiliated, and the independent review organization arranging for the experts' review shall not have any professional, familial, or financial affiliation with any of the following:

(a) The plan or any officer, director, or managerial employee of the plan;

(b) The plan member, the plan member's physician, or the practice group of the plan member's physician;

(c) The health care facility at which the recommended or requested therapy would be provided;

(d) The development or manufacture of the principal drug, device, procedure, or therapy involved in the recommended or requested therapy. However, experts affiliated with academic medical centers who provide health care services to members of the plan may serve as experts on the review panel. Further, experts with staff privileges at a health care facility that provides health care services to members of the plan, as well as experts who have a contractual relationship with the plan, but who were not involved with the plan's denial of coverage for the therapy under review,

may serve as experts on the review panel. These nonaffiliation provisions do not preclude a plan from paying for the experts' review, as specified in division (C)(5) of this section.

(5) Plan members shall not be required to pay for any part of the cost of the review. The cost of the review shall be borne by the plan.

(6) The plan shall provide to the independent review organization arranging for the experts' review a copy of those records in the plan's possession that are relevant to the plan member's medical condition and the review. The records shall be disclosed solely to the expert reviewers and shall be used solely for the purpose of this section. At the request of the expert reviewers, the plan or the physician requesting the therapy shall provide any additional information that the expert reviewers request to complete the review. An expert reviewer is not required to render an opinion if the reviewer has not received any requested information that the reviewer considers necessary to complete the review.

(7)(a) In the case of an expedited review, the independent review organization shall issue a written decision not later than seven days after the filing of the request for review. In all other cases, the independent review organization shall issue a written decision not later than thirty days after the filing of the request. The independent review organization shall send a copy of its decision to the plan and the plan member. If the plan member's provider or the health care facility rendering health care services to the plan member requested the review, the independent review organization shall also send a copy of its decision to the plan member's provider or the health care facility.

(b) In conducting the review, the experts on the panel shall take into account all of the following:

(i) Information submitted by the plan, the plan member, and the plan member's physician, including the plan member's medical records and the standards, criteria, and clinical rationale used by the plan to reach its coverage decision;

(ii) Findings, studies, research, and other relevant documents of government agencies and nationally recognized organizations;

(iii) Relevant findings in peer-reviewed medical or scientific literature and published opinions of nationally recognized medical experts;

(iv) Clinical guidelines adopted by relevant national medical societies;

(v) Safety, efficacy, appropriateness, and cost-effectiveness.

(8) Each expert on the panel shall provide the independent review organization with a professional opinion as to whether there is sufficient evidence to demonstrate that the recommended or requested therapy is likely

to be more beneficial to the plan member than standard therapies.

(9) Each expert's opinion shall be presented in written form and shall include the following information:

(a) A description of the plan member's condition;

(b) A description of the indicators relevant to determining whether there is sufficient evidence to demonstrate that the recommended or requested therapy is more likely than not to be more beneficial to the plan member than standard therapies;

(c) A description and analysis of any relevant findings published in peer-reviewed medical or scientific literature or the published opinions of medical experts or specialty societies;

(d) A description of the plan member's suitability to receive the recommended or requested therapy according to a treatment protocol in a clinical trial, if applicable.

(10) The independent review organization shall provide the plan with the opinions of the experts. The plan shall make the experts' opinions available to the plan member and the plan member's physician, upon request.

(11) The opinion of the majority of the experts on the panel, rendered pursuant to division (C)(8) of this section, is binding on the plan with respect to that plan member. If the opinions of the experts on the panel are evenly divided as to whether the therapy should be covered, the plan's final decision shall be in favor of coverage. If less than a majority of the experts on the panel recommend coverage of the therapy, the plan may, in its discretion, cover the therapy. However, any coverage provided pursuant to division (C)(11) of this section is subject to the terms, limitations, and conditions of the plan.

(12) The plan shall have written policies describing the external review process.

(D) If a plan's initial denial of coverage for a therapy recommended or requested pursuant to division (A)(3) of this section is based upon an external review of that therapy meeting the requirements of division (C) of this section, this section shall not be a basis for requiring a second external review of the recommended or requested therapy.

(E) At any time during the external review process, the plan may elect to cover the recommended or requested health care service and terminate the review. The plan shall notify the plan member and all other parties involved by mail or, with consent or approval of the plan member, by electronic means.

(F) The plan shall annually file a certificate with the superintendent of

insurance certifying its compliance with the requirements of this section.

Sec. 3923.90. (A) There is hereby created the health care coverage and quality council to advise the governor, general assembly, entities in the public and private sectors, and consumers on strategies to expand affordable health insurance coverage to more individuals and to improve the cost and quality of the state's health insurance system and health care system.

(B) The council shall consist of the following members:

(1) The superintendent of insurance or the superintendent's designee;

(2) The director of the executive medicaid management administration;

(3) The director of medicaid;

(4) The director of health;

(5) The benefits administrator of the office of benefits administration within the department of administrative services;

(6) Two members of the house of representatives, one member appointed by the speaker of the house of representatives and one member appointed by the minority leader of the house of representatives;

(7) Two members of the senate, one member appointed by the president of the senate and one member appointed by the minority leader of the senate;

(8) The following members appointed by the governor, with the advice and consent of the senate:

(a) Two representatives of consumers of health care services;

(b) Two representatives of employers that provide health care coverage to their employees;

(c) Two representatives of medical facilities, at least one of whom is a representative of a research and academic medical center;

(d) Two individuals authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(e) Two individuals or representatives of individuals authorized to practice any of the following:

(i) Dentistry under Chapter 4715. of the Revised Code;

(ii) Optometry under Chapter 4725. of the Revised Code;

(iii) Podiatry under Chapter 4731. of the Revised Code;

(iv) Chiropractic under Chapter 4734. of the Revised Code.

(f) Two representatives of companies authorized under Chapter 3923. of the Revised Code to do the business of sickness and accident insurance in this state or of health insuring corporations holding certificates of authority under Chapter 1751. of the Revised Code;

(g) Two representatives of organized labor;

(h) One representative of a nonprofit organization experienced in health

care data collection and analysis:

(i) One individual with expertise in health information technology and exchange;

(j) One representative of a state retirement system;

(k) One public health professional.

(9) Other members appointed by the superintendent of insurance.

(C) Not later than thirty days after the effective date of this section, initial appointments shall be made to the council. The initial legislative members shall be appointed for terms ending three years from the date of appointment. The initial members appointed by the governor and the superintendent of insurance shall serve staggered terms of one, two, or three years, as selected by the governor or superintendent when making their respective appointments. Thereafter, terms of office for all appointed members shall be three years, with each term ending on the same day of the same month as the term it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed, except that a legislative member ceases to be a member of the council on ceasing to be a member of the general assembly. Members may be reappointed.

Vacancies shall be filled in the same manner as original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(D) The superintendent or the superintendent's designee shall serve as chairperson of the council. The council shall meet at the call of the chair. A majority of the members of the council constitutes a quorum.

(E) Members shall serve without compensation, except to the extent that serving on the council is considered part of their regular employment duties.

(F) The superintendent may provide staff and other administrative support for the council to carry out its duties. In making staffing decisions, the superintendent may consider any recommendations made by the council.

(G) Sections 101.82 to 101.87 of the Revised Code do not apply to the health care coverage and quality council.

Sec. 3923.91. (A) The health care coverage and quality council shall do all of the following:

(1) Advise the governor and general assembly on strategies to improve health care programs and health insurance policies and benefit plans;

(2) Monitor and evaluate implementation of strategies for improving access to health insurance coverage and improving the quality of the state's health care system, identify barriers to implementing those strategies, and identify methods for overcoming the barriers;

(3) Catalog existing health care data reporting efforts and make recommendations to improve data reporting in a manner that increases transparency and consistency in the health care and insurance coverage systems;

(4) Study health care financing alternatives that will increase access to health insurance coverage, promote disease prevention and injury prevention, contain costs, and improve quality;

(5) Evaluate the systems that individuals use to obtain or otherwise become connected with health insurance and recommend improvements to those systems or the use of alternative systems;

(6) Recommend minimum coverage standards for basic and standard health insurance plans offered by insurance carriers;

(7) Recommend strategies, such as subsidies, to assist individuals in being able to afford health insurance coverage;

(8) Recommend strategies to implement health information technology to support improved access and quality and reduced costs in the state's health care system;

(9) Study alternative care management options for medicaid recipients who are not required to participate in the care management system established under section 5111.16 of the Revised Code;

(10) Perform any other duties specified in rules adopted by the superintendent of insurance.

(B) The council shall prepare and issue an annual report, which may include recommendations, on or before the thirty-first day of December of each year. The council may prepare and issue other reports and recommendations at other times that the council finds appropriate.

(C) The superintendent may adopt rules as necessary for the council to carry out its duties. The rules shall be adopted under Chapter 119. of the Revised Code. In adopting the rules, the superintendent may consider any recommendations made by the council.

Sec. 3924.06. (A) Compliance with the underwriting and rating requirements contained in sections 3924.01 to 3924.14 of the Revised Code shall be demonstrated through actuarial certification. Carriers offering health benefit plans to small employers shall file annually with the superintendent of insurance an actuarial certification stating that the underwriting and rating methods of the carrier do all of the following:

- (1) Comply with accepted actuarial practices;
- (2) Are uniformly applied to health benefit plans covering small employers;
- (3) Comply with the applicable provisions of sections 3924.01 to 3924.14 of the Revised Code.

(B) If a carrier has established a separate class of business for one or more small employer health care alliances in accordance with section 1731.09 of the Revised Code, this section shall apply in accordance with section 1731.09 of the Revised Code.

(C) Carriers offering health benefit plans to small employers shall file premium rates with the superintendent in accordance with section 3923.02 of the Revised Code with respect to the carrier's sickness and accident insurance policies sold to small employers and in accordance with section 1751.12 of the Revised Code with respect to the carrier's health insuring corporation policies sold to small employers.

Sec. 3929.43. (A) The Ohio fair plan underwriting association is hereby created consisting of all insurers authorized to write within this state, on a direct basis, basic property insurance or any component thereof in multi-peril policies, to assist applicants in urban areas to secure basic property insurance or homeowners insurance, and to formulate and administer a program for the equitable apportionment of basic property insurance or homeowners insurance which cannot be obtained in the normal market. Every such insurer shall be a member of the association and shall remain a member as a condition of its authority to write any of such insurance in this state.

(B) The association, pursuant to sections 3929.41 to 3929.49 of the Revised Code, and the plan of operation, with respect to basic property insurance or homeowners insurance, may assume and cede reinsurance on insurable risks written by its members.

(C) The board of governors of the association shall submit to the superintendent of insurance, for ~~his~~ approval, a proposed plan of operation which shall provide for economical, fair, and nondiscriminatory administration of a program for the equitable apportionment among members of basic property insurance or homeowners insurance which may be afforded in urban areas to applicants whose property is insurable in accordance with reasonable underwriting standards, but who are unable to procure such insurance through normal channels. The association is under no obligation to issue basic property insurance or homeowners insurance to any person, unless that person and ~~his~~ that person's property would be insurable in the normal insurance market, and such property, except for its

location, would constitute an insurable risk in accordance with reasonable underwriting standards. The plan of operation shall provide that the association, in determining whether the property is insurable, shall give no consideration to the condition of surrounding property or properties, where such condition is not within the control of the applicant. Rates for basic property insurance and homeowners insurance shall ~~not exceed those rates filed with~~ be subject to the approval of the superintendent ~~by the major rating organization in this state, except that in the case of homeowners insurance the association may file deviations to the rating plan previously filed by such rating organization, and such deviations shall be subject to the approval of the superintendent in the same manner as other deviations under Chapter 3935. of the Revised Code.~~ The plan of operation may also provide for assessment of all members in amounts sufficient to operate the association, maximum limits of liability per location to be placed through the program, reasonable underwriting standards for determining insurability of a risk, and the commission to be paid to the licensed producer designated by the applicant. The superintendent shall adopt such plan and all amendments thereto pursuant to Chapter 119. of the Revised Code.

If the superintendent disapproves the proposed plan of operation, the board of governors shall, within fifteen days, submit for approval an appropriately revised plan of operation and if the board of governors fails to do so, or if the revised plan submitted is unacceptable, the superintendent shall promulgate a plan of operation.

If amendment of the plan of operation is requested by the superintendent or the board of governors, the board of governors shall submit to the superintendent, for ~~his~~ approval, such amendments. If such amendments are not approved by the superintendent, the board of governors shall, within fifteen days, submit for approval an appropriately revised amendment. If the board of governors fails to do so, or if the amendment is not approved by the superintendent, the superintendent shall promulgate such amendment as ~~he~~ the superintendent finds necessary.

(D)(1) The plan of operation may provide for periodic advance assessments against member insurers in amounts considered necessary to cover any deficit or projected deficit arising out of the operation of the association. Any provision in the plan for implementation of such advance assessments shall be approved by the superintendent. Any such provision in the plan shall also provide for quarterly or other periodic installment payment of such assessments.

(2) Such plan shall provide a method whereby member insurers may recoup assessments levied by the association. In order to recoup such

assessments the plan may also provide for the calculation and use of rates or rating factors to be applied to direct premiums for basic property insurance and homeowners insurance located in this state. Such a provision is subject to the approval of the superintendent. Member insurers of the association implementing a change in rates pursuant to this section shall file such changes with the superintendent. Such changes shall not increase rates more than the amount authorized by the association and approved by the superintendent pursuant to the plan. The association may consult with member insurers or licensed rating bureaus in connection with the establishment and operation of any such provision.

(E) Any insurer which is a member of the association shall participate in the writings, expenses, profits, and losses of the association in the proportion that its premiums written bear to the aggregate premiums written by all members of the association, except that this division shall not be construed to preclude the board of governors from taking action to adjust assessments in accordance with a program adopted pursuant to division (I) of this section.

(F) Such plan shall require the issuance of a binder providing coverage for which the applicant tenders an amount equal to the annual premium as estimated by the association, ~~such~~ or an appropriate percentage of that annual premium as determined by the association. The binder ~~taking~~ shall take effect ~~fifteen days following the date of~~ the day after the association receives the application, provided that the application meets the underwriting standards of the association, for such term, and under such conditions as are determined by the superintendent ~~of insurance.~~ The superintendent may alter such time requirement on a specific risk under such conditions as ~~he~~ the superintendent finds appropriate.

(G) The association shall be governed by a board of governors consisting of twelve members, four of whom shall be appointed by the governor with the advice and consent of the senate. One of such members shall be a licensed agent writing basic property insurance for more than one insurer. None of the other three such members shall be a director, officer, salaried employee, agent, or substantial shareholder of any insurance company and not more than two of these three members shall be members of the same political party. Terms of office of members appointed by the governor shall be for two years, commencing on the nineteenth day of September and ending on the eighteenth day of September. Each member shall hold office from the date of ~~his~~ his appointment until the end of the term for which ~~he~~ the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which ~~his~~ the

member's predecessor was appointed shall hold office for the remainder of such term. Any appointed member shall continue in office subsequent to the expiration date of ~~his~~ the member's term until ~~his~~ the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. The remaining eight members shall be representatives from member companies, at least five of whom shall be Ohio domiciled members, elected annually by accumulated voting by members of the association whose votes shall be weighed in accordance with each member's premiums written during the second preceding calendar year. Not more than one insurer in a group under the same management or ownership shall serve on the board of governors at the same time. The eight representatives of member companies shall be elected at a meeting of the members or their authorized representatives, which shall be held at a time and place designated by the superintendent.

(H) The plan shall be administered under the supervision of the superintendent.

(I) The board of governors shall adopt a written program for decreasing the overall utilization of the association as a source of insurance. The program shall set forth actions that the board shall take to decrease such utilization, including actions intended to reduce the number of policies issued, the number of persons whose properties are insured, and the total amount and kinds of insurance written by the association, provided this division does not authorize the board to take action intended to decrease utilization of the association as a source of insurance if such action would substantially conflict with the purposes set forth in divisions (A), (B), and (D) of section 3929.41 of the Revised Code or the plan of operation of the association.

Sec. 3937.41. (A) As used in this section:

(1) "Ambulance" has the same meaning as in section 4765.01 of the Revised Code and also includes private ambulance companies under contract to a municipal corporation, township, or county.

(2) "Emergency vehicle" means any of the following:

(a) Any vehicle, as defined in section 4511.01 of the Revised Code, that is an emergency vehicle of a municipal, township, or county department or public utility corporation and that is identified as such as required by law, the director of public safety, or local authorities;

(b) Any motor vehicle, as defined in section 4511.01 of the Revised Code, when commandeered by a police officer;

(c) Any vehicle, as defined in section 4511.01 of the Revised Code, that is an emergency vehicle of a qualified nonprofit corporation police

department established pursuant to section 1702.80 of the Revised Code and that is identified as an emergency vehicle;

(d) Any vehicle, as defined in section 4511.01 of the Revised Code, that is an emergency vehicle of a proprietary police department or security department of a hospital operated by a public hospital agency or a nonprofit hospital agency that employs police officers under section 4973.17 of the Revised Code, and that is identified as an emergency vehicle.

(3) "Firefighter" means any regular, paid, member of a lawfully constituted fire department of a municipal corporation or township.

(4) "Law enforcement officer" means a any of the following:

(a) A sheriff, deputy sheriff, constable, marshal, deputy marshal, municipal or police officer, police officer of a township or joint township police officer district, state highway patrol trooper, or member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code;

(b) A police officer employed by a qualified nonprofit police department pursuant to section 1702.80 of the Revised Code, or police officer employed by a proprietary police department or security department of a hospital operated by a public hospital agency or nonprofit hospital agency pursuant to section 4973.17 of the Revised Code;

(c) An officer, agent, or employee of the state or any of its agencies, instrumentalities, or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority;

(d) A veterans' home police officer appointed under section 5907.02 of the Revised Code;

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

(5) "Motor vehicle accident" means any accident involving a motor vehicle which results in bodily injury to any person, or damage to the property of any person.

(6) "Investigator" means an investigator of the bureau of criminal identification and investigation as defined in section 2903.11 of the Revised Code.

(B) No insurer shall consider the circumstance that an applicant or policyholder has been involved in a motor vehicle accident while in the pursuit of the applicant's or policyholder's official duties as a law enforcement officer, firefighter, investigator, or operator of an emergency vehicle or ambulance, while operating a vehicle engaged in mowing or snow

and ice removal as a county, township, or department of transportation employee, or while operating a vehicle while engaged in the pursuit of the applicant's or policyholder's official duties as a member of the motor carrier enforcement unit of the state highway patrol under section 5503.34 of the Revised Code, as a basis for doing either of the following:

(1) Refusing to issue or deliver a policy of insurance upon a private automobile, or increasing the rate to be charged for such a policy;

(2) Increasing the premium rate, canceling, or failing to renew an existing policy of insurance upon a private automobile.

(C) Any applicant or policyholder affected by an action of an insurer in violation of this section may appeal to the superintendent of insurance. After a hearing held upon not less than ten days' notice to the applicant or policyholder and to the insurer and if the superintendent determines that the insurer has violated this section, the superintendent may direct the issuance of a policy, decrease the premium rate on a policy, or reinstate insurance coverage.

(D) The employer of the law enforcement officer, firefighter, investigator, or operator of an emergency vehicle or ambulance, operator of a vehicle engaged in mowing or snow and ice removal, or operator of a vehicle who is a member of the motor carrier enforcement unit, except as otherwise provided in division (F) of this section, shall certify to the state highway patrol or law enforcement agency that investigates the accident whether the officer, firefighter, investigator, or operator of an emergency vehicle or ambulance, operator of a vehicle engaged in mowing or snow and ice removal, or operator of a vehicle who is a member of the motor carrier enforcement unit, was engaged in the performance of the person's official duties as such employee at the time of the accident. The employer shall designate an official authorized to make the certifications. The state highway patrol or law enforcement agency shall include the certification in any report of the accident forwarded to the department of public safety pursuant to sections 5502.11 and 5502.12 of the Revised Code and shall forward the certification to the department if received after the report of the accident has been forwarded to the department. The registrar of motor vehicles shall not include an accident in a certified abstract of information under division (A) of section 4509.05 of the Revised Code, if the person involved has been so certified as having been engaged in the performance of the person's official duties at the time of the accident.

(E) Division (B) of this section does not apply to an insurer whose policy covers the motor vehicle at the time the motor vehicle is involved in an accident described in division (B) of this section.

(F) Division (B) of this section does not apply if an applicant or policyholder, on the basis of the applicant's or policyholder's involvement in an accident described in that division, is convicted of or pleads guilty or no contest to a violation of section 4511.19 of the Revised Code or a municipal OVI ordinance as defined in section 4511.181 of the Revised Code.

Sec. 3951.01. As used in sections 3951.01 to 3951.09, inclusive, of the Revised Code:

(A) "Lending institution" means a lending institution, as defined in division ~~(E)~~(L) of section 175.01 of the Revised Code, that is not organized for the purpose of qualifying to do business as a public insurance adjuster in this state, as determined by the superintendent, and that has been engaged in business as a bona fide lending institution for at least five years, and any member of an affiliated group, as defined by division (B)(3)(e) of section 5739.01 of the Revised Code, associated with a lending institution, which member has been a member of the affiliated group for at least five years and which member is not organized or affiliated with the lending institution for the purpose of qualifying to do business as a public insurance adjuster in this state, as determined by the superintendent.

(B) "Public insurance adjuster" means any person, firm, association, partnership, or corporation who, for compensation, acts on behalf of or aids in any manner, an insurer or insured or another in negotiating for, or effecting the settlement of a claim or claims for loss or damage under any policy of insurance covering real or personal property, and any person, firm, association, partnership, or corporation who advertises, solicits business, or holds itself out to the public as an adjuster of such insurance claims, and any person who for compensation investigates, settles, adjusts, advises, or assists an insurer or insured with reference to claims for such losses, on behalf of any such public insurance adjuster.

(C) "Public insurance adjuster agent" means any person who is a bona fide employee of a public insurance adjuster and who aids in the adjustment, investigation, and in securing of any contract for the adjustment of a loss.

(D) "Superintendent" means the superintendent of insurance acting as director of the department of insurance.

(E) Nothing contained in Chapter 3951. of the Revised Code shall apply to the following:

(1) An attorney at law admitted to practice in this state who adjusts insurance losses in the course of the practice of the attorney's profession and who does not hold the attorney out by sign, advertisement, or otherwise as offering such services to the general public;

(2) An officer, agent, or regular salaried employee of an insurer, or

underwriter, or any attorney in fact of any reciprocal insurer of ~~Lloyds~~ Lloyd's underwriter licensed to do business in this state who adjusts losses arising under the employer's or principal's own policies; or an underwriter by whom a policy of insurance against loss or damage or other causes has been written upon property within this state, in adjusting loss or damage under such policy, nor to an agent or broker acting as adjuster for the agent's or broker's own company;

(3) An adjustment bureau or association owned and maintained by insurers to adjust or investigate losses of such insurers, or any regularly salaried employee thereof who devotes substantially all of the employee's time to the business of such bureau or association;

(4) Any licensed agent or employee or officer of such agent or agency of an authorized insurer who adjusts losses for such insurer solely under policies issued through such agency;

(5) Any independent adjuster representing an insurer.

Sec. 4104.01. As used in sections 4104.01 to 4104.20 and section 4104.99 of the Revised Code:

(A) "Board of building standards" or "board" means the board established by section 3781.07 of the Revised Code.

(B) "Superintendent" means the superintendent of ~~the division of industrial compliance~~ labor created by section 121.04 of the Revised Code.

(C) "Boiler" means a closed vessel in which water is heated, steam is generated, steam is superheated, or any combination thereof, under pressure or vacuum for use externally to itself by the direct application of heat from the combustion of fuels, or from electricity or nuclear energy. "Boiler" includes fired units for heating or vaporizing liquids other than water where these units are separate from processing systems and are complete within themselves.

(D) "Power boiler" means a boiler in which steam or other vapor (to be used externally to itself) is generated at a pressure of more than fifteen psig.

(E) "High pressure, high temperature water boiler" means a water heating boiler operating at pressures exceeding one hundred sixty psig or temperatures exceeding two hundred fifty degrees Fahrenheit.

(F) "Low pressure boiler" means a steam boiler operating at pressures not exceeding fifteen psig, or a hot water heating boiler operating at pressures not exceeding one hundred sixty psig or temperatures not exceeding two hundred fifty degrees Fahrenheit.

(G) "Pressure vessel" means a container for the containment of pressure, either internal or external. This pressure may be obtained from an external source or by the application of heat from a direct or indirect source or any

combination thereof.

(H) "Process boiler" means a boiler to which all of the following apply:

(1) The steam in the boiler is either generated or superheated, or both, under pressure or vacuum for use external to itself.

(2) The source of heat for the boiler is in part or in whole from a process other than the boiler itself.

(3) The boiler is part of a continuous processing unit, such as used in chemical manufacture or petroleum refining, other than a steam-generated process unit.

(I) "Stationary steam engine" means an engine or turbine in which the mechanical force arising from the elasticity and expansion action of steam or from its property of rapid condensation or from a combination of the two is made available as a motive power.

Sec. 4104.02. The board of building standards shall:

(A) Formulate rules for the construction, installation, repair, conservation of energy, and operation of boilers and the construction and repair of pressure vessels and for ascertaining the safe working pressures to be carried on such boilers and pressure vessels and the qualification of inspectors of boilers and pressure vessels;

(B) Prescribe tests, if it is considered necessary, to ascertain the qualities of materials used in the construction of boilers and pressure vessels;

(C) Adopt rules regulating the construction and sizes of safety valves for boilers and pressure vessels of different sizes and pressures, for the construction, use, and location of fusible plugs, appliances for indicating the pressure of steam and level of water in the boiler or pressure vessels, and such other appliances as the board considers necessary to safety in operating boilers;

(D) Establish reasonable fees for the performance of reviews, surveys, or audits of manufacturer's facilities by the division of ~~industrial compliance~~ labor for certification by the American society of mechanical engineers and the national board of boiler and pressure vessel inspectors;

(E) The definitions and rules adopted by the board for the construction, installation, repair, conservation of energy, and operation of boilers and the construction and repair of pressure vessels and for ascertaining the safe working pressures to be used on such boilers and pressure vessels shall be based upon and follow generally accepted engineering standards, formulae, and practices established and pertaining to boilers and pressure vessel construction, operation, and safety, and the board may, for this purpose, adopt existing published standards as well as amendments thereto subsequently published by the same authority.

When a person desires to manufacture a special type of boiler or pressure vessel, the design of which is not covered by the rules of the board, the person shall submit drawings and specifications of such boiler or pressure vessel to the board for investigation, after which the board may permit its installation.

The provisions of sections 119.03 and 119.11 of the Revised Code in particular, and the applicable provisions of Chapter 119. of the Revised Code in general, shall govern the proceedings of the board of building standards in adopting, amending, or rescinding rules pursuant to this section.

Sec. 4104.06. (A) The inspection of boilers and their appurtenances and pressure vessels shall be made by the inspectors mentioned in sections 4104.07 to 4104.20 of the Revised Code. The superintendent of ~~industrial compliance~~ labor shall administer and enforce such sections and rules adopted by the board of building standards pursuant to section 4104.02 of the Revised Code.

(B) The superintendent shall adopt, amend, and repeal rules exclusively for the issuance, renewal, suspension, and revocation of certificates of competency and certificates of operation, for conducting hearings in accordance with Chapter 119. of the Revised Code related to these actions, and for the inspection of boilers and their appurtenances, and pressure vessels.

(C) Notwithstanding division (B) of this section, the superintendent shall not adopt rules relating to construction, maintenance, or repair of boilers and their appurtenances, or repair of pressure vessels.

(D) The superintendent and each general inspector may enter any premises and any building or room at all reasonable hours to perform an examination or inspection.

Sec. 4104.07. (A) An application for examination as an inspector of boilers and pressure vessels shall be in writing, accompanied by a fee of one hundred fifty dollars, upon a blank to be furnished by the superintendent of ~~industrial compliance~~ labor. Any moneys collected under this section shall be paid into the state treasury to the credit of the ~~industrial compliance~~ labor operating fund created in section 121.084 of the Revised Code.

(B) The superintendent shall determine if an applicant meets all the requirements for examination in accordance with rules adopted by the board of building standards under section 4104.02 of the Revised Code. An application shall be rejected which contains any willful falsification, or untruthful statements.

(C) An applicant shall be examined by the superintendent, by a written examination, prescribed by the board, dealing with the construction,

installation, operation, maintenance, and repair of boilers and pressure vessels and their appurtenances, and the applicant shall be accepted or rejected on the merits of the applicant's application and examination.

(D) Upon a favorable report by the superintendent of the result of an examination, the superintendent shall immediately issue to the successful applicant a certificate of competency to that effect.

Sec. 4104.08. (A) The director of commerce may appoint from the holders of certificates of competency provided for in section 4104.07 of the Revised Code, general inspectors of boilers and pressure vessels.

(B) Any company authorized to insure boilers and pressure vessels against explosion in this state may designate from holders of certificates of competency issued by the superintendent of ~~industrial compliance~~ labor, or holders of certificates of competency or commissions issued by other states or nations whose examinations for certificates or commissions have been approved by the board of building standards, persons to inspect and stamp boilers and pressure vessels covered by the company's policies, and the superintendent shall issue to such persons commissions authorizing them to act as special inspectors. Special inspectors shall be compensated by the company designating them.

(C) The director of ~~commerce~~ shall establish an annual fee to be charged by the superintendent for each certificate of competency or commission the superintendent issues.

(D) The superintendent shall issue to each general or special inspector a commission to the effect that the holder thereof is authorized to inspect boilers and pressure vessels in this state.

(E) No person shall be authorized to act as a general inspector or a special inspector who is directly or indirectly interested in the manufacture or sale of boilers or pressure vessels.

Sec. 4104.09. The certificate of competency issued under section 4104.07 of the Revised Code or the commission provided for in section 4104.08 of the Revised Code may be revoked by the superintendent of ~~industrial compliance~~ labor for the incompetence or untrustworthiness of the holder thereof, or for willful falsification of any matter or statement contained in the holder's application or in a report of any inspection in accordance with Chapter 119₂ of the Revised Code. If a certificate or commission is lost or destroyed, a new certificate or commission shall be issued in its place without another examination.

Sec. 4104.10. All unfired pressure vessels, except unfired pressure vessels exempt under section 4104.04 of the Revised Code, shall be thoroughly inspected during fabrication and upon completion and shall not

be operated until a copy of the manufacturers' data report, properly executed and signed by the inspector is filed in the office of the superintendent of ~~industrial compliance~~ labor. All unfired pressure vessels shall conform in every detail with applicable rules adopted by the board of building standards pursuant to section 4104.02 of the Revised Code.

Sec. 4104.101. (A) No person shall install or make major repairs or modifications to any boiler without first registering to do so with the division of ~~industrial compliance~~ labor.

(B) No person shall make any installation or major repair or modification of any boiler without first obtaining a permit to do so from the division. The permit application form shall provide the name and address of the owner, location of the boiler, and type of repair or modification that will be made. The application permit fee shall be ~~fifty~~ one hundred dollars.

(C) The superintendent of ~~industrial compliance~~ labor shall require annual registration of all contractors who install, make major repairs to, or modify any boiler. The board of building standards shall establish a reasonable fee to cover the cost of processing registrations.

Sec. 4104.12. All boilers, except boilers mentioned in section 4104.04 of the Revised Code, shall be inspected when installed and shall not be operated until an appropriate certificate of operation has been issued by the superintendent of ~~the division of industrial compliance~~ labor. The certificate of operation required by this section shall not be issued for any boiler which has not been thoroughly inspected during construction and upon completion, by either a general or special inspector, and which does not conform in every detail with the rules adopted by the board of building standards and unless, upon completion, such boiler is distinctly stamped under such rules by such inspector.

Sec. 4104.15. (A) All certificates of inspection for boilers, issued prior to October 15, 1965, are valid and effective for the period set forth in such certificates unless sooner withdrawn by the superintendent of ~~industrial compliance~~ labor. The owner or user of any such boiler shall obtain an appropriate certificate of operation for such boiler, and shall not operate such boiler, or permit it to be operated unless a certificate of operation has been obtained in accordance with section 4104.17 of the Revised Code.

(B) If, upon making the internal and external inspection required under sections 4104.11, 4104.12, and 4104.13 of the Revised Code, the inspector finds the boiler to be in safe working order, with the fittings necessary to safety, and properly set up, upon the inspector's report to the superintendent, the superintendent shall issue to the owner or user thereof, or renew, upon application and upon compliance with sections 4104.17 and 4104.18 of the

Revised Code, a certificate of operation which shall state the maximum pressure at which the boiler may be operated, as ascertained by the rules of the board of building standards. Such certificates shall also state the name of the owner or user, the location, size, and number of each boiler, and the date of issuance, and shall be so placed as to be easily read in the engine room or boiler room of the plant where the boiler is located, except that the certificate of operation for a portable boiler shall be kept on the premises and shall be accessible at all times.

(C) If an inspector at any inspection finds that the boiler or pressure vessel is not in safe working condition, or is not provided with the fittings necessary to safety, or if the fittings are improperly arranged, the inspector shall immediately notify the owner or user and person in charge of the boiler and shall report the same to the superintendent who may revoke, suspend, or deny the certificate of operation and not renew the same until the boiler or pressure vessel and its fittings are put in condition to insure safety of operation, and the owner or user shall not operate the boiler or pressure vessel, or permit it to be operated until such certificate has been granted or restored.

(D) If the superintendent or a general boiler inspector finds that a pressure vessel or boiler or a part thereof poses an explosion hazard that reasonably can be regarded as posing an imminent danger of death or serious physical harm to persons, the superintendent or the general boiler inspector shall seal the pressure vessel or boiler and order, in writing, the operator or owner of the pressure vessel or boiler to immediately cease the pressure vessel's or boiler's operation. The order shall be effective until the nonconformities are eliminated, corrected, or otherwise remedied, or for a period of seventy-two hours from the time of issuance, whichever occurs first. During the seventy-two-hour period, the superintendent may request that the prosecuting attorney or city attorney of Franklin county or of the county in which the pressure vessel or boiler is located obtain an injunction restraining the operator or owner of the pressure vessel or boiler from continuing its operation after the seventy-two-hour period expires until the nonconformities are eliminated, corrected, or otherwise remedied.

(E) Each boiler which has been inspected shall be assigned a number by the superintendent, which number shall be stamped on a nonferrous metal tag affixed to the boiler or its fittings by seal or otherwise. No person except an inspector shall deface or remove any such number or tag.

(F) If the owner or user of any pressure vessel or boiler disagrees with the inspector as to the necessity for shutting down a pressure vessel or boiler or for making repairs or alterations in it, or taking any other measures for

safety that are requested by an inspector, the owner or user may appeal from the decision of the inspector to the superintendent, who may, after such other inspection by a general inspector or special inspector as the superintendent deems necessary, decide the issue.

(G) Neither sections 4104.01 to 4104.20 of the Revised Code, nor an inspection or report by any inspector, shall relieve the owner or user of a pressure vessel or boiler of the duty of using due care in the inspection, operation, and repair of the pressure vessel or boiler or of any liability for damages for failure to inspect, repair, or operate the pressure vessel or boiler safely.

Sec. 4104.16. The owner or user of any boiler required by sections 4104.01 to 4104.20 of the Revised Code, to be inspected, shall immediately notify the superintendent of ~~the division of industrial compliance~~ labor in case a defect affecting the safety of the boiler is discovered.

The owner or user of any stationary boiler required by such sections to be inspected, who moves the same, shall report to the superintendent the new location of the boiler. Such boiler shall be inspected before it is again operated.

Sec. 4104.17. Certificates of operation issued for boilers subject to inspection under Chapter 4104. of the Revised Code shall be issued and renewed in accordance with and at dates prescribed by rules and regulations adopted by the superintendent of ~~industrial compliance~~ labor.

Sec. 4104.18. (A) The owner or user of a boiler required under section 4104.12 of the Revised Code to be inspected upon installation, and the owner or user of a boiler for which a certificate of inspection has been issued which is replaced with an appropriate certificate of operation, shall pay to the superintendent of ~~industrial compliance~~ labor a fee in the amount of ~~forty-five~~ fifty dollars for boilers subject to annual inspections under section 4104.11 of the Revised Code, ~~ninety one hundred~~ one hundred dollars for boilers subject to biennial inspection under section 4104.13 of the Revised Code, one hundred ~~thirty-five~~ fifty dollars for boilers subject to triennial inspection under section 4104.11 of the Revised Code, or two hundred ~~twenty-five~~ fifty dollars for boilers subject to quinquennial inspection under section 4104.13 of the Revised Code.

~~A renewal fee in the amount of forty-five dollars shall be paid to the treasurer of state before the renewal of any certificate of operation.~~

(B) The fee for complete inspection during construction by a general inspector on boilers and pressure vessels manufactured within the state shall be thirty-five dollars per hour. Boiler and pressure vessel manufacturers other than those located in the state may secure inspection by a general

inspector on work during construction, upon application to the superintendent, and upon payment of a fee of thirty-five dollars per hour, plus the necessary traveling and hotel expenses incurred by the inspector.

(C) The application fee for applicants for steam engineer, high pressure boiler operator, or low pressure boiler operator licenses is ~~fifty~~ seventy-five dollars. The fee for each original or renewal steam engineer, high pressure boiler operator, or low pressure boiler operator license is ~~thirty-five~~ fifty dollars.

(D) The director of commerce, subject to the approval of the controlling board, may establish fees in excess of the fees provided in divisions (A), (B), and (C) of this section. Any moneys collected under this section shall be paid into the state treasury to the credit of the ~~industrial compliance~~ labor operating fund created in section 121.084 of the Revised Code.

(E) Any person who fails to pay an invoiced renewal fee or an invoiced inspection fee required for any inspection conducted by the division of ~~industrial compliance~~ labor pursuant to this chapter within forty-five days of the invoice date shall pay a late payment fee equal to twenty-five per cent of the invoiced fee.

(F) In addition to the fees assessed in divisions (A) and (B) of this section, the board of building standards shall assess the owner or user a fee of three dollars and twenty-five cents for each certificate of operation or renewal thereof issued under division (A) of this section and for each inspection conducted under division (B) of this section. The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, specifying the manner by which the superintendent shall collect and remit to the board the fees assessed under this division and requiring that remittance of the fees be made at least quarterly.

Sec. 4104.19. (A) Any person seeking a license to operate as a steam engineer, high pressure boiler operator, or low pressure boiler operator shall file a written application with the superintendent of ~~industrial compliance~~ labor on a form prescribed by the superintendent with the appropriate application fee as set forth in section 4104.18 of the Revised Code. The application shall contain information satisfactory to the superintendent to demonstrate that the applicant meets the requirements of division (B) of this section. The application shall be filed with the superintendent not more than sixty days and not less than thirty days before the license examination is offered.

(B) To qualify to take the examination required to obtain a steam engineer, high pressure boiler operator, or low pressure boiler operator license, a person shall meet both of the following requirements:

(1) Be at least eighteen years of age;

(2) Have one year of experience in the operation of steam engines, high pressure boilers, or low pressure boilers as applicable to the type of license being sought, or a combination of experience and education for the type of license sought as determined to be acceptable by the superintendent.

(C) No applicant shall qualify to take an examination or to renew a license if the applicant has violated this chapter or if the applicant has obtained or renewed a license issued under this chapter by fraud, misrepresentation, or deception.

(D) The superintendent shall issue a license to each applicant who receives a passing score on the examination, as determined by the superintendent, for the license for which the applicant applied.

(E) The superintendent may select and contract with one or more persons to do all of the following relative to the examinations for a license to operate as a steam engineer, high pressure boiler operator, or low pressure boiler operator:

(1) Prepare, administer, score, and maintain the confidentiality of the examination;

(2) Maintain responsibility for all expenses required to fulfill division (E)(1) of this section;

(3) Charge each applicant a fee for administering the examination, in an amount authorized by the superintendent;

(4) Design the examination for each type of license to determine an applicant's competence to operate the equipment for which the applicant is seeking licensure.

(F) Each license issued under this chapter expires one year after the date of issue. Each person holding a valid, unexpired license may renew the license, without reexamination, by applying to the superintendent not more than ninety days before the expiration of the license, and submitting with the application the renewal fee established in section 4104.18 of the Revised Code. Upon receipt of the renewal information and fee, the superintendent shall issue the licensee a certificate of renewal.

(G) The superintendent, in accordance with Chapter 119. of the Revised Code, may suspend or revoke any license, or may refuse to issue a license under this chapter upon finding that a licensee or an applicant for a license has violated or is violating the requirements of this chapter.

Sec. 4104.21. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the superintendent of ~~industrial-compliance~~ labor shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with

respect to a certificate or license issued pursuant to this chapter.

Sec. 4104.33. There is hereby created the historical boilers licensing board consisting of seven members, three of whom shall be appointed by the governor with the advice and consent of the senate. The governor shall make initial appointments to the board within ninety days after ~~the effective date of this section~~ October 24, 2002. Of the initial members appointed by the governor, one shall be for a term ending three years after ~~the effective date of this section~~ October 24, 2002, one shall be for a term ending four years after ~~the effective date of this section~~ October 24, 2002, and one shall be for a term ending five years after ~~the effective date of this section~~ October 24, 2002. Thereafter, terms of office shall be for five years, each term ending on the same day of the same month of the year as did the term that it succeeds. Of the three members the governor appoints, one member shall be an employee of the division of boiler inspection in the department of commerce; one member shall be an independent mechanical engineer who is not involved in selling or inspecting historical boilers; and one shall be an active member of an association that represents managers of fairs or festivals.

Two members of the board shall be appointed by the president of the senate and two members of the board shall be appointed by the speaker of the house of representatives. The president and speaker shall make initial appointments to the board within ninety days after ~~the effective date of this section~~ October 24, 2002. Of the initial members appointed by the president, one shall be for a term ending four years after ~~the effective date of this section~~ October 24, 2002 and one shall be for a term ending five years after ~~the effective date of this section~~ October 24, 2002. Of the initial members appointed by the speaker, one shall be for a term ending three years after ~~the effective date of this section~~ October 24, 2002 and one shall be for a term ending five years after ~~the effective date of this section~~ October 24, 2002. Thereafter, terms of office shall be for five years, each term ending on the same day of the same month of the year as did the term that it succeeds. Of the four members appointed by the president and speaker, each shall own a historical boiler and also have at least ten years of experience in the operation of historical boilers, and each of these four members shall reside in a different region of the state.

Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Members may be reappointed. Vacancies shall be filled in the manner provided for initial appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's

predecessor was appointed shall hold office as a member for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until the successor takes office or until a period of sixty days has elapsed, whichever occurs first.

The members of the board, annually, shall elect, by majority vote, a chairperson from among their members. The board shall meet at least once annually and at other times at the call of the chairperson. Board members shall receive their actual and necessary expenses incurred in the discharge of their duties as board members.

The superintendent of ~~the division of industrial compliance~~ labor shall furnish office space, staff, and supplies to the board as the superintendent determines are necessary for the board to carry out its official duties under sections 4104.33 to 4104.37 of the Revised Code.

Sec. 4104.42. (A) The owner of any power piping or process piping system shall ensure that all of the following are performed in compliance with applicable sections of the B31 standards contained in the code for pressure piping, published by the American society of mechanical engineers:

- (1) The design, fabrication, assembly, installation, testing, examination, and inspection of power and process piping systems;
- (2) Qualification of personnel and qualification of welding and brazing procedures;
- (3) The implementation of an inspection program.

(B) The owner of a power piping or process piping system shall do both of the following:

(1) Maintain for five years complete records documenting the design, examination, and testing of the piping system that include all of the following:

- (a) The specific edition of the code for pressure piping used in the design;
- (b) The design assumptions;
- (c) The calculations, piping material specifications, and construction documents for the piping;
- (d) The records of piping alterations;
- (e) The piping examination and inspection records.

(2) Disclose the types and quantities of flammable, combustible, or hazardous materials proposed to be used in the facility to the building and fire code enforcement authorities who have inspection authority to enable those authorities to determine compliance with the rules the board of building standards adopts pursuant to section 3781.10 of the Revised Code

and the rules the state fire marshal adopts pursuant to section 3737.82 of the Revised Code.

(C) No person or state agency shall require that the records described in division (B)(1) of this section be submitted to the division of ~~industrial compliance~~ labor in the department of commerce or to a certified building department for approval.

(D) Nothing in this section limits the application of Chapters 4703. and 4733. of the Revised Code.

Sec. 4104.43. (A)(1) The board of building standards shall adopt rules establishing requirements for the design, installation, inspection of and design review procedure for building services piping.

(2) The board of building standards shall adopt rules establishing requirements for the design, installation, inspection of and design review procedure for nonflammable medical gas, medical oxygen, and medical vacuum piping systems.

(B) A municipal, township, or county building department certified under division (E) of section 3781.10 of the Revised Code shall enforce the rules the board adopts pursuant to division (A)(2) of this section if that building department requests and obtains special certification to enforce those rules.

(C) In a health district where no municipal, township, or county building department is specially certified under division (B) of this section, an employee of the health district shall enforce the rules adopted pursuant to division (A)(2) of this section if both of the following conditions are satisfied:

(1) The health district employee requests and obtains special certification by the board to enforce those rules.

(2) The health district notifies the superintendent of the division of ~~industrial compliance~~ labor in the department of commerce that the health district's specially certified employee shall enforce those rules.

(D) In a jurisdiction where enforcement authority as described in divisions (B) and (C) of this section does not exist, the superintendent of ~~the division of industrial compliance~~ labor shall enforce the rules the board adopts pursuant to division (A)(2) of this section.

Sec. 4104.44. All welding and brazing of metallic piping systems shall be performed in accordance with section IX of the boiler and pressure vessel code, published by the American society of mechanical engineers. The owner shall maintain, at the job site, the certified performance qualification records of all welders and brazers employed at the facility. The owner shall submit copies of all certified welding and brazing procedure specifications,

procedure qualification records, and performance qualification records for building services piping for review to the superintendent of ~~the division of industrial compliance~~ labor in the department of commerce in accordance with rules the superintendent adopts. The submission shall be accompanied by the fee the superintendent establishes.

Sec. 4104.48. (A) No person shall violate sections 4104.41 to 4104.48 of the Revised Code, fail to perform any duty lawfully enjoined in connection with those sections, or fail to comply with any order issued by the superintendent of ~~the division of industrial compliance~~ labor or any judgment or decree issued by any court in connection with the enforcement of sections 4104.41 to 4104.48 of the Revised Code.

(B) Every day during which a person violates sections 4104.41 to 4104.48 of the Revised Code, fails to perform any duty lawfully enjoined in connection with those sections, or fails to comply with any order issued by the superintendent of ~~the division of industrial compliance~~ or any judgment or decree issued by any court in connection with the enforcement of sections 4104.41 to 4104.48 of the Revised Code constitutes a separate offense.

Sec. 4105.01. As used in this chapter:

(A) "Elevator" means a hoisting and lowering apparatus equipped with a car, cage, or platform which moves on or between permanent rails or guides and serves two or more fixed landings in a building or structure to which section 3781.06 of the Revised Code applies. "Elevator" includes dumb-waiters other than hand-powered dumb-waiters, escalators, ~~manlifts~~ peoplelifts, moving walks, of the endless belt type, other lifting or lowering apparatus permanently installed on or between rails or guides, and all equipment, machinery, and construction related to any elevator; but does not include construction hoists and other similar temporary lifting or lowering apparatuses, ski lifts, traveling, portable amusement rides or devices that are not affixed to a permanent foundation, or nonportable amusement rides or devices that are affixed to a permanent foundation.

(B) "Passenger elevator" means an elevator that is designed to carry persons to its contract capacity.

(C) "Freight elevator" means an elevator normally used for carrying freight and on which only the operator and employees in the pursuit of their duties, by the permission of the employer, are allowed to ride.

(D) "Gravity elevator" means an elevator utilizing gravity to move.

(E) "General inspector" means a state inspector examined and hired to inspect elevators and lifting apparatus for that state.

(F) "Special inspector" means an inspector examined and commissioned by the superintendent of ~~the division of industrial compliance~~ labor to

inspect elevators and lifting apparatus in the state.

(G) "Inspector" means either a general or special inspector.

Sec. 4105.02. No person may act, either as a general inspector or as a special inspector, of elevators, unless ~~he~~ the person holds a certificate of competency from the division of ~~industrial compliance labor~~.

Application for examination as an inspector of elevators shall be in writing, accompanied by a fee to be established as provided in section 4105.17 of the Revised Code, and upon a blank to be furnished by the division, stating the school education of the applicant, a list of ~~his~~ the applicant's employers, ~~his~~ the applicant's period of employment, and the position held with each. An applicant shall also submit a letter from one or more of ~~his~~ the applicant's previous employers certifying as to ~~his~~ the applicant's character and experience.

Applications shall be rejected which contain any willful falsification or untruthful statements. An applicant, if the division considers ~~his~~ the applicant's history and experience sufficient, shall be examined by the superintendent of ~~the division of industrial compliance labor~~ by a written examination dealing with the construction, installation, operation, maintenance, and repair of elevators and their appurtenances, and the applicant shall be accepted or rejected on the merits of ~~his~~ the applicant's application and examination.

The superintendent shall issue a certificate of competency in the inspection of elevators to any applicant found competent upon examination. A rejected applicant shall be entitled, after the expiration of ninety days and upon payment of an examination fee to be established as provided in section 4105.17 of the Revised Code, to another examination. Should an applicant fail to pass the prescribed examination on second trial, ~~he~~ the applicant will not be permitted to be an applicant for another examination for a period of one year after the second examination.

Sec. 4105.03. The superintendent of ~~the division of industrial compliance labor~~, with the consent of the director of commerce, shall hire an assistant who has at least ten years of experience in the construction, installation, maintenance, and repair of elevators and their appurtenances.

The superintendent, with the consent of the director ~~of commerce~~, and in compliance with Chapter 124. of the Revised Code, may appoint and hire general inspectors of elevators from the holders of certificates of competency.

Sec. 4105.04. From the holders of certificates of competency in the inspection of elevators, any company that is authorized to insure elevators in the state, may designate persons to inspect elevators covered by such

company's policies, and the department of public safety of any city and the clerk of any village may designate persons to inspect elevators in such city or village. Such persons shall, upon the payment of a fee to be established as provided in section 4105.17 of the Revised Code, have issued to them annually by the division of ~~industrial compliance~~ labor, commissions to serve as special inspectors of elevators in the state.

Sec. 4105.05. A commission to serve as a special inspector may be suspended or revoked by the superintendent of ~~the division of industrial compliance~~ labor, for the incompetence or untrustworthiness of the holder thereof, or for the falsification of any matter or statement contained in ~~his~~ the holder's application or in a report of any inspection.

Sec. 4105.06. If a certificate or commission issued under sections 4105.02 and 4105.04 of the Revised Code is lost or destroyed a new one shall be issued in its place by the division of ~~industrial compliance~~ labor without another examination, upon the payment of a fee to be established as provided in section 4105.07 of the Revised Code.

Sec. 4105.09. The owner or user of any elevator shall register, with the division of ~~industrial compliance~~ labor, every elevator operated by ~~him~~ the owner or user, giving the type, capacity, and description, name of manufacturer, and purpose for which each is used. Such registration shall be made on a form to be furnished by the division.

Sec. 4105.11. The inspection of elevators shall be made by the inspectors authorized in sections 4105.03 and 4105.04 of the Revised Code, under the supervision of the superintendent of ~~the division of industrial compliance~~ labor, and the superintendent shall enforce this chapter and any rules adopted pursuant thereto.

Every inspector shall forward to the superintendent a full and complete report of each inspection made of any elevator and shall, on the day the inspection is completed, leave a copy of such report with the owner or operator of the elevator, or ~~his~~ the owner's or operator's agent or representative. Such report shall indicate the exact condition of the elevator and shall list any and all of the provisions of this chapter and any rules adopted pursuant thereto, with which the elevator does not comply. Before attempting to enforce, by any remedy, civil or criminal, the provisions with which the inspected elevator does not comply, the chief shall issue an adjudication order within the meaning of Chapter 119. of the Revised Code.

The approval of construction plans, or an application of specifications under section 4105.16 of the Revised Code is a license, and the failure to approve such plans or specifications by the chief within sixty days after they are filed is an adjudication order denying the issuance of a license.

Every adjudication order shall specify what appliances, site preparations, additions, repairs, or alterations to any elevators, plans, materials, assemblages, or procedures are necessary for the same to comply with this chapter, or any rules adopted pursuant thereto. Such adjudication order shall be issued pursuant to Chapter 119. of the Revised Code and shall be effective without prior hearing, within thirty days after the receipt of such order, the owner of the elevator specified therein may appeal to the board of building appeals under section 3781.19 of the Revised Code.

Notwithstanding the provisions of Chapter 119. of the Revised Code relating to adjudication hearings, a stenographic or mechanical record of the testimony and other evidence submitted before the board of building appeals shall be taken at the expense of the agency. A party adversely affected by an order issued following such adjudication hearing may appeal to the court of common pleas of the county in which ~~he~~ the party is a resident or in which the elevator affected by such order is located. The court in such case shall not be confined to the record as certified to it by the agency, but any party may produce additional evidence and the court shall hear the matter upon such record and such additional evidence as is introduced by any party. The court shall not affirm the order of the agency unless the preponderance of the evidence before it supports the reasonableness and lawfulness of such order, and of any rules upon which the order of the agency is based in its application to the facts involved in the appeal.

Failure to comply with the requirements of any order issued pursuant to this section or the continued operation of any elevator after it has been sealed pursuant to section 4105.21 of the Revised Code is hereby declared a public nuisance.

Sec. 4105.12. (A) The superintendent of ~~the division of industrial compliance~~ labor shall adopt, amend, and repeal rules exclusively for the issuance, renewal, suspension, and revocation of certificates of competency and certificates of operation, for the conduct of hearings related to these actions, and for the inspection of elevators.

(B) Notwithstanding division (A) of this section, the superintendent shall not adopt rules relating to construction, maintenance, and repair of elevators.

Sec. 4105.13. Every elevator shall be constructed, equipped, maintained, and operated, with respect to the supporting members, elevator car, shaftways, guides, cables, doors, and gates, safety stops and mechanism, electrical apparatus and wiring, mechanical apparatus, counterweights, and all other appurtenances, in accordance with state laws and rules as are authorized in respect thereto. Where reasonable safety is obtained without

complying to the literal requirements of such rules as in cases of practical difficulty or unnecessary hardship, the literal requirements of such rules shall not be required. The superintendent of ~~the division of industrial compliance~~ labor may permit the installation of vertical wheelchair lifts in public buildings to provide for handicapped accessibility where such lifts do not meet the literal requirements of the rules adopted by the board of building standards pursuant to section 4105.011 of the Revised Code, provided that reasonable safety may be obtained.

Sec. 4105.15. No certificate of operation for any elevator shall be issued by the director of commerce until such elevator has been inspected as required by this chapter. Certificates of operation shall be renewed by the owner or user of the elevator in accordance with rules adopted by the superintendent of ~~the division of industrial compliance~~ labor pursuant to section 4105.12 of the Revised Code.

Sec. 4105.16. Before any new installation of an elevator of permanent nature is erected or before any existing elevator is removed to and installed in a different location, an application of specifications in duplicate shall be submitted to the division of ~~industrial compliance~~ labor giving such information concerning the construction, installation, and operation of said elevator as the division may require on forms to be furnished by the division, together with complete construction plans in duplicate. In all cases where any changes or repairs are made which alter its construction or classification, grade or rated lifting capacity, except when made pursuant to a report of an inspector, an application of specifications in duplicate shall be submitted to the division, containing such information, or approval, except in those municipal corporations which maintain their own elevator inspection departments, in which event such specifications shall be submitted to the elevator department of the municipal corporation for its approval, and if approved, a permit for the erection or repair of such elevator shall be issued by the municipal corporation. Upon approval of such application and construction plans, the superintendent of ~~industrial compliance~~ labor shall issue a permit for the erection or repair of such elevator. No new elevator shall be operated until completion in accordance with the approved plans and specifications, unless a temporary permit is granted by the division.

The final inspection, before operation, of a permanent, new or repaired elevator shall be made by a general inspector or a special inspector designated by the superintendent.

Sec. 4105.17. (A) The fee for each inspection, or attempted inspection that, due to no fault of a general inspector or the division of ~~industrial~~

~~compliance labor~~, is not successfully completed, by a general inspector before the operation of a permanent new elevator prior to the issuance of a certificate of operation, before operation of an elevator being put back into service after a repair or after an adjudication under section 4105.11 of the Revised Code, or as a result of the operation of section 4105.08 of the Revised Code and is an elevator required to be inspected under this chapter is one hundred twenty dollars plus ten dollars for each floor where the elevator stops. The superintendent of ~~industrial compliance labor~~ may assess an additional fee of one hundred ~~twenty-five~~ twenty dollars plus ~~five~~ ten dollars for each floor where an elevator stops for the reinspection of an elevator when a previous attempt to inspect that elevator has been unsuccessful through no fault of a general inspector or the division of ~~industrial compliance labor~~.

(B) The fee for each inspection, or attempted inspection, that due to no fault of the general inspector or the division of ~~industrial compliance~~, is not successfully completed by a general inspector before operation of a permanent new escalator or moving walk prior to the issuance of a certificate of operation, before operation of an escalator or moving walk being put back in service after a repair, or as a result of the operation of section 4105.08 of the Revised Code is three hundred dollars. The superintendent ~~of the division of industrial compliance~~ may assess an additional fee of one hundred fifty dollars for the reinspection of an escalator or moving walk when a previous attempt to inspect that escalator or moving walk has been unsuccessful through no fault of the general inspector or the division of ~~industrial compliance~~.

(C) The fee for issuing or renewing a certificate of operation under section 4105.15 of the Revised Code for an elevator that is inspected every six months in accordance with division (A) of section 4105.10 of the Revised Code is two hundred twenty dollars plus ~~ten~~ twelve dollars for each floor where the elevator stops, except where the elevator has been inspected by a special inspector in accordance with section 4105.07 of the Revised Code.

(D) The fee for issuing or renewing a certificate of operation under section 4105.05 of the Revised Code for an elevator that is inspected every twelve months in accordance with division (A) of section 4105.10 of the Revised Code is fifty-five dollars plus ten dollars for each floor where the elevator stops, except where the elevator has been inspected by a special inspector in accordance with section 4105.07 of the Revised Code.

(E) The fee for issuing or renewing a certificate of operation under section 4105.15 of the Revised Code for an escalator or moving walk is

three hundred dollars, except where the escalator or moving walk has been inspected by a special inspector in accordance section 4105.07 of the Revised Code.

(F) All other fees to be charged for any examination given or other service performed by the division of ~~industrial compliance~~ pursuant to this chapter shall be prescribed by the director of commerce. The fees shall be reasonably related to the costs of such examination or other service.

(G) The director of commerce, subject to the approval of the controlling board, may establish fees in excess of the fees provided in divisions (A), (B), (C), (D), and (E) of this section. Any moneys collected under this section shall be paid into the state treasury to the credit of the ~~industrial compliance~~ labor operating fund created in section 121.084 of the Revised Code.

(H) Any person who fails to pay an inspection fee required for any inspection conducted by the division pursuant to this chapter within forty-five days after the inspection is conducted shall pay a late payment fee equal to twenty-five per cent of the inspection fee.

(I) In addition to the fees assessed in divisions (A), (B), (C), (D), and (E) of this section, the board of building standards shall assess a fee of three dollars and twenty-five cents for each certificate of operation or renewal thereof issued under divisions (A), (B), (C), (D), or (E) of this section and for each permit issued under section 4105.16 of the Revised Code. The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, specifying the manner by which the superintendent of ~~industrial compliance~~ shall collect and remit to the board the fees assessed under this division and requiring that remittance of the fees be made at least quarterly.

(J) For purposes of this section:

(1) "Escalator" means a power driven, inclined, continuous stairway used for raising or lowering passengers.

(2) "Moving walk" means a passenger carrying device on which passengers stand or walk, with a passenger carrying surface that is uninterrupted and remains parallel to its direction of motion.

Sec. 4105.191. Any person owning or operating any elevator subject to this chapter shall file a written report with the superintendent of ~~the division of industrial compliance~~ labor within seventy-two hours after the occurrence of any accident involving such elevator which results in death or bodily injury to any person.

Sec. 4105.20. No person shall violate any law relative to the operation, construction, maintenance, and repair of elevators. All fines collected for violation of this section shall be forwarded to the superintendent of ~~the~~

~~division of industrial compliance labor~~, who shall pay them into the state treasury to the credit of the ~~industrial compliance labor~~ operating fund created in section 121.084 of the Revised Code.

Sec. 4105.21. The superintendent of ~~the division of industrial compliance labor~~ shall enforce this chapter. If the superintendent or a general inspector of elevators finds that an elevator or a part thereof does not afford reasonable safety as required by section 4105.13 of the Revised Code, the superintendent or the general inspector may seal such elevator and post a notice thereon prohibiting further use of the elevator until the changes or alterations set forth in the notice have been made to the satisfaction of the superintendent or the inspector. The notice shall contain a statement that operators or passengers are subject to injury by its continued use, a description of the alteration or other change necessary to be made in order to secure safety of operation, date of such notice, name and signature of the superintendent or inspector issuing the notice.

Sec. 4112.01. (A) As used in this chapter:

(1) "Person" includes one or more individuals, partnerships, associations, organizations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, and other organized groups of persons. "Person" also includes, but is not limited to, any owner, lessor, assignor, builder, manager, broker, salesperson, appraiser, agent, employee, lending institution, and the state and all political subdivisions, authorities, agencies, boards, and commissions of the state.

(2) "Employer" includes the state, any political subdivision of the state, any person employing four or more persons within the state, and any person acting directly or indirectly in the interest of an employer.

(3) "Employee" means an individual employed by any employer but does not include any individual employed in the domestic service of any person.

(4) "Labor organization" includes any organization that exists, in whole or in part, for the purpose of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or other mutual aid or protection in relation to employment.

(5) "Employment agency" includes any person regularly undertaking, with or without compensation, to procure opportunities to work or to procure, recruit, refer, or place employees.

(6) "Commission" means the Ohio civil rights commission created by section 4112.03 of the Revised Code.

(7) "Discriminate" includes segregate or separate.

(8) "Unlawful discriminatory practice" means any act prohibited by

section 4112.02, 4112.021, or 4112.022 of the Revised Code.

(9) "Place of public accommodation" means any inn, restaurant, eating house, barbershop, public conveyance by air, land, or water, theater, store, other place for the sale of merchandise, or any other place of public accommodation or amusement of which the accommodations, advantages, facilities, or privileges are available to the public.

(10) "Housing accommodations" includes any building or structure, or portion of a building or structure, that is used or occupied or is intended, arranged, or designed to be used or occupied as the home residence, dwelling, dwelling unit, or sleeping place of one or more individuals, groups, or families whether or not living independently of each other; and any vacant land offered for sale or lease. "Housing accommodations" also includes any housing accommodations held or offered for sale or rent by a real estate broker, salesperson, or agent, by any other person pursuant to authorization of the owner, by the owner, or by the owner's legal representative.

(11) "Restrictive covenant" means any specification limiting the transfer, rental, lease, or other use of any housing accommodations because of race, color, religion, sex, military status, familial status, national origin, disability, or ancestry, or any limitation based upon affiliation with or approval by any person, directly or indirectly, employing race, color, religion, sex, military status, familial status, national origin, disability, or ancestry as a condition of affiliation or approval.

(12) "Burial lot" means any lot for the burial of deceased persons within any public burial ground or cemetery, including, but not limited to, cemeteries owned and operated by municipal corporations, townships, or companies or associations incorporated for cemetery purposes.

(13) "Disability" means a physical or mental impairment that substantially limits one or more major life activities, including the functions of caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working; a record of a physical or mental impairment; or being regarded as having a physical or mental impairment.

(14) Except as otherwise provided in section 4112.021 of the Revised Code, "age" means at least forty years old.

(15) "Familial status" means either of the following:

(a) One or more individuals who are under eighteen years of age and who are domiciled with a parent or guardian having legal custody of the individual or domiciled, with the written permission of the parent or guardian having legal custody, with a designee of the parent or guardian;

(b) Any person who is pregnant or in the process of securing legal

custody of any individual who is under eighteen years of age.

(16)(a) Except as provided in division (A)(16)(b) of this section, "physical or mental impairment" includes any of the following:

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine;

(ii) Any mental or psychological disorder, including, but not limited to, mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;

(iii) Diseases and conditions, including, but not limited to, orthopedic, visual, speech, and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, human immunodeficiency virus infection, mental retardation, emotional illness, drug addiction, and alcoholism.

(b) "Physical or mental impairment" does not include any of the following:

(i) Homosexuality and bisexuality;

(ii) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(iii) Compulsive gambling, kleptomania, or pyromania;

(iv) Psychoactive substance use disorders resulting from the current illegal use of a controlled substance or the current use of alcoholic beverages.

(17) "Dwelling unit" means a single unit of residence for a family of one or more persons.

(18) "Common use areas" means rooms, spaces, or elements inside or outside a building that are made available for the use of residents of the building or their guests, and includes, but is not limited to, hallways, lounges, lobbies, laundry rooms, refuse rooms, mail rooms, recreational areas, and passageways among and between buildings.

(19) "Public use areas" means interior or exterior rooms or spaces of a privately or publicly owned building that are made available to the general public.

(20) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(21) "Disabled tenant" means a tenant or prospective tenant who is a person with a disability.

(22) "Military status" means a person's status in "service in the uniformed services" as defined in section 5923.05 of the Revised Code.

(23) "Aggrieved person" includes both of the following:

(a) Any person who claims to have been injured by any unlawful discriminatory practice described in division (H) of section 4112.02 of the Revised Code:

(b) Any person who believes that the person will be injured by, any unlawful discriminatory practice described in division (H) of section 4112.02 of the Revised Code that is about to occur.

(B) For the purposes of divisions (A) to (F) of section 4112.02 of the Revised Code, the terms "because of sex" and "on the basis of sex" include, but are not limited to, because of or on the basis of pregnancy, any illness arising out of and occurring during the course of a pregnancy, childbirth, or related medical conditions. Women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in division (B) of section 4111.17 of the Revised Code shall be interpreted to permit otherwise. This division shall not be construed to require an employer to pay for health insurance benefits for abortion, except where the life of the mother would be endangered if the fetus were carried to term or except where medical complications have arisen from the abortion, provided that nothing in this division precludes an employer from providing abortion benefits or otherwise affects bargaining agreements in regard to abortion.

Sec. 4112.04. (A) The commission shall do all of the following:

(1) Establish and maintain a principal office in the city of Columbus and any other offices within the state that it considers necessary;

(2) Appoint an executive director who shall serve at the pleasure of the commission and be its principal administrative officer. The executive director shall be paid a salary fixed pursuant to Chapter 124. of the Revised Code.

(3) Appoint hearing examiners and other employees and agents who it considers necessary and prescribe their duties subject to Chapter 124. of the Revised Code;

(4) Adopt, promulgate, amend, and rescind rules to effectuate the provisions of this chapter and the policies and practice of the commission in connection with this chapter;

(5) Formulate policies to effectuate the purposes of this chapter and make recommendations to agencies and officers of the state or political

subdivisions to effectuate the policies;

(6) Receive, investigate, and pass upon written charges made under oath of unlawful discriminatory practices;

(7) Make periodic surveys of the existence and effect of discrimination because of race, color, religion, sex, military status, familial status, national origin, disability, age, or ancestry on the enjoyment of civil rights by persons within the state;

(8) Report, from time to time, but not less than once a year, to the general assembly and the governor, describing in detail the investigations, proceedings, and hearings it has conducted and their outcome, the decisions it has rendered, and the other work performed by it, which report shall include a copy of any surveys prepared pursuant to division (A)(7) of this section and shall include the recommendations of the commission as to legislative or other remedial action;

(9) Prepare a comprehensive educational program, in cooperation with the department of education, for the students of the public schools of this state and for all other residents of this state that is designed to eliminate prejudice on the basis of race, color, religion, sex, military status, familial status, national origin, disability, age, or ancestry in this state, to further good will among those groups, and to emphasize the origin of prejudice against those groups, its harmful effects, and its incompatibility with American principles of equality and fair play;

(10) Receive progress reports from agencies, instrumentalities, institutions, boards, commissions, and other entities of this state or any of its political subdivisions and their agencies, instrumentalities, institutions, boards, commissions, and other entities regarding affirmative action programs for the employment of persons against whom discrimination is prohibited by this chapter, or regarding any affirmative housing accommodations programs developed to eliminate or reduce an imbalance of race, color, religion, sex, military status, familial status, national origin, disability, or ancestry. All agencies, instrumentalities, institutions, boards, commissions, and other entities of this state or its political subdivisions, and all political subdivisions, that have undertaken affirmative action programs pursuant to a conciliation agreement with the commission, an executive order of the governor, any federal statute or rule, or an executive order of the president of the United States shall file progress reports with the commission annually on or before the first day of November. The commission shall analyze and evaluate the progress reports and report its findings annually to the general assembly on or before the thirtieth day of January of the year immediately following the receipt of the reports.

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

(1) Meet and function at any place within the state;

(2) Initiate and undertake on its own motion investigations of problems of employment or housing accommodations discrimination;

(3) Hold hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath, require the production for examination of any books and papers relating to any matter under investigation or in question before the commission, and make rules as to the issuance of subpoenas by individual commissioners.

(a) In conducting a hearing or investigation, the commission shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy the premises, records, documents, and other evidence or possible sources of evidence and take and record the testimony or statements of the individuals as reasonably necessary for the furtherance of the hearing or investigation. In investigations, the commission shall comply with the fourth amendment to the United States Constitution relating to unreasonable searches and seizures. The commission or a member of the commission may issue subpoenas to compel access to or the production of premises, records, documents, and other evidence or possible sources of evidence or the appearance of individuals, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in a court of common pleas.

(b) Upon written application by a ~~respondent party~~ party to a hearing under division (B) of section 4112.05 of the Revised Code, the commission shall issue subpoenas in its name to the same extent and subject to the same limitations as subpoenas issued by the commission. Subpoenas issued at the request of a ~~respondent party~~ shall show on their face the name and address of the ~~respondent party~~ and shall state that they were issued at the ~~respondent's party's~~ request.

(c) Witnesses summoned by subpoena of the commission are entitled to the same witness and mileage fees as are witnesses in proceedings in a court of common pleas.

(d) Within five days after service of a subpoena upon any person, the person may petition the commission to revoke or modify the subpoena. The commission shall grant the petition if it finds that the subpoena requires an appearance or attendance at an unreasonable time or place, that it requires production of evidence that does not relate to any matter before the commission, that it does not describe with sufficient particularity the

evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(e) In case of contumacy or refusal to obey a subpoena, the commission or person at whose request it was issued may petition for its enforcement in the court of common pleas in the county in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(4) Create local or statewide advisory agencies and conciliation councils to aid in effectuating the purposes of this chapter. The commission may itself, or it may empower these agencies and councils to, do either or both of the following:

(a) Study the problems of discrimination in all or specific fields of human relationships when based on race, color, religion, sex, military status, familial status, national origin, disability, age, or ancestry;

(b) Foster through community effort, or otherwise, good will among the groups and elements of the population of the state.

The agencies and councils may make recommendations to the commission for the development of policies and procedures in general. They shall be composed of representative citizens who shall serve without pay, except that reimbursement for actual and necessary traveling expenses shall be made to citizens who serve on a statewide agency or council.

(5) Issue any publications and the results of investigations and research that in its judgment will tend to promote good will and minimize or eliminate discrimination because of race, color, religion, sex, military status, familial status, national origin, disability, age, or ancestry.

Sec. 4112.05. (A) The commission, as provided in this section, shall prevent any person from engaging in unlawful discriminatory practices, provided that, before instituting the formal hearing authorized by division (B) of this section, it shall attempt, by informal methods of conference, conciliation, and persuasion, to induce compliance with this chapter.

(B)(1) Any person may file a charge with the commission alleging that another person has engaged or is engaging in an unlawful discriminatory practice. In the case of a charge alleging an unlawful discriminatory practice described in division (A), (B), (C), (D), (E), (F), (G), (I), or (J) of section 4112.02 or in section 4112.021 or 4112.022 of the Revised Code, the charge shall be in writing and under oath and shall be filed with the commission within six months after the alleged unlawful discriminatory practice was committed. In the case of a charge alleging an unlawful discriminatory practice described in division (H) of section 4112.02 of the Revised Code, the charge shall be in writing and under oath and shall be filed with the commission within one year after the alleged unlawful discriminatory

practice was committed.

(2) Upon receiving a charge, the commission may initiate a preliminary investigation to determine whether it is probable that an unlawful discriminatory practice has been or is being engaged in. The commission also may conduct, upon its own initiative and independent of the filing of any charges, a preliminary investigation relating to any of the unlawful discriminatory practices described in division (A), (B), (C), (D), (E), (F), (I), or (J) of section 4112.02 or in section 4112.021 or 4112.022 of the Revised Code. Prior to a notification of a complainant under division (B)(4) of this section or prior to the commencement of informal methods of conference, conciliation, and persuasion under that division, the members of the commission and the officers and employees of the commission shall not make public in any manner and shall retain as confidential all information that was obtained as a result of or that otherwise pertains to a preliminary investigation other than one described in division (B)(3) of this section.

(3)(a) Unless it is impracticable to do so and subject to its authority under division (B)(3)(d) of this section, the commission shall complete a preliminary investigation of a charge filed pursuant to division (B)(1) of this section that alleges an unlawful discriminatory practice described in division (H) of section 4112.02 of the Revised Code, and shall take one of the following actions, within one hundred days after the filing of the charge:

(i) Notify the complainant and the respondent that it is not probable that an unlawful discriminatory practice described in division (H) of section 4112.02 of the Revised Code has been or is being engaged in and that the commission will not issue a complaint in the matter;

(ii) Initiate a complaint and schedule it for informal methods of conference, conciliation, and persuasion;

(iii) Initiate a complaint and refer it to the attorney general with a recommendation to seek a temporary or permanent injunction or a temporary restraining order. If this action is taken, the attorney general shall apply, as expeditiously as possible after receipt of the complaint, to the court of common pleas of the county in which the unlawful discriminatory practice allegedly occurred for the appropriate injunction or order, and the court shall hear and determine the application as expeditiously as possible.

(b) If it is not practicable to comply with the requirements of division (B)(3)(a) of this section within the one-hundred-day period described in that division, the commission shall notify the complainant and the respondent in writing of the reasons for the noncompliance.

(c) Prior to the issuance of a complaint under division (B)(3)(a)(ii) or (iii) of this section or prior to a notification of the complainant and the

respondent under division (B)(3)(a)(i) of this section, the members of the commission and the officers and employees of the commission shall not make public in any manner and shall retain as confidential all information that was obtained as a result of or that otherwise pertains to a preliminary investigation of a charge filed pursuant to division (B)(1) of this section that alleges an unlawful discriminatory practice described in division (H) of section 4112.05 of the Revised Code.

(d) Notwithstanding the types of action described in divisions (B)(3)(a)(ii) and (iii) of this section, prior to the issuance of a complaint or the referral of a complaint to the attorney general and prior to endeavoring to eliminate an unlawful discriminatory practice described in division (H) of section 4112.02 of the Revised Code by informal methods of conference, conciliation, and persuasion, the commission may seek a temporary or permanent injunction or a temporary restraining order in the court of common pleas of the county in which the unlawful discriminatory practice allegedly occurred.

(4) If the commission determines after a preliminary investigation other than one described in division (B)(3) of this section that it is not probable that an unlawful discriminatory practice has been or is being engaged in, it shall notify any complainant under division (B)(1) of this section that it has so determined and that it will not issue a complaint in the matter. If the commission determines after a preliminary investigation other than the one described in division (B)(3) of this section that it is probable that an unlawful discriminatory practice has been or is being engaged in, it shall endeavor to eliminate the practice by informal methods of conference, conciliation, and persuasion.

(5) Nothing said or done during informal methods of conference, conciliation, and persuasion under this section shall be disclosed by any member of the commission or its staff or be used as evidence in any subsequent hearing or other proceeding. If, after a preliminary investigation and the use of informal methods of conference, conciliation, and persuasion under this section, the commission is satisfied that any unlawful discriminatory practice will be eliminated, it may treat the charge involved as being conciliated and enter that disposition on the records of the commission. If the commission fails to effect the elimination of an unlawful discriminatory practice by informal methods of conference, conciliation, and persuasion under this section and to obtain voluntary compliance with this chapter, the commission shall issue and cause to be served upon any person, including the respondent against whom a complainant has filed a charge pursuant to division (B)(1) of this section, a complaint stating the charges

involved and containing a notice of an opportunity for a hearing before the commission, a member of the commission, or a hearing examiner at a place that is stated in the notice and that is located within the county in which the alleged unlawful discriminatory practice has occurred or is occurring or in which the respondent resides or transacts business. The hearing shall be held not less than thirty days after the service of the complaint upon the complainant, the aggrieved persons other than the complainant on whose behalf the complaint is issued, and the respondent, unless the complainant, an aggrieved person, or the respondent elects to proceed under division (A)(2) of section 4112.051 of the Revised Code when that division is applicable. If a complaint pertains to an alleged unlawful discriminatory practice described in division (H) of section 4112.02 of the Revised Code, the complaint shall notify the complainant, an aggrieved person, and the respondent of the right of the complainant, an aggrieved person, or the respondent to elect to proceed with the administrative hearing process under this section or to proceed under division (A)(2) of section 4112.051 of the Revised Code.

(6) The attorney general shall represent the commission at any hearing held pursuant to division (B)(5) of this section and shall present the evidence in support of the complaint.

(7) Any complaint issued pursuant to division (B)(5) of this section after the filing of a charge under division (B)(1) of this section shall be so issued within one year after the complainant filed the charge with respect to an alleged unlawful discriminatory practice.

(C) Any complaint issued pursuant to division (B) of this section may be amended by the commission, a member of the commission, or the hearing examiner conducting a hearing under division (B) of this section, at any time prior to or during the hearing. The respondent has the right to file an answer or an amended answer to the original and amended complaints and to appear at the hearing in person, by attorney, or otherwise to examine and cross-examine witnesses.

(D) The complainant shall be a party to a hearing under division (B) of this section, and any person who is an indispensable party to a complete determination or settlement of a question involved in the hearing shall be joined. Any aggrieved person who has or claims an interest in the subject of the hearing and in obtaining or preventing relief against the unlawful discriminatory practices complained of may shall be permitted, ~~in the discretion of the person or persons conducting the hearing,~~ to appear only for the presentation of oral or written arguments, to present evidence, perform direct and cross-examination, and be represented by counsel. The

commission shall adopt rules, in accordance with Chapter 119. of the Revised Code governing the authority granted under this division.

(E) In any hearing under division (B) of this section, the commission, a member of the commission, or the hearing examiner shall not be bound by the Rules of Evidence but, in ascertaining the practices followed by the respondent, shall take into account all reliable, probative, and substantial statistical or other evidence produced at the hearing that may tend to prove the existence of a predetermined pattern of employment or membership, provided that nothing contained in this section shall be construed to authorize or require any person to observe the proportion that persons of any race, color, religion, sex, military status, familial status, national origin, disability, age, or ancestry bear to the total population or in accordance with any criterion other than the individual qualifications of the applicant.

(F) The testimony taken at a hearing under division (B) of this section shall be under oath and shall be reduced to writing and filed with the commission. Thereafter, in its discretion, the commission, upon the service of a notice upon the complainant and the respondent that indicates an opportunity to be present, may take further testimony or hear argument.

(G)(1) If, upon all reliable, probative, and substantial evidence presented at a hearing under division (B) of this section, the commission determines that the respondent has engaged in, or is engaging in, any unlawful discriminatory practice, whether against the complainant or others, the commission shall state its findings of fact and conclusions of law and shall issue and, subject to the provisions of Chapter 119. of the Revised Code, cause to be served on the respondent an order requiring the respondent to cease and desist from the unlawful discriminatory practice, requiring the respondent to take any further affirmative or other action that will effectuate the purposes of this chapter, including, but not limited to, hiring, reinstatement, or upgrading of employees with or without back pay, or admission or restoration to union membership, and requiring the respondent to report to the commission the manner of compliance. If the commission directs payment of back pay, it shall make allowance for interim earnings. If it finds a violation of division (H) of section 4112.02 of the Revised Code, the commission additionally shall require the respondent to pay actual damages and reasonable attorney's fees, and may award to the complainant punitive damages as follows:

(a) If division (G)(1)(b) or (c) of this section does not apply, punitive damages in an amount not to exceed ten thousand dollars;

(b) If division (G)(1)(c) of this section does not apply and if the respondent has been determined by a final order of the commission or by a

final judgment of a court to have committed one violation of division (H) of section 4112.02 of the Revised Code during the five-year period immediately preceding the date on which a complaint was issued pursuant to division (B) of this section, punitive damages in an amount not to exceed twenty-five thousand dollars;

(c) If the respondent has been determined by a final order of the commission or by a final judgment of a court to have committed two or more violations of division (H) of section 4112.02 of the Revised Code during the seven-year period immediately preceding the date on which a complaint was issued pursuant to division (B) of this section, punitive damages in an amount not to exceed fifty thousand dollars.

(2) Upon the submission of reports of compliance, the commission may issue a declaratory order stating that the respondent has ceased to engage in particular unlawful discriminatory practices.

(H) If the commission finds that no probable cause exists for crediting charges of unlawful discriminatory practices or if, upon all the evidence presented at a hearing under division (B) of this section on a charge, the commission finds that a respondent has not engaged in any unlawful discriminatory practice against the complainant or others, it shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the complaint as to the respondent. A copy of the order shall be delivered in all cases to the attorney general and any other public officers whom the commission considers proper.

(I) Until the time period for appeal set forth in division (H) of section 4112.06 of the Revised Code expires, the commission, subject to the provisions of Chapter 119. of the Revised Code, at any time, upon reasonable notice, and in the manner it considers proper, may modify or set aside, in whole or in part, any finding or order made by it under this section.

Sec. 4112.051. (A)(1) Aggrieved persons may enforce the rights granted by division (H) of section 4112.02 of the Revised Code by filing a civil action in the court of common pleas of the county in which the alleged unlawful discriminatory practice occurred within one year after it allegedly occurred. Upon application by an aggrieved person, upon a proper showing, and under circumstances that it considers just, a court of common pleas may appoint an attorney for the aggrieved person and authorize the commencement of a civil action under this division without the payment of costs.

Each party to a civil action under this division has the right to a jury trial of the action. To assert the right, a party shall demand a jury trial in the manner prescribed in the Rules of Civil Procedure. If a party demands a jury

trial in that manner, the civil action shall be tried to a jury.

(2)(a) If a complaint is issued by the commission under division (B)(5) of section 4112.05 of the Revised Code for one or more alleged unlawful discriminatory practices described in division (H) of section 4112.02 of the Revised Code, the complainant, any aggrieved person on whose behalf the complaint is issued, or the respondent may elect, following receipt of the relevant notice described in division (B)(5) of section 4112.05 of the Revised Code, to proceed with the administrative hearing process under that section or to have the alleged unlawful discriminatory practices covered by the complaint addressed in a civil action commenced in accordance with divisions (A)(1) and (2)(b) of this section. An election to have the alleged unlawful discriminatory practices so addressed shall be made in a writing that is sent by certified mail, return receipt requested, to the commission, to the civil rights section of the office of the attorney general, and to the other parties to the pending administrative process within thirty days after the electing complainant, aggrieved person, or respondent received the relevant notice described in division (B)(5) of section 4112.05 of the Revised Code.

(b) Upon receipt of a timely mailed election to have the alleged unlawful discriminatory practices addressed in a civil action, the commission shall authorize the office of the attorney general to commence and maintain the civil action in the court of common pleas of the county in which the alleged unlawful discriminatory practices occurred. Notwithstanding the period of limitations specified in division (A)(1) of this section, the office of the attorney general shall commence the civil action within thirty days after the receipt of the commission's authorization to commence the civil action.

(c) Upon commencement of the civil action in accordance with division (A)(2)(b) of this section, the commission shall prepare an order dismissing the complaint in the pending administrative matter and serve a copy of the order upon the complainant, each aggrieved person on whose behalf the complaint was issued, and the respondent.

(d) If an election to have the alleged unlawful discriminatory practices addressed in a civil action is not filed in accordance with division (A)(2)(a) of this section, the commission shall continue with the administrative hearing process described in section 4112.05 of the Revised Code.

(e) With respect to the issues to be determined in a civil action commenced in accordance with division (A)(2)(b) of this section, any aggrieved person may intervene as a matter of right in that civil action.

(B) If the court or the jury in a civil action under this section finds that a violation of division (H) of section 4112.02 of the Revised Code is about to

occur, the court may order any affirmative action it considers appropriate, including a permanent or ~~temporary~~ temporary injunction or temporary restraining order.

(C) Any sale, encumbrance, or rental consummated prior to the issuance of any court order under the authority of this section and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the existence of a charge under division (H) of section 4112.02 of the Revised Code or a civil action under this section is not affected by the court order.

(D) If the court or the jury in a civil action under this section finds that a violation of division (H) of section 4112.02 of the Revised Code has occurred, the court shall award to the plaintiff or to the complainant or aggrieved person on whose behalf the office of the attorney general commenced or maintained the civil action, whichever is applicable, actual damages, reasonable attorney's fees, court costs incurred in the prosecution of the action, expert witness fees, and other litigation expenses, and may grant other relief that it considers appropriate, including a permanent or temporary injunction, a temporary restraining order, or other order and punitive damages.

(E) Any civil action brought under this section shall be heard and determined as expeditiously as possible.

(F) The court in a civil action under this section shall notify the commission of any finding pertaining to discriminatory housing practices within fifteen days after the entry of the finding.

Sec. 4113.11. (A) As specified in division (B) of this section and except as provided in divisions (C) and (F) of this section, all employers that employ ten or more employees shall adopt and maintain a cafeteria plan that allows the employer's employees to pay for health insurance coverage by a salary reduction arrangement as permitted under section 125 of the Internal Revenue Code.

(B) Employers shall comply with the requirements of division (A) of this section as follows:

(1) For employers that employ more than five hundred employees, by not later than January 1, 2011, or six months after the superintendent of insurance adopts rules as required by division (E) of this section, whichever is later;

(2) For employers that employ one hundred fifty to five hundred employees, by not later than July 1, 2011, or twelve months after the superintendent adopts rules as required by division (E) of this section, whichever is later;

(3) For employers that employ ten to one hundred forty-nine employees,

by not later than January 1, 2012, or eighteen months after the superintendent adopts rules as required by division (E) of this section, whichever is later.

(C) This section shall not apply to employers that, through other means than provided under this section, offer health insurance coverage, reimburse for health insurance coverage, or provide employees with opportunities to pay for health insurance with pre-tax dollars through other salary reduction arrangements.

(D) The health care coverage and quality council created under section 3923.90 of the Revised Code shall make recommendations to the superintendent for both of the following:

(1) Development of strategies to educate, assist, and conduct outreach to employers to simplify administrative processes with respect to creating and maintaining cafeteria plans, including, but not limited to, providing employers with model cafeteria plan documents and technical assistance on creating and maintaining cafeteria plans that conform with state and federal law;

(2) Development of strategies to educate, assist, and conduct outreach to employees with respect to finding, selecting, and purchasing a health insurance plan to be paid for through their employer's cafeteria plan under this section.

(E)(1) The superintendent shall adopt rules in accordance with Chapter 119. of the Revised Code to implement and enforce this section, including the strategies recommended by the council pursuant to division (D) of this section.

(2) Prior to adopting rules under this division, the superintendent shall consult any federal agency that has oversight of cafeteria plans and employee welfare benefit plans, including the internal revenue service and the United States department of labor, and receive written confirmation that the rules adopted will permit employers to establish cafeteria plans in accordance with federal law. The written confirmation shall include a determination that individual policies purchased pursuant to this section do not need to comply with the group market rules established by the "Health Insurance Portability and Accountability Act of 1996."

(F) The requirement provided in division (A) of this section does not apply if the superintendent does not receive written confirmation pursuant to division (E)(2) of this section that individual policies purchased pursuant to this section do not need to comply with the group market rules established by the "Health Insurance Portability and Accountability Act of 1996."

(G) Nothing in this section shall be construed as requiring an employer

to establish a cafeteria plan in a manner that would violate federal law, including the "Employee Retirement Income Security Act of 1974," the "Consolidated Omnibus Budget Reconciliation Act of 1985," or the "Health Insurance Portability and Accountability Act of 1996."

(H) As used in this section:

(1) "Cafeteria plan" has the same meaning as in section 125 of the Internal Revenue Code.

(2) "Employer" has the same meaning as in section 4113.51 of the Revised Code.

(3) "Employee" means an individual employed for consideration who works twenty-five or more hours per week or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment, except for a public employee employed by a township or municipal corporation. In that case, "employee" means an individual hired with the expectation that the employee will work more than one thousand five hundred hours in any year unless full-time employment is defined differently in an applicable collective bargaining agreement.

Sec. 4117.01. As used in this chapter:

(A) "Person," in addition to those included in division (C) of section 1.59 of the Revised Code, includes employee organizations, public employees, and public employers.

(B) "Public employer" means the state or any political subdivision of the state located entirely within the state, including, without limitation, any municipal corporation with a population of at least five thousand according to the most recent federal decennial census; county; township with a population of at least five thousand in the unincorporated area of the township according to the most recent federal decennial census; school district; governing authority of a community school established under Chapter 3314. of the Revised Code; state institution of higher learning; public or special district; state agency, authority, commission, or board; or other branch of public employment.

(C) "Public employee" means any person holding a position by appointment or employment in the service of a public employer, including any person working pursuant to a contract between a public employer and a private employer and over whom the national labor relations board has declined jurisdiction on the basis that the involved employees are employees of a public employer, except:

(1) Persons holding elective office;

(2) Employees of the general assembly and employees of any other legislative body of the public employer whose principal duties are directly

related to the legislative functions of the body;

(3) Employees on the staff of the governor or the chief executive of the public employer whose principal duties are directly related to the performance of the executive functions of the governor or the chief executive;

(4) Persons who are members of the Ohio organized militia, while training or performing duty under section 5919.29 or 5923.12 of the Revised Code;

(5) Employees of the state employment relations board, including those employees of the state employment relations board utilized by the state personnel board of review in the exercise of the powers and the performance of the duties and functions of the state personnel board of review;

(6) Confidential employees;

(7) Management level employees;

(8) Employees and officers of the courts, assistants to the attorney general, assistant prosecuting attorneys, and employees of the clerks of courts who perform a judicial function;

(9) Employees of a public official who act in a fiduciary capacity, appointed pursuant to section 124.11 of the Revised Code;

(10) Supervisors;

(11) Students whose primary purpose is educational training, including graduate assistants or associates, residents, interns, or other students working as part-time public employees less than fifty per cent of the normal year in the employee's bargaining unit;

(12) Employees of county boards of election;

(13) Seasonal and casual employees as determined by the state employment relations board;

(14) Part-time faculty members of an institution of higher education;

(15) ~~Employees of the state personnel board of review;~~

~~(16)~~ Participants in a work activity, developmental activity, or alternative work activity under sections 5107.40 to 5107.69 of the Revised Code who perform a service for a public employer that the public employer needs but is not performed by an employee of the public employer if the participant is not engaged in paid employment or subsidized employment pursuant to the activity;

~~(17)~~(16) Employees included in the career professional service of the department of transportation under section 5501.20 of the Revised Code;

~~(18)~~(17) Employees of community-based correctional facilities and district community-based correctional facilities created under sections 2301.51 to 2301.58 of the Revised Code who are not subject to a collective

bargaining agreement on June 1, 2005;

(18) Members and employees of the capitol square review and advisory board.

(D) "Employee organization" means any labor or bona fide organization in which public employees participate and that exists for the purpose, in whole or in part, of dealing with public employers concerning grievances, labor disputes, wages, hours, terms, and other conditions of employment.

(E) "Exclusive representative" means the employee organization certified or recognized as an exclusive representative under section 4117.05 of the Revised Code.

(F) "Supervisor" means any individual who has authority, in the interest of the public employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other public employees; to responsibly direct them; to adjust their grievances; or to effectively recommend such action, if the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment, provided that:

(1) Employees of school districts who are department chairpersons or consulting teachers shall not be deemed supervisors;

(2) With respect to members of a police or fire department, no person shall be deemed a supervisor except the chief of the department or those individuals who, in the absence of the chief, are authorized to exercise the authority and perform the duties of the chief of the department. Where prior to June 1, 1982, a public employer pursuant to a judicial decision, rendered in litigation to which the public employer was a party, has declined to engage in collective bargaining with members of a police or fire department on the basis that those members are supervisors, those members of a police or fire department do not have the rights specified in this chapter for the purposes of future collective bargaining. The state employment relations board shall decide all disputes concerning the application of division (F)(2) of this section.

(3) With respect to faculty members of a state institution of higher education, heads of departments or divisions are supervisors; however, no other faculty member or group of faculty members is a supervisor solely because the faculty member or group of faculty members participate in decisions with respect to courses, curriculum, personnel, or other matters of academic policy;

(4) No teacher as defined in section 3319.09 of the Revised Code shall be designated as a supervisor or a management level employee unless the teacher is employed under a contract governed by section 3319.01,

3319.011, or 3319.02 of the Revised Code and is assigned to a position for which a license deemed to be for administrators under state board rules is required pursuant to section 3319.22 of the Revised Code.

(G) "To bargain collectively" means to perform the mutual obligation of the public employer, by its representatives, and the representatives of its employees to negotiate in good faith at reasonable times and places with respect to wages, hours, terms, and other conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement, with the intention of reaching an agreement, or to resolve questions arising under the agreement. "To bargain collectively" includes executing a written contract incorporating the terms of any agreement reached. The obligation to bargain collectively does not mean that either party is compelled to agree to a proposal nor does it require the making of a concession.

(H) "Strike" means continuous concerted action in failing to report to duty; willful absence from one's position; or stoppage of work in whole from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and other conditions of employment. "Strike" does not include a stoppage of work by employees in good faith because of dangerous or unhealthful working conditions at the place of employment that are abnormal to the place of employment.

(I) "Unauthorized strike" includes, but is not limited to, concerted action during the term or extended term of a collective bargaining agreement or during the pendency of the settlement procedures set forth in section 4117.14 of the Revised Code in failing to report to duty; willful absence from one's position; stoppage of work; slowdown, or abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and other conditions of employment. "Unauthorized strike" includes any such action, absence, stoppage, slowdown, or abstinence when done partially or intermittently, whether during or after the expiration of the term or extended term of a collective bargaining agreement or during or after the pendency of the settlement procedures set forth in section 4117.14 of the Revised Code.

(J) "Professional employee" means any employee engaged in work that is predominantly intellectual, involving the consistent exercise of discretion and judgment in its performance and requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course in an institution of higher learning or a hospital, as distinguished

from a general academic education or from an apprenticeship; or an employee who has completed the courses of specialized intellectual instruction and is performing related work under the supervision of a professional person to become qualified as a professional employee.

(K) "Confidential employee" means any employee who works in the personnel offices of a public employer and deals with information to be used by the public employer in collective bargaining; or any employee who works in a close continuing relationship with public officers or representatives directly participating in collective bargaining on behalf of the employer.

(L) "Management level employee" means an individual who formulates policy on behalf of the public employer, who responsibly directs the implementation of policy, or who may reasonably be required on behalf of the public employer to assist in the preparation for the conduct of collective negotiations, administer collectively negotiated agreements, or have a major role in personnel administration. Assistant superintendents, principals, and assistant principals whose employment is governed by section 3319.02 of the Revised Code are management level employees. With respect to members of a faculty of a state institution of higher education, no person is a management level employee because of the person's involvement in the formulation or implementation of academic or institution policy.

(M) "Wages" means hourly rates of pay, salaries, or other forms of compensation for services rendered.

(N) "Member of a police department" means a person who is in the employ of a police department of a municipal corporation as a full-time regular police officer as the result of an appointment from a duly established civil service eligibility list or under section 737.15 or 737.16 of the Revised Code, a full-time deputy sheriff appointed under section 311.04 of the Revised Code, a township constable appointed under section 509.01 of the Revised Code, or a member of a township police district police department appointed under section 505.49 of the Revised Code.

(O) "Members of the state highway patrol" means highway patrol troopers and radio operators appointed under section 5503.01 of the Revised Code.

(P) "Member of a fire department" means a person who is in the employ of a fire department of a municipal corporation or a township as a fire cadet, full-time regular firefighter, or promoted rank as the result of an appointment from a duly established civil service eligibility list or under section 505.38, 709.012, or 737.22 of the Revised Code.

(Q) "Day" means calendar day.

Sec. 4117.02. (A) There is hereby created the state employment relations board, consisting of three members to be appointed by the governor with the advice and consent of the senate. Members shall be knowledgeable about labor relations or personnel practices. No more than two of the three members shall belong to the same political party. A member of the state employment relations board during the member's period of service shall hold no other public office or public or private employment and shall allow no other responsibilities to interfere or conflict with the member's duties as a full-time state employment relations board member. Of the initial appointments made to the state employment relations board, one shall be for a term ending October 6, 1984, one shall be for a term ending October 6, 1985, and one shall be for a term ending October 6, 1986. Thereafter, terms of office shall be for six years, each term ending on the same day of the same month of the year as did the term that it succeeds. Each member shall hold office from the date of the member's appointment until the end of the term for which the member is appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of the term. Any member shall continue in office subsequent to the expiration of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first. The governor may remove any member of the state employment relations board, upon notice and public hearing, for neglect of duty or malfeasance in office, but for no other cause.

(B)(1) The governor shall designate one member of the state employment relations board to serve as chairperson of the state employment relations board. The chairperson is the head of the state employment relations board and its chief executive officer.

(2) The chairperson shall exercise all administrative powers and duties conferred upon the state employment relations board under this chapter and shall do all of the following:

(a) ~~Except as provided in division (F)(2) of this section, employ~~ Employ, promote, supervise, and remove all employees of the state employment relations board, and establish, change, or abolish positions and assign or reassign the duties of those employees as the chairperson determines necessary to achieve the most efficient performance of the ~~board's~~ board's duties of the state employment relations board under this chapter;

(b) Determine the utilization by the state personnel board of review of employees of the state employment relations board as necessary for the state personnel board of review to exercise the powers and perform the duties of

the state personnel board of review.

(c) Maintain the office of the state employment relations board in Columbus and manage the office's daily operations, including securing offices, facilities, equipment, and supplies necessary to house the state employment relations board, employees of the state employment relations board, the state personnel board of review, and files and records under the board's control of the state employment relations board and under the control of the state personnel board of review;

~~(e)~~(d) Prepare and submit to the office of budget and management a budget for each biennium according to section 107.03 of the Revised Code, and include in the budget the costs of the state employment relations board and its staff and the board's costs of the state employment relations board in discharging any duty imposed by law upon the state employment relations board, the chairperson, or any of the board's employees or agents of the state employment relations board, and the costs of the state personnel board of review in discharging any duty imposed by law on the state personnel board of review or an agent of the state personnel board of review.

(C) The vacancy on the state employment relations board does not impair the right of the remaining members to exercise all the powers of the state employment relations board, and two members of the state employment relations board, at all times, constitute a quorum. The state employment relations board shall have an official seal of which courts shall take judicial notice.

(D) The state employment relations board shall make an annual report in writing to the governor and to the general assembly, stating in detail the work it has done.

(E) Compensation of the chairperson and members shall be in accordance with division (J) of section 124.15 of the Revised Code. The chairperson and the members are eligible for reappointment. In addition to such compensation, all members shall be reimbursed for their necessary expenses incurred in the performance of their work as members.

(F)(1) The chairperson, after consulting with the other state employment relations board members and receiving the consent of at least one other board member, shall appoint an executive director. The chairperson also shall appoint attorneys and ~~attorney trial examiners~~ shall appoint an assistant executive director who shall be an attorney admitted to practice law in this state and who shall serve as a liaison to the attorney general on legal matters before the state employment relations board.

(2) The state employment relations board shall appoint ~~mediators, arbitrators,~~ members of fact-finding panels, ~~and directors for local areas,~~ and

shall prescribe their job duties.

(G)(1) The executive director shall serve at the pleasure of the chairperson. The executive director, under the direction of the chairperson, shall do all of the following:

(a) Act as chief administrative officer for the state employment relations board;

(b) Ensure that all employees of the state employment relations board comply with the rules of the state employment relations board;

(c) Do all things necessary for the efficient and effective implementation of the duties of the state employment relations board.

(2) The duties of the executive director described in division (G)(1) of this section do not relieve the chairperson from final responsibility for the proper performance of the duties described in that division.

(H) The attorney general shall be the legal adviser of the state employment relations board and shall appear for and represent the state employment relations board and its agents in all legal proceedings. The state employment relations board may utilize regional, local, or other agencies, and utilize voluntary and uncompensated services as needed. The state employment relations board may contract with the federal mediation and conciliation service for the assistance of mediators, arbitrators, and other personnel the service makes available. The ~~board and the~~ chairperson, ~~respectively~~, shall appoint all employees on the basis of training, practical experience, education, and character, notwithstanding the requirements established by section 119.09 of the Revised Code. The ~~board~~ chairperson shall give special regard to the practical training and experience that employees have for the particular position involved. ~~All full-time employees of the board excepting the~~ The executive director, the head of the bureau of mediation assistant executive director, administrative law judges, employees holding a fiduciary or administrative relation to the state employment relations board as described in division (A)(9) of section 124.11 of the Revised Code, and the personal secretaries and assistants of the state employment relations board members are in the ~~classified~~ unclassified service. All other full-time employees of the state employment relations board are in the classified service. All employees of the state employment relations board shall be paid in accordance with Chapter 124. of the Revised Code.

(I) The ~~board~~ chairperson shall select and assign ~~examiners~~ administrative law judges and other agents whose functions are to conduct hearings with due regard to their impartiality, judicial temperament, and knowledge. If in any proceeding under this chapter, any party prior to five

days before the hearing thereto files with the state employment relations board a sworn statement charging that the ~~examiner~~ administrative law judge or other agent designated to conduct the hearing is biased or partial in the proceeding, the state employment relations board may disqualify the person and designate another ~~examiner~~ administrative law judge or agent to conduct the proceeding. At least ten days before any hearing, the state employment relations board shall notify all parties to a proceeding of the name of the ~~examiner~~ administrative law judge or agent designated to conduct the hearing.

(J) The principal office of the state employment relations board is in Columbus, but it may meet and exercise any or all of its powers at any other place within the state. The state employment relations board may, by one or more of its employees, or any agents or agencies it designates, conduct in any part of this state any proceeding, hearing, investigation, inquiry, or election necessary to the performance of its functions; provided, that no person so designated may later sit in determination of an appeal of the decision of that cause or matter.

(K) In addition to the powers and functions provided in other sections of this chapter, the state employment relations board shall do all of the following:

(1) Create a bureau of mediation within the state employment relations board, to perform the functions provided in section 4117.14 of the Revised Code. This bureau shall also establish, after consulting representatives of employee organizations and public employers, panels of qualified persons to be available to serve as members of fact-finding panels and arbitrators.

(2) Conduct studies of problems involved in representation and negotiation and make recommendations for legislation;

(3) Hold hearings pursuant to this chapter and, for the purpose of the hearings and inquiries, administer oaths and affirmations, examine witnesses and documents, take testimony and receive evidence, compel the attendance of witnesses and the production of documents by the issuance of subpoenas, and delegate these powers to any members of the state employment relations board or any ~~attorney trial examiner appointed~~ administrative law judge employed by the state employment relations board for the performance of its functions;

(4) Train representatives of employee organizations and public employers in the rules and techniques of collective bargaining procedures;

(5) Make studies and analyses of, and act as a clearinghouse of information relating to, conditions of employment of public employees throughout the state and request assistance, services, and data from any

public employee organization, public employer, or governmental unit. Public employee organizations, public employers, and governmental units shall provide such assistance, services, and data as will enable the state employment relations board to carry out its functions and powers.

(6) Make available to employee organizations, public employers, mediators, fact-finding panels, arbitrators, and joint study committees statistical data relating to wages, benefits, and employment practices in public and private employment applicable to various localities and occupations to assist them to resolve issues in negotiations;

(7) Notwithstanding section 119.13 of the Revised Code, establish standards of persons who practice before it;

(8) Adopt, amend, and rescind rules and procedures and exercise other powers appropriate to carry out this chapter. Before the adoption, amendment, or rescission of rules and procedures under this section, the state employment relations board shall do all of the following:

(a) Maintain a list of interested public employers and employee organizations and mail notice to such groups of any proposed rule or procedure, amendment thereto, or rescission thereof at least thirty days before any public hearing thereon;

(b) Mail a copy of each proposed rule or procedure, amendment thereto, or rescission thereof to any person who requests a copy within five days after receipt of the request therefor;

(c) Consult with appropriate statewide organizations representing public employers or employees who would be affected by the proposed rule or procedure.

Although the state employment relations board is expected to discharge these duties diligently, failure to mail any notice or copy, or to so consult with any person, is not jurisdictional and shall not be construed to invalidate any proceeding or action of the state employment relations board.

(L) In case of neglect or refusal to obey a subpoena issued to any person, the court of common pleas of the county in which the investigation or the public hearing occurs, upon application by the state employment relations board, may issue an order requiring the person to appear before the state employment relations board and give testimony about the matter under investigation. The court may punish a failure to obey the order as contempt.

(M) Any subpoena, notice of hearing, or other process or notice of the state employment relations board issued under this section may be served personally, by certified mail, or by leaving a copy at the principal office or personal residence of the respondent required to be served. A return, made and verified by the individual making the service and setting forth the

manner of service, is proof of service, and a return post office receipt, when certified mail is used, is proof of service. All process in any court to which application is made under this chapter may be served in the county wherein the persons required to be served reside or are found.

(N) All expenses of the state employment relations board, including all necessary traveling and subsistence expenses incurred by the members or employees of the state employment relations board under its orders, shall be paid pursuant to itemized vouchers approved by the chairperson of the state employment relations board, the executive director, or both, or such other person as the chairperson designates for that purpose.

(O) Whenever the state employment relations board determines that a substantial controversy exists with respect to the application or interpretation of this chapter and the matter is of public or great general interest, the state employment relations board shall certify its final order directly to the court of appeals having jurisdiction over the area in which the principal office of the public employer directly affected by the application or interpretation is located. The chairperson shall file with the clerk of the court a certified copy of the transcript of the proceedings before the state employment relations board pertaining to the final order. If upon hearing and consideration the court decides that the final order of the state employment relations board is unlawful or is not supported by substantial evidence on the record as a whole, the court shall reverse and vacate the final order or modify it and enter final judgment in accordance with the modification; otherwise, the court shall affirm the final order. The notice of the final order of the state employment relations board to the interested parties shall contain a certification by the chairperson of the state employment relations board that the final order is of public or great general interest and that a certified transcript of the record of the proceedings before the state employment relations board had been filed with the clerk of the court as an appeal to the court. For the purposes of this division, the state employment relations board has standing to bring its final order properly before the court of appeals.

(P) Except as otherwise specifically provided in this section, the state employment relations board is subject to Chapter 119. of the Revised Code, including the procedure for submission of proposed rules to the general assembly for legislative review under division (H) of section 119.03 of the Revised Code.

Sec. 4117.07. (A) When a petition is filed, in accordance with rules prescribed by the state employment relations board:

(1) By any employee or group of employees, or any individual or

employee organization acting in their behalf, alleging that at least thirty per cent of the employees in an appropriate unit wish to be represented for collective bargaining by an exclusive representative, or asserting that the designated exclusive representative is no longer the representative of the majority of employees in the unit, the board shall investigate the petition, and if it has reasonable cause to believe that a question of representation exists, provide for an appropriate hearing upon due notice to the parties;

(2) By the employer alleging that one or more employee organizations has presented to it a claim to be recognized as the exclusive representative in an appropriate unit, the board shall investigate the petition, and if it has reasonable cause to believe that a question of representation exists, provide for an appropriate hearing upon due notice to the parties.

If the board finds upon the record of a hearing that a question of representation exists, it shall direct an election and certify the results thereof. No one may vote in an election by ~~mail or~~ proxy. The board may also certify an employee organization as an exclusive representative if it determines that a free and untrammelled election cannot be conducted because of the employer's unfair labor practices and that at one time the employee organization had the support of the majority of the employees in the unit.

(B) Only the names of those employee organizations designated by more than ten per cent of the employees in the unit found to be appropriate may be placed on the ballot. Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation, in conformity with the rules of the board, for the purpose of a consent election.

(C) The board shall conduct representation elections by secret ballot cast, at the board's discretion, by mail or electronically or in person, and at times and places selected by the board subject to the following:

(1) The board shall give no less than ten days' notice of the time and place of an election;

(2) The board shall establish rules concerning the conduct of any election including, but not limited to, rules to guarantee the secrecy of the ballot;

(3) The board may not certify a representative unless the representative receives a majority of the valid ballots cast;

(4) Except as provided in this section, the board shall include on the ballot a choice of "no representative";

(5) In an election where none of the choices on the ballot receives a majority, the board shall conduct a runoff election. In that case, the ballot shall provide for a selection between the two choices or parties receiving the highest and the second highest number of ballots cast in the election.

(6) The board may not conduct an election under this section in any appropriate bargaining unit within which a board-conducted election was held in the preceding twelve-month period, nor during the term of any lawful collective bargaining agreement between a public employer and an exclusive representative.

Petitions for elections may be filed with the board no sooner than one hundred twenty days or later than ninety days before the expiration date of any collective bargaining agreement, or after the expiration date, until the public employer and exclusive representative enter into a new written agreement.

For the purposes of this section, extensions of agreements do not affect the expiration date of the original agreement.

Sec. 4117.12. (A) Whoever violates section 4117.11 of the Revised Code is guilty of an unfair labor practice remediable by the state employment relations board as specified in this section.

(B) When anyone files a charge with the board alleging that an unfair labor practice has been committed, the board or its designated agent shall investigate the charge. If the board has probable cause for believing that a violation has occurred, the board shall issue a complaint and shall conduct a hearing concerning the charge. The board shall cause the complaint to be served upon the charged party which shall contain a notice of the time at which the hearing on the complaint will be held either before the board, a board member, or ~~a hearing officer~~ an administrative law judge. The board may not issue a notice of hearing based upon any unfair labor practice occurring more than ninety days prior to the filing of the charge with the board, unless the person aggrieved thereby is prevented from filing the charge by reason of service in the armed forces, in which event the ninety-day period shall be computed from the day of ~~his~~ the person's discharge. If the board dismisses a complaint as frivolous, it shall assess costs to the complainant pursuant to its standards governing such matters, and for that purpose, the board shall adopt a rule defining the standards by which the board will declare a complaint to be frivolous and the costs that will be assessed accordingly.

(1) The board, board member, or ~~hearing officer~~ administrative law judge shall hold a hearing on the charge within ten days after service of the complaint. The board may amend a complaint, upon receipt of a notice from the charging party, at any time prior to the close of the hearing, and the charged party shall within ten days from receipt of the complaint or amendment to the complaint, file an answer to the complaint or amendment to the complaint. The charged party may file an answer to an original or

amended complaint. The agents of the board and the person charged are parties and may appear or otherwise give evidence at the hearing. At the discretion of the board, board member, or ~~hearing officer~~ administrative law judge, any interested party may intervene and present evidence at the hearing. The board, board member, or ~~hearing officer~~ administrative law judge is not bound by the rules of evidence prevailing in the courts.

(2) A board member or ~~hearing officer~~ administrative law judge who conducts the hearing shall reduce the evidence taken to writing and file it with the board. The board member or the ~~hearing officer~~ administrative law judge may thereafter take further evidence or hear further argument if notice is given to all interested parties. The ~~hearing officer~~ administrative law judge or board member shall issue to the parties a proposed decision, together with a recommended order and file it with the board. If the parties file no exceptions within twenty days after service thereof, the recommended order becomes the order of the board effective as therein prescribed. If the parties file exceptions to the proposed report, the board shall determine whether substantial issues have been raised. The board may rescind or modify the proposed order of the board member or ~~hearing officer~~ administrative law judge; however, if the board determines that the exceptions do not raise substantial issues of fact or law, it may refuse to grant review, and the recommended order becomes effective as therein prescribed.

(3) If upon the preponderance of the evidence taken, the board believes that any person named in the complaint has engaged in any unfair labor practice, the board shall state its findings of fact and issue and cause to be served on the person an order requiring that ~~he~~ the person cease and desist from these unfair labor practices, and take such affirmative action, including reinstatement of employees with or without back pay, as will effectuate the policies of Chapter 4117. of the Revised Code. If upon a preponderance of the evidence taken, the board believes that the person named in the complaint has not engaged in an unfair labor practice it shall state its findings of fact and issue an order dismissing the complaint.

(4) The board may order the public employer to reinstate the public employee and further may order either the public employer or the employee organization, depending on who was responsible for the discrimination suffered by the public employee, to make such payment of back pay to the public employee as the board determines. No order of the board shall require the reinstatement of any individual as an employee who has been suspended or discharged, or require the payment to ~~him~~ the employee of any back pay, if the suspension or discharge was for just cause not related to rights

provided in section 4117.03 of the Revised Code and the procedure contained in the collective bargaining agreement governing suspension or discharge was followed. The order of the board may require the party against whom the order is issued to make periodic reports showing the extent to which ~~he~~ the party has complied with the order.

(C) Whenever a complaint alleges that a person has engaged in an unfair labor practice and that the complainant will suffer substantial and irreparable injury if not granted temporary relief, the board may petition the court of common pleas for any county wherein the alleged unfair labor practice in question occurs, or wherein any person charged with the commission of any unfair labor practice resides or transacts business for appropriate injunctive relief, pending the final adjudication by the board with respect to the matter. Upon the filing of any petition, the court shall cause notice thereof to be served upon the parties, and thereupon has jurisdiction to grant the temporary relief or restraining order it considers just and proper.

(D) Until the record in a case is filed in a court, as specified in Chapter 4117. of the Revised Code, the board may at any time upon reasonable notice and in a manner it considers proper, modify or set aside, in whole or in part, any finding or order made or issued by it.

Sec. 4117.24. ~~(A)~~ The training, publications, and grants fund is hereby created in the state treasury. The state employment relations board shall deposit into the training, publications, and grants fund all moneys received from the following sources:

~~(A)~~(1) Payments received by the state employment relations board for copies of documents, rulebooks, and other publications;

~~(B)~~(2) Fees received from seminar participants;

~~(C)~~(3) Receipts from the sale of clearinghouse data;

~~(D)~~(4) Moneys received from grants, donations, awards, bequests, gifts, reimbursements, and similar funds;

~~(E)~~(5) Reimbursement received for professional services and expenses related to professional services;

~~(F)~~(6) Funds received to support the development of labor relations services and programs. ~~The;~~

(7) Moneys received by the state personnel board of review pursuant to division (C) of section 124.03 of the Revised Code.

(B) The state employment relations board shall use all moneys deposited into the training, publications, and grants fund to defray ~~the~~ all of the following:

(1) The costs of furnishing and making available copies of documents,

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rulebooks, and other publications; ~~the~~

(2) The costs of planning, organizing, and conducting training seminars;
~~the~~

(3) The costs associated with grant projects, innovative labor-management cooperation programs, research projects related to these grants and programs, and the advancement in professionalism of public sector relations; ~~the~~

(4) The professional development of state employment relations board employees; ~~and the~~

(5) The costs of compiling clearinghouse data;

(6) The cost of producing the administrative record of the state personnel board of review.

The state employment relations board may seek, solicit, apply for, receive, and accept grants, gifts, and contributions of money, property, labor, and other things of value to be held for, used for, and applied to only the purpose for which the grants, gifts, and contributions are made, from individuals, private and public corporations, the United States or any agency thereof, the state or any agency thereof, and any political subdivision of the state, and may enter into any contract with any such public or private source in connection therewith to be held for, used for, and applied to only the purposes for which such grants are made and contracts are entered into, all subject to and in accordance with the purposes of this chapter. Any money received from the grants, gifts, contributions, or contracts shall be deposited into the training, publications, and grants fund.

Sec. 4123.27. Information contained in the annual statement provided for in section 4123.26 of the Revised Code, and such other information as may be furnished to the bureau of workers' compensation by employers in pursuance of that section, is for the exclusive use and information of the bureau in the discharge of its official duties, and shall not be open to the public nor be used in any court in any action or proceeding pending therein unless the bureau is a party to the action or proceeding; but the information contained in the statement may be tabulated and published by the bureau in statistical form for the use and information of other state departments and the public. No person in the employ of the bureau, except those who are authorized by the administrator of workers' compensation, shall divulge any information secured by the person while in the employ of the bureau in respect to the transactions, property, claim files, records, or papers of the bureau or in respect to the business or mechanical, chemical, or other industrial process of any company, firm, corporation, person, association, partnership, or public utility to any person other than the administrator or to

the superior of such employee of the bureau.

Notwithstanding the restrictions imposed by this section, the governor, select or standing committees of the general assembly, the auditor of state, the attorney general, or their designees, pursuant to the authority granted in this chapter and Chapter 4121. of the Revised Code, may examine any records, claim files, or papers in possession of the industrial commission or the bureau. They also are bound by the privilege that attaches to these papers.

The administrator shall report to the director of job and family services or to the county director of job and family services the name, address, and social security number or other identification number of any person receiving workers' compensation whose name or social security number or other identification number is the same as that of a person required by a court or child support enforcement agency to provide support payments to a recipient or participant of public assistance, and whose name is submitted to the administrator by the director under section 5101.36 of the Revised Code. The administrator also shall inform the director of the amount of workers' compensation paid to the person during such period as the director specifies.

Within fourteen days after receiving from the director of job and family services a list of the names and social security numbers of recipients or participants of public assistance pursuant to section 5101.181 of the Revised Code, the administrator shall inform the auditor of state of the name, current or most recent address, and social security number of each person receiving workers' compensation pursuant to this chapter whose name and social security number are the same as that of a person whose name or social security number was submitted by the director. The administrator also shall inform the auditor of state of the amount of workers' compensation paid to the person during such period as the director specifies.

The bureau and its employees, except for purposes of furnishing the auditor of state with information required by this section, shall preserve the confidentiality of recipients or participants of public assistance in compliance with division (A) of section 5101.181 of the Revised Code.

For the purposes of this section, "public assistance" means medical assistance provided through the medical assistance program established under section 5111.01 of the Revised Code, Ohio works first provided under Chapter 5107. of the Revised Code, prevention, retention, and contingency benefits and services provided under Chapter 5108. of the Revised Code, or disability financial assistance provided under Chapter 5115. of the Revised Code, ~~or disability medical assistance provided under Chapter 5115. of the Revised Code.~~

Sec. 4123.446. (A) As used in this section:

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

(2) "Women's business enterprise" means a business, or a partnership, corporation, limited liability company, or joint venture of any kind, that is owned and controlled by women who are United States citizens and residents of this state.

(B) The administrator of workers' compensation shall submit annually to the governor and to the general assembly (under section 101.68 of the Revised Code) a report containing the following information:

(1) The name of each investment manager that is a minority business enterprise or a women's business enterprise with which the administrator contracts;

(2) The amount of assets managed by investment managers that are minority business enterprises or women's business enterprises, expressed as a percentage of assets managed by investment managers with which the administrator has contracted;

(3) Efforts by the administrator to increase utilization of investment managers that are minority business enterprises or women's business enterprises.

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

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

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

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

(c) Had paid, subsequent to December 31, 1977, for employment in

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

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

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

(d) As a farm operator or a crew leader subsequent to December 31, 1977, had in employment individuals in agricultural labor; and

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

(ii) Had at least ten individuals in employment in agricultural labor, not including agricultural workers who are aliens admitted to the United States to perform agricultural labor pursuant to sections 1184(c) and 1101(a)(15)(H) of the "Immigration and Nationality Act," 66 Stat. 163, 189, 8 U.S.C.A. 1101(a)(15)(H)(ii)(a), 1184(c), for some portion of a day in each of the twenty different calendar weeks, in either the current or preceding calendar year whether or not the same individual was in employment in each day; or

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

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

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

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

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

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

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

(3) An employer subject to this chapter within any calendar year is subject to this chapter during the whole of such year and during the next succeeding calendar year.

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

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

(B)(1) "Employment" means service performed by an individual for

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

(2) "Employment" includes:

(a) Service performed after December 31, 1977, by an individual in the employ of the state or any of its instrumentalities, or any political subdivision thereof or any of its instrumentalities or any instrumentality of more than one of the foregoing or any instrumentality of any of the foregoing and one or more other states or political subdivisions and without regard to divisions (A)(1)(a) and (b) of this section, provided that such service is excluded from employment as defined in the "Federal Unemployment Tax Act," 53 Stat. 183, 26 U.S.C.A. 3301, 3306(c)(7) and is not excluded under division (B)(3) of this section; or the services of employees covered by voluntary election, as provided under divisions (A)(4) and (5) of this section;

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

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

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

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

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

(ii) As a traveling or city salesperson, other than as an agent-driver or commission-driver, engaged on a full-time basis in the solicitation on behalf of and in the transmission to the salesperson's employer or principal except

for sideline sales activities on behalf of some other person of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale, or supplies for use in their business operations, provided that for the purposes of division (B)(2)(e)(ii) of this section, the services shall be deemed employment if the contract of service contemplates that substantially all of the services are to be performed personally by the individual and that the individual does not have a substantial investment in facilities used in connection with the performance of the services other than in facilities for transportation, and the services are not in the nature of a single transaction that is not a part of a continuing relationship with the person for whom the services are performed.

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

(i) The service is localized in this state.

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

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

(h) Service of an individual who is a citizen of the United States, performed outside the United States except in Canada after December 31, 1971, or the Virgin Islands, after December 31, 1971, and before the first day of January of the year following that in which the United States secretary of labor approves the Virgin Islands law for the first time, in the

employ of an American employer, other than service which is "employment" under divisions (B)(2)(f) and (g) of this section or similar provisions of another state's law, if:

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

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

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

(i) For the purposes of division (B)(2)(h) of this section, the term "American employer" means an employer who is an individual who is a resident of the United States; or a partnership, if two-thirds or more of the partners are residents of the United States; or a trust, if all of the trustees are residents of the United States; or a corporation organized under the laws of the United States or of any state, provided the term "United States" includes the states, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

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

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

services if ten or more of the following criteria apply:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(l) Service performed by an individual in the employ of an Indian tribe as defined by section 4(e) of the "Indian Self-Determination and Education Assistance Act," 88 Stat. 2204 (1975), 25 U.S.C.A. 450b(e), including any subdivision, subsidiary, or business enterprise wholly owned by an Indian tribe provided that the service is excluded from employment as defined in the "Federal Unemployment Tax Act," 53 Stat. 183, (1939), 26 U.S.C.A. 3301 and 3306(c)(7) and is not excluded under division (B)(3) of this section.

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

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

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

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

(i) As a publicly elected official;

(ii) As a member of a legislative body, or a member of the judiciary;

(iii) As a military member of the Ohio national guard;

(iv) As an employee, not in the classified service as defined in section 124.11 of the Revised Code, serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency;

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

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

(e) Service performed after December 31, 1971:

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

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regularly attending classes at the educational institution or institution of higher education; or

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

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

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

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

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

(h) Service performed after December 31, 1971:

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

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

(iii) In a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, or providing remunerative work for individuals who because of their impaired physical or mental capacity

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cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work;

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

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

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

(l) Service performed in the employ of a voluntary employees' beneficial association providing for the payment of life, sickness, accident, or other benefits to the members of such association or their dependents or their designated beneficiaries, if admission to a membership in such association is limited to individuals who are officers or employees of a municipal or public corporation, of a political subdivision of the state, or of the United States and no part of the net earnings of such association inures, other than through such payments, to the benefit of any private shareholder or individual;

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

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

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

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

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

(r) Service performed in the employ of the United States or an instrumentality of the United States immune under the Constitution of the United States from the contributions imposed by this chapter, except that to the extent that congress permits states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation act, this chapter shall be applicable to such instrumentalities and to services performed for such instrumentalities in the same manner, to the same extent, and on the same terms as to all other employers, individuals, and services, provided that if this state is not certified for any year by the proper agency of the United States under section 3304 of the "Internal Revenue Code of 1954," the payments required of such instrumentalities with respect to such year shall be refunded by the director from the fund in the same manner and within the same period as is provided in division (E) of section 4141.09 of the Revised Code with respect to contributions erroneously collected;

(s) Service performed by an individual as a member of a band or orchestra, provided such service does not represent the principal occupation of such individual, and which service is not subject to or required to be covered for full tax credit against the tax imposed by the "Federal Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311.

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

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

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

prison or correctional institution;

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

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

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

(w) Service that is performed by an individual working as an election official or election worker if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than one thousand dollars;

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

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

(z) Service performed for an Indian tribe as described in division (B)(2)(l) of this section when performed in any of the following manners:

(i) As a publicly elected official;

(ii) As a member of an Indian tribal council;

(iii) As a member of a legislative or judiciary body;

(iv) In a position which, pursuant to Indian tribal law, is designated as a major nontenured policymaking or advisory position, or a policymaking or advisory position where the performance of the duties ordinarily does not require more than eight hours of time per week;

(v) As an employee serving on a temporary basis in the case of a fire, storm, snow, earthquake, flood, or similar emergency.

(aa) Service performed after December 31, 1971, for a nonprofit organization, this state or its instrumentalities, a political subdivision or its instrumentalities, or an Indian tribe as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any

federal agency or an agency of a state or political subdivision, thereof, by an individual receiving the work-relief or work-training.

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

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

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

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

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

(G)(1) "Wages" means remuneration paid to an employee by each of the employee's employers with respect to employment; except that wages shall not include that part of remuneration paid during any calendar year to an individual by an employer or such employer's predecessor in interest in the same business or enterprise, which in any calendar year is in excess of eight thousand two hundred fifty dollars on and after January 1, 1992; eight thousand five hundred dollars on and after January 1, 1993; eight thousand seven hundred fifty dollars on and after January 1, 1994; and nine thousand dollars on and after January 1, 1995. Remuneration in excess of such amounts shall be deemed wages subject to contribution to the same extent that such remuneration is defined as wages under the "Federal Unemployment Tax Act," 84 Stat. 714 (1970), 26 U.S.C.A. 3301 to 3311, as amended. The remuneration paid an employee by an employer with respect

to employment in another state, upon which contributions were required and paid by such employer under the unemployment compensation act of such other state, shall be included as a part of remuneration in computing the amount specified in this division.

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

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

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

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

(b) The payment by an employer, without deduction from the remuneration of the individual in the employer's employ, of the tax imposed upon an individual in the employer's employ under section 3101 of the "Internal Revenue Code of 1954," with respect to services performed after October 1, 1941.

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

(I) "Interested party" means the director and any party to whom notice

of a determination of an application for benefit rights or a claim for benefits is required to be given under section 4141.28 of the Revised Code.

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

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

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

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

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

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

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

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

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

amount shall be rounded to the next lower multiple of one dollar.

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

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

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

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

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

(R)(1) "Benefit year" with respect to an individual means the fifty-two week period beginning with the first day of that week with respect to which the individual first files a valid application for determination of benefit rights, and thereafter the fifty-two week period beginning with the first day of that week with respect to which the individual next files a valid application for determination of benefit rights after the termination of the individual's last preceding benefit year, except that the application shall not be considered valid unless the individual has had employment in six weeks

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

(2) Effective for benefit years beginning on and after December 26, 2004, any application for determination of benefit rights made in accordance with section 4141.28 of the Revised Code is valid if the individual satisfies the criteria described in division (R)(1) of this section, and if the reason for the individual's separation from employment is not disqualifying pursuant to division (D)(2) of section 4141.29 or section 4141.291 of the Revised Code. A disqualification imposed pursuant to division (D)(2) of section 4141.29 or section 4141.291 of the Revised Code must be removed as provided in those sections as a requirement of establishing a valid application for benefit years beginning on and after December 26, 2004.

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

(4) As used in this division, an individual is "unemployed" if, with respect to the calendar week in which such application is filed, the individual is "partially unemployed" or "totally unemployed" as defined in this section or if, prior to filing the application, the individual was separated

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from the individual's most recent work for any reason which terminated the individual's employee-employer relationship, or was laid off indefinitely or for a definite period of seven or more days.

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

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

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

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

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

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

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

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

(5) In the employ of a group of operators of farms, or a cooperative organization of which the operators are members, in the performance of

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service described in division (V)(4) of this section, but only if the operators produced more than one-half of the commodity with respect to which the service is performed;

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

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

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

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

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

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

(Y) "Institution of higher education" means a public or nonprofit educational institution, including an educational institution operated by an Indian tribe, which:

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

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

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

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

(Z) For the purposes of this chapter, "states" includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

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

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

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

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

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

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

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

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

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

(CC) "Educational institution" means an institution other than an institution of higher education as defined in division (Y) of this section, including an educational institution operated by an Indian tribe, which:

(1) Offers participants, trainees, or students an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes, or abilities from, by, or under the guidance of an instructor or teacher; and

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

operation of a school.

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

(DD) "Cost savings day" means any unpaid day off from work in which employees continue to accrue employee benefits which have a determinable value including, but not limited to, vacation, pension contribution, sick time, and life and health insurance.

Sec. 4141.08. (A) There is hereby created an unemployment compensation advisory council appointed as follows:

(1) Three members who on account of their vocation, employment, or affiliations can be classed as representative of employers and three members who on account of their vocation, employment, or affiliation can be classed as representatives of employees appointed by the governor with the advice and consent of the senate. All appointees shall be persons whose training and experience qualify them to deal with the difficult problems of unemployment compensation, particularly with respect to the legal, accounting, actuarial, economic, and social aspects of unemployment compensation;

(2) The chairpersons of the standing committees of the senate and the house of representatives to which legislation pertaining to Chapter 4141. of the Revised Code is customarily referred;

(3) Two members of the senate appointed by the president of the senate; and

(4) Two members of the house of representatives appointed by the speaker of the house of representatives.

The speaker and the president shall arrange that of the six legislative members appointed to the council, not more than three are members of the same political party.

(B) Members appointed by the governor shall serve for a term of four years, each term ending on the same day as the date of their original appointment. Legislative members shall serve during the session of the general assembly to which they are elected and for as long as they are members of the general assembly. Vacancies shall be filled in the same manner as the original appointment but only for the unexpired part of a term.

(C) Members of the council shall serve without salary but, notwithstanding section 101.26 of the Revised Code, shall be paid a meeting stipend of fifty dollars per day each and their actual and necessary expenses while engaged in the performance of their duties as members of the council

which shall be paid from funds allocated to pay the expenses of the council pursuant to this section.

(D) The council shall organize itself and select a chairperson or co-chairpersons and other officers and committees as it considers necessary. Seven members constitute a quorum and the council may act only upon the affirmative vote of seven members. The council shall meet at least once each calendar quarter but it may meet more often as the council considers necessary or at the request of the chairperson.

(E) The council may employ professional and clerical assistance as it considers necessary and may request of the director of job and family services assistance as it considers necessary. The director shall furnish the council with office and meeting space as requested by the council.

(F) The director shall pay the operating expenses of the council as determined by the council from moneys in the unemployment compensation special administrative fund established in section 4141.11 of the Revised Code.

(G) The council shall have access to only the records of the department of job and family services that are necessary for the administration of this chapter and to the reasonable services of the employees of the department. It may request the director, or any of the employees appointed by the director, or any employer or employee subject to this chapter, to appear before it and to testify relative to the functioning of this chapter and to other relevant matters. The council may conduct research of its own, make and publish reports, and recommend to the director, the unemployment compensation review commission, the governor, or the general assembly needed changes in this chapter, or in the rules of the department as it considers necessary.

Sec. 4141.162. (A) The director of job and family services shall establish an income and eligibility verification system that complies with section 1137 of the "Social Security Act." The programs included in the system are all of the following:

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

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

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

(4) ~~Food stamps~~ The supplemental nutrition assistance program pursuant to the "Food Stamp and Nutrition Act of 1977," ~~91 Stat. 958, 2008~~ (7 U.S.C.A. 2011, as amended et seq.);

(5) Any Ohio program under a plan approved under Title I, X, XIV, or

XVI of the "Social Security Act."

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

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

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

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

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

(2) A requirement that all applicants for and recipients of benefits under any program enumerated in division (A) of this section be notified at the time of application, and periodically thereafter, that information available through the system may be shared with agencies that administer other benefit programs and utilized in establishing or verifying eligibility or benefit amounts under the other programs enumerated in division (A) of this section;

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

(4) A requirement that information is adequately protected against unauthorized disclosures for purposes other than to establish or verify

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eligibility or benefit amounts under the programs enumerated in division (A) of this section;

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

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

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

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

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

Sec. 4141.31. (A) Benefits otherwise payable for any week shall be reduced by the amount of remuneration or other payments a claimant receives with respect to such week as follows:

(1) Remuneration in lieu of notice;

(2) Compensation for wage loss under division (B) of section 4123.56 of the Revised Code or a similar provision under the workers' compensation law of any state or the United States;

(3) Payments in the form of retirement, or pension allowances as provided under section 4141.312 of the Revised Code;

(4) Except as otherwise provided in division (D) of this section, remuneration in the form of separation or termination pay paid to an employee at the time of the employee's separation from employment;

(5) Vacation pay or allowance payable under the law, terms of a labor-management contract or agreement, or other contract of hire, which payments are allocated to designated weeks;

(6) The determinable value of cost savings days.

If payments under this division are paid with respect to a month then the

amount of remuneration deemed to be received with respect to any week during such month shall be computed by multiplying such monthly amount by twelve and dividing the product by fifty-two. If there is no designation of the period with respect to which payments to an individual are made under this section then an amount equal to such individual's normal weekly wage shall be attributed to and deemed paid with respect to the first and each succeeding week following the individual's separation or termination from the employment of the employer making the payment until such amount so paid is exhausted.

If benefits for any week, when reduced as provided in this division, result in an amount not a multiple of one dollar, such benefits shall be rounded to the next lower multiple of one dollar.

Any payment allocated by the employer or the director of job and family services to weeks under division (A)(1), (4), or (5) of this section shall be deemed to be remuneration for the purposes of establishing a qualifying week and a benefit year under divisions (O)(1) and (R) of section 4141.01 of the Revised Code.

(B) Benefits payable for any week shall not be reduced by the amount of remuneration a claimant receives with respect to such week in the form of drill or reserve pay received by a member of the Ohio national guard or the armed forces reserve for attendance at a regularly scheduled drill or meeting.

(C) No benefits shall be paid for any week with respect to which or a part of which an individual has received or is seeking unemployment benefits under an unemployment compensation law of any other state or of the United States, provided the disqualifications shall not apply if the appropriate agency of such other state or of the United States finally determines that an individual is not entitled to such unemployment benefits. A law of the United States providing any payment of any type and in any amounts for periods of unemployment due to lack of work shall be considered an unemployment compensation law of the United States.

(D) Benefits payable for any week shall not be reduced by the amount of military severance, disability, or separation pay paid to an individual who is a former member of the armed forces of the United States.

(E) Remuneration for personal services includes cost savings days, as defined in division (DD) of section 4141.01 of the Revised Code, for which employees continue to accrue employee benefits that have a determinable value. Any unemployment compensation benefits that may be payable as a result of cost savings days shall be reduced as provided in division (A)(6) of this section.

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Sec. 4169.02. (A) For the purposes of regulating the construction, maintenance, mechanical operation, and inspection of passenger tramways that are associated with ski areas and of registering operators of passenger tramways in this state, there is hereby established in the division of ~~industrial compliance~~ labor in the department of commerce a ski tramway board to be appointed by the governor, with the advice and consent of the senate. The board shall consist of three members, one of whom shall be a public member who is an experienced skier and familiar with ski areas in this state, one of whom shall be a ski area operator actively engaged in the business of recreational skiing in this state, and one of whom shall be a professional engineer who is knowledgeable in the design or operation of passenger tramways.

Of the initial appointments, one member shall be appointed for a term of one year, one for a term of two years, and one for a term of three years. The member appointed to the term beginning on July 1, 1996, shall be appointed to a term ending on June 30, 1997; the member appointed to a term beginning on July 1, 1997, shall be appointed to a term ending on June 30, 1999; and the member appointed to a term beginning on July 1, 1998, shall be appointed to a term ending on June 30, 2001. Thereafter, each of the members shall be appointed for a term of six years. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. In the event of a vacancy, the governor, with the advice and consent of the senate, shall appoint a successor who shall hold office for the remainder of the term for which the successor's predecessor was appointed. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first. The board shall elect a chairperson from its members.

The governor may remove any member of the board at any time for misfeasance, nonfeasance, or malfeasance in office after giving the member a copy of the charges against the member and an opportunity to be heard publicly in person or by counsel in the member's defense. Any such act of removal by the governor is final. A statement of the findings of the governor, the reason for the governor's action, and the answer, if any, of the member shall be filed by the governor with the secretary of state and shall be open to public inspection.

Members of the board shall be paid two hundred fifty dollars for each meeting that the member attends, except that no member shall be paid or receive more than seven hundred fifty dollars for attending meetings during any calendar year. Each member shall be reimbursed for the member's

actual and necessary expenses incurred in the performance of official board duties. The chairperson shall be paid two hundred fifty dollars annually in addition to any compensation the chairperson receives under this division for attending meetings and any other compensation the chairperson receives for serving on the board.

The division shall provide the board with such offices and such clerical, professional, and other assistance as may be reasonably necessary for the board to carry on its work. The division shall maintain accurate copies of the board's rules as promulgated in accordance with division (B) of this section and shall keep all of the board's records, including business records, and inspection reports as well as its own records and reports. The cost of administering the board and conducting inspections shall be included in the budget of the division based on revenues generated by the registration fees established under section 4169.03 of the Revised Code.

(B) In accordance with Chapter 119. of the Revised Code, the board shall adopt and may amend or rescind rules relating to public safety in the construction, maintenance, mechanical operation, and inspection of passenger tramways. The rules shall be in accordance with established standards in the business of ski area operation, if any, and shall not discriminate in their application to ski area operators.

No person shall violate the rules of the board.

(C) The authority of the board shall not extend to any matter relative to the operation of a ski area other than the construction, maintenance, mechanical operation, and inspection of passenger tramways.

(D) A majority of the board constitutes a quorum and may perform and exercise all the duties and powers devolving upon the board.

Sec. 4169.03. (A) Before a passenger tramway operator may operate any passenger tramway in the state, the operator shall apply to the ski tramway board, on forms prepared by it, for registration by the board. The application shall contain an inventory of the passenger tramways that the applicant intends to operate and other information as the board may reasonably require and shall be accompanied by the following annual fees:

- (1) Each aerial passenger tramway, five hundred dollars;
- (2) Each skimobile, two hundred dollars;
- (3) Each chair lift, two hundred dollars;
- (4) Each J bar, T bar, or platter pull, one hundred dollars;
- (5) Each rope tow, fifty dollars;
- (6) Each wire rope tow, seventy-five dollars;
- (7) Each conveyor, one hundred dollars.

When an operator operates an aerial passenger tramway, a skimobile, or

a chair lift during both a winter and summer season, the annual fee shall be one and one-half the above amount for the respective passenger tramway.

(B) Upon payment of the appropriate annual fees in accordance with division (A) of this section, the board shall issue a registration certificate to the operator. Each certificate shall remain in force until the thirtieth day of September next ensuing. The board shall renew an operator's certificate in accordance with the standard renewal procedure in Chapter 4745. of the Revised Code upon payment of the appropriate annual fees.

(C) Money received from the registration fees and from the fines collected pursuant to section 4169.99 of the Revised Code shall be paid into the state treasury to the credit of the ~~industrial compliance~~ labor operating fund created in section 121.084 of the Revised Code.

(D) No person shall operate a passenger tramway in this state unless the person has been registered by the board.

Sec. 4169.04. (A) The division of ~~industrial compliance~~ labor in the department of commerce shall make such inspection of the construction, maintenance, and mechanical operation of passenger tramways as the ski tramway board may reasonably require. The division may contract with other qualified engineers to make such inspection or may accept the inspection report by any qualified inspector of an insurance company authorized to insure passenger tramways in this state.

(B) If, as the result of an inspection, an employee of the division or other agent with whom the division has contracted finds that a violation of the board's rules exists or a condition in passenger tramway construction, maintenance, or mechanical operation exists that endangers public safety, the employee or agent shall make an immediate report to the board for appropriate investigation and order.

Sec. 4171.04. (A) Before a person may operate any roller skating rink in the state, the person shall:

(1) Apply to the superintendent of ~~the division of industrial compliance~~ labor in the department of commerce on forms designated by the superintendent for a certificate of registration;

(2) Provide an inventory of all the roller skating rinks that the applicant intends to operate, and any other information the superintendent may reasonably require on the application;

(3) Include with the application a registration fee of twenty-five dollars for each roller skating rink to be operated by the applicant.

(B) Upon compliance with division (A) of this section, the superintendent shall issue a certificate of registration to the operator for each roller skating rink to be operated by the applicant. Each certificate shall

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remain in force as follows:

- (1) Until the thirty-first day of December next ensuing; or
- (2) For sixty days after the dissolution of a partnership.

(C) In case of the dissolution of a partnership by death, the surviving partner or partners may operate a roller skating rink pursuant to the certificate of registration obtained by the partnership in accordance with this chapter for a period of sixty days following dissolution. The heirs or representatives of deceased persons and receivers or trustees in bankruptcy appointed by any competent authority may operate under the certificate of registration of the person succeeded in possession.

(D) The superintendent shall renew an operator's certificate of registration in accordance with the standard license renewal procedure set forth in Chapter 4745. of the Revised Code upon payment of a renewal fee of twenty-five dollars for each roller skating rink to be operated by the applicant.

(E) Money received from the registration and renewal fees collected pursuant to this chapter shall be paid into the state treasury to the credit of the ~~industrial compliance~~ labor operating fund created in section 121.084 of the Revised Code.

Sec. 4301.333. (A) The privilege of local option conferred by section 4301.323 of the Revised Code may be exercised if, not later than four p.m. of the seventy-fifth day before the day of a general or primary election, a petition is presented to the board of elections of the county in which the precinct is situated by a petitioner who is one of the following:

- (1) An applicant for the issuance or transfer of a liquor permit at, or to, a particular location within the precinct;
- (2) The holder of a liquor permit at a particular location within the precinct;
- (3) A person who operates or seeks to operate a liquor agency store at a particular location within the precinct;
- (4) The designated agent for an applicant, liquor permit holder, or liquor agency store described in division (A)(1), (2), or (3) of this section.

(B) The petition shall be signed by the electors of the precinct equal in number to at least thirty-five per cent of the total number of votes cast in the precinct for the office of governor at the preceding general election for that office and shall contain all of the following:

- (1) A notice that the petition is for the submission of the question or questions set forth in section 4301.355 of the Revised Code;
- (2) The name of the applicant for the issuance or transfer, or the holder, of the liquor permit or, if applicable, the name of the liquor agency store,

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including any trade or fictitious names under which the applicant, holder, or liquor agency store either intends to do or does business at the particular location;

(3) The address and proposed use of the particular location within the election precinct to which the results of the question or questions specified in section 4301.355 of the Revised Code shall apply. For purposes of this division, "use" means all of the following:

(a) The type of each liquor permit applied for by the applicant or held by the liquor permit holder as described in sections 4303.11 to 4303.183 of the Revised Code, including a description of the type of beer or intoxicating liquor sales authorized by each permit as provided in those sections;

(b) If a liquor agency store, the fact that the business operated as a liquor agency store authorized to operate by this state;

(c) A description of the general nature of the business of the applicant, liquor permit holder, or liquor agency store.

(4) If the petition seeks approval of Sunday sales under question (B)(2) as set forth in section 4301.355 of the Revised Code, a statement indicating whether the hours of sale sought are between ten a.m. and midnight or between ~~one p.m.~~ eleven a.m. and midnight.

(C)(1) At the time the petitioner files the petition with the board of elections, the petitioner shall provide to the board both of the following:

(a) An affidavit that is signed by the petitioner and that states the proposed use of the location following the election held to authorize the sale of beer or intoxicating liquor authorized by each permit as provided in sections 4303.11 to 4303.183 of the Revised Code;

(b) Written evidence of the designation of an agent by the applicant, liquor permit holder, or liquor agency store described in division (A)(1), (2), or (3) of this section for the purpose of petitioning for the local option election, if the petitioner is the designated agent of the applicant, liquor permit holder, or liquor agency store.

(2) Failure to supply the affidavit, or the written evidence of the designation of the agent if the petitioner for the local option election is the agent of the applicant, liquor permit holder, or liquor agency store described in division (A)(1), (2), or (3) of this section, at the time the petition is filed invalidates the entire petition.

(D) Not later than the sixty-eighth day before the day of the next general or primary election, whichever occurs first, the board shall examine and determine the sufficiency of the signatures and the validity of the petition. If the board finds that the petition contains sufficient signatures and in other respects is valid, it shall order the holding of an election in the precinct on

the day of the next general or primary election, whichever occurs first, for the submission of the question or questions set forth in section 4301.355 of the Revised Code.

(E) A petition filed with the board of elections under this section shall be open to public inspection under rules adopted by the board.

(F) An elector who is eligible to vote on the question or questions set forth in section 4301.355 of the Revised Code may file, not later than four p.m. of the sixty-fourth day before the day of the election at which the question or questions will be submitted to the electors, a protest against a local option petition circulated and filed pursuant to this section. The protest shall be in writing and shall be filed with the election officials with whom the petition was filed. Upon the filing of the protest, the election officials with whom it is filed shall promptly establish a time and place for hearing the protest and shall mail notice of the time and place for the hearing to the applicant for, or the holder of, the liquor permit who is specified in the petition and to the elector who filed the protest. At the time and place established in the notice, the election officials shall hear the protest and determine the validity of the petition.

Sec. 4301.334. (A) The privilege of local option conferred by section 4301.324 of the Revised Code may be exercised if, not later than four p.m. of the seventy-fifth day before the day of a general or primary election, a petition and other information required by division (B) of this section are presented to the board of elections of the county in which the community facility named in the petition is located. The petition shall be signed by electors of the municipal corporation or unincorporated area of the township in which the community facility is located equal in number to at least ten per cent of the total number of votes cast in the municipal corporation or unincorporated area of the township in which the community facility is located for the office of governor at the most recent general election for that office and shall contain both of the following:

(1) A notice that the petition is for the submission of the question set forth in section 4301.356 of the Revised Code and a statement indicating whether the hours of Sunday sales sought in the local option election are between ten a.m. and midnight or between eleven a.m. and midnight;

(2) The name and address of the community facility for which the local option election is sought and, if the community facility is a community entertainment district, the boundaries of the district.

(B) Upon the request of a petitioner, a board of elections of a county shall furnish to the petitioner a copy of the instructions prepared by the secretary of state under division (P) of section 3501.05 of the Revised Code

and, within fifteen days after the request, a certificate indicating the number of valid signatures that will be required on a petition to hold an election in the municipal corporation or unincorporated area of the township in which the community facility is located on the question specified in section 4301.356 of the Revised Code.

The petitioner shall, not less than thirty days before the petition-filing deadline for an election on the question specified in section 4301.356 of the Revised Code, specify to the division of liquor control the name and address of the community facility for which the election is sought and, if the community facility is a community entertainment district, the boundaries of the district, the municipal corporation or unincorporated area of a township in which the election is sought, and the filing deadline. The division shall, within a reasonable period of time and not later than ten days before the filing deadline, supply the petitioner with the name and address of any permit holder for or within the community facility.

The petitioner shall file the name and address of any permit holder who would be affected by the election at the time the petitioner files the petition with the board of elections. Within five days after receiving the petition, the board shall give notice by certified mail to any permit holder within the community facility that it has received the petition. Failure of the petitioner to supply the name and address of any permit holder for or within the community facility as furnished to the petitioner by the division invalidates the petition.

(C) Not later than the sixty-eighth day before the day of the next general or primary election, whichever occurs first, the board shall examine and determine the sufficiency of the signatures on the petition. If the board finds that the petition is valid, it shall order the holding of an election in the municipal corporation or unincorporated area of a township on the day of the next general or primary election, whichever occurs first, for the submission of the question set forth in section 4301.356 of the Revised Code.

(D) A petition filed with a board of elections under this section shall be open to public inspection under rules adopted by the board.

(E) An elector who is eligible to vote on the question set forth in section 4301.356 of the Revised Code or any permit holder for or within the community facility may, not later than four p.m. of the sixty-fourth day before the day of the election at which the question will be submitted to the electors, file a written protest against the local option petition with the board of elections with which the petition was filed. Upon the filing of the protest, the board shall promptly fix a time and place for hearing the protest and

shall mail notice of the time and place to the person who filed the petition and to the person who filed the protest. At the time and place fixed, the board shall hear the protest and determine the validity of the petition.

Sec. 4301.351. (A) If a petition is for submission of the question of whether the sale of intoxicating liquor shall be permitted on Sunday, a special election shall be held in the precinct at the time fixed as provided in section 4301.33 of the Revised Code. The expenses of holding the election shall be charged to the municipal corporation or township of which the precinct is a part.

(B) At the election, one or more of the following questions, question (B)(1), (B)(2), or (B)(3) as designated in a valid petition or question (B)(4) as submitted by the legislative authority of a municipal corporation or the board of trustees of a township, shall be submitted to the electors of the precinct:

(1) "Shall the sale of intoxicating liquor, of the same types as may be legally sold in this precinct on other days of the week, be permitted in this for consumption on the premises where sold, between the hours of ~~one p.m.~~ eleven a.m. and midnight on Sunday?"

(2) "Shall the sale of intoxicating liquor, of the same types as may be legally sold in this precinct on other days of the week, be permitted in this for consumption on the premises where sold, between the hours of ~~one p.m.~~ eleven a.m. and midnight on Sunday, at licensed premises where the sale of food and other goods and services exceeds fifty per cent of the total gross receipts of the permit holder at the premises?"

(3) "Shall the sale of wine and mixed beverages, of the same types as may be legally sold in this precinct on other days of the week, be permitted in this for consumption off the premises where sold, between the hours of ~~one p.m.~~ eleven a.m. and midnight on Sunday?"

(4) "Shall the sale of intoxicating liquor, of the same types as may be legally sold in this precinct on other days of the week, be permitted in this for consumption on the premises where sold, between the hours of one p.m. and midnight on Sunday, at outdoor performing arts centers, as defined in section 4303.182 of the Revised Code, that have been issued a D-6 permit?"

Question (B)(4) shall be presented to the electors of a precinct in which an outdoor performing arts center is located only if the legislative authority of the municipal corporation in which, or the board of trustees of the township in which, the outdoor performing arts center is located submits, not later than four p.m. of the seventy-fifth day before the day of a primary or general election that occurs within two years after ~~the effective date of~~

~~this amendment~~ April 9, 2001, to the board of elections of the county in which the precinct is located, a copy of an ordinance or resolution requesting the submission of that question to the electors of the precinct. An election on question (B)(4) may not be sought by a petition under section 4301.33 of the Revised Code.

(C) At the election, one or more of the following questions, as designated in a valid petition, shall be submitted to the electors of the precinct:

(1) "Shall the sale of intoxicating liquor, of the same types as may be legally sold in this precinct on other days of the week, be permitted in this for consumption on the premises where sold, between the hours of ten a.m. and midnight on Sunday?"

(2) "Shall the sale of intoxicating liquor, of the same types as may be legally sold in this precinct on other days of the week, be permitted in this for consumption on the premises where sold, between the hours of ten a.m. and midnight on Sunday, at licensed premises where the sale of food and other goods and services exceeds fifty per cent of the total gross receipts of the permit holder at the premises?"

(3) "Shall the sale of wine and mixed beverages, of the same types as may be legally sold in this precinct on other days of the week, be permitted in this for consumption off the premises where sold, between the hours of ten a.m. and midnight on Sunday?"

(D) No C or D permit holder who first applied for such a permit after April 15, 1982, shall sell beer on Sunday unless the sale of intoxicating liquor is authorized in the precinct or portion of the precinct at an election on question (B)(1), (B)(2), or (B)(3) of this section, on question (C)(1), (C)(2), or (C)(3) of this section, on question (B)(1), (B)(2), or (B)(3) of section 4301.354 of the Revised Code, on question (C)(1), (C)(2), or (C)(3) of section 4301.354 of the Revised Code, or on question (B)(2) of section 4301.355 of the Revised Code. No D-6 permit is required for the sale of beer on Sunday.

The board of elections to which the petition is presented shall furnish printed ballots at the election in accordance with section 3505.06 of the Revised Code, and separate ballots shall be used for the special election under this section. One or more of the questions prescribed by divisions (B) and (C) of this section, as designated in the petition, shall be set forth on each ballot, and the board shall insert in each question the name or an accurate description of the precinct in which the election is to be held. Votes shall be cast as provided in section 3505.06 of the Revised Code.

Sec. 4301.354. (A) If a petition is filed under section 4301.332 of the

Revised Code for the submission of one or more questions set forth in this section, a special election shall be held in the precinct as ordered by the board of elections under that section. The expense of holding the special election shall be charged to the municipal corporation or township of which the precinct is a part.

(B) At the election, one or more of the following questions, as designated in a valid petition, shall be submitted to the electors of the precinct concerning Sunday sales:

(1) "Shall the sale of intoxicating liquor be permitted in a portion of this precinct between the hours of ~~one p.m.~~ eleven a.m. and midnight on Sunday for consumption on the premises where sold, where the status of such Sunday sales as allowed or prohibited is inconsistent with the status of such Sunday sales in the remainder of the precinct?"

(2) "Shall the sale of intoxicating liquor be permitted in a portion of this precinct between the hours of ~~one p.m.~~ eleven a.m. and midnight on Sunday for consumption on the premises where sold at licensed premises where the sale of food and other goods exceeds fifty per cent of the total gross receipts of the permit holder at the premises, where the status of such Sunday sales as allowed or prohibited is inconsistent with the status of such Sunday sales in the remainder of the precinct?"

(3) "Shall the sale of wine and mixed beverages be permitted in a portion of this precinct between the hours of ~~one p.m.~~ eleven a.m. and midnight on Sunday for consumption off the premises where sold, where the status of such Sunday sales as allowed or prohibited is inconsistent with the status of such Sunday sales in the remainder of the precinct?"

(C) At the election, one or more of the following questions, as designated in a valid petition, shall be submitted to the electors of the precinct concerning Sunday sales:

(1) "Shall the sale of intoxicating liquor be permitted in a portion of this precinct between the hours of ten a.m. and midnight on Sunday for consumption on the premises where sold, where the status of such Sunday sales as allowed or prohibited is inconsistent with the status of such Sunday sales in the remainder of the precinct?"

(2) "Shall the sale of intoxicating liquor be permitted in a portion of this precinct between the hours of ten a.m. and midnight on Sunday for consumption on the premises where sold at licensed premises where the sale of food and other goods exceeds fifty per cent of the total gross receipts of the permit holder at the premises, where the status of such Sunday sales as allowed or prohibited is inconsistent with the status of such Sunday sales in the remainder of the precinct?"

(3) "Shall the sale of wine and mixed beverages be permitted in a portion of this precinct between the hours of ten a.m. and midnight on Sunday for consumption off the premises where sold, where the status of such Sunday sales as allowed or prohibited is inconsistent with the status of such Sunday sales in the remainder of the precinct?"

(D) The board of elections shall furnish printed ballots at the special election as provided under section 3505.06 of the Revised Code, except that a separate ballot shall be used for the special election. The one or more questions set forth in divisions (B) and (C) of this section shall be printed on each ballot, and the board shall insert in the ~~question and statement~~ questions appropriate words to complete each and a description of the portion of the precinct that would be affected by the results of the election.

The description of the portion of the precinct shall include either the complete listing of street addresses in that portion or a condensed text that accurately describes the boundaries of the portion of the precinct by street name or by another name generally known by the residents of the portion of the precinct. If other than a full street listing is used, the full street listing also shall be posted in each polling place in a location that is easily accessible to all voters. Failure of the board of elections to completely and accurately list all street addresses in the affected area of the precinct does not affect the validity of the election at which the failure occurred and is not grounds for contesting an election under section 3515.08 of the Revised Code. Votes shall be cast as provided under section 3505.06 of the Revised Code.

Sec. 4301.355. (A) If a petition is filed under section 4301.333 of the Revised Code for the submission of the question or questions set forth in this section, it shall be held in the precinct as ordered by the board of elections under that section. The expense of holding the election shall be charged to the municipal corporation or township of which the precinct is a part.

(B) At the election, one or more of the following questions, as designated in a valid petition, shall be submitted to the electors of the precinct:

(1) "Shall the sale of (insert beer, wine and mixed beverages, or spirituous liquor) be permitted by (insert name of applicant, liquor permit holder, or liquor agency store, including trade or fictitious name under which applicant for, or holder of, liquor permit or liquor agency store either intends to do, or does, business at the particular location), an (insert "applicant for" or "holder of" or "operator of") a (insert class name of liquor permit or permits followed by the words "liquor permit(s))"

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or, if appropriate, the words "liquor agency store for the State of Ohio"), who is engaged in the business of (insert general nature of the business in which applicant or liquor permit holder is engaged or will be engaged in at the particular location, as described in the petition) at (insert address of the particular location within the precinct as set forth in the petition) in this precinct?"

(2) "Shall the sale of (insert beer, wine and mixed beverages, or spirituous liquor) be permitted for sale on Sunday between the hours of (insert "ten a.m. and midnight" or "~~one p.m.~~ eleven a.m. and midnight") by (insert name of applicant, liquor permit holder, or liquor agency store, including trade or fictitious name under which applicant for, or holder of, liquor permit or liquor agency store either intends to do, or does, business at the particular location), an (insert "applicant for a D-6 liquor permit," "holder of a D-6 liquor permit," "applicant for or holder of an A-1-A, A-2, A-3a, C-1, C-2x, D-1, D-2x, D-3, D-3x, D-4, D-5, D-5b, D-5c, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, or D-7 liquor permit," if only the approval of beer sales is sought, or "liquor agency store") who is engaged in the business of (insert general nature of the business in which applicant or liquor permit holder is engaged or will be engaged in at the particular location, as described in the petition) at (insert address of the particular location within the precinct) in this precinct?"

(C) The board of elections shall furnish printed ballots at the election as provided under section 3505.06 of the Revised Code, except that a separate ballot shall be used for the election under this section. The question set forth in this section shall be printed on each ballot, and the board shall insert in the question appropriate words to complete it. Votes shall be cast as provided under section 3505.06 of the Revised Code.

Sec. 4301.356. If a petition is filed under section 4301.334 of the Revised Code for the submission of the question set forth in this section, an election shall be held in the municipal corporation or unincorporated area of a township as ordered by the board of elections under that section.

Except as otherwise provided in this section, if the legislative authority of a municipal corporation in whose territory, or the board of township trustees of a township in whose unincorporated area, a community facility is located submits, not later than four p.m. of the seventy-fifth day before the day of a primary or general election, to the board of elections of the county in which the community facility is located an ordinance or resolution requesting the submission of the question set forth in this section to the electors of the municipal corporation or unincorporated area of the

township, the board of elections shall order that an election be held on that question in the municipal corporation or the unincorporated area of the township on the day of the next primary or general election, whichever occurs first. The legislative authority or board of township trustees shall submit the name and address of any permit holder who would be affected by the results of the election to the board of elections at the same time it submits the ordinance or resolution. The board of elections, within five days after receiving the name and address, shall give notice by certified mail to each permit holder that it has received the ordinance or resolution. Failure of the legislative authority or board of township trustees to supply the name and address of each permit holder to the board of elections invalidates the effect of the ordinance or resolution.

At the election, the following question shall be submitted to the electors of the municipal corporation or unincorporated area of a township:

"Shall the sale of beer and intoxicating liquor be permitted on days of the week other than Sunday and between the hours of ~~one p.m.~~ (insert "ten a.m." or "eleven a.m.") and midnight on Sunday, at (insert name of community facility), a community facility as defined by section 4301.01 of the Revised Code, and located at (insert the address of the community facility and, if the community facility is a community entertainment district, the boundaries of the district, as set forth in the petition)?"

The board of elections shall furnish printed ballots at the election as provided under section 3505.06 of the Revised Code, except that a separate ballot shall be used for the election under this section. The question set forth in this section shall be printed on each ballot, and the board shall insert in the question appropriate words to complete ~~each~~ it, subject to the approval of the secretary of state. Votes shall be cast as provided under section 3505.06 of the Revised Code.

Sec. 4301.361. (A) If a majority of the electors voting on questions set forth in section 4301.351 of the Revised Code in a precinct vote "yes" on question (B)(1) or (C)(1), or, if both questions (B)(1) and (B)(2), or questions (C)(1) and (C)(2), are submitted, "yes" on both questions or "yes" on question (B)(1) or (C)(1) but "no" on question (B)(2) or (C)(2), sales of intoxicating liquor shall be allowed on Sunday in the manner and under the conditions specified in question (B)(1) or (C)(1), under a D-6 permit, within the precinct concerned, during the hours specified in division (A) of section 4303.182 of the Revised Code and during the period the election is in effect as defined in section 4301.37 of the Revised Code.

(B) If only question (B)(2) or (C)(2) is submitted to the voters or if

questions (B)(2) and (B)(3) or (C)(2) and (C)(3) are submitted and a majority of the electors voting in a precinct vote "yes" on question (B)(2) or (C)(2) as set forth in section 4301.351 of the Revised Code, sales of intoxicating liquor shall be allowed on Sunday in the manner and under the conditions specified in question (B)(2) or (C)(2), under a D-6 permit, within the precinct concerned, during the hours specified in division (A) of section 4303.182 of the Revised Code and during the period the election is in effect as defined in section 4301.37 of the Revised Code, even if question (B)(1) or (C)(1) was also submitted and a majority of the electors voting in the precinct voted "no."

(C) If question (B)(3) or (C)(3) is submitted and a majority of electors voting on question (B)(3) or (C)(3) as set forth in section 4301.351 of the Revised Code in a precinct vote "yes," sales of wine and mixed beverages shall be allowed on Sunday in the manner and under the conditions specified in question (B)(3) or (C)(3), under a D-6 permit, within the precinct concerned, during the hours specified in division (A) of section 4303.182 of the Revised Code and during the period the election is in effect as defined in section 4301.37 of the Revised Code.

(D) If questions (B)(1), (B)(2), and (B)(3), or questions (C)(1), (C)(2), and (C)(3), as set forth in section 4301.351 of the Revised Code, are all submitted and a majority of the electors voting in such precinct vote "no" on all three questions, no sales of intoxicating liquor shall be made within the precinct concerned after two-thirty a.m. on Sunday as specified in the questions submitted, during the period the election is in effect as defined in section 4301.37 of the Revised Code.

(E) If question (C)(1) as set forth in section 4301.351 of the Revised Code is submitted to the voters in a precinct in which question (B)(1) as set forth in that section previously was submitted and approved, and the results of the election on question (B)(1) are still in effect in the precinct; or if question (C)(2) as set forth in that section is submitted to the voters in a precinct in which question (B)(2) as set forth in that section previously was submitted and approved, and the results of the election on question (B)(2) are still in effect in the precinct; or if question (C)(3) as set forth in that section is submitted to the voters in a precinct in which question (B)(3) as set forth in that section previously was submitted and approved, and the results of the election on question (B)(3) are still in effect in the precinct; and if a majority of the electors voting on question (C)(1), (C)(2), or (C)(3) vote "no," then sales shall continue to be allowed in the precinct in the manner and under the conditions specified in the previously approved question (B)(1), (B)(2), or (B)(3), as applicable.

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(F) If question (B)(4) as set forth in section 4301.351 of the Revised Code is submitted and a majority of the electors voting in the precinct vote "yes," sales of intoxicating liquor shall be allowed on Sunday at outdoor performing arts centers in the manner and under the conditions specified in question (B)(4) under a D-6 permit, within the precinct concerned, during the hours specified in division (F) of section 4303.182 of the Revised Code and during the period the election is in effect as defined in section 4301.37 of the Revised Code. If question (B)(4) as set forth in section 4301.351 of the Revised Code is submitted and a majority of the electors voting in the precinct vote "no," no sales of intoxicating liquor shall be allowed at outdoor performing arts centers in the precinct concerned under a D-6 permit, after 2:30 a.m. on Sunday, during the period the election is in effect as defined in section 4301.37 of the Revised Code.

Sec. 4301.364. (A) If a majority of the electors in a precinct vote "yes" on question (B)(1) or (C)(1) as set forth in section 4301.354 of the Revised Code, the sale of intoxicating liquor, of the same types as may be legally sold in the precinct on other days of the week, shall be permitted on Sunday in the portion of the precinct affected by the results of the election during the hours specified in division (A) of section 4303.182 of the Revised Code and in the manner and under the conditions specified in the question, subject only to this chapter and Chapter 4303. of the Revised Code.

(B) If a majority of the electors in a precinct vote "yes" on question (B)(2) or (C)(2) as set forth in section 4301.354 of the Revised Code, the sale of intoxicating liquor, of the same types as may be legally sold in the precinct on other days of the week, shall be permitted on Sunday in the portion of the precinct affected by the results of the election during the hours specified in division (A) of section 4303.182 of the Revised Code and in the manner and under the conditions specified in the question, subject only to this chapter and Chapter 4303. of the Revised Code.

(C) If a majority of the electors in a precinct vote "yes" on question (B)(3) or (C)(3) as set forth in section 4301.354 of the Revised Code, the sale of wine and mixed beverages shall be permitted on Sunday in the portion of the precinct affected by the results of the election during the hours specified in division (A) of section 4303.182 of the Revised Code and in the manner and under the conditions specified in the question, subject only to this chapter and Chapter 4303. of the Revised Code.

(D) If a majority of the electors in a precinct vote "no" on question (B)(1) or (C)(1) as set forth in section 4301.354 of the Revised Code, no sale of intoxicating liquor shall be permitted on Sunday in the manner and under the conditions specified in the question in the portion of the precinct

affected by the results of the election.

(E) If a majority of the electors in a precinct vote "no" on question (B)(2) or (C)(2) as set forth in section 4301.354 of the Revised Code, no sale of intoxicating liquor shall be permitted on Sunday in the manner and under the conditions specified in the question in the portion of the precinct affected by the results of the election.

(F) If a majority of the electors in a precinct vote "no" on question (B)(3) or (C)(3) as set forth in section 4301.354 of the Revised Code, no sale of wine or mixed beverages shall be permitted on Sunday in the manner and under the conditions specified in the question in the portion of the precinct affected by the results of the election.

(G) If question (C)(1) as set forth in section 4301.354 of the Revised Code is submitted to the voters in a precinct in which question (B)(1) as set forth in that section previously was submitted and approved, and the results of the election on question (B)(1) are still in effect in the precinct; or if question (C)(2) as set forth in that section is submitted to the voters in a precinct in which question (B)(2) as set forth in that section previously was submitted and approved, and the results of the election on question (B)(2) are still in effect in the precinct; or if question (C)(3) as set forth in that section is submitted to the voters in a precinct in which question (B)(3) as set forth in that section previously was submitted and approved, and the results of the election on question (B)(3) are still in effect in the precinct; and if a majority of the electors voting on question (C)(1), (C)(2), or (C)(3) vote "no," then sales shall continue to be allowed in the precinct in the manner and under the conditions specified in the previously approved question (B)(1), (B)(2), or (B)(3), as applicable.

Sec. 4301.365. (A) If a majority of the electors in a precinct vote "yes" on questions (B)(1) and (2) as set forth in section 4301.355 of the Revised Code, the sale of beer, wine and mixed beverages, or spirituous liquor, whichever was the subject of the election, shall be allowed at the particular location and for the use, ~~and during the hours on Sunday,~~ specified in the questions under each permit applied for by the petitioner or at the address listed for the liquor agency store, and, in relation to question (B)(2), during the hours on Sunday specified in division (A) of section 4303.182 of the Revised Code, subject only to this chapter and Chapter 4303. of the Revised Code. Failure to continue to use the particular location for any proposed or stated use set forth in the petition is grounds for the denial of a renewal of the liquor permit under division (A) of section 4303.271 of the Revised Code or is grounds for the nonrenewal or cancellation of the liquor agency store contract by the division of liquor control, except in the case where the

liquor permit holder or liquor agency store decides to cease the sale of beer, wine and mixed beverages, or spirituous liquor, whichever was the subject of the election, on Sundays.

(B) Except as otherwise provided in division (H) of this section, if a majority of the electors in a precinct vote "yes" on question (B)(1) and "no" on question (B)(2) as set forth in section 4301.355 of the Revised Code, the sale of beer, wine and mixed beverages, or spirituous liquor, whichever was the subject of the election, shall be allowed at the particular location for the use specified in question (B)(1) of section 4301.355 of the Revised Code and under each permit applied for by the petitioner, except for a D-6 permit, subject only to this chapter and Chapter 4303. of the Revised Code.

(C) If a majority of the electors in a precinct vote "no" on question (B)(1) as set forth in section 4301.355 of the Revised Code, no sales of beer, wine and mixed beverages, or spirituous liquor, whichever was the subject of the election, shall be allowed at the particular location for the use specified in the petition during the period the election is in effect as defined in section 4301.37 of the Revised Code.

(D) If a majority of the electors in a precinct vote only on question (B)(2) as set forth in section 4301.355 of the Revised Code and that vote results in a majority "yes" vote, sales of beer, wine and mixed beverages, or spirituous liquor, whichever was the subject of the election, shall be allowed at the particular location for the use ~~and during the hours~~ specified in the petition on Sunday during the hours specified in division (A) of section 4303.182 of the Revised Code and during the period the election is in effect as defined in section 4301.37 of the Revised Code.

(E) Except as otherwise provided in division (H) of this section, if a majority of the electors in a precinct vote only on question (B)(2) as set forth in section 4301.355 of the Revised Code and that vote results in a majority "no" vote, no sales of beer, wine and mixed beverages, or spirituous liquor, whichever was the subject of the election, shall be allowed at the particular location for the use and during the hours specified in the petition on Sunday during the period the election is in effect as defined in section 4301.37 of the Revised Code.

(F) In case of elections in the same precinct for the question or questions set forth in section 4301.355 of the Revised Code and for a question or questions set forth in section 4301.35, 4301.351, 4301.353, 4301.354, 4303.29, or 4305.14 of the Revised Code, the results of the election held on the question or questions set forth in section 4301.355 of the Revised Code shall apply to the particular location notwithstanding the results of the election held on the question or questions set forth in section 4301.35,

4301.351, 4301.353, 4301.354, 4303.29, or 4305.14 of the Revised Code.

(G) Sections 4301.32 to 4301.41 of the Revised Code do not prohibit the transfer of ownership of a permit that was issued to a particular location as the result of an election held on sales of beer, wine and mixed beverages, spirituous liquor, or intoxicating liquor at that particular location as long as the general nature of the business at that particular location described in the petition for that election remains the same after the transfer.

(H) If question (B)(2) as set forth in section 4301.355 of the Revised Code is submitted to the electors of a precinct proposing to authorize the sale of beer, wine and mixed beverages, or spirituous liquor between the hours of ten a.m. and midnight at a particular location at which the sale of beer, wine and mixed beverages, spirituous liquor, or intoxicating liquor is already allowed between the hours of eleven a.m. and midnight or one p.m. and midnight and the question submitted is defeated, the sale of beer, wine and mixed beverages, spirituous liquor, or intoxicating liquor between the hours of eleven a.m. and midnight or one p.m. and midnight, as applicable, shall continue at that particular location.

Sec. 4301.366. If a majority of the electors voting on the question specified in section 4301.356 of the Revised Code vote "yes," the sale of beer and intoxicating liquor shall be allowed at the community facility ~~and~~ on days of the week other than Sunday and during the hours on Sunday specified in division (A) of section 4303.182 of the Revised Code, for the use specified in the question, subject only to this chapter and Chapter 4303. of the Revised Code. Failure to continue to use the location as a community facility constitutes good cause for rejection of the renewal of the liquor permit under division (A) of section 4303.271 of the Revised Code.

If a majority of the electors voting on the question specified in section 4301.356 of the Revised Code vote "no," no sales of beer or intoxicating liquor shall be made at or within the community facility during the period the election is in effect as defined in section 4301.37 of the Revised Code.

Sec. 4301.43. (A) As used in sections 4301.43 to 4301.50 of the Revised Code:

(1) "Gallon" or "wine gallon" means one hundred twenty-eight fluid ounces.

(2) "Sale" or "sell" includes exchange, barter, gift, distribution, and, except with respect to A-4 permit holders, offer for sale.

(B) For the purposes of providing revenues for the support of the state and encouraging the grape industries in the state, a tax is hereby levied on the sale or distribution of wine in Ohio, except for known sacramental purposes, at the rate of thirty cents per wine gallon for wine containing not

less than four per cent of alcohol by volume and not more than fourteen per cent of alcohol by volume, ninety-eight cents per wine gallon for wine containing more than fourteen per cent but not more than twenty-one per cent of alcohol by volume, one dollar and eight cents per wine gallon for vermouth, and one dollar and forty-eight cents per wine gallon for sparkling and carbonated wine and champagne, the tax to be paid by the holders of A-2 and B-5 permits or by any other person selling or distributing wine upon which no tax has been paid. From the tax paid under this section on wine, vermouth, and sparkling and carbonated wine and champagne, the treasurer of state shall credit to the Ohio grape industries fund created under section 924.54 of the Revised Code a sum equal to one cent per gallon for each gallon upon which the tax is paid.

(C) For the purpose of providing revenues for the support of the state, there is hereby levied a tax on prepared and bottled highballs, cocktails, cordials, and other mixed beverages at the rate of one dollar and twenty cents per wine gallon to be paid by holders of A-4 permits or by any other person selling or distributing those products upon which no tax has been paid. Only one sale of the same article shall be used in computing the amount of tax due. The tax on mixed beverages to be paid by holders of A-4 permits under this section shall not attach until the ownership of the mixed beverage is transferred for valuable consideration to a wholesaler or retailer, and no payment of the tax shall be required prior to that time.

(D) During the period of July 1, ~~2007~~ 2009, through June 30, ~~2009~~ 2011, from the tax paid under this section on wine, vermouth, and sparkling and carbonated wine and champagne, the treasurer of state shall credit to the Ohio grape industries fund created under section 924.54 of the Revised Code a sum equal to two cents per gallon upon which the tax is paid. The amount credited under this division is in addition to the amount credited to the Ohio grape industries fund under division (B) of this section.

(E) For the purpose of providing revenues for the support of the state, there is hereby levied a tax on cider at the rate of twenty-four cents per wine gallon to be paid by the holders of A-2 and B-5 permits or by any other person selling or distributing cider upon which no tax has been paid. Only one sale of the same article shall be used in computing the amount of the tax due.

Sec. 4301.85. (A) The serving or consumption of beer or intoxicating liquor shall not be prohibited in a facility that is owned or leased by the state and that is used by visiting foreign military units for training, provided that such serving or consumption of beer or intoxicating liquor shall be done according to the policies and procedures agreed upon by the commanding

officers of the foreign military units, the adjutant general, and the United States department of defense liaisons or their designated representatives to the foreign military units.

(B) As used in this section, "beer" and "intoxicating liquor" have the same meanings as in section 4301.01 of the Revised Code.

Sec. 4303.181. (A) Permit D-5a may be issued either to the owner or operator of a hotel or motel that is required to be licensed under section 3731.03 of the Revised Code, that contains at least fifty rooms for registered transient guests or is owned by a state institution of higher education as defined in section 3345.011 of the Revised Code or a private college or university, and that qualifies under the other requirements of this section, or to the owner or operator of a restaurant specified under this section, to sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and to registered guests in their rooms, which may be sold by means of a controlled access alcohol and beverage cabinet in accordance with division (B) of section 4301.21 of the Revised Code; and to sell the same products in the same manner and amounts not for consumption on the premises as may be sold by holders of D-1 and D-2 permits. The premises of the hotel or motel shall include a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that is affiliated with the hotel or motel and within or contiguous to the hotel or motel, and that serves food within the hotel or motel, but the principal business of the owner or operator of the hotel or motel shall be the accommodation of transient guests. In addition to the privileges authorized in this division, the holder of a D-5a permit may exercise the same privileges as the holder of a D-5 permit.

The owner or operator of a hotel, motel, or restaurant who qualified for and held a D-5a permit on August 4, 1976, may, if the owner or operator held another permit before holding a D-5a permit, either retain a D-5a permit or apply for the permit formerly held, and the division of liquor control shall issue the permit for which the owner or operator applies and formerly held, notwithstanding any quota.

A D-5a permit shall not be transferred to another location. No quota restriction shall be placed on the number of D-5a permits that may be issued.

The fee for this permit is two thousand three hundred forty-four dollars.

(B) Permit D-5b may be issued to the owner, operator, tenant, lessee, or occupant of an enclosed shopping center to sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for

consumption on the premises where sold; and to sell the same products in the same manner and amount not for consumption on the premises as may be sold by holders of D-1 and D-2 permits. In addition to the privileges authorized in this division, the holder of a D-5b permit may exercise the same privileges as a holder of a D-5 permit.

A D-5b permit shall not be transferred to another location.

One D-5b permit may be issued at an enclosed shopping center containing at least two hundred twenty-five thousand, but less than four hundred thousand, square feet of floor area.

Two D-5b permits may be issued at an enclosed shopping center containing at least four hundred thousand square feet of floor area. No more than one D-5b permit may be issued at an enclosed shopping center for each additional two hundred thousand square feet of floor area or fraction of that floor area, up to a maximum of five D-5b permits for each enclosed shopping center. The number of D-5b permits that may be issued at an enclosed shopping center shall be determined by subtracting the number of D-3 and D-5 permits issued in the enclosed shopping center from the number of D-5b permits that otherwise may be issued at the enclosed shopping center under the formulas provided in this division. Except as provided in this section, no quota shall be placed on the number of D-5b permits that may be issued. Notwithstanding any quota provided in this section, the holder of any D-5b permit first issued in accordance with this section is entitled to its renewal in accordance with section 4303.271 of the Revised Code.

The holder of a D-5b permit issued before April 4, 1984, whose tenancy is terminated for a cause other than nonpayment of rent, may return the D-5b permit to the division of liquor control, and the division shall cancel that permit. Upon cancellation of that permit and upon the permit holder's payment of taxes, contributions, premiums, assessments, and other debts owing or accrued upon the date of cancellation to this state and its political subdivisions and a filing with the division of a certification of that payment, the division shall issue to that person either a D-5 permit, or a D-1, a D-2, and a D-3 permit, as that person requests. The division shall issue the D-5 permit, or the D-1, D-2, and D-3 permits, even if the number of D-1, D-2, D-3, or D-5 permits currently issued in the municipal corporation or in the unincorporated area of the township where that person's proposed premises is located equals or exceeds the maximum number of such permits that can be issued in that municipal corporation or in the unincorporated area of that township under the population quota restrictions contained in section 4303.29 of the Revised Code. Any D-1, D-2, D-3, or D-5 permit so issued

shall not be transferred to another location. If a D-5b permit is canceled under the provisions of this paragraph, the number of D-5b permits that may be issued at the enclosed shopping center for which the D-5b permit was issued, under the formula provided in this division, shall be reduced by one if the enclosed shopping center was entitled to more than one D-5b permit under the formula.

The fee for this permit is two thousand three hundred forty-four dollars.

(C) Permit D-5c may be issued to the owner or operator of a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that qualifies under the other requirements of this section to sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and to sell the same products in the same manner and amounts not for consumption on the premises as may be sold by holders of D-1 and D-2 permits. In addition to the privileges authorized in this division, the holder of a D-5c permit may exercise the same privileges as the holder of a D-5 permit.

To qualify for a D-5c permit, the owner or operator of a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter, shall have operated the restaurant at the proposed premises for not less than twenty-four consecutive months immediately preceding the filing of the application for the permit, have applied for a D-5 permit no later than December 31, 1988, and appear on the division's quota waiting list for not less than six months immediately preceding the filing of the application for the permit. In addition to these requirements, the proposed D-5c permit premises shall be located within a municipal corporation and further within an election precinct that, at the time of the application, has no more than twenty-five per cent of its total land area zoned for residential use.

A D-5c permit shall not be transferred to another location. No quota restriction shall be placed on the number of such permits that may be issued.

Any person who has held a D-5c permit for at least two years may apply for a D-5 permit, and the division of liquor control shall issue the D-5 permit notwithstanding the quota restrictions contained in section 4303.29 of the Revised Code or in any rule of the liquor control commission.

The fee for this permit is one thousand five hundred sixty-three dollars.

(D) Permit D-5d may be issued to the owner or operator of a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that is located at an airport operated by a board of county

commissioners pursuant to section 307.20 of the Revised Code, at an airport operated by a port authority pursuant to Chapter 4582. of the Revised Code, or at an airport operated by a regional airport authority pursuant to Chapter 308. of the Revised Code. The holder of a D-5d permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and may sell the same products in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. In addition to the privileges authorized in this division, the holder of a D-5d permit may exercise the same privileges as the holder of a D-5 permit.

A D-5d permit shall not be transferred to another location. No quota restrictions shall be placed on the number of such permits that may be issued.

The fee for this permit is two thousand three hundred forty-four dollars.

(E) Permit D-5e may be issued to any nonprofit organization that is exempt from federal income taxation under the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as amended, or that is a charitable organization under any chapter of the Revised Code, and that owns or operates a riverboat that meets all of the following:

- (1) Is permanently docked at one location;
- (2) Is designated as an historical riverboat by the Ohio historical society;
- (3) Contains not less than fifteen hundred square feet of floor area;
- (4) Has a seating capacity of fifty or more persons.

The holder of a D-5e permit may sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold.

A D-5e permit shall not be transferred to another location. No quota restriction shall be placed on the number of such permits that may be issued. The population quota restrictions contained in section 4303.29 of the Revised Code or in any rule of the liquor control commission shall not apply to this division, and the division shall issue a D-5e permit to any applicant who meets the requirements of this division. However, the division shall not issue a D-5e permit if the permit premises or proposed permit premises are located within an area in which the sale of spirituous liquor by the glass is prohibited.

The fee for this permit is one thousand two hundred nineteen dollars.

(F) Permit D-5f may be issued to the owner or operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter

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and that meets all of the following:

(1) It contains not less than twenty-five hundred square feet of floor area.

(2) It is located on or in, or immediately adjacent to, the shoreline of, a navigable river.

(3) It provides docking space for twenty-five boats.

(4) It provides entertainment and recreation, provided that not less than fifty per cent of the business on the permit premises shall be preparing and serving meals for a consideration.

In addition, each application for a D-5f permit shall be accompanied by a certification from the local legislative authority that the issuance of the D-5f permit is not inconsistent with that political subdivision's comprehensive development plan or other economic development goal as officially established by the local legislative authority.

The holder of a D-5f permit may sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold.

A D-5f permit shall not be transferred to another location.

The division of liquor control shall not issue a D-5f permit if the permit premises or proposed permit premises are located within an area in which the sale of spirituous liquor by the glass is prohibited.

A fee for this permit is two thousand three hundred forty-four dollars.

As used in this division, "navigable river" means a river that is also a "navigable water" as defined in the "Federal Power Act," 94 Stat. 770 (1980), 16 U.S.C. 796.

(G) Permit D-5g may be issued to a nonprofit corporation that is either the owner or the operator of a national professional sports museum. The holder of a D-5g permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold. The holder of a D-5g permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after one a.m. A D-5g permit shall not be transferred to another location. No quota restrictions shall be placed on the number of D-5g permits that may be issued. The fee for this permit is one thousand eight hundred seventy-five dollars.

(H)(1) Permit D-5h may be issued to any nonprofit organization that is exempt from federal income taxation under the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as amended, that owns or operates any of the following:

(a) A fine arts museum, provided that the nonprofit organization has no

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less than one thousand five hundred bona fide members possessing full membership privileges;

(b) A community arts center. As used in division (H)(1)(b) of this section, "community arts center" means a facility that provides arts programming to the community in more than one arts discipline, including, but not limited to, exhibits of works of art and performances by both professional and amateur artists.

(c) A community theater, provided that the nonprofit organization is a member of the Ohio arts council and the American community theatre association and has been in existence for not less than ten years. As used in division (H)(1)(c) of this section, "community theater" means a facility that contains at least one hundred fifty seats and has a primary function of presenting live theatrical performances and providing recreational opportunities to the community.

(2) The holder of a D-5h permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold. The holder of a D-5h permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after one a.m. A D-5h permit shall not be transferred to another location. No quota restrictions shall be placed on the number of D-5h permits that may be issued.

(3) The fee for a D-5h permit is one thousand eight hundred seventy-five dollars.

(I) Permit D-5i may be issued to the owner or operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that meets all of the following requirements:

(1) It is located in a municipal corporation or a township with a population of one hundred thousand or less.

(2) It has inside seating capacity for at least one hundred forty persons.

(3) It has at least four thousand square feet of floor area.

(4) It offers full-course meals, appetizers, and sandwiches.

(5) Its receipts from beer and liquor sales, excluding wine sales, do not exceed twenty-five per cent of its total gross receipts.

(6) It has at least one of the following characteristics:

(a) The value of its real and personal property exceeds seven hundred twenty-five thousand dollars.

(b) It is located on property that is owned or leased by the state or a state agency, and its owner or operator has authorization from the state or the state agency that owns or leases the property to obtain a D-5i permit.

The holder of a D-5i permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and may sell the same products in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. The holder of a D-5i permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after two-thirty a.m. In addition to the privileges authorized in this division, the holder of a D-5i permit may exercise the same privileges as the holder of a D-5 permit.

A D-5i permit shall not be transferred to another location. The division of liquor control shall not renew a D-5i permit unless the retail food establishment or food service operation for which it is issued continues to meet the requirements described in divisions (I)(1) to (6) of this section. No quota restrictions shall be placed on the number of D-5i permits that may be issued. The fee for the D-5i permit is two thousand three hundred forty-four dollars.

(J)(1) Permit D-5j may be issued to the owner or the operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code to sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold and to sell beer and intoxicating liquor in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. The holder of a D-5j permit may exercise the same privileges, and shall observe the same hours of operation, as the holder of a D-5 permit.

(2) The D-5j permit shall be issued only within a community entertainment district that is designated under section 4301.80 of the Revised Code and that meets one of the following qualifications:

(a) It is located in a municipal corporation with a population of at least one hundred thousand.

(b) It is located in a municipal corporation with a population of at least twenty thousand, and either of the following applies:

(i) It contains an amusement park the rides of which have been issued a permit by the department of agriculture under Chapter 1711. of the Revised Code.

(ii) Not less than fifty million dollars will be invested in development and construction in the community entertainment district's area located in the municipal corporation.

(c) It is located in a township with a population of at least forty thousand.

(d) It is located in a municipal corporation with a population of at least ten thousand, and not less than seventy million dollars will be invested in development and construction in the community entertainment district's area located in the municipal corporation.

(e) It is located in a municipal corporation with a population of at least five thousand, and not less than one hundred million dollars will be invested in development and construction in the community entertainment district's area located in the municipal corporation.

(3) The location of a D-5j permit may be transferred only within the geographic boundaries of the community entertainment district in which it was issued and shall not be transferred outside the geographic boundaries of that district.

(4) Not more than one D-5j permit shall be issued within each community entertainment district for each five acres of land located within the district. Not more than fifteen D-5j permits may be issued within a single community entertainment district. Except as otherwise provided in division (J)(4) of this section, no quota restrictions shall be placed upon the number of D-5j permits that may be issued.

(5) The fee for a D-5j permit is two thousand three hundred forty-four dollars.

(K)(1) Permit D-5k may be issued to any nonprofit organization that is exempt from federal income taxation under the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as amended, that is the owner or operator of a botanical garden recognized by the American association of botanical gardens and arboreta, and that has not less than twenty-five hundred bona fide members.

(2) The holder of a D-5k permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, on the premises where sold.

(3) The holder of a D-5k permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after one a.m.

(4) A D-5k permit shall not be transferred to another location.

(5) No quota restrictions shall be placed on the number of D-5k permits that may be issued.

(6) The fee for the D-5k permit is one thousand eight hundred seventy-five dollars.

(L)(1) Permit D-5l may be issued to the owner or the operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code to sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the

premises where sold and to sell beer and intoxicating liquor in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. The holder of a D-5l permit may exercise the same privileges, and shall observe the same hours of operation, as the holder of a D-5 permit.

(2) The D-5l permit shall be issued only to a premises that has gross annual receipts from the sale of food and meals that constitute not less than seventy-five per cent of its total gross annual receipts, that is located within a revitalization district that is designated under section 4301.81 of the Revised Code, that is located in a municipal corporation or township in which the number of D-5 permits issued equals or exceeds the number of those permits that may be issued in that municipal corporation or township under section 4303.29 of the Revised Code, and that is located in a county with a population of one hundred twenty-five thousand or less according to the population estimates certified by the department of development for calendar year 2006.

(3) The location of a D-5l permit may be transferred only within the geographic boundaries of the revitalization district in which it was issued and shall not be transferred outside the geographic boundaries of that district.

(4) Not more than one D-5l permit shall be issued within each revitalization district for each five acres of land located within the district. Not more than five D-5l permits may be issued within a single revitalization district. Except as otherwise provided in division (L)(4) of this section, no quota restrictions shall be placed upon the number of D-5l permits that may be issued.

(5) The fee for a D-5l permit is two thousand three hundred forty-four dollars.

(M) Permit D-5m may be issued to either the owner or the operator of a retail food establishment or food service operation licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that is located in, or affiliated with, a center for the preservation of wild animals as defined in section 4301.404 of the Revised Code, to sell beer and any intoxicating liquor at retail, only by the glass and from the container, for consumption on the premises where sold, and to sell the same products in the same manner and amounts not for consumption on the premises as may be sold by the holders of D-1 and D-2 permits. In addition to the privileges authorized by this division, the holder of a D-5m permit may exercise the same privileges as the holder of a D-5 permit.

A D-5m permit shall not be transferred to another location. No quota

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restrictions shall be placed on the number of D-5m permits that may be issued. The fee for a permit D-5m is two thousand three hundred forty-four dollars.

Sec. 4303.182. (A) Except as otherwise provided in divisions (B) to (J) of this section, permit D-6 shall be issued to the holder of an A-1-A, A-2, A-3a, C-2, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, or D-7 permit to allow sale under that permit ~~between~~ as follows:

(1) Between the hours of ten a.m. and midnight, ~~or between~~ on Sunday if sale during those hours has been approved under question (C)(1), (2), or (3) of section 4301.351 or 4301.354 of the Revised Code, under question (B)(2) of section 4301.355 of the Revised Code, or under section 4301.356 of the Revised Code and has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code, under the restrictions of that authorization;

(2) Between the hours of ~~one p.m.~~ eleven a.m. and midnight, on Sunday, as applicable, if that sale during those hours has been approved on or after the effective date of this amendment under question (B)(1), (2), or (3) of section 4301.351 or 4301.354 of the Revised Code, under question (B)(2) of section 4301.355 of the Revised Code, or under section 4301.356 of the Revised Code and has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code ~~and~~, under the restrictions of that authorization;

(3) Between the hours of eleven a.m. and midnight on Sunday if sale between the hours of one p.m. and midnight was approved before the effective date of this amendment under question (B)(1), (2), or (3) of section 4301.351 or 4301.354 of the Revised Code, under question (B)(2) of section 4301.355 of the Revised Code, or under section 4301.356 of the Revised Code and has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code, under the other restrictions of that authorization.

(B) Permit D-6 shall be issued to the holder of any permit, including a D-4a and D-5d permit, authorizing the sale of intoxicating liquor issued for a premises located at any publicly owned airport, as defined in section 4563.01 of the Revised Code, at which commercial airline companies operate regularly scheduled flights on which space is available to the public, to allow sale under such permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(C) Permit D-6 shall be issued to the holder of a D-5a permit, and to the

holder of a D-3 or D-3a permit who is the owner or operator of a hotel or motel that is required to be licensed under section 3731.03 of the Revised Code, that contains at least fifty rooms for registered transient guests, and that has on its premises a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and is affiliated with the hotel or motel and within or contiguous to the hotel or motel and serving food within the hotel or motel, to allow sale under such permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(D) The holder of a D-6 permit that is issued to a sports facility may make sales under the permit between the hours of eleven a.m. and midnight on any Sunday on which a professional baseball, basketball, football, hockey, or soccer game is being played at the sports facility. As used in this division, "sports facility" means a stadium or arena that has a seating capacity of at least four thousand and that is owned or leased by a professional baseball, basketball, football, hockey, or soccer franchise or any combination of those franchises.

(E) Permit D-6 shall be issued to the holder of any permit that authorizes the sale of beer or intoxicating liquor and that is issued to a premises located in or at the Ohio historical society area or the state fairgrounds, as defined in division (B) of section 4301.40 of the Revised Code, to allow sale under that permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(F) Permit D-6 shall be issued to the holder of any permit that authorizes the sale of intoxicating liquor and that is issued to an outdoor performing arts center to allow sale under that permit between the hours of one p.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361 of the Revised Code. A D-6 permit issued under this division is subject to the results of an election, held after the D-6 permit is issued, on question (B)(4) as set forth in section 4301.351 of the Revised Code. Following the end of the period during which an election may be held on question (B)(4) as set forth in that section, sales of intoxicating liquor may continue at an outdoor performing arts center under a D-6 permit issued under this division, unless an election on that question is held during the permitted period and a majority of the voters voting in the precinct on that question vote "no."

As used in this division, "outdoor performing arts center" means an

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outdoor performing arts center that is located on not less than eight hundred acres of land and that is open for performances from the first day of April to the last day of October of each year.

(G) Permit D-6 shall be issued to the holder of any permit that authorizes the sale of beer or intoxicating liquor and that is issued to a golf course owned by the state, a conservancy district, a park district created under Chapter 1545. of the Revised Code, or another political subdivision to allow sale under that permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(H) Permit D-6 shall be issued to the holder of a D-5g permit to allow sale under that permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(I) Permit D-6 shall be issued to the holder of any D permit for a premises that is licensed under Chapter 3717. of the Revised Code and that is located at a ski area to allow sale under the D-6 permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

As used in this division, "ski area" means a ski area as defined in section 4169.01 of the Revised Code, provided that the passenger tramway operator at that area is registered under section 4169.03 of the Revised Code.

(J) Permit D-6 shall be issued to the holder of ~~a D-5j~~ any permit that is described in division (A) of this section for a permit premises that is located in a community entertainment district, as defined in section 4301.80 of the Revised Code, that was approved by the legislative authority of a municipal corporation under that section between October 1 and October 15, 2005, to allow sale under the permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(K) If the restriction to licensed premises where the sale of food and other goods and services exceeds fifty per cent of the total gross receipts of the permit holder at the premises is applicable, the division of liquor control may accept an affidavit from the permit holder to show the proportion of the permit holder's gross receipts derived from the sale of food and other goods and services. If the liquor control commission determines that affidavit to have been false, it shall revoke the permits of the permit holder at the premises concerned.

(L) The fee for the D-6 permit is five hundred dollars when it is issued

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to the holder of an A-1-A, A-2, A-3a, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, or D-7 permit. The fee for the D-6 permit is four hundred dollars when it is issued to the holder of a C-2 permit.

Sec. 4303.331. No permit holder shall purchase and import into this state any beer from any manufacturer, bottler, importer, wholesale dealer, or broker outside this state and within the United States unless and until such manufacturer, bottler, importer, wholesale dealer, or broker registers with the tax commissioner and supplies such information as the commissioner may require.

The commissioner may, by rule, require any registrant to file with the commissioner a bond payable to the state in such form and amount as the commissioner prescribes with surety to the satisfaction of the tax commissioner conditioned upon the making of the report to be made to the tax commissioner and the payment to the tax commissioner of taxes levied by sections 4301.42 and 4305.01 of the Revised Code, all as provided in section 4303.33 of the Revised Code.

Any such manufacturer, bottler, importer, wholesale dealer, or broker shall, as a part of such registration, make the secretary of state its agent for the service of process or notice of any assessment, action, or proceedings instituted in the state against such person under sections 4303.33, 4301.42, and 4305.01 of the Revised Code.

~~Such process or notice shall be served, by the officer to whom it is directed or by the tax commissioner, or by the sheriff of Franklin county, who may be deputized for such purpose by the officer to whom the service is directed, upon the secretary of state by leaving at the office of the secretary of state, at least fifteen days before the return day of such process or notice, a true and attested copy thereof, and by sending to the defendant by certified mail, postage prepaid, a like and true attested copy, with an endorsement thereon of the service upon the secretary of state, addressed to such defendant at the address listed in the registration or at the defendant's last known address in accordance with section 5703.37 of the Revised Code.~~

Any B-1 permit holder who purchases beer from any manufacturer, bottler, importer, wholesale dealer, or broker outside this state and within the United States who has not registered with the tax commissioner and filed a bond as provided in this section shall be liable for any tax due on any beer purchased from such unregistered manufacturer, bottler, importer, wholesale dealer, or broker and shall be subject to any penalties provided in Chapters 4301., 4303., 4305., and 4307. of the Revised Code.

Any B-1 permit holder who purchases beer from any manufacturer,

bottler, importer, wholesale dealer, or broker outside this state and within the United States who has complied with this section shall not be liable for any tax due to the state on any beer purchased from any such manufacturer, bottler, importer, wholesale dealer, or broker.

All money collected by the tax commissioner under this section shall be paid to the treasurer of state as revenue arising from the taxes levied by sections 4301.42, 4301.43, 4301.432, and 4305.01 of the Revised Code.

Sec. 4501.06. The taxes, fees, and fines levied, charged, or referred to in division (O) of section 4503.04, division (E) of section 4503.042, division (B) of section 4503.07, division (C)(1) of section 4503.10, division (D) of section 4503.182, division (A) of section 4503.19, division (D)(2) of section 4507.24, division (A) of section 4508.06, and sections 4503.40, 4503.42, 4505.11, 4505.111, 4506.08, 4506.09, 4507.23, 4508.05, 4923.12, and 5502.12 of the Revised Code, and the taxes charged in section 4503.65 that are distributed in accordance with division (A)(2) of section 4501.044 of the Revised Code unless otherwise designated by law, shall be deposited in the state treasury to the credit of the state highway safety fund, which is hereby created, and shall, after receipt of certifications from the commissioners of the sinking fund certifying, as required by sections 5528.15 and 5528.35 of the Revised Code, that there are sufficient moneys to the credit of the highway improvement bond retirement fund created by section 5528.12 of the Revised Code to meet in full all payments of interest, principal, and charges for the retirement of bonds and other obligations issued pursuant to Section 2g of Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 of the Revised Code due and payable during the current calendar year, and that there are sufficient moneys to the credit of the highway obligations bond retirement fund created by section 5528.32 of the Revised Code to meet in full all payments of interest, principal, and charges for the retirement of highway obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code due and payable during the current calendar year, be used for the purpose of enforcing and paying the expenses of administering the law relative to the registration and operation of motor vehicles on the public roads or highways. Amounts credited to the fund may also be used to pay the expenses of administering and enforcing the laws under which such fees were collected. All investment earnings of the state highway safety fund shall be credited to the fund.

Sec. 4501.24. There is hereby created in the state treasury the scenic rivers protection fund. The fund shall consist of the contributions not to exceed forty dollars that are paid to the registrar of motor vehicles by

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applicants who voluntarily choose to obtain scenic rivers license plates pursuant to section 4503.56 of the Revised Code.

The contributions deposited in the fund shall be used by the department of natural resources to help finance wild, scenic, and recreational river areas conservation, education, ~~scenic river~~ corridor protection ~~and~~, restoration, ~~scenic river~~ and habitat enhancement, and clean-up projects along ~~scenic rivers in those areas. The chief of the division of watercraft in the department may expend money in the fund for the acquisition of wild, scenic, and recreational river areas, for the maintenance, protection, and administration of such areas, and for construction of facilities within those areas.~~ All investment earnings of the fund shall be credited to the fund.

As used in this section, "wild river areas," "scenic river areas," and "recreational river areas" have the same meanings as in section 1547.01 of the Revised Code.

Sec. 4501.243. There is hereby created in the state treasury the Ohio nature preserves fund. The fund shall consist of the contributions that are paid to the registrar of motor vehicles by applicants who obtain Ohio nature preserves license plates pursuant to section 4503.563 of the Revised Code. All investment earnings of the fund shall be credited to the fund.

The department of natural resources shall use the money in the fund to help finance nature preserve education, nature preserve clean-up projects, and nature preserve maintenance, protection, and restoration.

Sec. 4501.271. (A)(1) A peace officer, correctional employee, or youth services employee may file a written request with the bureau of motor vehicles to do either or both of the following:

(a) Prohibit disclosure of the officer's or employee's residence address as contained in motor vehicle records of the bureau;

(b) Provide a business address to be displayed on the officer's or employee's driver's license or certificate of registration, or both.

(2) The officer or employee shall file the request described in division (A)(1) of this section on a form provided by the registrar of motor vehicles and shall provide any documentary evidence verifying the person's status as a peace officer, correctional employee, or youth services employee and the officer's or employee's business address that the registrar requires pursuant to division (G) of this section.

(B)(1) Except as provided in division (C) of this section, if a peace officer, correctional employee, or youth services employee has filed a request under division (A) of this section, neither the registrar nor an employee or contractor of the bureau of motor vehicles shall knowingly disclose the residence address of the officer or employee that the bureau

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obtained in connection with a motor vehicle record.

(2) In accordance with section 149.43 of the Revised Code, the registrar or an employee or contractor of the bureau shall make available for inspection or copying a motor vehicle record of a peace officer, correctional employee, or youth services employee who has filed a request under division (A) of this section if the record is a public record under that section, but shall obliterate the residence address of the officer or employee from the record before making the record available for inspection or copying. The business address of the officer or employee may be made available in response to a valid request under section 149.43 of the Revised Code.

(C) Notwithstanding division (B)(2) of section 4501.27 of the Revised Code, the registrar or an employee or contractor of the bureau may disclose the residence address of a peace officer, correctional employee, or youth services employee who files a request under division (A) of this section only in accordance with division (B)(1) of section 4501.27 of the Revised Code or pursuant to a court order.

(D) If a peace officer, correctional employee, or youth services employee files a request under division (A)(1)(b) of this section, the officer shall still provide a residence address in any application for a driver's license or license renewal and in any application for a motor vehicle registration or registration renewal. In accordance with sections 4503.101 and 4507.09 of the Revised Code, an officer or employee shall notify the registrar of any change in the officer's or employee's residence within ten days after the change occurs.

(E) A certificate of registration issued to a peace officer, correctional employee, or youth services employee who files a request under division (A)(1)(b) of this section shall display the business address of the officer. Notwithstanding section 4507.13 of the Revised Code, a driver's license issued to an officer or employee who files a request under division (A)(1)(b) of this section shall display the business address of the officer or employee.

(F) The registrar may utilize the residence address of a peace officer, correctional employee, or youth services employee who files a request under division (A)(1)(b) of this section in carrying out the functions of the bureau of motor vehicles, including determining the district of registration for any applicable motor vehicle tax levied under Chapter 4504. of the Revised Code, determining whether tailpipe emissions inspections are required, and financial responsibility verification.

(G) The registrar shall adopt rules governing a request for confidentiality of a peace officer's, correctional employee's, or youth services employee's residence address or use of a business address,

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including the documentary evidence required to verify the person's status as a peace officer, correctional employee, or youth services employee, the length of time that the request will be valid, procedures for ensuring that the bureau of motor vehicles receives notice of any change in a person's status as a peace officer, correctional employee, or youth services employee, and any other procedures the registrar considers necessary. The rules of the registrar may require an officer or employee to surrender any certificate of registration and any driver's license bearing the business address of the officer or employee and, upon payment of any applicable fees, to receive a certificate of registration and license bearing the officer's or employee's residence address, whenever the officer or employee no longer is associated with that business address.

(H) As used in this section:

(1) "Motor vehicle record" has the same meaning as in section 4501.27 of the Revised Code.

(2) "Peace officer" means those persons described in division (A)(1), (2), (4), (5), (6), (9), (10), (12), ~~or (13)~~, or (15) of section 109.71 of the Revised Code, an officer, agent, or employee of the state or any of its agencies, instrumentalities, or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority, an investigator of the bureau of criminal identification and investigation as defined in section 2903.11 of the Revised Code, the house sergeant at arms appointed under division (B)(1) of section 101.311 of the Revised Code, and any assistant sergeant at arms appointed under division (C)(1) of section 101.311 of the Revised Code. "Peace officer" includes state highway patrol troopers but does not include the sheriff of a county or a supervisory employee who, in the absence of the sheriff, is authorized to stand in for, exercise the authority of, and perform the duties of the sheriff.

(3) "Correctional employee" and "youth services employee" have the same meanings as in section 149.43 of the Revised Code.

Sec. 4501.29. The department of administrative services shall collect user fees from participants in the multi-agency radio communications system (MARCS). The director of administrative services, with the advice of the MARCS steering committee and the consent of the director of budget and management, shall determine the amount of the user fees and the manner by which the fees shall be collected. All moneys from user fees shall be deposited in the MARCS administration fund, which is hereby created in the state treasury. All investment earnings on moneys in the fund shall be

credited to the fund.

Sec. 4503.068. On or before the second Monday in September of each year, the county treasurer shall total the amount by which the manufactured home taxes levied in that year were reduced pursuant to section 4503.065 of the Revised Code, and certify that amount to the tax commissioner. Within ninety days of the receipt of the certification, the commissioner shall ~~certify that amount to the director of budget and management and the director shall make two payments from the general revenue fund in favor of the county treasurer. One shall be in the full amount by which taxes were reduced. The other shall be in an amount equal to two per cent of such amount and shall be a payment~~ provide for payment to the county treasurer, from the general revenue fund, of the amount certified, which shall be credited upon receipt to the county's undivided income tax fund, and an amount equal to two per cent of the amount by which taxes were reduced, which shall be credited upon receipt to the county general fund as a payment, in addition to the fees and charges authorized by sections 319.54 and 321.26 of the Revised Code, to the county auditor and county treasurer for the costs of administering sections 4503.064 to 4503.069 of the Revised Code.

Immediately upon receipt of ~~the payment in the full amount by which taxes were reduced, the full amount of the payment shall be distributed~~ funds into the county undivided income tax fund under this section, the county auditor shall distribute the full amount thereof among the taxing districts in the county as though it had been received as taxes under section 4503.06 of the Revised Code from each person for whom taxes were reduced under section 4503.065 of the Revised Code.

Sec. 4503.10. (A) The owner of every snowmobile, off-highway motorcycle, and all-purpose vehicle required to be registered under section 4519.02 of the Revised Code shall file an application for registration under section 4519.03 of the Revised Code. The owner of a motor vehicle, other than a snowmobile, off-highway motorcycle, or all-purpose vehicle, that is not designed and constructed by the manufacturer for operation on a street or highway may not register it under this chapter except upon certification of inspection pursuant to section 4513.02 of the Revised Code by the sheriff, or the chief of police of the municipal corporation or township, with jurisdiction over the political subdivision in which the owner of the motor vehicle resides. Except as provided in section 4503.103 of the Revised Code, every owner of every other motor vehicle not previously described in this section and every person mentioned as owner in the last certificate of title of a motor vehicle that is operated or driven upon the public roads or highways shall cause to be filed each year, by mail or otherwise, in the

office of the registrar of motor vehicles or a deputy registrar, a written or electronic application or a preprinted registration renewal notice issued under section 4503.102 of the Revised Code, the form of which shall be prescribed by the registrar, for registration for the following registration year, which shall begin on the first day of January of every calendar year and end on the thirty-first day of December in the same year. Applications for registration and registration renewal notices shall be filed at the times established by the registrar pursuant to section 4503.101 of the Revised Code. A motor vehicle owner also may elect to apply for or renew a motor vehicle registration by electronic means using electronic signature in accordance with rules adopted by the registrar. Except as provided in division (J) of this section, applications for registration shall be made on blanks furnished by the registrar for that purpose, containing the following information:

(1) A brief description of the motor vehicle to be registered, including the year, make, model, and vehicle identification number, and, in the case of commercial cars, the gross weight of the vehicle fully equipped computed in the manner prescribed in section 4503.08 of the Revised Code;

(2) The name and residence address of the owner, and the township and municipal corporation in which the owner resides;

(3) The district of registration, which shall be determined as follows:

(a) In case the motor vehicle to be registered is used for hire or principally in connection with any established business or branch business, conducted at a particular place, the district of registration is the municipal corporation in which that place is located or, if not located in any municipal corporation, the county and township in which that place is located.

(b) In case the vehicle is not so used, the district of registration is the municipal corporation or county in which the owner resides at the time of making the application.

(4) Whether the motor vehicle is a new or used motor vehicle;

(5) The date of purchase of the motor vehicle;

(6) Whether the fees required to be paid for the registration or transfer of the motor vehicle, during the preceding registration year and during the preceding period of the current registration year, have been paid. Each application for registration shall be signed by the owner, either manually or by electronic signature, or pursuant to obtaining a limited power of attorney authorized by the registrar for registration, or other document authorizing such signature. If the owner elects to apply for or renew the motor vehicle registration with the registrar by electronic means, the owner's manual signature is not required.

(7) The owner's social security number, driver's license number, or state identification number, or, where a motor vehicle to be registered is used for hire or principally in connection with any established business, the owner's federal taxpayer identification number. The bureau of motor vehicles shall retain in its records all social security numbers provided under this section, but the bureau shall not place social security numbers on motor vehicle certificates of registration.

(B) Except as otherwise provided in this division, each time an applicant first registers a motor vehicle in the applicant's name, the applicant shall present for inspection a physical certificate of title or memorandum certificate showing title to the motor vehicle to be registered in the name of the applicant if a physical certificate of title or memorandum certificate has been issued by a clerk of a court of common pleas. If, under sections 4505.021, 4505.06, and 4505.08 of the Revised Code, a clerk instead has issued an electronic certificate of title for the applicant's motor vehicle, that certificate may be presented for inspection at the time of first registration in a manner prescribed by rules adopted by the registrar. An applicant is not required to present a certificate of title to an electronic motor vehicle dealer acting as a limited authority deputy registrar in accordance with rules adopted by the registrar. When a motor vehicle inspection and maintenance program is in effect under section 3704.14 of the Revised Code and rules adopted under it, each application for registration for a vehicle required to be inspected under that section and those rules shall be accompanied by an inspection certificate for the motor vehicle issued in accordance with that section. The application shall be refused if any of the following applies:

(1) The application is not in proper form.

(2) The application is prohibited from being accepted by division (D) of section 2935.27, division (A) of section 2937.221, division (A) of section 4503.13, division (B) of section 4510.22, or division (B)(1) of section 4521.10 of the Revised Code.

(3) A certificate of title or memorandum certificate of title is required but does not accompany the application or, in the case of an electronic certificate of title, is required but is not presented in a manner prescribed by the registrar's rules.

(4) All registration and transfer fees for the motor vehicle, for the preceding year or the preceding period of the current registration year, have not been paid.

(5) The owner or lessee does not have an inspection certificate for the motor vehicle as provided in section 3704.14 of the Revised Code, and rules adopted under it, if that section is applicable.

This section does not require the payment of license or registration taxes on a motor vehicle for any preceding year, or for any preceding period of a year, if the motor vehicle was not taxable for that preceding year or period under sections 4503.02, 4503.04, 4503.11, 4503.12, and 4503.16 or Chapter 4504. of the Revised Code. When a certificate of registration is issued upon the first registration of a motor vehicle by or on behalf of the owner, the official issuing the certificate shall indicate the issuance with a stamp on the certificate of title or memorandum certificate or, in the case of an electronic certificate of title, an electronic stamp or other notation as specified in rules adopted by the registrar, and with a stamp on the inspection certificate for the motor vehicle, if any. The official also shall indicate, by a stamp or by other means the registrar prescribes, on the registration certificate issued upon the first registration of a motor vehicle by or on behalf of the owner the odometer reading of the motor vehicle as shown in the odometer statement included in or attached to the certificate of title. Upon each subsequent registration of the motor vehicle by or on behalf of the same owner, the official also shall so indicate the odometer reading of the motor vehicle as shown on the immediately preceding certificate of registration.

The registrar shall include in the permanent registration record of any vehicle required to be inspected under section 3704.14 of the Revised Code the inspection certificate number from the inspection certificate that is presented at the time of registration of the vehicle as required under this division.

(C)(1) Except as otherwise provided in division (C)(1) of this section, for each registration renewal with an expiration date on or after October 1, 2003, and for each initial application for registration received on and after that date, the registrar and each deputy registrar shall collect an additional fee of eleven dollars for each application for registration and registration renewal received. For vehicles specified in divisions (A)(1) to (21) of section 4503.042 of the Revised Code, commencing with each registration renewal with an expiration date on or after October 1, 2009, and for each initial application received on or after that date, the registrar and deputy registrar shall collect an additional fee of thirty dollars for each application for registration and registration renewal received. The additional fee is for the purpose of defraying the department of public safety's costs associated with the administration and enforcement of the motor vehicle and traffic laws of Ohio. Each deputy registrar shall transmit the fees collected under division (C)(1) of this section in the time and manner provided in this section. The registrar shall deposit all moneys received under division (C)(1) of this section into the state highway safety fund established in section

4501.06 of the Revised Code.

(2) In addition, a charge of twenty-five cents shall be made for each reflectorized safety license plate issued, and a single charge of twenty-five cents shall be made for each county identification sticker or each set of county identification stickers issued, as the case may be, to cover the cost of producing the license plates and stickers, including material, manufacturing, and administrative costs. Those fees shall be in addition to the license tax. If the total cost of producing the plates is less than twenty-five cents per plate, or if the total cost of producing the stickers is less than twenty-five cents per sticker or per set issued, any excess moneys accruing from the fees shall be distributed in the same manner as provided by section 4501.04 of the Revised Code for the distribution of license tax moneys. If the total cost of producing the plates exceeds twenty-five cents per plate, or if the total cost of producing the stickers exceeds twenty-five cents per sticker or per set issued, the difference shall be paid from the license tax moneys collected pursuant to section 4503.02 of the Revised Code.

(D) Each deputy registrar shall be allowed a fee of three dollars and fifty cents for each application for registration and registration renewal notice the deputy registrar receives, which shall be for the purpose of compensating the deputy registrar for the deputy registrar's services, and such office and rental expenses, as may be necessary for the proper discharge of the deputy registrar's duties in the receiving of applications and renewal notices and the issuing of registrations.

(E) Upon the certification of the registrar, the county sheriff or local police officials shall recover license plates erroneously or fraudulently issued.

(F) Each deputy registrar, upon receipt of any application for registration or registration renewal notice, together with the license fee and any local motor vehicle license tax levied pursuant to Chapter 4504. of the Revised Code, shall transmit that fee and tax, if any, in the manner provided in this section, together with the original and duplicate copy of the application, to the registrar. The registrar, subject to the approval of the director of public safety, may deposit the funds collected by those deputies in a local bank or depository to the credit of the "state of Ohio, bureau of motor vehicles." Where a local bank or depository has been designated by the registrar, each deputy registrar shall deposit all moneys collected by the deputy registrar into that bank or depository not more than one business day after their collection and shall make reports to the registrar of the amounts so deposited, together with any other information, some of which may be prescribed by the treasurer of state, as the registrar may require and as

prescribed by the registrar by rule. The registrar, within three days after receipt of notification of the deposit of funds by a deputy registrar in a local bank or depository, shall draw on that account in favor of the treasurer of state. The registrar, subject to the approval of the director and the treasurer of state, may make reasonable rules necessary for the prompt transmittal of fees and for safeguarding the interests of the state and of counties, townships, municipal corporations, and transportation improvement districts levying local motor vehicle license taxes. The registrar may pay service charges usually collected by banks and depositories for such service. If deputy registrars are located in communities where banking facilities are not available, they shall transmit the fees forthwith, by money order or otherwise, as the registrar, by rule approved by the director and the treasurer of state, may prescribe. The registrar may pay the usual and customary fees for such service.

(G) This section does not prevent any person from making an application for a motor vehicle license directly to the registrar by mail, by electronic means, or in person at any of the registrar's offices, upon payment of a service fee of three dollars and fifty cents for each application.

(H) No person shall make a false statement as to the district of registration in an application required by division (A) of this section. Violation of this division is falsification under section 2921.13 of the Revised Code and punishable as specified in that section.

(I)(1) Where applicable, the requirements of division (B) of this section relating to the presentation of an inspection certificate issued under section 3704.14 of the Revised Code and rules adopted under it for a motor vehicle, the refusal of a license for failure to present an inspection certificate, and the stamping of the inspection certificate by the official issuing the certificate of registration apply to the registration of and issuance of license plates for a motor vehicle under sections 4503.102, 4503.12, 4503.14, 4503.15, 4503.16, 4503.171, 4503.172, 4503.19, 4503.40, 4503.41, 4503.42, 4503.43, 4503.44, 4503.46, 4503.47, and 4503.51 of the Revised Code.

(2)(a) The registrar shall adopt rules ensuring that each owner registering a motor vehicle in a county where a motor vehicle inspection and maintenance program is in effect under section 3704.14 of the Revised Code and rules adopted under it receives information about the requirements established in that section and those rules and about the need in those counties to present an inspection certificate with an application for registration or preregistration.

(b) Upon request, the registrar shall provide the director of environmental protection, or any person that has been awarded a contract

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under ~~division (D)~~ of section 3704.14 of the Revised Code, an on-line computer data link to registration information for all passenger cars, noncommercial motor vehicles, and commercial cars that are subject to that section. The registrar also shall provide to the director of environmental protection a magnetic data tape containing registration information regarding passenger cars, noncommercial motor vehicles, and commercial cars for which a multi-year registration is in effect under section 4503.103 of the Revised Code or rules adopted under it, including, without limitation, the date of issuance of the multi-year registration, the registration deadline established under rules adopted under section 4503.101 of the Revised Code that was applicable in the year in which the multi-year registration was issued, and the registration deadline for renewal of the multi-year registration.

(J) ~~Application~~ Subject to division (K) of this section, application for registration under the international registration plan, as set forth in sections 4503.60 to 4503.66 of the Revised Code, shall be made to the registrar on forms furnished by the registrar. In accordance with international registration plan guidelines and pursuant to rules adopted by the registrar, the forms shall include the following:

- (1) A uniform mileage schedule;
- (2) The gross vehicle weight of the vehicle or combined gross vehicle weight of the combination vehicle as declared by the registrant;
- (3) Any other information the registrar requires by rule.

(K) The registrar shall determine the feasibility of implementing an electronic commercial fleet licensing and management program that will enable the owners of commercial tractors, commercial trailers, and commercial semitrailers to conduct electronic transactions by July 1, 2010, or sooner. If the registrar determines that implementing such a program is feasible, the registrar shall adopt new rules under this division or amend existing rules adopted under this division as necessary in order to respond to advances in technology.

If international registration plan guidelines and provisions allow member jurisdictions to permit applications for registrations under the international registration plan to be made via the internet, the rules the registrar adopts under this division shall permit such action.

Sec. 4503.103. (A)(1)(a)(i) The registrar of motor vehicles may adopt rules to permit any person or lessee, other than a person receiving an apportioned license plate under the international registration plan, who owns or leases one or more motor vehicles to file a written application for registration for no more than five succeeding registration years. The rules

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adopted by the registrar may designate the classes of motor vehicles that are eligible for such registration. At the time of application, all annual taxes and fees shall be paid for each year for which the person is registering.

(ii) Not later than October 1, 2009, the registrar shall adopt rules to permit any person or lessee who owns or leases ~~two or more trailers~~ a trailer or semitrailers semitrailer that ~~are~~ is subject to the tax rates prescribed in section 4503.042 of the Revised Code for such trailers or semitrailers to file a written application for registration for not more than five succeeding registration years. At the time of application, all annual taxes and fees shall be paid for each year for which the person is registering. A person who registers a vehicle under division (A)(1)(a)(ii) of this section shall pay for each year of registration the additional fee established under division (C)(1) of section 4503.10 of the Revised Code. The person also shall pay one single deputy registrar service fee in the amount specified in division (D) of section 4503.10 of the Revised Code or one single bureau of motor vehicles service fee in the amount specified in division (G) of that section, as applicable, regardless of the number of years for which the person is registering.

(b)(i) Except as provided in division (A)(1)(b)(ii) of this section, the registrar shall adopt rules to permit any person who owns a motor vehicle to file an application for registration for the next two succeeding registration years. At the time of application, the person shall pay the annual taxes and fees for each registration year, calculated in accordance with division (C) of section 4503.11 of the Revised Code. A person who is registering a vehicle under division (A)(1)(b) of this section shall pay for each year of registration the additional fee established under division (C)(1) of section 4503.10 of the Revised Code. The person shall also pay one and one-half times the amount of the deputy registrar service fee specified in division (D) of section 4503.10 of the Revised Code or the bureau of motor vehicles service fee specified in division (G) of that section, as applicable.

(ii) Division (A)(1)(b)(i) of this section does not apply to a person receiving an apportioned license plate under the international registration plan, or the owner of a commercial car used solely in intrastate commerce, or the owner of a bus as defined in section 4513.50 of the Revised Code.

(2) No person applying for a multi-year registration under division (A)(1) of this section is entitled to a refund of any taxes or fees paid.

(3) The registrar shall not issue to any applicant who has been issued a final, nonappealable order under division (B) of this section a multi-year registration or renewal thereof under this division or rules adopted under it for any motor vehicle that is required to be inspected under section 3704.14

of the Revised Code the district of registration of which, as determined under section 4503.10 of the Revised Code, is or is located in the county named in the order.

(B) Upon receipt from the director of environmental protection of a notice issued under rules adopted under section 3704.14 of the Revised Code indicating that an owner of a motor vehicle that is required to be inspected under that section who obtained a multi-year registration for the vehicle under division (A) of this section or rules adopted under that division has not obtained a required inspection certificate for the vehicle, the registrar in accordance with Chapter 119. of the Revised Code shall issue an order to the owner impounding the certificate of registration and identification license plates for the vehicle. The order also shall prohibit the owner from obtaining or renewing a multi-year registration for any vehicle that is required to be inspected under that section, the district of registration of which is or is located in the same county as the county named in the order during the number of years after expiration of the current multi-year registration that equals the number of years for which the current multi-year registration was issued.

An order issued under this division shall require the owner to surrender to the registrar the certificate of registration and license plates for the vehicle named in the order within five days after its issuance. If the owner fails to do so within that time, the registrar shall certify that fact to the county sheriff or local police officials who shall recover the certificate of registration and license plates for the vehicle.

(C) Upon the occurrence of either of the following circumstances, the registrar in accordance with Chapter 119. of the Revised Code shall issue to the owner a modified order rescinding the provisions of the order issued under division (B) of this section impounding the certificate of registration and license plates for the vehicle named in that original order:

(1) Receipt from the director of environmental protection of a subsequent notice under rules adopted under section 3704.14 of the Revised Code that the owner has obtained the inspection certificate for the vehicle as required under those rules;

(2) Presentation to the registrar by the owner of the required inspection certificate for the vehicle.

(D) The owner of a motor vehicle for which the certificate of registration and license plates have been impounded pursuant to an order issued under division (B) of this section, upon issuance of a modified order under division (C) of this section, may apply to the registrar for their return. A fee of two dollars and fifty cents shall be charged for the return of the

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certificate of registration and license plates for each vehicle named in the application.

Sec. 4503.182. (A) A purchaser of a motor vehicle, upon application and proof of purchase of the vehicle, may be issued a temporary license placard or windshield sticker for the motor vehicle.

The purchaser of a vehicle applying for a temporary license placard or windshield sticker under this section shall execute an affidavit stating that the purchaser has not been issued previously during the current registration year a license plate that could legally be transferred to the vehicle.

Placards or windshield stickers shall be issued only for the applicant's use of the vehicle to enable the applicant to legally operate the motor vehicle while proper title, license plates, and a certificate of registration are being obtained, and shall be displayed on no other motor vehicle.

Placards or windshield stickers issued under this section are valid for a period of thirty days from date of issuance and are not transferable or renewable.

The fee for the placards or windshield stickers issued under this section is two dollars plus a service fee of three dollars and fifty cents.

(B)(1) The registrar of motor vehicles may issue to a motorized bicycle dealer or a licensed motor vehicle dealer temporary license placards to be issued to purchasers for use on vehicles sold by the dealer, in accordance with rules prescribed by the registrar. The dealer shall notify the registrar, within forty-eight hours, of the issuance of a placard by electronic means via computer equipment purchased and maintained by the dealer or in any other manner prescribed by the registrar.

(2) The fee for each placard issued by the registrar to a dealer is ~~fifteen two~~ two dollars, ~~of which thirteen dollars shall be deposited and used in accordance with division (D) of this section.~~ The registrar shall charge an additional three dollars and fifty cents for each placard issued to a dealer who notifies the registrar of the issuance of the placards in a manner other than by approved electronic means.

(3) When a dealer issues a temporary license placard to a purchaser, the dealer shall collect and retain the fees established under divisions (A) and (D) of this section.

(C) The registrar of motor vehicles, at the registrar's discretion, may issue a temporary license placard. Such a placard may be issued in the case of extreme hardship encountered by a citizen from this state or another state who has attempted to comply with all registration laws, but for extreme circumstances is unable to properly register the citizen's vehicle.

(D) In addition to the fees charged under divisions (A) and (B) of this

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section, commencing on October 1, 2003, the registrar and each deputy registrar shall collect a fee of five dollars and commencing on October 1, 2009, a fee of thirteen dollars, for each temporary license placard issued. The additional fee is for the purpose of defraying the department of public safety's costs associated with the administration and enforcement of the motor vehicle and traffic laws of Ohio. ~~Each~~ At the time and in the manner provided by section 4503.10 of the Revised Code, the deputy registrar shall transmit to the registrar the fees collected under this ~~division in the same manner as provided for transmission of fees collected under division (A) of this~~ section. The registrar shall deposit all moneys received under this division into the state highway safety fund established in section 4501.06 of the Revised Code.

(E) The registrar shall adopt rules, in accordance with division (B) of section 111.15 of the Revised Code, to specify the procedures for reporting the information from applications for temporary license placards and windshield stickers and for providing the information from these applications to law enforcement agencies.

(F) Temporary license placards issued under this section shall bear a distinctive combination of seven letters, numerals, or letters and numerals, and shall incorporate a security feature that, to the greatest degree possible, prevents tampering with any of the information that is entered upon a placard when it is issued.

(G) Whoever violates division (A) of this section is guilty of a misdemeanor of the fourth degree. Whoever violates division (B) of this section is guilty of a misdemeanor of the first degree.

(H) As used in this section, "motorized bicycle dealer" means any person engaged in the business of selling at retail, displaying, offering for sale, or dealing in motorized bicycles who is not subject to section 4503.09 of the Revised Code.

Sec. 4503.19. (A) Upon the filing of an application for registration and the payment of the tax for registration, the registrar of motor vehicles or a deputy registrar shall determine whether the owner previously has been issued license plates for the motor vehicle described in the application. If no license plates previously have been issued to the owner for that motor vehicle, the registrar or deputy registrar shall assign to the motor vehicle a distinctive number and issue and deliver to the owner in the manner that the registrar may select a certificate of registration, in the form that the registrar shall prescribe, and, except as otherwise provided in this section, two license plates, duplicates of each other, and a validation sticker, or a validation sticker alone, to be attached to the number plates as provided in section

4503.191 of the Revised Code. The registrar or deputy registrar also shall charge the owner any fees required under division (C) of section 4503.10 of the Revised Code. Trailers, manufactured homes, mobile homes, semitrailers, the manufacturer thereof, the dealer, or in transit companies therein, shall be issued one license plate only and one validation sticker, or a validation sticker alone, and the license plate and validation sticker shall be displayed only on the rear of such vehicles. A commercial tractor that does not receive an apportioned license plate under the international registration plan shall be issued two license plates and one validation sticker, and the validation sticker shall be displayed on the front of the commercial tractor. An apportioned vehicle receiving an apportioned license plate under the international registration plan shall be issued one license plate only and one validation sticker, or a validation sticker alone; the license plate shall be displayed only on the front of a semitractor and on the rear of all other vehicles. School buses shall not be issued license plates but shall bear identifying numbers in the manner prescribed by section 4511.764 of the Revised Code. The certificate of registration and license plates and validation stickers, or validation stickers alone, shall be issued and delivered to the owner in person or by mail. Chauffeured limousines shall be issued license plates, a validation sticker, and a livery sticker as provided in section 4503.24 of the Revised Code. In the event of the loss, mutilation, or destruction of any certificate of registration, or of any license plates or validation stickers, or if the owner chooses to replace license plates previously issued for a motor vehicle, or if the registration certificate and license plates have been impounded as provided by division (B)(1) of section 4507.02 and section 4507.16 of the Revised Code, the owner of a motor vehicle, or manufacturer or dealer, may obtain from the registrar, or from a deputy registrar if authorized by the registrar, a duplicate thereof or new license plates bearing a different number, if the registrar considers it advisable, upon filing an application prescribed by the registrar, and upon paying a fee of one dollar for such certificate of registration, which one dollar fee shall be deposited into the state treasury to the credit of the state bureau of motor vehicles fund created in section 4501.25 of the Revised Code. Commencing with each request made on or after October 1, 2009, or in conjunction with replacement license plates issued for renewal registrations expiring on or after October 1, 2009, a fee of seven dollars and fifty cents for each set of two license plates; or six dollars and fifty cents for each single license plate or validation sticker shall be charged and collected, of which the registrar shall deposit five dollars and fifty cents of each seven dollar and fifty cent fee or each six dollar and fifty cent fee into the state

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treasury to the credit of the state highway safety fund created in section 4501.06 of the Revised Code and the remaining portion of each such fee into the state treasury to the credit of the state bureau of motor vehicles fund created in section 4501.25 of the Revised Code. In addition, each applicant for a replacement certificate of registration, license plate, or validation sticker shall pay the fees provided in divisions (C) and (D) of section 4503.10 of the Revised Code.

~~The registrar shall pay five dollars and fifty cents of the fee collected for each license plate or set of license plates issued into the state highway safety fund created in section 4501.06 of the Revised Code.~~

Additionally, the registrar and each deputy registrar who either issues license plates and a validation sticker for use on any vehicle other than a commercial tractor, semitrailer, or apportioned vehicle, or who issues a validation sticker alone for use on such a vehicle and the owner has changed the owner's county of residence since the owner last was issued county identification stickers, also shall issue and deliver to the owner either one or two county identification stickers, as appropriate, which shall be attached to the license plates in a manner prescribed by the director of public safety. The county identification stickers shall identify prominently by name or number the county in which the owner of the vehicle resides at the time of registration.

(B) Whoever violates this section is guilty of a minor misdemeanor.

Sec. 4503.191. (A)(1) The identification license plate shall be issued for a multi-year period as determined by the director of public safety, and shall be accompanied by a validation sticker, to be attached to the license plate. Except as provided in division (A)(2) of this section, the validation sticker shall indicate the expiration of the registration period to which the motor vehicle for which the license plate is issued is assigned, in accordance with rules adopted by the registrar of motor vehicles. During each succeeding year of the multi-year period following the issuance of the plate and validation sticker, upon the filing of an application for registration and the payment of the tax therefor, a validation sticker alone shall be issued. The validation stickers required under this section shall be of different colors or shades each year, the new colors or shades to be selected by the director.

(2)(a) Not later than October 1, 2009, the director shall develop a universal validation sticker that may be issued to any owner of two hundred fifty or more passenger vehicles, so that a sticker issued to the owner may be placed on any passenger vehicle in that owner's fleet. The director may establish and charge an additional fee of not more than one dollar per registration to compensate for necessary costs of the universal validation

sticker program. The additional fee shall be credited to the state bureau of motor vehicles fund created in section 4501.25 of the Revised Code.

(b) A validation sticker issued for an all-purpose vehicle that is registered under Chapter 4519. of the Revised Code or for a trailer or semitrailer that is registered under division (A)(1)(a)(ii) of section 4503.103 of the Revised Code for a period of not more than five succeeding registration years may indicate the expiration of the registration period by any manner determined by the registrar by rule.

(B) Identification license plates shall be produced by Ohio penal industries. Validation stickers and county identification stickers shall be produced by Ohio penal industries unless the registrar adopts rules that permit the registrar or deputy registrars to print or otherwise produce them in house.

Sec. 4503.235. (A) If division (G) of section 4511.19 or division (B) of section 4511.193 of the Revised Code requires a court, as part of the sentence of an offender who is convicted of or pleads guilty to a violation of division (A) of section 4511.19 of the Revised Code or as a sanction for an offender who is convicted of or pleaded guilty to a violation of a municipal OVI ordinance, to order the immobilization of a vehicle for a specified period of time, notwithstanding the requirement, the court in its discretion may determine not to order the immobilization of the vehicle if both of the following apply:

(1) Prior to the issuance of the order of immobilization, a family or household member of the offender files a motion with the court identifying the vehicle and requesting that the immobilization order not be issued on the ground that the family or household member is completely dependent on the vehicle for the necessities of life and that the immobilization of the vehicle would be an undue hardship to the family or household member.

(2) The court determines that the family or household member who files the motion is completely dependent on the vehicle for the necessities of life and that the immobilization of the vehicle would be an undue hardship to the family or household member.

(B) If a court pursuant to division (A) of this section determines not to order the immobilization of a vehicle that otherwise would be required pursuant to division (G) of section 4511.19 or division (B) of section 4511.193 of the Revised Code, the court shall issue an order that waives the immobilization that otherwise would be required pursuant to either of those divisions. The immobilization waiver order shall be in effect for the period of time for which the immobilization of the vehicle otherwise would have been required under division (G) of section 4511.19 or division (B) of

section 4511.193 of the Revised Code if the immobilization waiver order had not been issued, subject to division (D) of this section. The immobilization waiver order shall specify the period of time for which it is in effect. The court shall provide a copy of an immobilization waiver order to the offender and to the family or household member of the offender who filed the motion requesting that the immobilization order not be issued and shall place a copy of the immobilization waiver order in the record in the case. The court shall impose an immobilization waiver fee in the amount of fifty dollars. The court shall determine whether the fee is to be paid by the offender or by the family or household member. The clerk of the court shall ~~transmit~~ deposit all of the fees collected during a month on or before the twenty-third day of the following month ~~to~~ into the ~~state treasury to be credited to the~~ county or municipal indigent drivers alcohol treatment fund under the control of that court, as created by the county or municipal corporation under division (F) of section 4511.191 of the Revised Code.

(C) If a court pursuant to division (B) of this section issues an immobilization waiver order, the order shall identify the family or household member who requested the order and the vehicle to which the order applies, shall identify the family or household members who are permitted to operate the vehicle, and shall identify the offender and specify that the offender is not permitted to operate the vehicle. The immobilization waiver order shall require that the family or household member display on the vehicle to which the order applies restricted license plates that are issued under section 4503.231 of the Revised Code for the entire period for which the immobilization of the vehicle otherwise would have been required under division (G) of section 4511.19 or division (B) of section 4511.193 of the Revised Code if the immobilization waiver order had not been issued.

(D) A family or household member who is permitted to operate a vehicle under an immobilization waiver order issued under this section shall not permit the offender to operate the vehicle. If a family or household member who is permitted to operate a vehicle under an immobilization waiver order issued under this section permits the offender to operate the vehicle, both of the following apply:

(1) The court that issued the immobilization waiver order shall terminate that order and shall issue an immobilization order in accordance with section 4503.233 of the Revised Code that applies to the vehicle, and the immobilization order shall be in effect for the remaining period of time for which the immobilization of the vehicle otherwise would have been required under division (G) of section 4511.19 or division (B) of section 4511.193 of the Revised Code if the immobilization waiver order had not

been issued.

(2) The conduct of the family or household member in permitting the offender to operate the vehicle is a violation of section 4511.203 of the Revised Code.

(E) No offender shall operate a motor vehicle subject to an immobilization waiver order. Whoever violates this division is guilty of operating a motor vehicle in violation of an immobilization waiver, a misdemeanor of the first degree.

(F) "Family or household member" has the same meaning as in section 2919.25 of the Revised Code, except that the person must be currently residing with the offender.

Sec. 4503.40. ~~The~~ For each registration renewal with an expiration date before October 1, 2009, and for each initial application for registration received before that date the registrar of motor vehicles shall be allowed a fee not to exceed ten dollars, and for each registration renewal with an expiration date on or after October 1, 2009, and for each initial application for registration received on or after that date the registrar of motor vehicles shall be allowed a fee of twenty-five dollars, for each application received by the registrar for special state reserved license plate numbers and the issuing of such licenses, and validation stickers, in the several series as the registrar may designate. The fee shall be in addition to the license tax established by this chapter and, where applicable, Chapter 4504. of the Revised Code. Seven dollars and fifty cents of the fee shall be for the purpose of compensating the bureau of motor vehicles for additional services required in the issuing of such licenses, and the remaining ~~seventeen dollars and fifty cents~~ portion of the fee shall be deposited by the registrar into the state treasury to the credit of the state highway safety fund created by section 4501.06 of the Revised Code. The types of motor vehicles for which special state reserved license plates may be issued in accordance with this section shall include at least motorcycles, buses, passenger cars, and noncommercial motor vehicles.

Sec. 4503.42. ~~The~~ For each registration renewal with an expiration date before October 1, 2009, and for each initial application for registration received before that date the registrar of motor vehicles shall be allowed a fee not to exceed thirty-five dollars, and for each registration renewal with an expiration date on or after October 1, 2009, and for each initial application for registration received on or after that date the registrar of ~~motor vehicles~~ shall be allowed a fee of fifty dollars, which shall be in addition to the regular license fee for tags as prescribed under section 4503.04 of the Revised Code and any tax levied under section 4504.02 or

4504.06 of the Revised Code, for each application received by the registrar for special reserved license plate numbers containing more than three letters or numerals, and the issuing of such licenses and validation stickers in the several series as the registrar may designate. Five dollars of the fee shall be for the purpose of compensating the bureau of motor vehicles for additional services required in the issuing of such licenses and validation stickers, and the remaining ~~forty-five dollars~~ portion of the fee shall be deposited by the registrar into the state treasury to the credit of the state highway safety fund created by section 4501.06 of the Revised Code.

This section does not apply to the issuance of reserved license plates as authorized by sections 4503.14, 4503.15, and 4503.40 of the Revised Code. The types of motor vehicles for which license plate numbers containing more than three letters or numerals may be issued in accordance with this section shall include at least buses, passenger cars, and noncommercial motor vehicles.

Sec. 4503.44. (A) As used in this section and in section 4511.69 of the Revised Code:

(1) "Person with a disability that limits or impairs the ability to walk" means any person who, as determined by a health care provider, meets any of the following criteria:

- (a) Cannot walk two hundred feet without stopping to rest;
- (b) Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device;
- (c) Is restricted by a lung disease to such an extent that the person's forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than sixty millimeters of mercury on room air at rest;
- (d) Uses portable oxygen;
- (e) Has a cardiac condition to the extent that the person's functional limitations are classified in severity as class III or class IV according to standards set by the American heart association;
- (f) Is severely limited in the ability to walk due to an arthritic, neurological, or orthopedic condition;
- (g) Is blind.

(2) "Organization" means any private organization or corporation, or any governmental board, agency, department, division, or office, that, as part of its business or program, transports persons with disabilities that limit or impair the ability to walk on a regular basis in a motor vehicle that has not been altered for the purpose of providing it with special equipment for

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use by handicapped persons. This definition does not apply to division (J) of this section.

(3) "Health care provider" means a physician, physician assistant, advanced practice nurse, or chiropractor as defined in this section.

(4) "Physician" means a person licensed to practice medicine or surgery or osteopathic medicine and surgery under Chapter 4731. of the Revised Code.

(5) "Chiropractor" means a person licensed to practice chiropractic under Chapter 4734. of the Revised Code.

(6) "Advanced practice nurse" means any certified nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, or certified nurse-midwife who holds a certificate of authority issued by the board of nursing under Chapter 4723. of the Revised Code.

(7) "Physician assistant" means a person who holds a certificate to practice as a physician assistant issued under Chapter 4730. of the Revised Code.

(B) Any organization or person with a disability that limits or impairs the ability to walk may apply to the registrar of motor vehicles for a removable windshield placard or, if the person owns or leases a motor vehicle, the person may apply for the registration of any motor vehicle the person owns or leases. In addition to one or more sets of license plates or one placard, a person with a disability that limits or impairs the ability to walk is entitled to one additional placard, but only if the person applies separately for the additional placard, states the reasons why the additional placard is needed, and the registrar, in the registrar's discretion, determines that good and justifiable cause exists to approve the request for the additional placard. When a motor vehicle has been altered for the purpose of providing it with special equipment for a person with a disability that limits or impairs the ability to walk, but is owned or leased by someone other than such a person, the owner or lessee may apply to the registrar or a deputy registrar for registration under this section. The application for registration of a motor vehicle owned or leased by a person with a disability that limits or impairs the ability to walk shall be accompanied by a signed statement from the applicant's health care provider certifying that the applicant meets at least one of the criteria contained in division (A)(1) of this section and that the disability is expected to continue for more than six consecutive months. The application for a removable windshield placard made by a person with a disability that limits or impairs the ability to walk shall be accompanied by a prescription from the applicant's health care provider prescribing such a placard for the applicant, provided that the applicant

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meets at least one of the criteria contained in division (A)(1) of this section. The health care provider shall state on the prescription the length of time the health care provider expects the applicant to have the disability that limits or impairs the applicant's ability to walk. The application for a removable windshield placard made by an organization shall be accompanied by such documentary evidence of regular transport of persons with disabilities that limit or impair the ability to walk by the organization as the registrar may require by rule and shall be completed in accordance with procedures that the registrar may require by rule. The application for registration of a motor vehicle that has been altered for the purpose of providing it with special equipment for a person with a disability that limits or impairs the ability to walk but is owned by someone other than such a person shall be accompanied by such documentary evidence of vehicle alterations as the registrar may require by rule.

(C) When an organization, a person with a disability that limits or impairs the ability to walk, or a person who does not have a disability that limits or impairs the ability to walk but owns a motor vehicle that has been altered for the purpose of providing it with special equipment for a person with a disability that limits or impairs the ability to walk first submits an application for registration of a motor vehicle under this section and every fifth year thereafter, the organization or person shall submit a signed statement from the applicant's health care provider, a completed application, and any required documentary evidence of vehicle alterations as provided in division (B) of this section, and also a power of attorney from the owner of the motor vehicle if the applicant leases the vehicle. Upon submission of these items, the registrar or deputy registrar shall issue to the applicant appropriate vehicle registration and a set of license plates and validation stickers, or validation stickers alone when required by section 4503.191 of the Revised Code. In addition to the letters and numbers ordinarily inscribed thereon, the license plates shall be imprinted with the international symbol of access. The license plates and validation stickers shall be issued upon payment of the regular license fee as prescribed under section 4503.04 of the Revised Code and any motor vehicle tax levied under Chapter 4504. of the Revised Code, and the payment of a service fee equal to the amount specified in division (D) or (G) of section 4503.10 of the Revised Code.

(D)(1) Upon receipt of a completed and signed application for a removable windshield placard, a prescription as described in division (B) of this section, documentary evidence of regular transport of persons with disabilities that limit or impair the ability to walk, if required, and payment of a service fee equal to the amount specified in division (D) or (G) of

section 4503.10 of the Revised Code, the registrar or deputy registrar shall issue to the applicant a removable windshield placard, which shall bear the date of expiration on both sides of the placard and shall be valid until expired, revoked, or surrendered. Every removable windshield placard expires as described in division (D)(2) of this section, but in no case shall a removable windshield placard be valid for a period of less than sixty days. Removable windshield placards shall be renewable upon application as provided in division (B) of this section, and a service fee equal to the amount specified in division (D) or (G) of section 4503.10 of the Revised Code shall be charged for the renewal of a removable windshield placard. The registrar shall provide the application form and shall determine the information to be included thereon. The registrar also shall determine the form and size of the removable windshield placard, the material of which it is to be made, and any other information to be included thereon, and shall adopt rules relating to the issuance, expiration, revocation, surrender, and proper display of such placards. Any placard issued after October 14, 1999, shall be manufactured in a manner that allows the expiration date of the placard to be indicated on it through the punching, drilling, boring, or creation by any other means of holes in the placard.

(2) At the time a removable windshield placard is issued to a person with a disability that limits or impairs the ability to walk, the registrar or deputy registrar shall enter into the records of the bureau of motor vehicles the last date on which the person will have that disability, as indicated on the accompanying prescription. Not less than thirty days prior to that date and all removable windshield placard renewal dates, the bureau shall send a renewal notice to that person at the person's last known address as shown in the records of the bureau, informing the person that the person's removable windshield placard will expire on the indicated date not to exceed five years from the date of issuance, and that the person is required to renew the placard by submitting to the registrar or a deputy registrar another prescription, as described in division (B) of this section, and by complying with the renewal provisions prescribed in division (D)(1) of this section. If such a prescription is not received by the registrar or a deputy registrar by that date, the placard issued to that person expires and no longer is valid, and this fact shall be recorded in the records of the bureau.

(3) At least once every year, on a date determined by the registrar, the bureau shall examine the records of the office of vital statistics, located within the department of health, that pertain to deceased persons, and also the bureau's records of all persons who have been issued removable windshield placards and temporary removable windshield placards. If the

records of the office of vital statistics indicate that a person to whom a removable windshield placard or temporary removable windshield placard has been issued is deceased, the bureau shall cancel that placard, and note the cancellation in its records.

The office of vital statistics shall make available to the bureau all information necessary to enable the bureau to comply with division (D)(3) of this section.

(4) Nothing in this section shall be construed to require a person or organization to apply for a removable windshield placard or special license plates if the parking card or special license plates issued to the person or organization under prior law have not expired or been surrendered or revoked.

(E)(1)(a) Any person with a disability that limits or impairs the ability to walk may apply to the registrar or a deputy registrar for a temporary removable windshield placard. The application for a temporary removable windshield placard shall be accompanied by a prescription from the applicant's health care provider prescribing such a placard for the applicant, provided that the applicant meets at least one of the criteria contained in division (A)(1) of this section and that the disability is expected to continue for six consecutive months or less. The health care provider shall state on the prescription the length of time the health care provider expects the applicant to have the disability that limits or impairs the applicant's ability to walk, which cannot exceed six months from the date of the prescription. Upon receipt of an application for a temporary removable windshield placard, presentation of the prescription from the applicant's health care provider, and payment of a service fee equal to the amount specified in division (D) or (G) of section 4503.10 of the Revised Code, the registrar or deputy registrar shall issue to the applicant a temporary removable windshield placard.

(b) Any active-duty member of the armed forces of the United States, including the reserve components of the armed forces and the national guard, who has an illness or injury that limits or impairs the ability to walk may apply to the registrar or a deputy registrar for a temporary removable windshield placard. With the application, the person shall present evidence of the person's active-duty status and the illness or injury. Evidence of the illness or injury may include a current department of defense convalescent leave statement, any department of defense document indicating that the person currently has an ill or injured casualty status or has limited duties, or a prescription from any health care provider prescribing the placard for the applicant. Upon receipt of the application and the necessary evidence, the

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registrar or deputy registrar shall issue the applicant the temporary removable windshield placard without the payment of any service fee.

(2) The temporary removable windshield placard shall be of the same size and form as the removable windshield placard, shall be printed in white on a red-colored background, and shall bear the word "temporary" in letters of such size as the registrar shall prescribe. A temporary removable windshield placard also shall bear the date of expiration on the front and back of the placard, and shall be valid until expired, surrendered, or revoked, but in no case shall such a placard be valid for a period of less than sixty days. The registrar shall provide the application form and shall determine the information to be included on it, provided that the registrar shall not require a health care provider's prescription or certification for a person applying under division (E)(1)(b) of this section. The registrar also shall determine the material of which the temporary removable windshield placard is to be made and any other information to be included on the placard and shall adopt rules relating to the issuance, expiration, surrender, revocation, and proper display of those placards. Any temporary removable windshield placard issued after October 14, 1999, shall be manufactured in a manner that allows for the expiration date of the placard to be indicated on it through the punching, drilling, boring, or creation by any other means of holes in the placard.

(F) If an applicant for a removable windshield placard is a veteran of the armed forces of the United States whose disability, as defined in division (A)(1) of this section, is service-connected, the registrar or deputy registrar, upon receipt of the application, presentation of a signed statement from the applicant's health care provider certifying the applicant's disability, and presentation of such documentary evidence from the department of veterans affairs that the disability of the applicant meets at least one of the criteria identified in division (A)(1) of this section and is service-connected as the registrar may require by rule, but without the payment of any service fee, shall issue the applicant a removable windshield placard that is valid until expired, surrendered, or revoked.

(G) Upon a conviction of a violation of division (I), (J), or (K) of this section, the court shall report the conviction, and send the placard or parking card, if available, to the registrar, who thereupon shall revoke the privilege of using the placard or parking card and send notice in writing to the placardholder or cardholder at that holder's last known address as shown in the records of the bureau, and the placardholder or cardholder shall return the placard or card if not previously surrendered to the court, to the registrar within ten days following mailing of the notice.

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Whenever a person to whom a removable windshield placard or parking card has been issued moves to another state, the person shall surrender the placard or card to the registrar; and whenever an organization to which a placard or card has been issued changes its place of operation to another state, the organization shall surrender the placard or card to the registrar.

(H) Subject to division (F) of section 4511.69 of the Revised Code, the operator of a motor vehicle displaying a removable windshield placard, temporary removable windshield placard, parking card, or the special license plates authorized by this section is entitled to park the motor vehicle in any special parking location reserved for persons with disabilities that limit or impair the ability to walk, also known as handicapped parking spaces or disability parking spaces.

(I) No person or organization that is not eligible under division (B) or (E) of this section shall willfully and falsely represent that the person or organization is so eligible.

No person or organization shall display license plates issued under this section unless the license plates have been issued for the vehicle on which they are displayed and are valid.

(J) No person or organization to which a removable windshield placard or temporary removable windshield placard is issued shall do either of the following:

(1) Display or permit the display of the placard on any motor vehicle when having reasonable cause to believe the motor vehicle is being used in connection with an activity that does not include providing transportation for persons with disabilities that limit or impair the ability to walk;

(2) Refuse to return or surrender the placard, when required.

(K)(1) No person or organization to which a parking card is issued shall do either of the following:

(a) Display or permit the display of the parking card on any motor vehicle when having reasonable cause to believe the motor vehicle is being used in connection with an activity that does not include providing transportation for a handicapped person;

(b) Refuse to return or surrender the parking card, when required.

(2) As used in division (K) of this section:

(a) "Handicapped person" means any person who has lost the use of one or both legs or one or both arms, who is blind, deaf, or so severely handicapped as to be unable to move about without the aid of crutches or a wheelchair, or whose mobility is restricted by a permanent cardiovascular, pulmonary, or other handicapping condition.

(b) "Organization" means any private organization or corporation, or

any governmental board, agency, department, division, or office, that, as part of its business or program, transports handicapped persons on a regular basis in a motor vehicle that has not been altered for the purposes of providing it with special equipment for use by handicapped persons.

(L) If a removable windshield placard, temporary removable windshield placard, or parking card is lost, destroyed, or mutilated, the placardholder or cardholder may obtain a duplicate by doing both of the following:

(1) Furnishing suitable proof of the loss, destruction, or mutilation to the registrar;

(2) Paying a service fee equal to the amount specified in division (D) or (G) of section 4503.10 of the Revised Code.

Any placardholder or cardholder who loses a placard or card and, after obtaining a duplicate, finds the original, immediately shall surrender the original placard or card to the registrar.

(M) The registrar shall pay all fees received under this section for the issuance of removable windshield placards or temporary removable windshield placards or duplicate removable windshield placards or cards into the state treasury to the credit of the state bureau of motor vehicles fund created in section 4501.25 of the Revised Code.

(N) In addition to the fees collected under this section, the registrar or deputy registrar shall ask each person applying for a removable windshield placard or temporary removable windshield placard or duplicate removable windshield placard or license plate issued under this section, whether the person wishes to make a two-dollar voluntary contribution to support rehabilitation employment services. The registrar shall transmit the contributions received under this division to the treasurer of state for deposit into the rehabilitation employment fund, which is hereby created in the state treasury. A deputy registrar shall transmit the contributions received under this division to the registrar in the time and manner prescribed by the registrar. The contributions in the fund shall be used by the rehabilitation services commission to purchase services related to vocational evaluation, work adjustment, personal adjustment, job placement, job coaching, and community-based assessment from accredited community rehabilitation program facilities.

(O) For purposes of enforcing this section, every peace officer is deemed to be an agent of the registrar. Any peace officer or any authorized employee of the bureau of motor vehicles who, in the performance of duties authorized by law, becomes aware of a person whose placard or parking card has been revoked pursuant to this section, may confiscate that placard or parking card and return it to the registrar. The registrar shall prescribe any

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forms used by law enforcement agencies in administering this section.

No peace officer, law enforcement agency employing a peace officer, or political subdivision or governmental agency employing a peace officer, and no employee of the bureau is liable in a civil action for damages or loss to persons arising out of the performance of any duty required or authorized by this section. As used in this division, "peace officer" has the same meaning as in division (B) of section 2935.01 of the Revised Code.

~~(O)~~(P) All applications for registration of motor vehicles, removable windshield placards, and temporary removable windshield placards issued under this section, all renewal notices for such items, and all other publications issued by the bureau that relate to this section shall set forth the criminal penalties that may be imposed upon a person who violates any provision relating to special license plates issued under this section, the parking of vehicles displaying such license plates, and the issuance, procurement, use, and display of removable windshield placards and temporary removable windshield placards issued under this section.

~~(P)~~(Q) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

Sec. 4503.548. (A) Any person who has been awarded the combat infantryman badge may apply to the registrar of motor vehicles for the registration of any passenger car, noncommercial motor vehicle, recreational vehicle, or other vehicle of a class approved by the registrar that the person owns or leases. The application shall be accompanied by such documentary evidence in support of the award as the registrar may require. The application may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code.

Upon receipt of an application for registration of a motor vehicle under this section and the required taxes and fees, and upon presentation of the required supporting evidence of the award of the combat infantryman badge, the registrar shall issue to the applicant the appropriate motor vehicle registration and a set of license plates and a validation sticker, or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed on license plates, the license plates shall be inscribed with the words "combat infantryman badge" and bear a reproduction of the combat infantryman badge. The license plates shall bear county identification stickers that identify the county of registration by name or number.

The license plates and a validation sticker or, when applicable, a validation sticker alone shall be issued upon payment of the regular license

tax required by section 4503.04 of the Revised Code, payment of any local motor vehicle license tax levied under Chapter 4504. of the Revised Code, payment of any applicable additional fee prescribed by section 4503.40 or 4503.42 of the Revised Code, and compliance with all other applicable laws relating to the registration of motor vehicles.

(B) No person who is not a recipient of the combat infantryman badge shall willfully and falsely represent that the person is a recipient of the combat infantryman badge for the purpose of obtaining license plates under this section. No person shall own a motor vehicle bearing license plates issued under this section unless the person is eligible to be issued those license plates.

(C) Sections 4503.77 and 4503.78 of the Revised Code do not apply to license plates issued under this section.

Sec. 4503.563. (A) The owner or lessee of any passenger car, noncommercial motor vehicle, recreational vehicle, or other vehicle of a class approved by the registrar of motor vehicles may apply to the registrar for the registration of the vehicle and issuance of Ohio nature preserves license plates. The application for Ohio nature preserves license plates may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code. Upon receipt of the completed application and compliance with division (B) of this section, the registrar shall issue to the applicant the appropriate vehicle registration and a set of Ohio nature preserves license plates with a validation sticker or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed thereon, Ohio nature preserves license plates shall be inscribed with identifying words or markings designed by the department of natural resources and approved by the registrar. Ohio nature preserves license plates shall bear county identification stickers that identify the county of registration by name or number.

(B) The Ohio nature preserves license plates and validation sticker shall be issued upon receipt of a contribution as provided in division (C) of this section and upon payment of the regular license fees as prescribed under section 4503.04 of the Revised Code, a bureau of motor vehicles administrative fee of ten dollars, any applicable motor vehicle tax levied under Chapter 4504. of the Revised Code, and compliance with all other applicable laws relating to the registration of motor vehicles. If the application for Ohio nature preserves license plates is combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code, the license plates and validation sticker shall be issued

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upon payment of the contribution, fees, and taxes contained in this division and the additional fee prescribed under section 4503.40 or 4503.42 of the Revised Code.

(C) For each application for registration and registration renewal submitted under this section, the registrar shall collect a contribution in an amount not to exceed forty dollars as determined by the department. The registrar shall transmit this contribution to the treasurer of state for deposit in the Ohio nature preserves fund created in section 4501.243 of the Revised Code.

The registrar shall deposit the ten-dollar bureau administrative fee, the purpose of which is to compensate the bureau for additional services required in issuing Ohio nature preserves license plates, in the state bureau of motor vehicles fund created in section 4501.25 of the Revised Code.

Sec. 4505.01. (A) As used in this chapter:

(1) "Lien" includes, unless the context requires a different meaning, a security interest in a motor vehicle.

(2) "Motor vehicle" includes manufactured homes, mobile homes, recreational vehicles, and trailers and semitrailers whose weight exceeds four thousand pounds.

(3) "Manufactured home" has the same meaning as section 3781.06 of the Revised Code.

(4) "Mobile home" has the same meaning as in section 4501.01 of the Revised Code.

(5) "Manufactured housing dealer," "manufactured housing broker," and "manufactured housing salesperson" have the same meanings as in section 4781.01 of the Revised Code.

(6) "Motor vehicle dealer" includes manufactured housing dealers.

(7) "Motor vehicle salesperson" includes manufactured housing salespersons.

(B) The various certificates, applications, and assignments necessary to provide certificates of title for manufactured homes, mobile homes, recreational vehicles, and trailers and semitrailers whose weight exceeds four thousand pounds, shall be made upon forms prescribed by the registrar of motor vehicles.

Sec. 4505.06. (A)(1) Application for a certificate of title shall be made in a form prescribed by the registrar of motor vehicles and shall be sworn to before a notary public or other officer empowered to administer oaths. The application shall be filed with the clerk of any court of common pleas. An application for a certificate of title may be filed electronically by any electronic means approved by the registrar in any county with the clerk of

the court of common pleas of that county. Any payments required by this chapter shall be considered as accompanying any electronically transmitted application when payment actually is received by the clerk. Payment of any fee or taxes may be made by electronic transfer of funds.

(2) The application for a certificate of title shall be accompanied by the fee prescribed in section 4505.09 of the Revised Code. The fee shall be retained by the clerk who issues the certificate of title and shall be distributed in accordance with that section. If a clerk of a court of common pleas, other than the clerk of the court of common pleas of an applicant's county of residence, issues a certificate of title to the applicant, the clerk shall transmit data related to the transaction to the automated title processing system.

(3) If a certificate of title previously has been issued for a motor vehicle in this state, the application for a certificate of title also shall be accompanied by that certificate of title duly assigned, unless otherwise provided in this chapter. If a certificate of title previously has not been issued for the motor vehicle in this state, the application, unless otherwise provided in this chapter, shall be accompanied by a manufacturer's or importer's certificate or by a certificate of title of another state from which the motor vehicle was brought into this state. If the application refers to a motor vehicle last previously registered in another state, the application also shall be accompanied by the physical inspection certificate required by section 4505.061 of the Revised Code. If the application is made by two persons regarding a motor vehicle in which they wish to establish joint ownership with right of survivorship, they may do so as provided in section 2131.12 of the Revised Code. If the applicant requests a designation of the motor vehicle in beneficiary form so that upon the death of the owner of the motor vehicle, ownership of the motor vehicle will pass to a designated transfer-on-death beneficiary or beneficiaries, the applicant may do so as provided in section 2131.13 of the Revised Code. A person who establishes ownership of a motor vehicle that is transferable on death in accordance with section 2131.13 of the Revised Code may terminate that type of ownership or change the designation of the transfer-on-death beneficiary or beneficiaries by applying for a certificate of title pursuant to this section. The clerk shall retain the evidence of title presented by the applicant and on which the certificate of title is issued, except that, if an application for a certificate of title is filed electronically by an electronic motor vehicle dealer on behalf of the purchaser of a motor vehicle, the clerk shall retain the completed electronic record to which the dealer converted the certificate of title application and other required documents. The registrar, after

consultation with the attorney general, shall adopt rules that govern the location at which, and the manner in which, are stored the actual application and all other documents relating to the sale of a motor vehicle when an electronic motor vehicle dealer files the application for a certificate of title electronically on behalf of the purchaser.

The clerk shall use reasonable diligence in ascertaining whether or not the facts in the application for a certificate of title are true by checking the application and documents accompanying it or the electronic record to which a dealer converted the application and accompanying documents with the records of motor vehicles in the clerk's office. If the clerk is satisfied that the applicant is the owner of the motor vehicle and that the application is in the proper form, the clerk, within five business days after the application is filed and except as provided in section 4505.021 of the Revised Code, shall issue a physical certificate of title over the clerk's signature and sealed with the clerk's seal, unless the applicant specifically requests the clerk not to issue a physical certificate of title and instead to issue an electronic certificate of title. For purposes of the transfer of a certificate of title, if the clerk is satisfied that the secured party has duly discharged a lien notation but has not canceled the lien notation with a clerk, the clerk may cancel the lien notation on the automated title processing system and notify the clerk of the county of origin.

(4) In the case of the sale of a motor vehicle to a general buyer or user by a dealer, by a motor vehicle leasing dealer selling the motor vehicle to the lessee or, in a case in which the leasing dealer subleased the motor vehicle, the sublessee, at the end of the lease agreement or sublease agreement, or by a manufactured ~~home~~ housing broker, the certificate of title shall be obtained in the name of the buyer by the dealer, leasing dealer, or manufactured ~~home~~ housing broker, as the case may be, upon application signed by the buyer. The certificate of title shall be issued, or the process of entering the certificate of title application information into the automated title processing system if a physical certificate of title is not to be issued shall be completed, within five business days after the application for title is filed with the clerk. If the buyer of the motor vehicle previously leased the motor vehicle and is buying the motor vehicle at the end of the lease pursuant to that lease, the certificate of title shall be obtained in the name of the buyer by the motor vehicle leasing dealer who previously leased the motor vehicle to the buyer or by the motor vehicle leasing dealer who subleased the motor vehicle to the buyer under a sublease agreement.

In all other cases, except as provided in section 4505.032 and division (D)(2) of section 4505.11 of the Revised Code, such certificates shall be

obtained by the buyer.

(5)(a)(i) If the certificate of title is being obtained in the name of the buyer by a motor vehicle dealer or motor vehicle leasing dealer and there is a security interest to be noted on the certificate of title, the dealer or leasing dealer shall submit the application for the certificate of title and payment of the applicable tax to a clerk within seven business days after the later of the delivery of the motor vehicle to the buyer or the date the dealer or leasing dealer obtains the manufacturer's or importer's certificate, or certificate of title issued in the name of the dealer or leasing dealer, for the motor vehicle. Submission of the application for the certificate of title and payment of the applicable tax within the required seven business days may be indicated by postmark or receipt by a clerk within that period.

(ii) Upon receipt of the certificate of title with the security interest noted on its face, the dealer or leasing dealer shall forward the certificate of title to the secured party at the location noted in the financing documents or otherwise specified by the secured party.

(iii) A motor vehicle dealer or motor vehicle leasing dealer is liable to a secured party for a late fee of ten dollars per day for each certificate of title application and payment of the applicable tax that is submitted to a clerk more than seven business days but less than twenty-one days after the later of the delivery of the motor vehicle to the buyer or the date the dealer or leasing dealer obtains the manufacturer's or importer's certificate, or certificate of title issued in the name of the dealer or leasing dealer, for the motor vehicle and, from then on, twenty-five dollars per day until the application and applicable tax are submitted to a clerk.

(b) In all cases of transfer of a motor vehicle except the transfer of a manufactured home or mobile home, the application for certificate of title shall be filed within thirty days after the assignment or delivery of the motor vehicle. ¶

(c) An application for a certificate of title for a new manufactured home shall be filed within thirty days after the delivery of the new manufactured home to the purchaser. The date of the delivery shall be the date on which an occupancy permit for the manufactured home is delivered to the purchaser of the home by the appropriate legal authority.

(d) An application for a certificate of title for a used manufactured home or a used mobile home shall be filed as follows:

(i) If a certificate of title for the used manufactured home or used mobile home was issued to the motor vehicle dealer prior to the sale of the manufactured or mobile home to the purchaser, the application for certificate of title shall be filed within thirty days after the date on which an

occupancy permit for the manufactured or mobile home is delivered to the purchaser by the appropriate legal authority.

(ii) If the motor vehicle dealer has been designated by a secured party to display the manufactured or mobile home for sale, or to sell the manufactured or mobile home under section 4505.20 of the Revised Code, but the certificate of title has not been transferred by the secured party to the motor vehicle dealer, and the dealer has complied with the requirements of division (A) of section 4505.181 of the Revised Code, the application for certificate of title shall be filed within thirty days after the date on which the motor vehicle dealer obtains the certificate of title for the home from the secured party or the date on which an occupancy permit for the manufactured or mobile home is delivered to the purchaser by the appropriate legal authority, whichever occurs later.

(6) If an application for a certificate of title is not filed within the period specified in division (A)(5)(b), (c), or (d) of this section, the clerk shall collect a fee of five dollars for the issuance of the certificate, except that no such fee shall be required from a motor vehicle salvage dealer, as defined in division (A) of section 4738.01 of the Revised Code, who immediately surrenders the certificate of title for cancellation. The fee shall be in addition to all other fees established by this chapter, and shall be retained by the clerk. The registrar shall provide, on the certificate of title form prescribed by section 4505.07 of the Revised Code, language necessary to give evidence of the date on which the assignment or delivery of the motor vehicle was made.

~~(6)~~(7) As used in division (A) of this section, "lease agreement," "lessee," and "sublease agreement" have the same meanings as in section 4505.04 of the Revised Code and "new manufactured home," "used manufactured home," and "used mobile home" have the same meanings as in section 5739.0210 of the Revised Code.

(B)(1) The clerk, except as provided in this section, shall refuse to accept for filing any application for a certificate of title and shall refuse to issue a certificate of title unless the dealer ~~or manufactured home broker~~ or the applicant, in cases in which the certificate shall be obtained by the buyer, submits with the application payment of the tax levied by or pursuant to Chapters 5739. and 5741. of the Revised Code based on the purchaser's county of residence. Upon payment of the tax in accordance with division (E) of this section, the clerk shall issue a receipt prescribed by the registrar and agreed upon by the tax commissioner showing payment of the tax or a receipt issued by the commissioner showing the payment of the tax. When submitting payment of the tax to the clerk, a dealer shall retain any discount

to which the dealer is entitled under section 5739.12 of the Revised Code.

(2) For receiving and disbursing such taxes paid to the clerk by a resident of the clerk's county, the clerk may retain a poundage fee of one and one one-hundredth per cent, and the clerk shall pay the poundage fee into the certificate of title administration fund created by section 325.33 of the Revised Code. The clerk shall not retain a poundage fee from payments of taxes by persons who do not reside in the clerk's county.

A clerk, however, may retain from the taxes paid to the clerk an amount equal to the poundage fees associated with certificates of title issued by other clerks of courts of common pleas to applicants who reside in the first clerk's county. The registrar, in consultation with the tax commissioner and the clerks of the courts of common pleas, shall develop a report from the automated title processing system that informs each clerk of the amount of the poundage fees that the clerk is permitted to retain from those taxes because of certificates of title issued by the clerks of other counties to applicants who reside in the first clerk's county.

(3) In the case of casual sales of motor vehicles, as defined in section 4517.01 of the Revised Code, the price for the purpose of determining the tax shall be the purchase price on the assigned certificate of title executed by the seller and filed with the clerk by the buyer on a form to be prescribed by the registrar, which shall be prima-facie evidence of the amount for the determination of the tax.

(4) Each county clerk shall forward to the treasurer of state all sales and use tax collections resulting from sales of motor vehicles, off-highway motorcycles, and all-purpose vehicles during a calendar week on or before the Friday following the close of that week. If, on any Friday, the offices of the clerk of courts or the state are not open for business, the tax shall be forwarded to the treasurer of state on or before the next day on which the offices are open. Every remittance of tax under division (B)(4) of this section shall be accompanied by a remittance report in such form as the tax commissioner prescribes. Upon receipt of a tax remittance and remittance report, the treasurer of state shall date stamp the report and forward it to the tax commissioner. If the tax due for any week is not remitted by a clerk of courts as required under division (B)(4) of this section, the commissioner may require the clerk to forfeit the poundage fees for the sales made during that week. The treasurer of state may require the clerks of courts to transmit tax collections and remittance reports electronically.

(C)(1) If the transferor indicates on the certificate of title that the odometer reflects mileage in excess of the designed mechanical limit of the odometer, the clerk shall enter the phrase "exceeds mechanical limits"

following the mileage designation. If the transferor indicates on the certificate of title that the odometer reading is not the actual mileage, the clerk shall enter the phrase "nonactual: warning - odometer discrepancy" following the mileage designation. The clerk shall use reasonable care in transferring the information supplied by the transferor, but is not liable for any errors or omissions of the clerk or those of the clerk's deputies in the performance of the clerk's duties created by this chapter.

The registrar shall prescribe an affidavit in which the transferor shall swear to the true selling price and, except as provided in this division, the true odometer reading of the motor vehicle. The registrar may prescribe an affidavit in which the seller and buyer provide information pertaining to the odometer reading of the motor vehicle in addition to that required by this section, as such information may be required by the United States secretary of transportation by rule prescribed under authority of subchapter IV of the "Motor Vehicle Information and Cost Savings Act," 86 Stat. 961 (1972), 15 U.S.C. 1981.

(2) Division (C)(1) of this section does not require the giving of information concerning the odometer and odometer reading of a motor vehicle when ownership of a motor vehicle is being transferred as a result of a bequest, under the laws of intestate succession, to a survivor pursuant to section 2106.18, 2131.12, or 4505.10 of the Revised Code, to a transfer-on-death beneficiary or beneficiaries pursuant to section 2131.13 of the Revised Code, in connection with the creation of a security interest or for a vehicle with a gross vehicle weight rating of more than sixteen thousand pounds.

(D) When the transfer to the applicant was made in some other state or in interstate commerce, the clerk, except as provided in this section, shall refuse to issue any certificate of title unless the tax imposed by or pursuant to Chapter 5741. of the Revised Code based on the purchaser's county of residence has been paid as evidenced by a receipt issued by the tax commissioner, or unless the applicant submits with the application payment of the tax. Upon payment of the tax in accordance with division (E) of this section, the clerk shall issue a receipt prescribed by the registrar and agreed upon by the tax commissioner, showing payment of the tax.

For receiving and disbursing such taxes paid to the clerk by a resident of the clerk's county, the clerk may retain a poundage fee of one and one one-hundredth per cent. The clerk shall not retain a poundage fee from payments of taxes by persons who do not reside in the clerk's county.

A clerk, however, may retain from the taxes paid to the clerk an amount equal to the poundage fees associated with certificates of title issued by

other clerks of courts of common pleas to applicants who reside in the first clerk's county. The registrar, in consultation with the tax commissioner and the clerks of the courts of common pleas, shall develop a report from the automated title processing system that informs each clerk of the amount of the poundage fees that the clerk is permitted to retain from those taxes because of certificates of title issued by the clerks of other counties to applicants who reside in the first clerk's county.

When the vendor is not regularly engaged in the business of selling motor vehicles, the vendor shall not be required to purchase a vendor's license or make reports concerning those sales.

(E) The clerk shall accept any payment of a tax in cash, or by cashier's check, certified check, draft, money order, or teller check issued by any insured financial institution payable to the clerk and submitted with an application for a certificate of title under division (B) or (D) of this section. The clerk also may accept payment of the tax by corporate, business, or personal check, credit card, electronic transfer or wire transfer, debit card, or any other accepted form of payment made payable to the clerk. The clerk may require bonds, guarantees, or letters of credit to ensure the collection of corporate, business, or personal checks. Any service fee charged by a third party to a clerk for the use of any form of payment may be paid by the clerk from the certificate of title administration fund created in section 325.33 of the Revised Code, or may be assessed by the clerk upon the applicant as an additional fee. Upon collection, the additional fees shall be paid by the clerk into that certificate of title administration fund.

The clerk shall make a good faith effort to collect any payment of taxes due but not made because the payment was returned or dishonored, but the clerk is not personally liable for the payment of uncollected taxes or uncollected fees. The clerk shall notify the tax commissioner of any such payment of taxes that is due but not made and shall furnish the information to the commissioner that the commissioner requires. The clerk shall deduct the amount of taxes due but not paid from the clerk's periodic remittance of tax payments, in accordance with procedures agreed upon by the tax commissioner. The commissioner may collect taxes due by assessment in the manner provided in section 5739.13 of the Revised Code.

Any person who presents payment that is returned or dishonored for any reason is liable to the clerk for payment of a penalty over and above the amount of the taxes due. The clerk shall determine the amount of the penalty, and the penalty shall be no greater than that amount necessary to compensate the clerk for banking charges, legal fees, or other expenses incurred by the clerk in collecting the returned or dishonored payment. The

remedies and procedures provided in this section are in addition to any other available civil or criminal remedies. Subsequently collected penalties, poundage fees, and title fees, less any title fee due the state, from returned or dishonored payments collected by the clerk shall be paid into the certificate of title administration fund. Subsequently collected taxes, less poundage fees, shall be sent by the clerk to the treasurer of state at the next scheduled periodic remittance of tax payments, with information as the commissioner may require. The clerk may abate all or any part of any penalty assessed under this division.

(F) In the following cases, the clerk shall accept for filing an application and shall issue a certificate of title without requiring payment or evidence of payment of the tax:

(1) When the purchaser is this state or any of its political subdivisions, a church, or an organization whose purchases are exempted by section 5739.02 of the Revised Code;

(2) When the transaction in this state is not a retail sale as defined by section 5739.01 of the Revised Code;

(3) When the purchase is outside this state or in interstate commerce and the purpose of the purchaser is not to use, store, or consume within the meaning of section 5741.01 of the Revised Code;

(4) When the purchaser is the federal government;

(5) When the motor vehicle was purchased outside this state for use outside this state;

(6) When the motor vehicle is purchased by a nonresident under the circumstances described in division (B)(1) of section 5739.029 of the Revised Code, and upon presentation of a copy of the affidavit provided by that section, and a copy of the exemption certificate provided by section 5739.03 of the Revised Code.

(G) An application, as prescribed by the registrar and agreed to by the tax commissioner, shall be filled out and sworn to by the buyer of a motor vehicle in a casual sale. The application shall contain the following notice in bold lettering: "WARNING TO TRANSFEROR AND TRANSFEREE (SELLER AND BUYER): You are required by law to state the true selling price. A false statement is in violation of section 2921.13 of the Revised Code and is punishable by six months' imprisonment or a fine of up to one thousand dollars, or both. All transfers are audited by the department of taxation. The seller and buyer must provide any information requested by the department of taxation. The buyer may be assessed any additional tax found to be due."

(H) For sales of manufactured homes or mobile homes occurring on or

after January 1, 2000, the clerk shall accept for filing, pursuant to Chapter 5739. of the Revised Code, an application for a certificate of title for a manufactured home or mobile home without requiring payment of any tax pursuant to section 5739.02, 5741.021, 5741.022, or 5741.023 of the Revised Code, or a receipt issued by the tax commissioner showing payment of the tax. For sales of manufactured homes or mobile homes occurring on or after January 1, 2000, the applicant shall pay to the clerk an additional fee of five dollars for each certificate of title issued by the clerk for a manufactured or mobile home pursuant to division (H) of section 4505.11 of the Revised Code and for each certificate of title issued upon transfer of ownership of the home. The clerk shall credit the fee to the county certificate of title administration fund, and the fee shall be used to pay the expenses of archiving those certificates pursuant to division (A) of section 4505.08 and division (H)(3) of section 4505.11 of the Revised Code. The tax commissioner shall administer any tax on a manufactured or mobile home pursuant to Chapters 5739. and 5741. of the Revised Code.

(I) Every clerk shall have the capability to transact by electronic means all procedures and transactions relating to the issuance of motor vehicle certificates of title that are described in the Revised Code as being accomplished by electronic means.

Sec. 4505.062. Notwithstanding any general requirement in this chapter to the effect that an application for a certificate of title to a motor vehicle shall be "sworn to" or shall be "sworn to before a notary public or other officer empowered to administer oaths," that requirement shall apply only in the case of a transfer of a motor vehicle between parties in the course of a casual sale, as defined in ~~section~~ sections 4517.01 and 4781.01 of the Revised Code.

Sec. 4505.09. (A)(1) The clerk of a court of common pleas shall charge and retain fees as follows:

(a) Five dollars for each certificate of title that is not applied for within thirty days after the later of the assignment or delivery of the motor vehicle described in it. The entire fee shall be retained by the clerk.

(b) Fifteen dollars for each certificate of title or duplicate certificate of title including the issuance of a memorandum certificate of title, or authorization to print a non-negotiable evidence of ownership described in division (G) of section 4505.08 of the Revised Code, non-negotiable evidence of ownership printed by the clerk under division (H) of that section, and notation of any lien on a certificate of title that is applied for at the same time as the certificate of title. The clerk shall retain eleven dollars and fifty cents of that fee for each certificate of title when there is a notation

of a lien or security interest on the certificate of title, twelve dollars and twenty-five cents when there is no lien or security interest noted on the certificate of title, and eleven dollars and fifty cents for each duplicate certificate of title.

(c) Five dollars for each certificate of title with no security interest noted that is issued to a licensed motor vehicle dealer for resale purposes. The clerk shall retain two dollars and twenty-five cents of that fee.

(d) Five dollars for each memorandum certificate of title or non-negotiable evidence of ownership that is applied for separately. The clerk shall retain that entire fee.

(2) The fees that are not retained by the clerk shall be paid to the registrar of motor vehicles by monthly returns, which shall be forwarded to the registrar not later than the fifth day of the month next succeeding that in which the certificate is issued or that in which the registrar is notified of a lien or cancellation of a lien.

(B)(1) The registrar shall pay twenty-five cents of the amount received for each certificate of title issued to a motor vehicle dealer for resale ~~and~~, one dollar for ~~all other~~ certificates of title issued with a lien or security interest noted on the certificate of title, and twenty-five cents for each certificate of title with no lien or security interest noted on the certificate of title into the state bureau of motor vehicles fund established in section 4501.25 of the Revised Code.

(2) Fifty cents of the amount received for each certificate of title shall be paid by the registrar as follows:

(a) Four cents shall be paid into the state treasury to the credit of the motor vehicle dealers board fund, which is hereby created. All investment earnings of the fund shall be credited to the fund. The moneys in the motor vehicle dealers board fund shall be used by the motor vehicle dealers board created under section 4517.30 of the Revised Code, together with other moneys appropriated to it, in the exercise of its powers and the performance of its duties under Chapter 4517. of the Revised Code, except that the director of budget and management may transfer excess money from the motor vehicle dealers board fund to the bureau of motor vehicles fund if the registrar determines that the amount of money in the motor vehicle dealers board fund, together with other moneys appropriated to the board, exceeds the amount required for the exercise of its powers and the performance of its duties under Chapter 4517. of the Revised Code and requests the director to make the transfer.

(b) Twenty-one cents shall be paid into the highway operating fund.

(c) Twenty-five cents shall be paid into the state treasury to the credit of

the motor vehicle sales audit fund, which is hereby created. The moneys in the fund shall be used by the tax commissioner together with other funds available to the commissioner to conduct a continuing investigation of sales and use tax returns filed for motor vehicles in order to determine if sales and use tax liability has been satisfied. The commissioner shall refer cases of apparent violations of section 2921.13 of the Revised Code made in connection with the titling or sale of a motor vehicle and cases of any other apparent violations of the sales or use tax law to the appropriate county prosecutor whenever the commissioner considers it advisable.

(3) Two dollars of the amount received by the registrar for each certificate of title shall be paid into the state treasury to the credit of the automated title processing fund, which is hereby created and which shall consist of moneys collected under division (B)(3) of this section and under sections 1548.10 and 4519.59 of the Revised Code. All investment earnings of the fund shall be credited to the fund. The moneys in the fund shall be used as follows:

(a) Except for moneys collected under section 1548.10 of the Revised Code and as provided in division (B)(3)(c) of this section, moneys collected under division (B)(3) of this section shall be used to implement and maintain an automated title processing system for the issuance of motor vehicle, off-highway motorcycle, and all-purpose vehicle certificates of title in the offices of the clerks of the courts of common pleas.

(b) Moneys collected under section 1548.10 of the Revised Code shall be used to issue marine certificates of title in the offices of the clerks of the courts of common pleas as provided in Chapter 1548. of the Revised Code.

(c) Moneys collected under division (B)(3) of this section shall be used in accordance with section 4505.25 of the Revised Code to implement Sub. S.B. 59 of the 124th general assembly.

(C)(1) The automated title processing board is hereby created consisting of the registrar or the registrar's representative, a person selected by the registrar, the president of the Ohio clerks of court association or the president's representative, and two clerks of courts of common pleas appointed by the governor. The director of budget and management or the director's designee, the chief of the division of watercraft in the department of natural resources or the chief's designee, and the tax commissioner or the commissioner's designee shall be nonvoting members of the board. The purpose of the board is to facilitate the operation and maintenance of an automated title processing system and approve the procurement of automated title processing system equipment. Voting members of the board, excluding the registrar or the registrar's representative, shall serve without

compensation, but shall be reimbursed for travel and other necessary expenses incurred in the conduct of their official duties. The registrar or the registrar's representative shall receive neither compensation nor reimbursement as a board member.

(2) The automated title processing board shall determine each of the following:

(a) The automated title processing equipment and certificates of title requirements for each county;

(b) The payment of expenses that may be incurred by the counties in implementing an automated title processing system;

(c) The repayment to the counties for existing title processing equipment.

(3) The registrar shall purchase, lease, or otherwise acquire any automated title processing equipment and certificates of title that the board determines are necessary from moneys in the automated title processing fund established by division (B)(3) of this section.

(D) All counties shall conform to the requirements of the registrar regarding the operation of their automated title processing system for motor vehicle titles, certificates of title for off-highway motorcycles and all-purpose vehicles, and certificates of title for watercraft and outboard motors.

Sec. 4505.111. (A) Every motor vehicle, other than a manufactured home, a mobile home, or a motor vehicle as provided in divisions (C), (D), and (E) of section 4505.11 of the Revised Code, that is assembled from component parts by a person other than the manufacturer, shall be inspected by the state highway patrol prior to issuance of title to the motor vehicle. The inspection shall include establishing proof of ownership and an inspection of the motor number and vehicle identification number of the motor vehicle, and any items of equipment the director of public safety considers advisable and requires to be inspected by rule. A fee of forty dollars in fiscal year 1998 and fifty dollars in fiscal year 1999 and thereafter shall be assessed by the state highway patrol for each inspection made pursuant to this section, and shall be deposited in the state highway safety fund established by section 4501.06 of the Revised Code.

(B) Whoever violates this section shall be fined not more than two thousand dollars, imprisoned not more than one year, or both.

Sec. 4505.181. (A) Notwithstanding divisions (A)(2), (5), and (6) of section 4505.18 of the Revised Code, a motor vehicle dealer or person acting on behalf of a motor vehicle dealer may display, offer for sale, or sell a used motor vehicle and a manufactured housing dealer or person acting on

behalf of a manufactured housing dealer may display, offer for sale, or sell a used manufactured home or used mobile home without having first obtained a certificate of title for the vehicle in the name of the dealer as required by this chapter if the dealer or person acting on behalf of the dealer complies with divisions (A)(1)(a) and (2) of this section, or divisions (A)(1)(b) and (2) of this section, as follows:

(1)(a) If the dealer has been licensed as a motor vehicle dealer or manufactured housing dealer for less than the three-year period prior to the date on which the dealer or person acting on behalf of the dealer displays, offers for sale, or sells the used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer, or if the attorney general has paid a retail purchaser of the dealer under division (C) of this section within three years prior to such date, the dealer posts with the attorney general's office in favor of this state a bond of a surety company authorized to do business in this state, in an amount of not less than twenty-five thousand dollars, to be used solely for the purpose of compensating retail purchasers of motor vehicles, manufactured homes, or mobile homes who suffer damages due to failure of the dealer or person acting on behalf of the dealer to comply with this section. The dealer's surety shall notify the registrar and attorney general when a bond of a motor vehicle dealer is canceled and shall notify the manufactured homes commission and the attorney general when a bond of a manufactured housing dealer is canceled. Such notification of cancellation shall include the effective date of and reason for cancellation.

(b) If the dealer has been licensed as a motor vehicle dealer or manufactured housing dealer for longer than the three-year period prior to the date on which the dealer or person acting on behalf of the dealer displays, offers for sale, or sells the used motor vehicle, used manufactured home, or used mobile home for which the dealer has not obtained a certificate of title in the name of the dealer and the attorney general has not paid a retail purchaser of the dealer under division (C) of this section within three years prior to such date, the dealer pays one hundred fifty dollars to the attorney general for deposit into the title defect recision fund created by section 1345.52 of the Revised Code.

(2) The dealer or person acting on behalf of the dealer possesses a bill of sale for each motor vehicle, used manufactured home, and used mobile home proposed to be displayed, offered for sale, or sold under this section and a properly executed power of attorney or other related documents from the prior owner of the motor vehicle, manufactured home, or mobile home giving the dealer or person acting on behalf of the dealer authority to have a

certificate of title to the motor vehicle, manufactured home, or mobile home issued in the name of the dealer, and retains copies of all such documents in the dealer's or person's files until such time as a certificate of title in the dealer's name is issued for each such motor vehicle, manufactured home, or mobile home by the clerk of the court of common pleas. Such documents shall be available for inspection by the bureau of motor vehicles and the manufactured homes commission during normal business hours.

(B) If a retail purchaser purchases a motor vehicle, used manufactured home, or used mobile home for which the dealer, pursuant to and in accordance with division (A) of this section, does not have a certificate of title issued in the name of the dealer at the time of the sale, the retail purchaser has an unconditional right to rescind the transaction and the dealer has an obligation to refund to the retail purchaser the full purchase price of the vehicle, if one of the following applies:

(1) The dealer fails, on or before the fortieth day following the date of the sale, to obtain a title in the name of the retail purchaser.

(2) The title for the vehicle indicates that it is a rebuilt salvage vehicle, and the fact that it is a rebuilt salvage vehicle was not disclosed to the retail purchaser in writing prior to the execution of the purchase agreement.

(3) The title for the vehicle indicates that the dealer has made an inaccurate odometer disclosure to the retail purchaser.

(4) The motor vehicle is a used manufactured home or used mobile home, as defined by section 5739.021 of the Revised Code, that has been repossessed under Chapter 1309. or 1317. of the Revised Code, but a certificate of title for the repossessed home has not yet been transferred by the repossessing party to the dealer on the date the retail purchaser purchases the used manufactured home or used mobile home from the dealer, and the dealer fails to obtain a certificate of title on or before the fortieth day after the dealer obtains the certificate of title for the home from the repossessing party or the date on which an occupancy permit for the home is delivered to the purchaser by the appropriate legal authority, whichever occurs later.

If any of the circumstances described in divisions (B)(1) to ~~(3)~~(4) of this section applies, a retail purchaser or the retail purchaser's representative shall notify the dealer and afford the dealer the opportunity to comply with the dealer's obligation to refund the full purchase price of the motor vehicle. Nothing in this division shall be construed as prohibiting the dealer and the retail purchaser or their representatives from negotiating a compromise resolution that is satisfactory to both parties.

(C) If a retail purchaser notifies a dealer of one or more of the

circumstances listed in division (B) of this section and the dealer fails to refund to the retail purchaser the full purchase price of the vehicle or reach a satisfactory compromise with the retail purchaser within three business days of presentation of the retail purchaser's rescission claim, the retail purchaser may apply to the attorney general for payment from the fund of the full purchase price to the retail purchaser.

(D) Upon application by a retail purchaser for payment from the fund, if the attorney general is satisfied that one or more of the circumstances contained in divisions (B)(1) to ~~(3)(4)~~ of this section exist, the attorney general shall cause the full purchase price of the vehicle, manufactured home, or mobile home to be paid to the retail purchaser from the fund after delivery of the vehicle, manufactured home, or mobile home to the attorney general. The attorney general may sell or otherwise dispose of any vehicle, manufactured home, or mobile home that is delivered to the attorney general under this section, and may collect the proceeds of any bond posted under division (A) of this section by a dealer who has failed to comply with division (C) of this section. The proceeds from all such sales and collections shall be deposited into the title defect rescission fund for use as specified in section 1345.52 of the Revised Code.

(E) Failure by a dealer to comply with division (A) or (B) of this section constitutes a deceptive act or practice in connection with a consumer transaction, and is a violation of section 1345.02 of the Revised Code.

(F) The remedy provided in this section to retail purchasers is in addition to any remedies otherwise available to the retail purchaser for the same conduct of the dealer or person acting on behalf of the dealer under federal law or the laws of this state or a political subdivision of this state.

(G) All motor vehicle dealers licensed under Chapter 4517. of the Revised Code and manufactured housing dealers licensed under Chapter 4781. of the Revised Code shall pay to the attorney general for deposit into the title defect rescission fund the amount described in division (A)(1)(b) of this section beginning with the calendar year during which this section becomes effective and each year subsequent to that year until the balance in the fund is not less than three hundred thousand dollars. All such dealers also shall pay to the attorney general for deposit into the fund that amount during any year and subsequent years during which the balance in the fund is less than three hundred thousand dollars until the balance in the fund reaches three hundred thousand dollars.

If a motor vehicle dealer or manufactured housing dealer fails to comply with this division, the attorney general may bring a civil action in a court of competent jurisdiction to collect the amount the dealer failed to pay to the

attorney general for deposit into the fund.

Sec. 4505.20. (A) Notwithstanding division (A)(2) of section 4505.18 of the Revised Code or any other provision of this chapter or Chapter 4517. of the Revised Code, a secured party may designate ~~any~~ a manufactured housing dealer to display, display for sale, or sell a manufactured or mobile home if the home has come into the possession of that secured party by a default in the terms of a security instrument and the certificate of title remains in the name and possession of the secured party.

(B) Notwithstanding division (A)(2) of section 4505.18 of the Revised Code or any other provision of this chapter or Chapter 4517. of the Revised Code, the owner of a recreational vehicle or a secured party of a recreational vehicle who has come into possession of the vehicle by a default in the terms of a security instrument, may designate ~~any~~ a new motor vehicle dealer to display, display for sale, or sell the vehicle while the certificate of title remains in the possession of the owner or secured party. No new motor vehicle dealer may display or offer for sale more than five recreational vehicles at any time under this division. No new motor vehicle dealer may display or offer for sale a recreational vehicle under this division unless the new motor vehicle dealer maintains insurance or the bond of a surety company authorized to transact business within this state in an amount sufficient to satisfy the fair market value of the vehicle.

~~(C) The registrar of motor vehicles may adopt rules in accordance with Chapter 119. of the Revised Code prescribing the maximum number of manufactured or mobile homes that have come into the possession of a secured party by a default in the terms of a security instrument that any dealer may display or offer for sale at any time. The registrar may adopt other reasonable rules regarding the resale of such manufactured homes, mobile homes, and recreational vehicles that the registrar considers necessary.~~

(D) The manufactured housing dealer or new motor vehicle secured party or owner shall provide the dealer with written authorization to display, display for sale, or sell the manufactured home, mobile home, or recreational vehicle. The manufactured housing dealer or new motor vehicle dealer shall show and explain the written authorization to any prospective purchaser. The written authorization shall contain the vehicle identification number, make, model, year of manufacture, and physical description of the manufactured home, mobile home, or recreational vehicle that is provided to the manufactured housing dealer or new motor vehicle dealer.

~~(E) As used in this section, "dealer" means a new motor vehicle dealer that is licensed under Chapter 4517. of the Revised Code.~~

~~(F)~~ Whoever violates this section shall be fined not more than two hundred dollars, imprisoned not more than ninety days, or both.

Sec. 4507.02. (A)(1) No person shall permit the operation of a motor vehicle upon any public or private property used by the public for purposes of vehicular travel or parking knowing the operator does not have a valid driver's license issued to the operator by the registrar of motor vehicles under this chapter or a valid commercial driver's license issued under Chapter 4506. of the Revised Code. Whoever violates this division is guilty of a an unclassified misdemeanor of the first degree. The offender may be fined up to one thousand dollars and pursuant to division (B) of section 2929.27 of the Revised Code additionally may be ordered to serve a term of community service of up to five hundred hours. If the offender previously was convicted of or pleaded guilty to two or more violations of this section or a substantially equivalent municipal ordinance within the past three years, the offense is a misdemeanor of the first degree.

(2) No person shall receive a driver's license, or a motorcycle operator's endorsement of a driver's or commercial driver's license, unless and until the person surrenders to the registrar all valid licenses issued to the person by another jurisdiction recognized by this state. The registrar shall report the surrender of a license to the issuing authority, together with information that a license is now issued in this state. The registrar shall destroy any such license that is not returned to the issuing authority. No person shall be permitted to have more than one valid license at any time.

(B)(1) If a person is convicted of a violation of section 4510.11, 4510.14, 4510.16 when division (B)(3) of that section applies, or 4510.21 of the Revised Code or if division (F) of section 4507.164 of the Revised Code applies, the trial judge of any court, in addition to or independent of any other penalties provided by law or ordinance, shall impound the identification license plates of any motor vehicle registered in the name of the person. If a person is convicted of a violation of section 4510.16 of the Revised Code and division (B)(2) of that section applies, the trial judge of any court, in addition to or independent of any other penalties provided by law or ordinance, may impound the identification license plates of any motor vehicle registered in the name of the person. The court shall send the impounded license plates to the registrar, who may retain the license plates until the driver's or commercial driver's license of the owner has been reinstated or destroy them pursuant to section 4503.232 of the Revised Code.

If the license plates of a person convicted of a violation of any provision of those sections have been impounded in accordance with the provisions of

this division, the court shall notify the registrar of that action. The notice shall contain the name and address of the driver, the serial number of the driver's driver's or commercial driver's license, the serial numbers of the license plates of the motor vehicle, and the length of time for which the license plates have been impounded. The registrar shall record the data in the notice as part of the driver's permanent record.

(2) Any motor vehicle owner who has had the license plates of a motor vehicle impounded pursuant to division (B)(1) of this section may apply to the registrar, or to a deputy registrar, for restricted license plates that shall conform to the requirements of section 4503.231 of the Revised Code. The registrar or deputy registrar forthwith shall notify the court of the application and, upon approval of the court, shall issue restricted license plates to the applicant. Until the driver's or commercial driver's license of the owner is reinstated, any new license plates issued to the owner also shall conform to the requirements of section 4503.231 of the Revised Code.

The registrar or deputy registrar shall charge the owner of a vehicle the fees provided in section 4503.19 of the Revised Code for restricted license plates that are issued in accordance with this division, except upon renewal as specified in section 4503.10 of the Revised Code, when the regular fee as provided in section 4503.04 of the Revised Code shall be charged. The registrar or deputy registrar shall charge the owner of a vehicle the fees provided in section 4503.19 of the Revised Code whenever restricted license plates are exchanged, by reason of the reinstatement of the driver's or commercial driver's license of the owner, for those ordinarily issued.

(3) If an owner wishes to sell a motor vehicle during the time the restricted license plates provided under division (B)(2) of this section are in use, the owner may apply to the court that impounded the license plates of the motor vehicle for permission to transfer title to the motor vehicle. If the court is satisfied that the sale will be made in good faith and not for the purpose of circumventing the provisions of this section, it may certify its consent to the owner and to the registrar of motor vehicles who shall enter notice of the transfer of the title of the motor vehicle in the vehicle registration record.

If, during the time the restricted license plates provided under division (B)(2) of this section are in use, the title to a motor vehicle is transferred by the foreclosure of a chattel mortgage, a sale upon execution, the cancellation of a conditional sales contract, or by order of a court, the court shall notify the registrar of the action and the registrar shall enter notice of the transfer of the title to the motor vehicle in the vehicle registration record.

(C) This section is not intended to change or modify any provision of

Chapter 4503. of the Revised Code with respect to the taxation of motor vehicles or the time within which the taxes on motor vehicles shall be paid.

Sec. 4507.03. (A)(1) No person shall be required to obtain a driver's or commercial driver's license for the purpose of temporarily driving, operating, drawing, moving, or propelling a road roller or road machinery upon a street or highway.

(2) No person shall be required to obtain a driver's or commercial driver's license for the purpose of temporarily driving, operating, drawing, moving, or propelling any agricultural tractor or implement of husbandry upon a street or highway at a speed of twenty-five miles per hour or less.

(3) No person shall drive, operate, draw, move, or propel any agricultural tractor or implement of husbandry upon a street or highway at a speed greater than twenty-five miles per hour unless the person has a current, valid driver's or commercial driver's license.

(4) No person having a valid driver's or commercial driver's license shall be required to have a motorcycle operator's endorsement to operate a motorcycle having three wheels with a motor of not more than fifty cubic centimeters piston displacement.

(B) Every person on active duty in the armed forces of the United States, when furnished with a driver's permit and when operating an official motor vehicle in connection with such duty, is exempt from the license requirements of Chapters 4506. and 4507. of the Revised Code.

Every person on active duty in the armed forces of the United States or in service with the peace corps, volunteers in service to America, or the foreign service of the United States is exempt from the license requirements of those chapters for the period of the person's active duty or service and for six months thereafter, provided the person was a licensee under those chapters at the time the person commenced ~~his~~ the person's active duty or service. The spouse or a dependent of any such person on active duty or in service also is exempt from the license requirements of those chapters for the period of the person's active duty or service and for six months thereafter, provided the spouse or dependent was a licensee under those chapters at the time the person commenced the active duty or service, and provided further that the person's active duty or service causes the spouse or dependent to relocate outside of this state during the period of the active duty or service.

This section does not prevent such a person or ~~his~~ the person's spouse or dependent from making an application, as provided in division (C) of section 4507.10 of the Revised Code, for the renewal of a driver's license or motorcycle operator's endorsement or as provided in section 4506.14 of the

Revised Code for the renewal of a commercial driver's license during the period of the person's active duty or service.

(C) Whoever violates division (A)(3) of this section is guilty of a misdemeanor of the first degree.

Sec. 4507.23. (A) Except as provided in division (J) of this section, each application for a temporary instruction permit and examination shall be accompanied by a fee of five dollars.

(B) Except as provided in division (J) of this section, each application for a driver's license made by a person who previously held such a license and whose license has expired not more than two years prior to the date of application, and who is required under this chapter to give an actual demonstration of the person's ability to drive, shall be accompanied by a fee of three dollars in addition to any other fees.

(C)(1) Except as provided in divisions (E) and (J) of this section, each application for a driver's license, or motorcycle operator's endorsement, or renewal of a driver's license shall be accompanied by a fee of six dollars.

(2) Except as provided in division ~~(H)~~(J) of this section, each application for a duplicate driver's license shall be accompanied by a fee of seven dollars and fifty cents. The duplicate driver's licenses issued under this section shall be distributed by the deputy registrar in accordance with rules adopted by the registrar of motor vehicles.

(D) Except as provided in division (J) of this section, each application for a motorized bicycle license or duplicate thereof shall be accompanied by a fee of two dollars and fifty cents.

(E) Except as provided in division (J) of this section, each application for a driver's license or renewal of a driver's license that will be issued to a person who is less than twenty-one years of age shall be accompanied by whichever of the following fees is applicable:

(1) If the person is sixteen years of age or older, but less than seventeen years of age, a fee of seven dollars and twenty-five cents;

(2) If the person is seventeen years of age or older, but less than eighteen years of age, a fee of six dollars;

(3) If the person is eighteen years of age or older, but less than nineteen years of age, a fee of four dollars and seventy-five cents;

(4) If the person is nineteen years of age or older, but less than twenty years of age, a fee of three dollars and fifty cents;

(5) If the person is twenty years of age or older, but less than twenty-one years of age, a fee of two dollars and twenty-five cents.

(F) Neither the registrar nor any deputy registrar shall charge a fee in excess of one dollar and fifty cents for laminating a driver's license,

motorized bicycle license, or temporary instruction permit identification cards as required by sections 4507.13 and 4511.521 of the Revised Code. A deputy registrar laminating a driver's license, motorized bicycle license, or temporary instruction permit identification cards shall retain the entire amount of the fee charged for lamination, less the actual cost to the registrar of the laminating materials used for that lamination, as specified in the contract executed by the bureau for the laminating materials and laminating equipment. The deputy registrar shall forward the amount of the cost of the laminating materials to the registrar for deposit as provided in this section.

(G) Except as provided in division (J) of this section and except for the renewal of a driver's license, commencing on October 1, 2003, each transaction described in divisions (A), (B), (C), (D), and (E) of this section shall be accompanied by an additional fee of twelve dollars. A transaction involving the renewal of a driver's license with an expiration date on or after that date shall be accompanied by an additional fee of twelve dollars. The additional fee is for the purpose of defraying the department of public safety's costs associated with the administration and enforcement of the motor vehicle and traffic laws of Ohio.

(H) Except as provided in division (J) of this section, commencing on October 1, 2009, if an application for a driver's license or motorcycle operator's endorsement made by a person who previously held such a license is not applied for within the period specified in section 4507.09 of the Revised Code or within seven days after the period so specified, the registrar or deputy registrar shall collect a fee of twenty dollars for the issuance of the driver's license or motorcycle endorsement, but may waive the fee for good cause shown if the application is accompanied by supporting evidence as the registrar may require. The fee shall be in addition to all other fees established by this section. A deputy registrar collecting this twenty dollar fee shall retain fifty cents and send the remaining fee to the registrar as specified in division (I) of this section.

(I) At the time and in the manner provided by section 4503.10 of the Revised Code, the deputy registrar shall transmit the fees collected under divisions (A), (B), (C), (D), and (E), those portions of the fees specified in and collected under division (F), and the additional fee under divisions (G) and (H) of this section to the registrar. The registrar shall pay two dollars and fifty cents of each fee collected under divisions (A), (B), (C)(1) and (2), (D), and (E)(1) to (4) of this section, and the entire fee collected under division (E)(5) of this section, into the state highway safety fund established in section 4501.06 of the Revised Code, and such fees shall be used for the sole purpose of supporting driver licensing activities. The registrar also shall

pay five dollars of each fee collected under division (C)(2) of this section and the entire fee collected under divisions (G) and (H) of this section into the state highway safety fund created in section 4501.06 of the Revised Code. The remaining fees collected by the registrar under this section shall be paid into the state bureau of motor vehicles fund established in section 4501.25 of the Revised Code.

(J) A disabled veteran who has a service-connected disability rated at one hundred per cent by the veterans' administration may apply to the registrar or a deputy registrar for the issuance to that veteran, without the payment of any fee prescribed in this section, of any of the following items:

- (1) A temporary instruction permit and examination;
- (2) A new, renewal, or duplicate driver's or commercial driver's license;
- (3) A motorcycle operator's endorsement;
- (4) A motorized bicycle license or duplicate thereof;
- (5) The fee established in division (H) of this section;

(6) Lamination of a driver's license, motorized bicycle license, or temporary instruction permit identification card as provided in division (F) of this section, if the circumstances specified in division (J)(6) of this section are met.

A disabled veteran whose driver's license, motorized bicycle license, or temporary instruction permit identification card is laminated by the registrar or deputy registrar is not required to pay the registrar any lamination fee.

An application made under division (J) of this section shall be accompanied by such documentary evidence of disability as the registrar may require by rule.

Sec. 4507.24. (A) Except as provided in division (C) of this section, the registrar of motor vehicles or a deputy registrar may collect a fee not to exceed the following:

(1) Four dollars and fifty cents commencing on January 1, 2004, and six dollars and twenty-five cents commencing on October 1, 2009, for each application for renewal of a driver's license received by the deputy registrar, when the applicant is required to submit to a screening of the applicant's vision under section 4507.12 of the Revised Code;

(2) Three dollars and fifty cents commencing on January 1, 2004, for each application for a driver's license, or motorized bicycle license, or for renewal of such a license, received by the deputy registrar, when the applicant is not required to submit to a screening of the applicant's vision under section 4507.12 of the Revised Code.

(B) The fees prescribed by division (A) of this section shall be in addition to the fee for a temporary instruction permit and examination, a

driver's license, a motorized bicycle license, or duplicates thereof. The fees retained by a deputy registrar shall compensate the deputy registrar for the deputy registrar's services, for office and rental expense, and for costs as provided in division (D) of this section, as are necessary for the proper discharge of the deputy registrar's duties under sections 4507.01 to 4507.39 of the Revised Code.

(C) A disabled veteran who has a service-connected disability rated at one hundred per cent by the veterans' administration is required to pay the applicable fee prescribed in division (A) of this section if the disabled veteran submits an application for a driver's license or motorized bicycle license or a renewal of either of these licenses to a deputy registrar who is acting as a deputy registrar pursuant to a contract with the registrar that is in effect on the effective date of this amendment. The disabled veteran also is required to submit with the disabled veteran's application such documentary evidence of disability as the registrar may require by rule.

A disabled veteran who submits an application described in this division is not required to pay either of the fees prescribed in division (A) of this section if the disabled veteran submits the application to a deputy registrar who is acting as a deputy registrar pursuant to a contract with the registrar that is executed after the effective date of this amendment. The disabled veteran still is required to submit with the disabled veteran's application such documentary evidence of disability as the registrar may require by rule.

A disabled veteran who submits an application described in this division directly to the registrar is not required to pay either of the fees prescribed in division (A) of this section if the disabled veteran submits with the disabled veteran's application such documentary evidence of disability as the registrar may require by rule.

(D)(1) Each deputy registrar shall transmit to the registrar of motor vehicles, at such time and in such manner as the registrar shall require by rule, an amount of each fee collected under division (A)(1) of this section as shall be determined by the registrar. The registrar shall pay all such moneys so received into the state bureau of motor vehicles fund created in section 4501.25 of the Revised Code.

(2) Commencing on October 1, 2009, each deputy registrar shall transmit one dollar and seventy-five cents of each fee collected under division (A)(1) of this section to the registrar at the time and in the manner provided by section 4503.10 of the Revised Code. The registrar shall deposit all moneys received under division (D)(2) of this section into the state highway safety fund established in section 4501.06 of the Revised Code.

Sec. 4507.45. If a person's driver's license, commercial driver's license,

or nonresident operating privilege is suspended, disqualified, or canceled for an indefinite period of time or for a period of at least ninety days, and if at the end of the period of suspension, disqualification, or cancellation the person is eligible to have the license or privilege reinstated, the registrar of motor vehicles shall collect a reinstatement fee of ~~thirty~~ forty dollars when the person requests reinstatement. However, the registrar shall not collect the fee prescribed by this section if a different driver's license, commercial driver's license, or nonresident operating privilege reinstatement fee is prescribed by law.

The registrar shall deposit ten dollars of each forty-dollar fee into the state treasury to the credit of the indigent defense support fund created by section 120.08 of the Revised Code and thirty dollars of each fee into the state treasury to the credit of the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code.

Sec. 4509.101. (A)(1) No person shall operate, or permit the operation of, a motor vehicle in this state, unless proof of financial responsibility is maintained continuously throughout the registration period with respect to that vehicle, or, in the case of a driver who is not the owner, with respect to that driver's operation of that vehicle.

(2) Whoever violates division (A)(1) of this section shall be subject to the following civil penalties:

(a) Subject to divisions (A)(2)(b) and (c) of this section, a class E suspension of the person's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for the period of time specified in division (B)(5) of section 4510.02 of the Revised Code and impoundment of the person's license. The court may grant limited driving privileges to the person only if the person presents proof of financial responsibility and has complied with division (A)(5) of this section.

(b) If, within five years of the violation, the person's operating privileges are again suspended and the person's license again is impounded for a violation of division (A)(1) of this section, a class C suspension of the person's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for the period of time specified in division (B)(3) of section 4510.02 of the Revised Code. The court may grant limited driving privileges to the person only if the person presents proof of financial responsibility and has complied with division (A)(5) of this section, and no court may grant limited driving privileges for the first fifteen days of the suspension.

(c) If, within five years of the violation, the person's operating privileges

are suspended and the person's license is impounded two or more times for a violation of division (A)(1) of this section, a class B suspension of the person's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for the period of time specified in division (B)(2) of section 4510.02 of the Revised Code. No court may grant limited driving privileges during the suspension.

(d) In addition to the suspension of an owner's license under division (A)(2)(a), (b), or (c) of this section, the suspension of the rights of the owner to register the motor vehicle and the impoundment of the owner's certificate of registration and license plates until the owner complies with division (A)(5) of this section.

(3) A person to whom this state has issued a certificate of registration for a motor vehicle or a license to operate a motor vehicle or who is determined to have operated any motor vehicle or permitted the operation in this state of a motor vehicle owned by the person shall be required to verify the existence of proof of financial responsibility covering the operation of the motor vehicle or the person's operation of the motor vehicle under any of the following circumstances:

(a) The person or a motor vehicle owned by the person is involved in a traffic accident that requires the filing of an accident report under section 4509.06 of the Revised Code.

(b) The person receives a traffic ticket indicating that proof of the maintenance of financial responsibility was not produced upon the request of a peace officer or state highway patrol trooper made in accordance with division (D)(2) of this section.

(c) Whenever, in accordance with rules adopted by the registrar, the person is randomly selected by the registrar and requested to provide such verification.

(4) An order of the registrar that suspends and impounds a license or registration, or both, shall state the date on or before which the person is required to surrender the person's license or certificate of registration and license plates. The person is deemed to have surrendered the license or certificate of registration and license plates, in compliance with the order, if the person does either of the following:

(a) On or before the date specified in the order, personally delivers the license or certificate of registration and license plates, or causes the delivery of the items, to the registrar;

(b) Mails the license or certificate of registration and license plates to the registrar in an envelope or container bearing a postmark showing a date no later than the date specified in the order.

(5) Except as provided in division (A)(6) or (L) of this section, the registrar shall not restore any operating privileges or registration rights suspended under this section, return any license, certificate of registration, or license plates impounded under this section, or reissue license plates under section 4503.232 of the Revised Code, if the registrar destroyed the impounded license plates under that section, or reissue a license under section 4510.52 of the Revised Code, if the registrar destroyed the suspended license under that section, unless the rights are not subject to suspension or revocation under any other law and unless the person, in addition to complying with all other conditions required by law for reinstatement of the operating privileges or registration rights, complies with all of the following:

(a) Pays a financial responsibility reinstatement fee of ~~seventy-five~~ one hundred dollars for the first violation of division (A)(1) of this section, ~~two~~ three hundred ~~fifty~~ dollars for a second violation of that division, and ~~five~~ six hundred dollars for a third or subsequent violation of that division;

(b) If the person has not voluntarily surrendered the license, certificate, or license plates in compliance with the order, pays a financial responsibility nonvoluntary compliance fee in an amount, not to exceed fifty dollars, determined by the registrar;

(c) Files and continuously maintains proof of financial responsibility under sections 4509.44 to 4509.65 of the Revised Code.

(6) If the registrar issues an order under division (A)(2) of this section resulting from the failure of a person to respond to a financial responsibility random verification request under division (A)(3)(c) of this section and the person successfully maintains an affirmative defense to a violation of section 4510.16 of the Revised Code or is determined by the registrar or a deputy registrar to have been in compliance with division (A)(1) of this section at the time of the initial financial responsibility random verification request, the registrar shall do both of the following:

(a) Terminate the order of suspension or impoundment;

(b) Restore the operating privileges and registration rights of the person without payment of the fees established in divisions (A)(5)(a) and (b) of this section and without a requirement to file proof of financial responsibility.

(B)(1) Every party required to file an accident report under section 4509.06 of the Revised Code also shall include with the report a document described in division (G)(1) of this section.

If the registrar determines, within forty-five days after the report is filed, that an operator or owner has violated division (A)(1) of this section, the registrar shall do all of the following:

(a) Order the impoundment, with respect to the motor vehicle involved, required under division (A)(2)(d) of this section, of the certificate of registration and license plates of any owner who has violated division (A)(1) of this section;

(b) Order the suspension required under division (A)(2)(a), (b), or (c) of this section of the license of any operator or owner who has violated division (A)(1) of this section;

(c) Record the name and address of the person whose certificate of registration and license plates have been impounded or are under an order of impoundment, or whose license has been suspended or is under an order of suspension; the serial number of the person's license; the serial numbers of the person's certificate of registration and license plates; and the person's social security account number, if assigned, or, where the motor vehicle is used for hire or principally in connection with any established business, the person's federal taxpayer identification number. The information shall be recorded in such a manner that it becomes a part of the person's permanent record, and assists the registrar in monitoring compliance with the orders of suspension or impoundment.

(d) Send written notification to every person to whom the order pertains, at the person's last known address as shown on the records of the bureau. The person, within ten days after the date of the mailing of the notification, shall surrender to the registrar, in a manner set forth in division (A)(4) of this section, any certificate of registration and registration plates under an order of impoundment, or any license under an order of suspension.

(2) The registrar shall issue any order under division (B)(1) of this section without a hearing. Any person adversely affected by the order, within ten days after the issuance of the order, may request an administrative hearing before the registrar, who shall provide the person with an opportunity for a hearing in accordance with this paragraph. A request for a hearing does not operate as a suspension of the order. The scope of the hearing shall be limited to whether the person in fact demonstrated to the registrar proof of financial responsibility in accordance with this section. The registrar shall determine the date, time, and place of any hearing, provided that the hearing shall be held, and an order issued or findings made, within thirty days after the registrar receives a request for a hearing. If requested by the person in writing, the registrar may designate as the place of hearing the county seat of the county in which the person resides or a place within fifty miles of the person's residence. The person shall pay the cost of the hearing before the registrar, if the registrar's order of suspension or impoundment is upheld.

(C) Any order of suspension or impoundment issued under this section or division (B) of section 4509.37 of the Revised Code may be terminated at any time if the registrar determines upon a showing of proof of financial responsibility that the operator or owner of the motor vehicle was in compliance with division (A)(1) of this section at the time of the traffic offense, motor vehicle inspection, or accident that resulted in the order against the person. A determination may be made without a hearing. This division does not apply unless the person shows good cause for the person's failure to present satisfactory proof of financial responsibility to the registrar prior to the issuance of the order.

(D)(1) For the purpose of enforcing this section, every peace officer is deemed an agent of the registrar.

(a) Except as provided in division (D)(1)(b) of this section, any peace officer who, in the performance of the peace officer's duties as authorized by law, becomes aware of a person whose license is under an order of suspension, or whose certificate of registration and license plates are under an order of impoundment, pursuant to this section, may confiscate the license, certificate of registration, and license plates, and return them to the registrar.

(b) Any peace officer who, in the performance of the peace officer's duties as authorized by law, becomes aware of a person whose license is under an order of suspension, or whose certificate of registration and license plates are under an order of impoundment resulting from failure to respond to a financial responsibility random verification, shall not, for that reason, arrest the owner or operator or seize the vehicle or license plates. Instead, the peace officer shall issue a citation for a violation of section 4510.16 of the Revised Code specifying the circumstances as failure to respond to a financial responsibility random verification.

(2) A peace officer shall request the owner or operator of a motor vehicle to produce proof of financial responsibility in a manner described in division (G) of this section at the time the peace officer acts to enforce the traffic laws of this state and during motor vehicle inspections conducted pursuant to section 4513.02 of the Revised Code.

(3) A peace officer shall indicate on every traffic ticket whether the person receiving the traffic ticket produced proof of the maintenance of financial responsibility in response to the officer's request under division (D)(2) of this section. The peace officer shall inform every person who receives a traffic ticket and who has failed to produce proof of the maintenance of financial responsibility that the person must submit proof to the traffic violations bureau with any payment of a fine and costs for the

ticketed violation or, if the person is to appear in court for the violation, the person must submit proof to the court.

(4)(a) If a person who has failed to produce proof of the maintenance of financial responsibility appears in court for a ticketed violation, the court may permit the defendant to present evidence of proof of financial responsibility to the court at such time and in such manner as the court determines to be necessary or appropriate. In a manner prescribed by the registrar, the clerk of courts shall provide the registrar with the identity of any person who fails to submit proof of the maintenance of financial responsibility pursuant to division (D)(3) of this section.

(b) If a person who has failed to produce proof of the maintenance of financial responsibility also fails to submit that proof to the traffic violations bureau with payment of a fine and costs for the ticketed violation, the traffic violations bureau, in a manner prescribed by the registrar, shall notify the registrar of the identity of that person.

(5)(a) Upon receiving notice from a clerk of courts or traffic violations bureau pursuant to division (D)(4) of this section, the registrar shall order the suspension of the license of the person required under division (A)(2)(a), (b), or (c) of this section and the impoundment of the person's certificate of registration and license plates required under division (A)(2)(d) of this section, effective thirty days after the date of the mailing of notification. The registrar also shall notify the person that the person must present the registrar with proof of financial responsibility in accordance with this section, surrender to the registrar the person's certificate of registration, license plates, and license, or submit a statement subject to section 2921.13 of the Revised Code that the person did not operate or permit the operation of the motor vehicle at the time of the offense. Notification shall be in writing and shall be sent to the person at the person's last known address as shown on the records of the bureau of motor vehicles. The person, within fifteen days after the date of the mailing of notification, shall present proof of financial responsibility, surrender the certificate of registration, license plates, and license to the registrar in a manner set forth in division (A)(4) of this section, or submit the statement required under this section together with other information the person considers appropriate.

If the registrar does not receive proof or the person does not surrender the certificate of registration, license plates, and license, in accordance with this division, the registrar shall permit the order for the suspension of the license of the person and the impoundment of the person's certificate of registration and license plates to take effect.

(b) In the case of a person who presents, within the fifteen-day period,

documents to show proof of financial responsibility, the registrar shall terminate the order of suspension and the impoundment of the registration and license plates required under division (A)(2)(d) of this section and shall send written notification to the person, at the person's last known address as shown on the records of the bureau.

(c) Any person adversely affected by the order of the registrar under division (D)(5)(a) or (b) of this section, within ten days after the issuance of the order, may request an administrative hearing before the registrar, who shall provide the person with an opportunity for a hearing in accordance with this paragraph. A request for a hearing does not operate as a suspension of the order. The scope of the hearing shall be limited to whether, at the time of the hearing, the person presents proof of financial responsibility covering the vehicle and whether the person is eligible for an exemption in accordance with this section or any rule adopted under it. The registrar shall determine the date, time, and place of any hearing; provided, that the hearing shall be held, and an order issued or findings made, within thirty days after the registrar receives a request for a hearing. If requested by the person in writing, the registrar may designate as the place of hearing the county seat of the county in which the person resides or a place within fifty miles of the person's residence. Such person shall pay the cost of the hearing before the registrar, if the registrar's order of suspension or impoundment under division (D)(5)(a) or (b) of this section is upheld.

(6) A peace officer may charge an owner or operator of a motor vehicle with a violation of section 4510.16 of the Revised Code when the owner or operator fails to show proof of the maintenance of financial responsibility pursuant to a peace officer's request under division (D)(2) of this section, if a check of the owner or operator's driving record indicates that the owner or operator, at the time of the operation of the motor vehicle, is required to file and maintain proof of financial responsibility under section 4509.45 of the Revised Code for a previous violation of this chapter.

(7) Any forms used by law enforcement agencies in administering this section shall be prescribed, supplied, and paid for by the registrar.

(8) No peace officer, law enforcement agency employing a peace officer, or political subdivision or governmental agency that employs a peace officer shall be liable in a civil action for damages or loss to persons arising out of the performance of any duty required or authorized by this section.

(9) As used in this division and divisions (E) and (G) of this section, "peace officer" has the meaning set forth in section 2935.01 of the Revised Code.

(E) All fees, except court costs and those portions of the financial responsibility reinstatement fees as otherwise specified in this division, collected under this section shall be paid into the state treasury to the credit of the financial responsibility compliance fund. The financial responsibility compliance fund shall be used exclusively to cover costs incurred by the bureau in the administration of this section and sections 4503.20, 4507.212, and 4509.81 of the Revised Code, and by any law enforcement agency employing any peace officer who returns any license, certificate of registration, and license plates to the registrar pursuant to division (C) of this section, except that the director of budget and management may transfer excess money from the financial responsibility compliance fund to the state bureau of motor vehicles fund if the registrar determines that the amount of money in the financial responsibility compliance fund exceeds the amount required to cover such costs incurred by the bureau or a law enforcement agency and requests the director to make the transfer.

Of each financial responsibility reinstatement fee the registrar collects pursuant to division (A)(5)(a) of this section, the registrar shall deposit twenty-five dollars of each one-hundred-dollar reinstatement fee, fifty dollars of each three-hundred-dollar reinstatement fee, and one hundred dollars of each six-hundred-dollar reinstatement fee into the state treasury to the credit of the indigent defense support fund created by section 120.08 of the Revised Code.

All investment earnings of the financial responsibility compliance fund shall be credited to the fund.

(F) Chapter 119. of the Revised Code applies to this section only to the extent that any provision in that chapter is not clearly inconsistent with this section.

(G)(1) The registrar, court, traffic violations bureau, or peace officer may require proof of financial responsibility to be demonstrated by use of a standard form prescribed by the registrar. If the use of a standard form is not required, a person may demonstrate proof of financial responsibility under this section by presenting to the traffic violations bureau, court, registrar, or peace officer any of the following documents or a copy of the documents:

(a) A financial responsibility identification card as provided in section 4509.103 of the Revised Code;

(b) A certificate of proof of financial responsibility on a form provided and approved by the registrar for the filing of an accident report required to be filed under section 4509.06 of the Revised Code;

(c) A policy of liability insurance, a declaration page of a policy of liability insurance, or liability bond, if the policy or bond complies with

section 4509.20 or sections 4509.49 to 4509.61 of the Revised Code;

(d) A bond or certification of the issuance of a bond as provided in section 4509.59 of the Revised Code;

(e) A certificate of deposit of money or securities as provided in section 4509.62 of the Revised Code;

(f) A certificate of self-insurance as provided in section 4509.72 of the Revised Code.

(2) If a person fails to demonstrate proof of financial responsibility in a manner described in division (G)(1) of this section, the person may demonstrate proof of financial responsibility under this section by any other method that the court or the bureau, by reason of circumstances in a particular case, may consider appropriate.

(3) A motor carrier certificated by the interstate commerce commission or by the public utilities commission may demonstrate proof of financial responsibility by providing a statement designating the motor carrier's operating authority and averring that the insurance coverage required by the certificating authority is in full force and effect.

(4)(a) A finding by the registrar or court that a person is covered by proof of financial responsibility in the form of an insurance policy or surety bond is not binding upon the named insurer or surety or any of its officers, employees, agents, or representatives and has no legal effect except for the purpose of administering this section.

(b) The preparation and delivery of a financial responsibility identification card or any other document authorized to be used as proof of financial responsibility under this division does not do any of the following:

(i) Create any liability or estoppel against an insurer or surety, or any of its officers, employees, agents, or representatives;

(ii) Constitute an admission of the existence of, or of any liability or coverage under, any policy or bond;

(iii) Waive any defenses or counterclaims available to an insurer, surety, agent, employee, or representative in an action commenced by an insured or third-party claimant upon a cause of action alleged to have arisen under an insurance policy or surety bond or by reason of the preparation and delivery of a document for use as proof of financial responsibility.

(c) Whenever it is determined by a final judgment in a judicial proceeding that an insurer or surety, which has been named on a document accepted by a court or the registrar as proof of financial responsibility covering the operation of a motor vehicle at the time of an accident or offense, is not liable to pay a judgment for injuries or damages resulting from such operation, the registrar, notwithstanding any previous contrary

finding, shall forthwith suspend the operating privileges and registration rights of the person against whom the judgment was rendered as provided in division (A)(2) of this section.

(H) In order for any document described in division (G)(1)(b) of this section to be used for the demonstration of proof of financial responsibility under this section, the document shall state the name of the insured or obligor, the name of the insurer or surety company, and the effective and expiration dates of the financial responsibility, and designate by explicit description or by appropriate reference all motor vehicles covered which may include a reference to fleet insurance coverage.

(I) For purposes of this section, "owner" does not include a licensed motor vehicle leasing dealer as defined in section 4517.01 of the Revised Code, but does include a motor vehicle renting dealer as defined in section 4549.65 of the Revised Code. Nothing in this section or in section 4509.51 of the Revised Code shall be construed to prohibit a motor vehicle renting dealer from entering into a contractual agreement with a person whereby the person renting the motor vehicle agrees to be solely responsible for maintaining proof of financial responsibility, in accordance with this section, with respect to the operation, maintenance, or use of the motor vehicle during the period of the motor vehicle's rental.

(J) The purpose of this section is to require the maintenance of proof of financial responsibility with respect to the operation of motor vehicles on the highways of this state, so as to minimize those situations in which persons are not compensated for injuries and damages sustained in motor vehicle accidents. The general assembly finds that this section contains reasonable civil penalties and procedures for achieving this purpose.

(K) Nothing in this section shall be construed to be subject to section 4509.78 of the Revised Code.

(L)(1) The registrar may terminate any suspension imposed under this section and not require the owner to comply with divisions (A)(5)(a), (b), and (c) of this section if the registrar with or without a hearing determines that the owner of the vehicle has established by clear and convincing evidence that all of the following apply:

- (a) The owner customarily maintains proof of financial responsibility.
- (b) Proof of financial responsibility was not in effect for the vehicle on the date in question for one of the following reasons:
 - (i) The vehicle was inoperable.
 - (ii) The vehicle is operated only seasonally, and the date in question was outside the season of operation.
 - (iii) A person other than the vehicle owner or driver was at fault for the

lapse of proof of financial responsibility through no fault of the owner or driver.

(iv) The lapse of proof of financial responsibility was caused by excusable neglect under circumstances that are not likely to recur and do not suggest a purpose to evade the requirements of this chapter.

(2) The registrar may grant an owner or driver relief for a reason specified in division (L)(1)(b)(i) or (ii) of this section whenever the owner or driver is randomly selected to verify the existence of proof of financial responsibility for such a vehicle. However, the registrar may grant an owner or driver relief for a reason specified in division (L)(1)(b)(iii) or (iv) of this section only if the owner or driver has not previously been granted relief under division (L)(1)(b)(iii) or (iv) of this section.

(M) The registrar shall adopt rules in accordance with Chapter 119. of the Revised Code that are necessary to administer and enforce this section. The rules shall include procedures for the surrender of license plates upon failure to maintain proof of financial responsibility and provisions relating to reinstatement of registration rights, acceptable forms of proof of financial responsibility, and verification of the existence of financial responsibility during the period of registration.

Sec. 4510.11. (A) No person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended under any provision of the Revised Code, other than Chapter 4509. of the Revised Code, or under any applicable law in any other jurisdiction in which the person's license or permit was issued shall operate any motor vehicle upon the public roads and highways or upon any public or private property used by the public for purposes of vehicular travel or parking within this state during the period of suspension unless the person is granted limited driving privileges and is operating the vehicle in accordance with the terms of the limited driving privileges.

(B) No person shall operate any motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this state in violation of any restriction of the person's driver's or commercial driver's license or permit imposed under division (D) of section 4506.10 or under section 4507.14 of the Revised Code.

(C)(1) ~~Whoever~~ (a) Except as provided in division (C)(1)(b) of this section, whoever violates division (A) of this section is guilty of driving under suspension ~~or in violation of a license restriction~~, a misdemeanor of the first degree. The court shall impose upon the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating

privilege from the range specified in division (A)(7) of section 4510.02 of the Revised Code.

(b) If the offender's driver's or commercial driver's license or permit or nonresident operating privilege has been suspended under section 3123.58 or 4510.22 of the Revised Code, a violation of division (A) of this section is an unclassified misdemeanor. The offender may be fined up to one thousand dollars and pursuant to division (B) of section 2929.27 of the Revised Code additionally may be ordered to serve a term of community service of up to five hundred hours. If the offender previously was convicted of or pleaded guilty to two or more violations of this section or a substantially equivalent municipal ordinance within the past three years, the offense is a misdemeanor of the first degree.

(2) Whoever violates division (B) of this section is guilty of driving in violation of a license restriction, a misdemeanor of the first degree.

(3) Except as provided in division (C)(~~3~~)(4) or (~~4~~)(5) of this section, the court, in addition to any other penalty that it imposes on the offender and if the vehicle is registered in the offender's name, shall order the immobilization of the vehicle involved in the offense for thirty days in accordance with section 4503.233 of the Revised Code and the impoundment of that vehicle's license plates for thirty days.

(~~3~~)(4) If the offender previously has been convicted of or pleaded guilty to one violation of this section or of a substantially similar municipal ordinance, the court, in addition to any other sentence that it imposes on the offender and if the vehicle is registered in the offender's name, shall order the immobilization of the vehicle involved in the offense for sixty days in accordance with section 4503.233 of the Revised Code and the impoundment of that vehicle's license plates for sixty days.

(4)(5) If the offender previously has been convicted of or pleaded guilty to two or more violations of this section or of a substantially similar municipal ordinance, the court, in addition to any other sentence that it imposes on the offender and if the vehicle is registered in the offender's name, shall order the criminal forfeiture of the vehicle involved in the offense to the state.

(D) Any order for immobilization and impoundment under this section shall be issued and enforced under section 4503.233 of the Revised Code. The court shall not release a vehicle from immobilization ordered under this section unless the court is presented with current proof of financial responsibility with respect to that vehicle.

(E) Any order of criminal forfeiture under this section shall be issued and enforced under section 4503.234 of the Revised Code. Upon receipt of

the copy of the order from the court, neither the registrar of motor vehicles nor a deputy registrar shall accept any application for the registration or transfer of registration of any motor vehicle owned or leased by the person named in the declaration of forfeiture. The period of registration denial shall be five years after the date of the order, unless, during that period, the court having jurisdiction of the offense that led to the order terminates the forfeiture and notifies the registrar of the termination. The registrar then shall take necessary measures to permit the person to register a vehicle owned or leased by the person or to transfer registration of the vehicle.

Sec. 4510.12. (A)(1) No person, except those expressly exempted under sections 4507.03, 4507.04, and 4507.05 of the Revised Code, shall operate any motor vehicle upon a public road or highway or any public or private property used by the public for purposes of vehicular travel or parking in this state unless the person has a valid driver's license issued under Chapter 4507. of the Revised Code or a commercial driver's license issued under Chapter 4506. of the Revised Code.

(2) No person, except a person expressly exempted under sections 4507.03, 4507.04, and 4507.05 of the Revised Code, shall operate any motorcycle upon a public road or highway or any public or private property used by the public for purposes of vehicular travel or parking in this state unless the person has a valid license as a motorcycle operator that was issued upon application by the registrar of motor vehicles under Chapter 4507. of the Revised Code. The license shall be in the form of an endorsement, as determined by the registrar, upon a driver's or commercial driver's license, if the person has a valid license to operate a motor vehicle or commercial motor vehicle, or in the form of a restricted license as provided in section 4507.14 of the Revised Code, if the person does not have a valid license to operate a motor vehicle or commercial motor vehicle.

(B) Whoever violates this section is guilty of operating a motor vehicle without a valid license and shall be punished as follows:

(1) If the trier of fact finds that the offender never has held a valid driver's or commercial driver's license issued by this state or any other jurisdiction, the offense is a an unclassified misdemeanor ~~of the first degree.~~ The offender may be fined up to one thousand dollars and pursuant to division (B) of section 2929.27 of the Revised Code additionally may be ordered to serve a term of community service of up to five hundred hours.

(2)(a) Subject to division (B)(2)(b) of this section, if the offender's driver's or commercial driver's license or permit was expired at the time of the offense ~~for no more than six months,~~ the offense is a minor misdemeanor ~~and if the offender's driver's or commercial driver's license or~~

~~permit was expired at the time of the offense for more than six months, the offense is a misdemeanor of the fourth degree.~~

~~(b)(i) If the offender previously was convicted of or pleaded guilty to one violation of this section or a substantially equivalent municipal ordinance within the past three years, the offense is a misdemeanor of the third degree.~~

~~(ii) If the offender previously was convicted of or pleaded guilty to two violations of this section or a substantially equivalent municipal ordinance within the past three years, the offense is a misdemeanor of the second degree.~~

~~(iii) If the offender previously was convicted of or pleaded guilty to three or more violations of this section or a substantially equivalent municipal ordinance within the past three years, the offense is a misdemeanor of the first degree.~~

(C) The court shall not impose a license suspension for a first violation of this section or if more than three years have passed since the offender's last violation of this section or a substantially equivalent municipal ordinance.

(D) If the offender was convicted of or pleaded guilty to one or more violations of this section or a substantially equivalent municipal ordinance within the past three years, and if the offender's license was expired for more than six months at the time of the offense, the court shall impose a class seven suspension of the offender's driver license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(7) of section 4510.02 of the Revised Code.

Sec. 4510.16. (A) No person, whose driver's or commercial driver's license or temporary instruction permit or nonresident's operating privilege has been suspended or canceled pursuant to Chapter 4509. of the Revised Code, shall operate any motor vehicle within this state, or knowingly permit any motor vehicle owned by the person to be operated by another person in the state, during the period of the suspension or cancellation, except as specifically authorized by Chapter 4509. of the Revised Code. No person shall operate a motor vehicle within this state, or knowingly permit any motor vehicle owned by the person to be operated by another person in the state, during the period in which the person is required by section 4509.45 of the Revised Code to file and maintain proof of financial responsibility for a violation of section 4509.101 of the Revised Code, unless proof of financial responsibility is maintained with respect to that vehicle.

(B)(1) Whoever violates this section is guilty of driving under financial

responsibility law suspension or cancellation, ~~a~~ an unclassified misdemeanor ~~of the first degree~~. The offender may be fined up to one thousand dollars and pursuant to division (B) of section 2929.27 of the Revised Code additionally may be ordered to serve a term of community service of up to five hundred hours. If the offender previously was convicted of or pleaded guilty to two or more violations of this section or a substantially equivalent municipal ordinance within the past three years, the offense is a misdemeanor of the first degree. The court shall impose a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege for the period of time specified in division (A)(7) of section 4510.02 of the Revised Code.

(2) If the vehicle is registered in the offender's name and division (B)(3) of this section does not apply, the court, in addition to or independent of any other sentence that it imposes upon the offender, may order the immobilization for no more than thirty days of the vehicle involved in the offense and the impoundment for no more than thirty days of the license plates of that vehicle.

(3) If the vehicle is registered in the offender's name and if, within five years of the offense, the offender has been convicted of or pleaded guilty to one violation of this section or a substantially similar municipal ordinance, the court, in addition to or independent of any other sentence that it imposes on the offender, shall order the immobilization for sixty days of the vehicle involved in the offense and impoundment for sixty days of the license plates of that vehicle.

If the vehicle is registered in the offender's name and if, within five years of the offense, the offender has been convicted of or pleaded guilty to two or more violations of this section or a substantially similar municipal ordinance, the court, in addition to or independent of any other sentence that it imposes upon the offender, shall order the criminal forfeiture to the state of the vehicle involved in the offense. If title to a motor vehicle that is subject to an order for criminal forfeiture under this division is assigned or transferred and division (B)(2) or (3) of section 4503.234 of the Revised Code applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the national auto dealers association. The proceeds from any fine so imposed shall be distributed in accordance with division (C)(2) of that section.

(C) Any order for immobilization and impoundment under this section shall be issued and enforced in accordance with sections 4503.233 and 4507.02 of the Revised Code, as applicable. Any order of criminal forfeiture

shall be issued and enforced in accordance with section 4503.234 of the Revised Code. The court shall not release a vehicle from immobilization orders under this section unless the court is presented with current proof of financial responsibility with respect to that vehicle.

Sec. 4510.22. (A) If a person who has a current valid Ohio driver's, commercial driver's license, or temporary instruction permit is charged with a violation of any provision in sections 4511.01 to 4511.76, 4511.84, 4513.01 to 4513.65, or 4549.01 to 4549.65 of the Revised Code that is classified as a misdemeanor of the first, second, third, or fourth degree or with a violation of any substantially equivalent municipal ordinance and if the person either fails to appear in court at the required time and place to answer the charge or pleads guilty to or is found guilty of the violation and fails within the time allowed by the court to pay the fine imposed by the court, the court shall declare the forfeiture of the person's license. Thirty days after the declaration of forfeiture, the court shall inform the registrar of motor vehicles of the forfeiture by entering information relative to the of forfeiture on a form approved and furnished by the registrar and sending the form to the registrar. The court also shall forward the person's license, if it is in the possession of the court, to the registrar.

The registrar shall impose a class F suspension of the person's driver's or commercial driver's license, or temporary instruction permit for the period of time specified in division (B)(6) of section 4510.02 of the Revised Code on any person who is named in a declaration received by the registrar under this section. The registrar shall send written notification of the suspension to the person at the person's last known address and, if the person is in possession of the license, order the person to surrender the person's license or permit to the registrar within forty-eight hours.

No valid driver's or commercial driver's license shall be granted to the person after the suspension, unless the court having jurisdiction of the offense that led to the suspension orders that the forfeiture be terminated. The court shall order the termination of the forfeiture if the person thereafter appears to answer the charge and pays any fine imposed by the court or pays the fine originally imposed by the court. The court shall inform the registrar of the termination of the forfeiture by entering information relative to the termination on a form approved and furnished by the registrar and sending the form to the registrar. The person shall pay to the bureau of motor vehicles a ~~fifteen-dollar~~ twenty-five-dollar reinstatement fee ~~to cover the costs of the bureau in administering this section.~~ The registrar shall deposit fifteen dollars of the fee into the state treasury to the credit of the state bureau of motor vehicles fund created by section 4501.25 of the Revised

Code to cover the costs of the bureau in administering this section and shall deposit ten dollars of the fee into the state treasury to the credit of the indigent defense support fund created by section 120.08 of the Revised Code.

(B) In addition to suspending the driver's or commercial driver's license or permit of the person named in a declaration of forfeiture, the registrar, upon receipt from the court of the copy of the declaration of forfeiture, shall take any measures that may be necessary to ensure that neither the registrar nor any deputy registrar accepts any application for the registration or transfer of registration of any motor vehicle owned or leased by the person named in the declaration of forfeiture. However, for a motor vehicle leased by a person named in a declaration of forfeiture, the registrar shall not implement the preceding sentence until the registrar adopts procedures for that implementation under section 4503.39 of the Revised Code. The period of denial of registration or transfer shall continue until such time as the court having jurisdiction of the offense that led to the suspension orders the forfeiture be terminated. Upon receipt by the registrar of an order terminating the forfeiture, the registrar also shall take any measures that may be necessary to permit the person to register a motor vehicle owned or leased by the person or to transfer the registration of such a motor vehicle, if the person later makes application to take such action and otherwise is eligible to register the motor vehicle or to transfer its registration.

The registrar shall not be required to give effect to any declaration of forfeiture or order terminating a forfeiture provided by a court under this section unless the information contained in the declaration or order is transmitted to the registrar by means of an electronic transfer system. The registrar shall not restore the person's driving or vehicle registration privileges until the person pays the reinstatement fee as provided in this section.

The period of denial relating to the issuance or transfer of a certificate of registration for a motor vehicle imposed pursuant to this division remains in effect until the person pays any fine imposed by the court relative to the offense.

Sec. 4511.191. (A)(1) As used in this section:

(a) "Physical control" has the same meaning as in section 4511.194 of the Revised Code.

(b) "Alcohol monitoring device" means any device that provides for continuous alcohol monitoring, any ignition interlock device, any immobilizing or disabling device other than an ignition interlock device that is constantly available to monitor the concentration of alcohol in a person's

system, or any other device that provides for the automatic testing and periodic reporting of alcohol consumption by a person and that a court orders a person to use as a sanction imposed as a result of the person's conviction of or plea of guilty to an offense.

(2) Any person who operates a vehicle, streetcar, or trackless trolley upon a highway or any public or private property used by the public for vehicular travel or parking within this state or who is in physical control of a vehicle, streetcar, or trackless trolley shall be deemed to have given consent to a chemical test or tests of the person's whole blood, blood serum or plasma, breath, or urine to determine the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of the person's whole blood, blood serum or plasma, breath, or urine if arrested for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance.

(3) The chemical test or tests under division (A)(2) of this section shall be administered at the request of a law enforcement officer having reasonable grounds to believe the person was operating or in physical control of a vehicle, streetcar, or trackless trolley in violation of a division, section, or ordinance identified in division (A)(2) of this section. The law enforcement agency by which the officer is employed shall designate which of the tests shall be administered.

(4) Any person who is dead or unconscious, or who otherwise is in a condition rendering the person incapable of refusal, shall be deemed to have consented as provided in division (A)(2) of this section, and the test or tests may be administered, subject to sections 313.12 to 313.16 of the Revised Code.

(5)(a) If a law enforcement officer arrests a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance and if the person if convicted would be required to be sentenced under division (G)(1)(c), (d), or (e) of section 4511.19 of the Revised Code, the law enforcement officer shall request the person to submit, and the person shall submit, to a chemical test or tests of the person's whole blood, blood serum or plasma, breath, or urine for the purpose of determining the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of the person's whole blood, blood serum or plasma, breath, or urine. A law enforcement officer who makes a request pursuant to this division that a person submit to a chemical test or tests is not required to advise the person

of the consequences of submitting to, or refusing to submit to, the test or tests and is not required to give the person the form described in division (B) of section 4511.192 of the Revised Code, but the officer shall advise the person at the time of the arrest that if the person refuses to take a chemical test the officer may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood serum or plasma. The officer shall also advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. Divisions (A)(3) and (4) of this section apply to the administration of a chemical test or tests pursuant to this division.

(b) If a person refuses to submit to a chemical test upon a request made pursuant to division (A)(5)(a) of this section, the law enforcement officer who made the request may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood serum or plasma. A law enforcement officer who acts pursuant to this division to ensure that a person submits to a chemical test of the person's whole blood or blood serum or plasma is immune from criminal and civil liability based upon a claim for assault and battery or any other claim for the acts, unless the officer so acted with malicious purpose, in bad faith, or in a wanton or reckless manner.

(B)(1) Upon receipt of the sworn report of a law enforcement officer who arrested a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance that was completed and sent to the registrar and a court pursuant to section 4511.192 of the Revised Code in regard to a person who refused to take the designated chemical test, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under this division and that section and the period of the suspension, as determined under this section. The suspension shall be subject to appeal as provided in section 4511.197 of the Revised Code. The suspension shall be for whichever of the following periods applies:

(a) Except when division (B)(1)(b), (c), or (d) of this section applies and specifies a different class or length of suspension, the suspension shall be a class C suspension for the period of time specified in division (B)(3) of section 4510.02 of the Revised Code.

(b) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused one

previous request to consent to a chemical test or had been convicted of or pleaded guilty to one violation of division (A) or (B) of section 4511.19 of the Revised Code or one other equivalent offense, the suspension shall be a class B suspension imposed for the period of time specified in division (B)(2) of section 4510.02 of the Revised Code.

(c) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused two previous requests to consent to a chemical test, had been convicted of or pleaded guilty to two violations of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses, or had refused one previous request to consent to a chemical test and also had been convicted of or pleaded guilty to one violation of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses, which violation or offense arose from an incident other than the incident that led to the refusal, the suspension shall be a class A suspension imposed for the period of time specified in division (B)(1) of section 4510.02 of the Revised Code.

(d) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused three or more previous requests to consent to a chemical test, had been convicted of or pleaded guilty to three or more violations of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses, or had refused a number of previous requests to consent to a chemical test and also had been convicted of or pleaded guilty to a number of violations of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses that cumulatively total three or more such refusals, convictions, and guilty pleas, the suspension shall be for five years.

(2) The registrar shall terminate a suspension of the driver's or commercial driver's license or permit of a resident or of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit, imposed pursuant to division (B)(1) of this section upon receipt of notice that the person has entered a plea of guilty to, or that the person has been convicted after entering a plea of no contest to, operating a vehicle in violation of section 4511.19 of the Revised Code or in violation of a municipal OVI ordinance, if the offense for which the conviction is had or the plea is entered arose from the same incident that led to the suspension or denial.

The registrar shall credit against any judicial suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a violation of a

municipal OVI ordinance, any time during which the person serves a related suspension imposed pursuant to division (B)(1) of this section.

(C)(1) Upon receipt of the sworn report of the law enforcement officer who arrested a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance that was completed and sent to the registrar and a court pursuant to section 4511.192 of the Revised Code in regard to a person whose test results indicate that the person's whole blood, blood serum or plasma, breath, or urine contained at least the concentration of alcohol specified in division (A)(1)(b), (c), (d), or (e) of section 4511.19 of the Revised Code or at least the concentration of a listed controlled substance or a listed metabolite of a controlled substance specified in division (A)(1)(j) of section 4511.19 of the Revised Code, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under this division and section 4511.192 of the Revised Code and the period of the suspension, as determined under divisions (C)(1)(a) to (d) of this section. The suspension shall be subject to appeal as provided in section 4511.197 of the Revised Code. The suspension described in this division does not apply to, and shall not be imposed upon, a person arrested for a violation of section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance who submits to a designated chemical test. The suspension shall be for whichever of the following periods applies:

(a) Except when division (C)(1)(b), (c), or (d) of this section applies and specifies a different period, the suspension shall be a class E suspension imposed for the period of time specified in division (B)(5) of section 4510.02 of the Revised Code.

(b) The suspension shall be a class C suspension for the period of time specified in division (B)(3) of section 4510.02 of the Revised Code if the person has been convicted of or pleaded guilty to, within six years of the date the test was conducted, one violation of division (A) or (B) of section 4511.19 of the Revised Code or one other equivalent offense.

(c) If, within six years of the date the test was conducted, the person has been convicted of or pleaded guilty to two violations of a statute or ordinance described in division (C)(1)(b) of this section, the suspension shall be a class B suspension imposed for the period of time specified in division (B)(2) of section 4510.02 of the Revised Code.

(d) If, within six years of the date the test was conducted, the person has been convicted of or pleaded guilty to more than two violations of a statute or ordinance described in division (C)(1)(b) of this section, the suspension

shall be a class A suspension imposed for the period of time specified in division (B)(1) of section 4510.02 of the Revised Code.

(2) The registrar shall terminate a suspension of the driver's or commercial driver's license or permit of a resident or of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit, imposed pursuant to division (C)(1) of this section upon receipt of notice that the person has entered a plea of guilty to, or that the person has been convicted after entering a plea of no contest to, operating a vehicle in violation of section 4511.19 of the Revised Code or in violation of a municipal OVI ordinance, if the offense for which the conviction is had or the plea is entered arose from the same incident that led to the suspension or denial.

The registrar shall credit against any judicial suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, any time during which the person serves a related suspension imposed pursuant to division (C)(1) of this section.

(D)(1) A suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege under this section for the time described in division (B) or (C) of this section is effective immediately from the time at which the arresting officer serves the notice of suspension upon the arrested person. Any subsequent finding that the person is not guilty of the charge that resulted in the person being requested to take the chemical test or tests under division (A) of this section does not affect the suspension.

(2) If a person is arrested for operating a vehicle, streetcar, or trackless trolley in violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance, or for being in physical control of a vehicle, streetcar, or trackless trolley in violation of section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, regardless of whether the person's driver's or commercial driver's license or permit or nonresident operating privilege is or is not suspended under division (B) or (C) of this section or Chapter 4510. of the Revised Code, the person's initial appearance on the charge resulting from the arrest shall be held within five days of the person's arrest or the issuance of the citation to the person, subject to any continuance granted by the court pursuant to section 4511.197 of the Revised Code regarding the issues specified in that division.

(E) When it finally has been determined under the procedures of this section and sections 4511.192 to 4511.197 of the Revised Code that a nonresident's privilege to operate a vehicle within this state has been

suspended, the registrar shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license.

(F) At the end of a suspension period under this section, under section 4511.194, section 4511.196, or division (G) of section 4511.19 of the Revised Code, or under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance and upon the request of the person whose driver's or commercial driver's license or permit was suspended and who is not otherwise subject to suspension, cancellation, or disqualification, the registrar shall return the driver's or commercial driver's license or permit to the person upon the occurrence of all of the conditions specified in divisions (F)(1) and (2) of this section:

(1) A showing that the person has proof of financial responsibility, a policy of liability insurance in effect that meets the minimum standards set forth in section 4509.51 of the Revised Code, or proof, to the satisfaction of the registrar, that the person is able to respond in damages in an amount at least equal to the minimum amounts specified in section 4509.51 of the Revised Code.

(2) Subject to the limitation contained in division (F)(3) of this section, payment by the person to the bureau of motor vehicles of a license reinstatement fee of four hundred seventy-five dollars, which fee shall be deposited in the state treasury and credited as follows:

(a) One hundred twelve dollars and fifty cents shall be credited to the statewide treatment and prevention fund created by section 4301.30 of the Revised Code. The fund shall be used to pay the costs of driver treatment and intervention programs operated pursuant to sections 3793.02 and 3793.10 of the Revised Code. The director of alcohol and drug addiction services shall determine the share of the fund that is to be allocated to alcohol and drug addiction programs authorized by section 3793.02 of the Revised Code, and the share of the fund that is to be allocated to drivers' intervention programs authorized by section 3793.10 of the Revised Code.

(b) Seventy-five dollars shall be credited to the reparations fund created by section 2743.191 of the Revised Code.

(c) Thirty-seven dollars and fifty cents shall be credited to the indigent drivers alcohol treatment fund, which is hereby established in the state treasury. Except as otherwise provided in division (F)(2)(c) of this section, moneys in the fund shall be distributed by the department of alcohol and drug addiction services to the county indigent drivers alcohol treatment funds, the county juvenile indigent drivers alcohol treatment funds, and the municipal indigent drivers alcohol treatment funds that are required to be

established by counties and municipal corporations pursuant to division (H) of this section, and shall be used only to pay the cost of an alcohol and drug addiction treatment program attended by an offender or juvenile traffic offender who is ordered to attend an alcohol and drug addiction treatment program by a county, juvenile, or municipal court judge and who is determined by the county, juvenile, or municipal court judge not to have the means to pay for the person's attendance at the program or to pay the costs specified in division (H)(4) of this section in accordance with that division. In addition, a county, juvenile, or municipal court judge may use moneys in the county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund to pay for the cost of the continued use of an alcohol monitoring device as described in divisions (H)(3) and (4) of this section. Moneys in the fund that are not distributed to a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund under division (H) of this section because the director of alcohol and drug addiction services does not have the information necessary to identify the county or municipal corporation where the offender or juvenile offender was arrested may be transferred by the director of budget and management to the statewide treatment and prevention fund created by section 4301.30 of the Revised Code, upon certification of the amount by the director of alcohol and drug addiction services.

(d) Seventy-five dollars shall be credited to the Ohio rehabilitation services commission established by section 3304.12 of the Revised Code, to the services for rehabilitation fund, which is hereby established. The fund shall be used to match available federal matching funds where appropriate, and for any other purpose or program of the commission to rehabilitate people with disabilities to help them become employed and independent.

(e) Seventy-five dollars shall be deposited into the state treasury and credited to the drug abuse resistance education programs fund, which is hereby established, to be used by the attorney general for the purposes specified in division (F)(4) of this section.

(f) Thirty dollars shall be credited to the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code.

(g) Twenty dollars shall be credited to the trauma and emergency medical services grants fund created by section 4513.263 of the Revised Code.

(h) Fifty dollars shall be credited to the indigent drivers interlock and alcohol monitoring fund, which is hereby established in the state treasury.

Monies in the fund shall be distributed by the department of public safety to the county indigent drivers interlock and alcohol monitoring funds, the county juvenile indigent drivers interlock and alcohol monitoring funds, and the municipal indigent drivers interlock and alcohol monitoring funds that are required to be established by counties and municipal corporations pursuant to this section, and shall be used only to pay the cost of an immobilizing or disabling device, including a certified ignition interlock device, or an alcohol monitoring device used by an offender or juvenile offender who is ordered to use the device by a county, juvenile, or municipal court judge and who is determined by the county, juvenile, or municipal court judge not to have the means to pay for the person's use of the device.

(3) If a person's driver's or commercial driver's license or permit is suspended under this section, under section 4511.196 or division (G) of section 4511.19 of the Revised Code, under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance or under any combination of the suspensions described in division (F)(3) of this section, and if the suspensions arise from a single incident or a single set of facts and circumstances, the person is liable for payment of, and shall be required to pay to the bureau, only one reinstatement fee of four hundred twenty-five dollars. The reinstatement fee shall be distributed by the bureau in accordance with division (F)(2) of this section.

(4) The attorney general shall use amounts in the drug abuse resistance education programs fund to award grants to law enforcement agencies to establish and implement drug abuse resistance education programs in public schools. Grants awarded to a law enforcement agency under this section shall be used by the agency to pay for not more than fifty per cent of the amount of the salaries of law enforcement officers who conduct drug abuse resistance education programs in public schools. The attorney general shall not use more than six per cent of the amounts the attorney general's office receives under division (F)(2)(e) of this section to pay the costs it incurs in administering the grant program established by division (F)(2)(e) of this section and in providing training and materials relating to drug abuse resistance education programs.

The attorney general shall report to the governor and the general assembly each fiscal year on the progress made in establishing and implementing drug abuse resistance education programs. These reports shall include an evaluation of the effectiveness of these programs.

(G) Suspension of a commercial driver's license under division (B) or (C) of this section shall be concurrent with any period of disqualification under section 3123.611 or 4506.16 of the Revised Code or any period of

suspension under section 3123.58 of the Revised Code. No person who is disqualified for life from holding a commercial driver's license under section 4506.16 of the Revised Code shall be issued a driver's license under Chapter 4507. of the Revised Code during the period for which the commercial driver's license was suspended under division (B) or (C) of this section. No person whose commercial driver's license is suspended under division (B) or (C) of this section shall be issued a driver's license under Chapter 4507. of the Revised Code during the period of the suspension.

(H)(1) Each county shall establish an indigent drivers alcohol treatment fund, each county shall establish a juvenile indigent drivers alcohol treatment fund, and each municipal corporation in which there is a municipal court shall establish an indigent drivers alcohol treatment fund. All revenue that the general assembly appropriates to the indigent drivers alcohol treatment fund for transfer to a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund, all portions of fees that are paid under division (F) of this section and that are credited under that division to the indigent drivers alcohol treatment fund in the state treasury for a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund, all portions of additional costs imposed under section 2949.094 of the Revised Code that are specified for deposit into a county, county juvenile, or municipal indigent drivers alcohol treatment fund by that section, and all portions of fines that are specified for deposit into a county or municipal indigent drivers alcohol treatment fund by section 4511.193 of the Revised Code shall be deposited into that county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund. The portions of the fees paid under division (F) of this section that are to be so deposited shall be determined in accordance with division (H)(2) of this section. Additionally, all portions of fines that are paid for a violation of section 4511.19 of the Revised Code or of any prohibition contained in Chapter 4510. of the Revised Code, and that are required under section 4511.19 or any provision of Chapter 4510. of the Revised Code to be deposited into a county indigent drivers alcohol treatment fund or municipal indigent drivers alcohol treatment fund shall be deposited into the appropriate fund in accordance with the applicable division of the section or provision.

(2) That portion of the license reinstatement fee that is paid under division (F) of this section and that is credited under that division to the

indigent drivers alcohol treatment fund shall be deposited into a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund as follows:

(a) Regarding a suspension imposed under this section, that portion of the fee shall be deposited as follows:

(i) If the fee is paid by a person who was charged in a county court with the violation that resulted in the suspension or in the imposition of the court costs, the portion shall be deposited into the county indigent drivers alcohol treatment fund under the control of that court;

(ii) If the fee is paid by a person who was charged in a juvenile court with the violation that resulted in the suspension or in the imposition of the court costs, the portion shall be deposited into the county juvenile indigent drivers alcohol treatment fund established in the county served by the court;

(iii) If the fee is paid by a person who was charged in a municipal court with the violation that resulted in the suspension or in the imposition of the court costs, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(b) Regarding a suspension imposed under section 4511.19 of the Revised Code or under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, that portion of the fee shall be deposited as follows:

(i) If the fee is paid by a person whose license or permit was suspended by a county court, the portion shall be deposited into the county indigent drivers alcohol treatment fund under the control of that court;

(ii) If the fee is paid by a person whose license or permit was suspended by a municipal court, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(3) Expenditures from a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund shall be made only upon the order of a county, juvenile, or municipal court judge and only for payment of the cost of an assessment or the cost of the attendance at an alcohol and drug addiction treatment program of a person who is convicted of, or found to be a juvenile traffic offender by reason of, a violation of division (A) of section 4511.19 of the Revised Code or a substantially similar municipal ordinance, who is ordered by the court to attend the alcohol and drug addiction treatment program, and who is determined by the court to be unable to pay the cost of the assessment or the cost of attendance at the treatment program or for payment of the costs specified in division (H)(4) of this section in

accordance with that division. The alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code and serving the alcohol, drug addiction, and mental health service district in which the court is located shall administer the indigent drivers alcohol treatment program of the court. When a court orders an offender or juvenile traffic offender to obtain an assessment or attend an alcohol and drug addiction treatment program, the board shall determine which program is suitable to meet the needs of the offender or juvenile traffic offender, and when a suitable program is located and space is available at the program, the offender or juvenile traffic offender shall attend the program designated by the board. A reasonable amount not to exceed five per cent of the amounts credited to and deposited into the county indigent drivers alcohol treatment fund, the county juvenile indigent drivers alcohol treatment fund, or the municipal indigent drivers alcohol treatment fund serving every court whose program is administered by that board shall be paid to the board to cover the costs it incurs in administering those indigent drivers alcohol treatment programs.

In addition, upon exhaustion of moneys in the indigent drivers interlock and alcohol monitoring fund for the use of an alcohol monitoring device, a county, juvenile, or municipal court judge may use moneys in the county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund in the following manners:

(a) If the source of the moneys was an appropriation of the general assembly, a portion of a fee that was paid under division (F) of this section, a portion of a fine that was specified for deposit into the fund by section 4511.193 of the Revised Code, or a portion of a fine that was paid for a violation of section 4511.19 of the Revised Code or of a provision contained in Chapter 4510. of the Revised Code that was required to be deposited into the fund, to pay for the continued use of an alcohol monitoring device by an offender or juvenile traffic offender, in conjunction with a treatment program approved by the department of alcohol and drug addiction services, when such use is determined clinically necessary by the treatment program and when the court determines that the offender or juvenile traffic offender is unable to pay all or part of the daily monitoring or cost of the device;

(b) If the source of the moneys was a portion of an additional court cost imposed under section 2949.094 of the Revised Code, to pay for the continued use of an alcohol monitoring device by an offender or juvenile traffic offender when the court determines that the offender or juvenile

traffic offender is unable to pay all or part of the daily monitoring or cost of the device. The moneys may be used for a device as described in this division if the use of the device is in conjunction with a treatment program approved by the department of alcohol and drug addiction services, when the use of the device is determined clinically necessary by the treatment program, but the use of a device is not required to be in conjunction with a treatment program approved by the department in order for the moneys to be used for the device as described in this division.

(4) If a county, juvenile, or municipal court determines, in consultation with the alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code and serving the alcohol, drug addiction, and mental health district in which the court is located, that the funds in the county indigent drivers alcohol treatment fund, the county juvenile indigent drivers alcohol treatment fund, or the municipal indigent drivers alcohol treatment fund under the control of the court are more than sufficient to satisfy the purpose for which the fund was established, as specified in divisions (H)(1) to (3) of this section, the court may declare a surplus in the fund. If the court declares a surplus in the fund, the court may expend the amount of the surplus in the fund for:

(a) Alcohol and drug abuse assessment and treatment of persons who are charged in the court with committing a criminal offense or with being a delinquent child or juvenile traffic offender and in relation to whom both of the following apply:

(i) The court determines that substance abuse was a contributing factor leading to the criminal or delinquent activity or the juvenile traffic offense with which the person is charged.

(ii) The court determines that the person is unable to pay the cost of the alcohol and drug abuse assessment and treatment for which the surplus money will be used.

(b) All or part of the cost of purchasing alcohol monitoring devices to be used in conjunction with division (H)(3) of this section, upon exhaustion of moneys in the indigent drivers interlock and alcohol monitoring fund for the use of an alcohol monitoring device.

(5) For the purpose of determining as described in division (F)(2)(c) of this section whether an offender does not have the means to pay for the offender's attendance at an alcohol and drug addiction treatment program or whether an alleged offender or delinquent child is unable to pay the costs specified in division (H)(4) of this section, the court shall use the indigent client eligibility guidelines and the standards of indigency established by the

state public defender to make the determination.

(6) The court shall identify and refer any alcohol and drug addiction program that is not certified under section 3793.06 of the Revised Code and that is interested in receiving amounts from the surplus in the fund declared under division (H)(4) of this section to the department of alcohol and drug addiction services in order for the program to become a certified alcohol and drug addiction program. The department shall keep a record of applicant referrals received pursuant to this division and shall submit a report on the referrals each year to the general assembly. If a program interested in becoming certified makes an application to become certified pursuant to section 3793.06 of the Revised Code, the program is eligible to receive surplus funds as long as the application is pending with the department. The department of alcohol and drug addiction services must offer technical assistance to the applicant. If the interested program withdraws the certification application, the department must notify the court, and the court shall not provide the interested program with any further surplus funds.

(7)(a) Each alcohol and drug addiction services board and board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code shall submit to the department of alcohol and drug addiction services an annual report for each indigent drivers alcohol treatment fund in that board's area.

(b) The report, which shall be submitted not later than sixty days after the end of the state fiscal year, shall provide the total payment that was made from the fund, including the number of indigent consumers that received treatment services and the number of indigent consumers that received an alcohol monitoring device. The report shall identify the treatment program and expenditure for an alcohol monitoring device for which that payment was made. The report shall include the fiscal year balance of each indigent drivers alcohol treatment fund located in that board's area. In the event that a surplus is declared in the fund pursuant to division (H)(4) of this section, the report also shall provide the total payment that was made from the surplus moneys and identify the treatment program and expenditure for an alcohol monitoring device for which that payment was made. The department may require additional information necessary to complete the comprehensive statewide alcohol and drug addiction services plan as required by section 3793.04 of the Revised Code.

(c) If a board is unable to obtain adequate information to develop the report to submit to the department for a particular indigent drivers alcohol treatment fund, the board shall submit a report detailing the effort made in obtaining the information.

(I)(1) Each county shall establish an indigent drivers interlock and alcohol monitoring fund and a juvenile indigent drivers interlock and alcohol treatment fund, and each municipal corporation in which there is a municipal court shall establish an indigent drivers interlock and alcohol monitoring fund. All revenue that the general assembly appropriates to the indigent drivers interlock and alcohol monitoring fund for transfer to a county indigent drivers interlock and alcohol monitoring fund, a county juvenile indigent drivers interlock and alcohol monitoring fund, or a municipal indigent drivers interlock and alcohol monitoring fund, all portions of license reinstatement fees that are paid under division (F)(2) of this section and that are credited under that division to the indigent drivers interlock and alcohol monitoring fund in the state treasury, and all portions of fines that are paid under division (G) of section 4511.19 of the Revised Code and that are credited by division (G)(5)(e) of that section to the indigent drivers interlock and alcohol monitoring fund in the state treasury shall be deposited in the appropriate fund in accordance with division (I)(2) of this section.

(2) That portion of the license reinstatement fee that is paid under division (F) of this section and that portion of the fine paid under division (G) of section 4511.19 of the Revised Code and that is credited under either division to the indigent drivers interlock and alcohol monitoring fund shall be deposited into a county indigent drivers interlock and alcohol monitoring fund, a county juvenile indigent drivers interlock and alcohol monitoring fund, or a municipal indigent drivers interlock and alcohol monitoring fund as follows:

(a) If the fee or fine is paid by a person who was charged in a county court with the violation that resulted in the suspension or fine, the portion shall be deposited into the county indigent drivers interlock and alcohol monitoring fund under the control of that court.

(b) If the fee or fine is paid by a person who was charged in a juvenile court with the violation that resulted in the suspension or fine, the portion shall be deposited into the county juvenile indigent drivers interlock and alcohol monitoring fund established in the county served by the court.

(c) If the fee or fine is paid by a person who was charged in a municipal court with the violation that resulted in the suspension, the portion shall be deposited into the municipal indigent drivers interlock and alcohol monitoring fund under the control of that court.

Sec. 4511.69. (A)(1) Every vehicle stopped or parked upon a roadway where there is an adjacent curb shall be stopped or parked with the right-hand wheels of the vehicle parallel with and not more than twelve

inches from the right-hand curb, unless it is impossible to approach so close to the curb; in such case the stop shall be made as close to the curb as possible and only for the time necessary to discharge and receive passengers or to load or unload merchandise. Local authorities by ordinance may permit angle parking on any roadway under their jurisdiction, except that angle parking shall not be permitted on a state route within a municipal corporation unless an unoccupied roadway width of not less than twenty-five feet is available for free-moving traffic, subject to division (A)(2) of this section.

(2)(a) On and after the effective date of this amendment, no angled parking space that is located on a state route within a municipal corporation is subject to elimination, irrespective of whether there is or is not at least twenty-five feet of unoccupied roadway width available for free-moving traffic at the location of that angled parking space, unless the municipal corporation approves of the elimination of the angled parking space.

(b) Replacement, repainting, or any other repair performed by or on behalf of the municipal corporation of the lines that indicate the angled parking space does not constitute an intent by the municipal corporation to eliminate the angled parking space.

(B) Local authorities by ordinance may permit parking of vehicles with the left-hand wheels adjacent to and within twelve inches of the left-hand curb of a one-way roadway.

(C) No vehicle or trackless trolley shall be stopped or parked on a road or highway with the vehicle or trackless trolley facing in a direction other than the direction of travel on that side of the road or highway.

(D) Notwithstanding any statute or any rule, resolution, or ordinance adopted by any local authority, air compressors, tractors, trucks, and other equipment, while being used in the construction, reconstruction, installation, repair, or removal of facilities near, on, over, or under a street or highway, may stop, stand, or park where necessary in order to perform such work, provided a flagperson is on duty or warning signs or lights are displayed as may be prescribed by the director of transportation.

(E) Special parking locations and privileges for persons with disabilities that limit or impair the ability to walk, also known as handicapped parking spaces or disability parking spaces, shall be provided and designated by all political subdivisions and by the state and all agencies and instrumentalities thereof at all offices and facilities, where parking is provided, whether owned, rented, or leased, and at all publicly owned parking garages. The locations shall be designated through the posting of an elevated sign, whether permanently affixed or movable, imprinted with the international

symbol of access and shall be reasonably close to exits, entrances, elevators, and ramps. All elevated signs posted in accordance with this division and division (C) of section 3781.111 of the Revised Code shall be mounted on a fixed or movable post, and the distance from the ground to the top edge of the sign shall measure five feet. If a new sign or a replacement sign designating a special parking location is posted on or after October 14, 1999, there also shall be affixed upon the surface of that sign or affixed next to the designating sign a notice that states the fine applicable for the offense of parking a motor vehicle in the special designated parking location if the motor vehicle is not legally entitled to be parked in that location.

(F)(1) No person shall stop, stand, or park any motor vehicle at special parking locations provided under division (E) of this section or at special clearly marked parking locations provided in or on privately owned parking lots, parking garages, or other parking areas and designated in accordance with that division, unless one of the following applies:

(a) The motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a valid removable windshield placard or special license plates;

(b) The motor vehicle is being operated by or for the transport of a handicapped person and is displaying a parking card or special handicapped license plates.

(2) Any motor vehicle that is parked in a special marked parking location in violation of division (F)(1)(a) or (b) of this section may be towed or otherwise removed from the parking location by the law enforcement agency of the political subdivision in which the parking location is located. A motor vehicle that is so towed or removed shall not be released to its owner until the owner presents proof of ownership of the motor vehicle and pays all towing and storage fees normally imposed by that political subdivision for towing and storing motor vehicles. If the motor vehicle is a leased vehicle, it shall not be released to the lessee until the lessee presents proof that that person is the lessee of the motor vehicle and pays all towing and storage fees normally imposed by that political subdivision for towing and storing motor vehicles.

(3) If a person is charged with a violation of division (F)(1)(a) or (b) of this section, it is an affirmative defense to the charge that the person suffered an injury not more than seventy-two hours prior to the time the person was issued the ticket or citation and that, because of the injury, the person meets at least one of the criteria contained in division (A)(1) of section 4503.44 of the Revised Code.

(G) When a motor vehicle is being operated by or for the transport of a

person with a disability that limits or impairs the ability to walk and is displaying a removable windshield placard or a temporary removable windshield placard or special license plates, or when a motor vehicle is being operated by or for the transport of a handicapped person and is displaying a parking card or special handicapped license plates, the motor vehicle is permitted to park for a period of two hours in excess of the legal parking period permitted by local authorities, except where local ordinances or police rules provide otherwise or where the vehicle is parked in such a manner as to be clearly a traffic hazard.

(H) No owner of an office, facility, or parking garage where special parking locations are required to be designated in accordance with division (E) of this section shall fail to properly mark the special parking locations in accordance with that division or fail to maintain the markings of the special locations, including the erection and maintenance of the fixed or movable signs.

(I) Nothing in this section shall be construed to require a person or organization to apply for a removable windshield placard or special license plates if the parking card or special license plates issued to the person or organization under prior law have not expired or been surrendered or revoked.

(J)(1) Whoever violates division (A) or (C) of this section is guilty of a minor misdemeanor.

(2)(a) Whoever violates division (F)(1)(a) or (b) of this section is guilty of a misdemeanor and shall be punished as provided in division (J)(2)(a) and (b) of this section. Except as otherwise provided in division (J)(2)(a) of this section, an offender who violates division (F)(1)(a) or (b) of this section shall be fined not less than two hundred fifty nor more than five hundred dollars. An offender who violates division (F)(1)(a) or (b) of this section shall be fined not more than one hundred dollars if the offender, prior to sentencing, proves either of the following to the satisfaction of the court:

(i) At the time of the violation of division (F)(1)(a) of this section, the offender or the person for whose transport the motor vehicle was being operated had been issued a removable windshield placard that then was valid or special license plates that then were valid but the offender or the person neglected to display the placard or license plates as described in division (F)(1)(a) of this section.

(ii) At the time of the violation of division (F)(1)(b) of this section, the offender or the person for whose transport the motor vehicle was being operated had been issued a parking card that then was valid or special handicapped license plates that then were valid but the offender or the

person neglected to display the card or license plates as described in division (F)(1)(b) of this section.

(b) In no case shall an offender who violates division (F)(1)(a) or (b) of this section be sentenced to any term of imprisonment.

An arrest or conviction for a violation of division (F)(1)(a) or (b) of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.

The clerk of the court shall pay every fine collected under division (J)(2) of this section to the political subdivision in which the violation occurred. Except as provided in division (J)(2) of this section, the political subdivision shall use the fine moneys it receives under division (J)(2) of this section to pay the expenses it incurs in complying with the signage and notice requirements contained in division (E) of this section. The political subdivision may use up to fifty per cent of each fine it receives under division (J)(2) of this section to pay the costs of educational, advocacy, support, and assistive technology programs for persons with disabilities, and for public improvements within the political subdivision that benefit or assist persons with disabilities, if governmental agencies or nonprofit organizations offer the programs.

(3) Whoever violates division (H) of this section shall be punished as follows:

(a) Except as otherwise provided in division (J)(3) of this section, the offender shall be issued a warning.

(b) If the offender previously has been convicted of or pleaded guilty to a violation of division (H) of this section or of a municipal ordinance that is substantially similar to that division, the offender shall not be issued a warning but shall be fined not more than twenty-five dollars for each parking location that is not properly marked or whose markings are not properly maintained.

(K) As used in this section:

(1) "Handicapped person" means any person who has lost the use of one or both legs or one or both arms, who is blind, deaf, or so severely handicapped as to be unable to move without the aid of crutches or a wheelchair, or whose mobility is restricted by a permanent cardiovascular, pulmonary, or other handicapping condition.

(2) "Person with a disability that limits or impairs the ability to walk" has the same meaning as in section 4503.44 of the Revised Code.

(3) "Special license plates" and "removable windshield placard" mean

any license plates or removable windshield placard or temporary removable windshield placard issued under section 4503.41 or 4503.44 of the Revised Code, and also mean any substantially similar license plates or removable windshield placard or temporary removable windshield placard issued by a state, district, country, or sovereignty.

Sec. 4513.021. (A) As used in this section:

(1) "Passenger car" means any motor vehicle with motive power, designed for carrying ten persons or less, except a multipurpose passenger vehicle or motorcycle.

(2) "Multipurpose passenger vehicle" means a motor vehicle with motive power, except a motorcycle, designed to carry ten persons or less, that is constructed either on a truck chassis or with special features for occasional off-road operation.

(3) "Truck" means every motor vehicle, except trailers and semitrailers, designed and used to carry property and having a gross vehicle weight rating of ten thousand pounds or less.

(4) "Manufacturer" has the same meaning as in section 4501.01 of the Revised Code.

(5) "Gross vehicle weight rating" means the manufacturer's gross vehicle weight rating established for that vehicle.

(B) The director of public safety, in accordance with Chapter 119. of the Revised Code, shall adopt rules in conformance with standards of the vehicle equipment safety commission, that shall govern the maximum bumper height or, in the absence of bumpers and in cases where bumper heights have been lowered or modified, the maximum height to the bottom of the frame rail, of any passenger car, multipurpose passenger vehicle, or truck.

(C) No person shall operate upon a street or highway any passenger car, multipurpose passenger vehicle, or truck registered in this state that does not conform to the requirements of this section or to any applicable rule adopted pursuant to this section.

(D) No person shall modify any motor vehicle registered in this state in such a manner as to cause the vehicle body or chassis to come in contact with the ground, expose the fuel tank to damage from collision, or cause the wheels to come in contact with the body under normal operation, and no person shall disconnect any part of the original suspension system of the vehicle to defeat the safe operation of that system.

(E) Nothing contained in this section or in the rules adopted pursuant to this section shall be construed to prohibit either of the following:

(1) The installation upon a passenger car, multipurpose passenger

vehicle, or truck registered in this state of heavy duty equipment, including shock absorbers and overload springs;

(2) The operation on a street or highway of a passenger car, multipurpose passenger vehicle, or truck registered in this state with normal wear to the suspension system if the normal wear does not adversely affect the control of the vehicle.

(F) This section and the rules adopted pursuant to it do not apply to any specially designed or modified passenger car, multipurpose passenger vehicle, or truck when operated off a street or highway in races and similar events.

(G) ~~Except as otherwise provided in this division, whoever~~ Whoever violates this section is guilty of a minor misdemeanor. ~~If the offender previously has been convicted of a violation of this section, whoever violates this section is guilty of a misdemeanor of the third degree.~~

Sec. 4513.03. (A) Every vehicle upon a street or highway within this state during the time from sunset to sunrise, and at any other time when there are unfavorable atmospheric conditions or when there is not sufficient natural light to render discernible persons, vehicles, and substantial objects on the highway at a distance of one thousand feet ahead, shall display lighted lights and illuminating devices as required by sections 4513.04 to 4513.37 of the Revised Code, for different classes of vehicles; except that every motorized bicycle shall display at such times lighted lights meeting the rules adopted by the director of public safety under section 4511.521 of the Revised Code. No motor vehicle, during such times, shall be operated upon a street or highway within this state using only parking lights as illumination.

Whenever in such sections a requirement is declared as to the distance from which certain lamps and devices shall render objects visible, or within which such lamps or devices shall be visible, such distance shall be measured upon a straight level unlighted highway under normal atmospheric conditions unless a different condition is expressly stated.

Whenever in such sections a requirement is declared as to the mounted height of lights or devices, it shall mean from the center of such light or device to the level ground upon which the vehicle stands.

(B) ~~Whoever violates this section shall be punished as provided in section 4513.99 of the Revised Code~~ is guilty of a minor misdemeanor.

Sec. 4513.04. (A) Every motor vehicle, other than a motorcycle, and every trackless trolley shall be equipped with at least two headlights with at least one near each side of the front of the motor vehicle or trackless trolley.

Every motorcycle shall be equipped with at least one and not more than

two headlights.

(B) Whoever violates this section ~~shall be punished as provided in section 4513.99 of the Revised Code~~ is guilty of a minor misdemeanor.

Sec. 4513.05. (A) Every motor vehicle, trackless trolley, trailer, semitrailer, pole trailer, or vehicle which is being drawn at the end of a train of vehicles shall be equipped with at least one tail light mounted on the rear which, when lighted, shall emit a red light visible from a distance of five hundred feet to the rear, provided that in the case of a train of vehicles only the tail light on the rearmost vehicle need be visible from the distance specified.

Either a tail light or a separate light shall be so constructed and placed as to illuminate with a white light the rear registration plate, when such registration plate is required, and render it legible from a distance of fifty feet to the rear. Any tail light, together with any separate light for illuminating the rear registration plate, shall be so wired as to be lighted whenever the headlights or auxiliary driving lights are lighted, except where separate lighting systems are provided for trailers for the purpose of illuminating such registration plate.

(B) Whoever violates this section ~~shall be punished as provided in section 4513.99 of the Revised Code~~ is guilty of a minor misdemeanor.

Sec. 4513.06. (A) Every new motor vehicle sold after September 6, 1941, and operated on a highway, other than a commercial tractor, to which a trailer or semitrailer is attached shall carry at the rear, either as a part of the tail lamps or separately, two red reflectors meeting the requirements of this section, except that vehicles of the type mentioned in section 4513.07 of the Revised Code shall be equipped with reflectors as required by the regulations provided for in said section.

Every such reflector shall be of such size and characteristics and so maintained as to be visible at night from all distances within three hundred feet to fifty feet from such vehicle.

(B) Whoever violates this section ~~shall be punished as provided in section 4513.99 of the Revised Code~~ is guilty of a minor misdemeanor.

Sec. 4513.07. (A) The director of public safety shall prescribe and promulgate regulations relating to clearance lights, marker lights, reflectors, and stop lights on buses, trackless trolleys, trucks, commercial tractors, trailers, semitrailers, and pole trailers, when operated upon any highway, and such vehicles shall be equipped as required by such regulations, and such equipment shall be lighted at all times mentioned in section 4513.03 of the Revised Code, except that clearance lights and side marker lights need not be lighted on any such vehicle when it is operated within a municipal

corporation where there is sufficient light to reveal any person or substantial object on the highway at a distance of five hundred feet.

Such equipment shall be in addition to all other lights specifically required by sections 4513.03 to 4513.16 of the Revised Code.

Vehicles operated under the jurisdiction of the public utilities commission are not subject to this section.

(B) ~~Whoever violates this section shall be punished as provided in section 4513.99 of the Revised Code~~ is guilty of a minor misdemeanor.

Sec. 4513.071. (A) Every motor vehicle, trailer, semitrailer, and pole trailer when operated upon a highway shall be equipped with two or more stop lights, except that passenger cars manufactured or assembled prior to January 1, 1967, motorcycles, and motor-driven cycles shall be equipped with at least one stop light. Stop lights shall be mounted on the rear of the vehicle, actuated upon application of the service brake, and may be incorporated with other rear lights. Such stop lights when actuated shall emit a red light visible from a distance of five hundred feet to the rear, provided that in the case of a train of vehicles only the stop lights on the rear-most vehicle need be visible from the distance specified.

Such stop lights when actuated shall give a steady warning light to the rear of a vehicle or train of vehicles to indicate the intention of the operator to diminish the speed of or stop a vehicle or train of vehicles.

When stop lights are used as required by this section, they shall be constructed or installed so as to provide adequate and reliable illumination and shall conform to the appropriate rules and regulations established under section 4513.19 of the Revised Code.

Historical motor vehicles as defined in section 4503.181 of the Revised Code, not originally manufactured with stop lights, are not subject to this section.

(B) ~~Whoever violates this section shall be punished as provided in section 4513.99 of the Revised Code~~ is guilty of a minor misdemeanor.

Sec. 4513.09. (A) Whenever the load upon any vehicle extends to the rear four feet or more beyond the bed or body of such vehicle, there shall be displayed at the extreme rear end of the load, at the times specified in section 4513.03 of the Revised Code, a red light or lantern plainly visible from a distance of at least five hundred feet to the sides and rear. The red light or lantern required by this section is in addition to the red rear light required upon every vehicle. At any other time there shall be displayed at the extreme rear end of such load a red flag or cloth not less than sixteen inches square.

(B) ~~Whoever violates this section shall be punished as provided in~~

~~section 4513.99 of the Revised Code is guilty of a minor misdemeanor.~~

Sec. 4513.11. (A) All vehicles other than bicycles, including animal-drawn vehicles and vehicles referred to in division (G) of section 4513.02 of the Revised Code, not specifically required to be equipped with lamps or other lighting devices by sections 4513.03 to 4513.10 of the Revised Code, shall, at the times specified in section 4513.03 of the Revised Code, be equipped with at least one lamp displaying a white light visible from a distance of not less than one thousand feet to the front of the vehicle, and also shall be equipped with two lamps displaying red light visible from a distance of not less than one thousand feet to the rear of the vehicle, or as an alternative, one lamp displaying a red light visible from a distance of not less than one thousand feet to the rear and two red reflectors visible from all distances of six hundred feet to one hundred feet to the rear when illuminated by the lawful lower beams of headlamps.

Lamps and reflectors required or authorized by this section shall meet standards adopted by the director of public safety.

(B) All boat trailers, farm machinery, and other machinery, including all road construction machinery, upon a street or highway, except when being used in actual construction and maintenance work in an area guarded by a flagperson, or where flares are used, or when operating or traveling within the limits of a construction area designated by the director of transportation, a city engineer, or the county engineer of the several counties, when such construction area is marked in accordance with requirements of the director and the manual of uniform traffic control devices, as set forth in section 4511.09 of the Revised Code, which is designed for operation at a speed of twenty-five miles per hour or less shall be operated at a speed not exceeding twenty-five miles per hour, and shall display a triangular slow-moving vehicle emblem (SMV). The emblem shall be mounted so as to be visible from a distance of not less than five hundred feet to the rear. The director of public safety shall adopt standards and specifications for the design and position of mounting the SMV emblem. The standards and specifications for SMV emblems referred to in this section shall correlate with and, so far as possible, conform with those approved by the American society of agricultural engineers.

A unit of farm machinery that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour may be operated on a street or highway at a speed greater than twenty-five miles per hour provided it is operated in accordance with this section.

As used in this division, "machinery" does not include any vehicle designed to be drawn by an animal.

(C) The use of the SMV emblem shall be restricted to animal-drawn vehicles, and to the slow-moving vehicles specified in division (B) of this section operating or traveling within the limits of the highway. Its use on slow-moving vehicles being transported upon other types of vehicles or on any other type of vehicle or stationary object on the highway is prohibited.

(D)(1) No person shall sell, lease, rent, or operate any boat trailer, farm machinery, or other machinery defined as a slow-moving vehicle in division (B) of this section, except those units designed to be completely mounted on a primary power unit, which is manufactured or assembled on or after April 1, 1966, unless the vehicle is equipped with a slow-moving vehicle emblem mounting device as specified in division (B) of this section.

(2) No person shall sell, lease, rent, or operate on a street or highway any unit of farm machinery that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour unless the unit displays a slow-moving vehicle emblem as specified in division (B) of this section and a speed identification symbol that meets the specifications contained in the American society of agricultural engineers standard ANSI/ASAE S584 JAN2005, agricultural equipment: speed identification symbol (SIS).

(E) Any boat trailer, farm machinery, or other machinery defined as a slow-moving vehicle in division (B) of this section, in addition to the use of the slow-moving vehicle emblem, and any unit of farm machinery that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour, in addition to the display of a speed identification symbol, may be equipped with a red flashing light that shall be visible from a distance of not less than one thousand feet to the rear at all times specified in section 4513.03 of the Revised Code. When a double-faced light is used, it shall display amber light to the front and red light to the rear.

In addition to the lights described in this division, farm machinery and motor vehicles escorting farm machinery may display a flashing, oscillating, or rotating amber light, as permitted by section 4513.17 of the Revised Code, and also may display simultaneously flashing turn signals or warning lights, as permitted by that section.

(F) Every animal-drawn vehicle upon a street or highway shall at all times be equipped in one of the following ways:

(1) With a slow-moving vehicle emblem complying with division (B) of this section;

(2) With alternate reflective material complying with rules adopted under this division;

(3) With both a slow-moving vehicle emblem and alternate reflective material as specified in this division.

The director of public safety, subject to Chapter 119. of the Revised Code, shall adopt rules establishing standards and specifications for the position of mounting of the alternate reflective material authorized by this division. The rules shall permit, as a minimum, the alternate reflective material to be black, gray, or silver in color. The alternate reflective material shall be mounted on the animal-drawn vehicle so as to be visible, at all times specified in section 4513.03 of the Revised Code, from a distance of not less than five hundred feet to the rear when illuminated by the lawful lower beams of headlamps.

(G) Every unit of farm machinery that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour shall display a slow-moving vehicle emblem and a speed identification symbol that meets the specifications contained in the American society of agricultural engineers standard ANSI/ASAE S584 JAN2005, agricultural equipment: speed identification symbol (SIS) when the unit is operated upon a street or highway, irrespective of the speed at which the unit is operated on the street or highway. The speed identification symbol shall indicate the maximum speed in miles per hour at which the unit of farm machinery is designed by its manufacturer to operate. The display of the speed identification symbol shall be in accordance with the standard prescribed in this division.

If an agricultural tractor that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour is being operated on a street or highway at a speed greater than twenty-five miles per hour and is towing, pulling, or otherwise drawing a unit of farm machinery, the unit of farm machinery shall display a slow-moving vehicle emblem and a speed identification symbol that is the same as the speed identification symbol that is displayed on the agricultural tractor.

(H) When an agricultural tractor that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour is being operated on a street or highway at a speed greater than twenty-five miles per hour, the operator shall possess some documentation published or provided by the manufacturer indicating the maximum speed in miles per hour at which the manufacturer designed the agricultural tractor to operate.

(I) ~~Whoever violates this section shall be punished as provided in section 4513.99 of the Revised Code is guilty of a minor misdemeanor.~~

(J) As used in this section, "boat trailer" means any vehicle designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of twenty-five miles per hour or less.

Sec. 4513.111. (A)(1) Every multi-wheel agricultural tractor whose model year was 2001 or earlier, when being operated or traveling on a street or highway at the times specified in section 4513.03 of the Revised Code, at a minimum shall be equipped with and display reflectors and illuminated amber lamps so that the extreme left and right projections of the tractor are indicated by flashing lamps displaying amber light, visible to the front and the rear, by amber reflectors, all visible to the front, and by red reflectors, all visible to the rear.

(2) The lamps displaying amber light need not flash simultaneously and need not flash in conjunction with any directional signals of the tractor.

(3) The lamps and reflectors required by division (A)(1) of this section and their placement shall meet standards and specifications contained in rules adopted by the director of public safety in accordance with Chapter 119. of the Revised Code. The rules governing the amber lamps, amber reflectors, and red reflectors and their placement shall correlate with and, as far as possible, conform with paragraphs 4.1.4.1, 4.1.7.1, and 4.1.7.2 respectively of the American society of agricultural engineers standard ANSI/SAE S279.10 OCT98, lighting and marking of agricultural equipment on highways.

(B) Every unit of farm machinery whose model year was 2002 or later, when being operated or traveling on a street or highway at the times specified in section 4513.03 of the Revised Code, shall be equipped with and display markings and illuminated lamps that meet or exceed the lighting, illumination, and marking standards and specifications that are applicable to that type of farm machinery for the unit's model year specified in the American society of agricultural engineers standard ANSI/SAE S279.11 APR01, lighting and marking of agricultural equipment on highways, or any subsequent revisions of that standard.

(C) The lights and reflectors required by division (A) of this section are in addition to the slow-moving vehicle emblem and lights required or permitted by section 4513.11 or 4513.17 of the Revised Code to be displayed on farm machinery being operated or traveling on a street or highway.

(D) No person shall operate any unit of farm machinery on a street or highway or cause any unit of farm machinery to travel on a street or highway in violation of division (A) or (B) of this section.

(E) ~~Whoever violates this section shall be punished as provided in section 4513.99 of the Revised Code~~ is guilty of a minor misdemeanor.

Sec. 4513.12. (A) Any motor vehicle may be equipped with not more than one spotlight and every lighted spotlight shall be so aimed and used

upon approaching another vehicle that no part of the high-intensity portion of the beam will be directed to the left of the prolongation of the extreme left side of the vehicle, nor more than one hundred feet ahead of the vehicle.

Any motor vehicle may be equipped with not more than three auxiliary driving lights mounted on the front of the vehicle. The director of public safety shall prescribe specifications for auxiliary driving lights and regulations for their use, and any such lights which do not conform to said specifications and regulations shall not be used.

(B) Whoever violates this section ~~shall be punished as provided in section 4513.99 of the Revised Code~~ is guilty of a minor misdemeanor.

Sec. 4513.13. (A) Any motor vehicle may be equipped with side cowl or fender lights which shall emit a white or amber light without glare.

Any motor vehicle may be equipped with lights on each side thereof which shall emit a white or amber light without glare.

Any motor vehicle may be equipped with back-up lights, either separately or in combination with another light. No back-up lights shall be continuously lighted when the motor vehicle is in forward motion.

(B) Whoever violates this section ~~shall be punished as provided in section 4513.99 of the Revised Code~~ is guilty of a minor misdemeanor.

Sec. 4513.14. (A) At all times mentioned in section 4513.03 of the Revised Code at least two lighted lights shall be displayed, one near each side of the front of every motor vehicle and trackless trolley, except when such vehicle or trackless trolley is parked subject to the regulations governing lights on parked vehicles and trackless trolleys.

The director of public safety shall prescribe and promulgate regulations relating to the design and use of such lights and such regulations shall be in accordance with currently recognized standards.

(B) Whoever violates this section ~~shall be punished as provided in section 4513.99 of the Revised Code~~ is guilty of a minor misdemeanor.

Sec. 4513.15. (A) Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in section 4513.03 of the Revised Code, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons, vehicles, and substantial objects at a safe distance in advance of the vehicle, subject to the following requirements;

(1) Whenever the driver of a vehicle approaches an oncoming vehicle, such driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver.

(2) Every new motor vehicle registered in this state, which has multiple-beam road lighting equipment shall be equipped with a beam

indicator, which shall be lighted whenever the uppermost distribution of light from the headlights is in use, and shall not otherwise be lighted. Said indicator shall be so designed and located that, when lighted, it will be readily visible without glare to the driver of the vehicle.

(B) Whoever violates this section ~~shall be punished as provided in section 4513.99 of the Revised Code~~ is guilty of a minor misdemeanor.

Sec. 4513.16. (A) Any motor vehicle may be operated under the conditions specified in section 4513.03 of the Revised Code when it is equipped with two lighted lights upon the front thereof capable of revealing persons and substantial objects seventy-five feet ahead, in lieu of lights required in section 4513.14 of the Revised Code, provided that such vehicle shall not be operated at a speed in excess of twenty miles per hour.

(B) Whoever violates this section ~~shall be punished as provided in section 4513.99 of the Revised Code~~ is guilty of a minor misdemeanor.

Sec. 4513.17. (A) Whenever a motor vehicle equipped with headlights also is equipped with any auxiliary lights or spotlight or any other light on the front thereof projecting a beam of an intensity greater than three hundred candle power, not more than a total of five of any such lights on the front of a vehicle shall be lighted at any one time when the vehicle is upon a highway.

(B) Any lighted light or illuminating device upon a motor vehicle, other than headlights, spotlights, signal lights, or auxiliary driving lights, that projects a beam of light of an intensity greater than three hundred candle power, shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five feet from the vehicle.

(C)(1) Flashing lights are prohibited on motor vehicles, except as a means for indicating a right or a left turn, or in the presence of a vehicular traffic hazard requiring unusual care in approaching, or overtaking or passing. This prohibition does not apply to emergency vehicles, road service vehicles servicing or towing a disabled vehicle, traffic line strippers, snow plows, rural mail delivery vehicles, vehicles as provided in section 4513.182 of the Revised Code, department of transportation maintenance vehicles, funeral hearses, funeral escort vehicles, and similar equipment operated by the department or local authorities, which shall be equipped with and display, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating, or rotating amber light, but shall not display a flashing, oscillating, or rotating light of any other color, nor to vehicles or machinery permitted by section 4513.11 of the Revised Code to have a flashing red light.

(2) When used on a street or highway, farm machinery and vehicles escorting farm machinery may be equipped with and display a flashing, oscillating, or rotating amber light, and the prohibition contained in division (C)(1) of this section does not apply to such machinery or vehicles. Farm machinery also may display the lights described in section 4513.11 of the Revised Code.

(D) Except a person operating a public safety vehicle, as defined in division (E) of section 4511.01 of the Revised Code, or a school bus, no person shall operate, move, or park upon, or permit to stand within the right-of-way of any public street or highway any vehicle or equipment that is equipped with and displaying a flashing red or a flashing combination red and white light, or an oscillating or rotating red light, or a combination red and white oscillating or rotating light; and except a public law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the state, operating a public safety vehicle when on duty, no person shall operate, move, or park upon, or permit to stand within the right-of-way of any street or highway any vehicle or equipment that is equipped with, or upon which is mounted, and displaying a flashing blue or a flashing combination blue and white light, or an oscillating or rotating blue light, or a combination blue and white oscillating or rotating light.

(E) This section does not prohibit the use of warning lights required by law or the simultaneous flashing of turn signals on disabled vehicles or on vehicles being operated in unfavorable atmospheric conditions in order to enhance their visibility. This section also does not prohibit the simultaneous flashing of turn signals or warning lights either on farm machinery or vehicles escorting farm machinery, when used on a street or highway.

(F) ~~Whoever violates this section shall be punished as provided in section 4513.99 of the Revised Code is guilty of a minor misdemeanor.~~

Sec. 4513.171. (A) Notwithstanding any other provision of law, a motor vehicle operated by a coroner, deputy coroner, or coroner's investigator may be equipped with a flashing, oscillating, or rotating red or blue light and a siren, whistle, or bell capable of emitting sound audible under normal conditions from a distance of not less than five hundred feet. Such a vehicle may display the flashing, oscillating, or rotating red or blue light and may give the audible signal of the siren, exhaust whistle, or bell only when responding to a fatality or a fatal motor vehicle accident on a street or highway and only at those locations where the stoppage of traffic impedes the ability of the coroner, deputy coroner, or coroner's investigator to arrive at the site of the fatality.

This section does not relieve a coroner, deputy coroner, or coroner's

investigator operating a motor vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.

(B) Whoever violates this section ~~shall be punished as provided in section 4513.99 of the Revised Code~~ is guilty of a minor misdemeanor.

Sec. 4513.18. (A) The director of transportation shall adopt standards and specifications applicable to headlights, clearance lights, identification, and other lights, on snow removal equipment when operated on the highways, and on vehicles operating under special permits pursuant to section 4513.34 of the Revised Code, in lieu of the lights otherwise required on motor vehicles. Such standards and specifications may permit the use of flashing lights for purposes of identification on snow removal equipment, and oversize vehicles when in service upon the highways. The standards and specifications for lights referred to in this section shall correlate with and, so far as possible, conform with those approved by the American association of state highway officials.

It is unlawful to operate snow removal equipment on a highway unless the lights thereon comply with and are lighted when and as required by the standards and specifications adopted as provided in this section.

(B) Whoever violates this section ~~shall be punished as provided in section 4513.99 of the Revised Code~~ is guilty of a minor misdemeanor.

Sec. 4513.19. (A) No person shall use any lights mentioned in sections 4513.03 to 4513.18 of the Revised Code upon any motor vehicle, trailer, or semitrailer unless said lights are equipped, mounted, and adjusted as to focus and aim in accordance with regulations which are prescribed by the director of public safety.

(B) Whoever violates this section ~~shall be punished as provided in section 4513.99 of the Revised Code~~ is guilty of a minor misdemeanor.

Sec. 4513.21. (A) Every motor vehicle or trackless trolley when operated upon a highway shall be equipped with a horn which is in good working order and capable of emitting sound audible, under normal conditions, from a distance of not less than two hundred feet.

No motor vehicle or trackless trolley shall be equipped with, nor shall any person use upon a vehicle, any siren, whistle, or bell. Any vehicle may be equipped with a theft alarm signal device which shall be so arranged that it cannot be used as an ordinary warning signal. Every emergency vehicle shall be equipped with a siren, whistle, or bell, capable of emitting sound audible under normal conditions from a distance of not less than five hundred feet and of a type approved by the director of public safety. Such equipment shall not be used except when such vehicle is operated in response to an emergency call or is in the immediate pursuit of an actual or

suspected violator of the law, in which case the driver of the emergency vehicle shall sound such equipment when it is necessary to warn pedestrians and other drivers of the approach thereof.

(B) Whoever violates this section ~~shall be punished as provided in section 4513.99 of the Revised Code~~ is guilty of a minor misdemeanor.

Sec. 4513.22. (A) Every motor vehicle and motorcycle with an internal combustion engine shall at all times be equipped with a muffler which is in good working order and in constant operation to prevent excessive or unusual noise, and no person shall use a muffler cutout, by-pass, or similar device upon a motor vehicle on a highway. Every motorcycle muffler shall be equipped with baffle plates.

No person shall own, operate, or have in the person's possession any motor vehicle or motorcycle equipped with a device for producing excessive smoke or gas, or so equipped as to permit oil or any other chemical to flow into or upon the exhaust pipe or muffler of such vehicle, or equipped in any other way to produce or emit smoke or dangerous or annoying gases from any portion of such vehicle, other than the ordinary gases emitted by the exhaust of an internal combustion engine under normal operation.

(B) Whoever violates this section ~~shall be punished as provided in section 4513.99 of the Revised Code~~ is guilty of a minor misdemeanor.

Sec. 4513.23. (A) Every motor vehicle, motorcycle, and trackless trolley shall be equipped with a mirror so located as to reflect to the operator a view of the highway to the rear of such vehicle, motorcycle, or trackless trolley. Operators of vehicles, motorcycles, streetcars, and trackless trolleys shall have a clear and unobstructed view to the front and to both sides of their vehicles, motorcycles, streetcars, or trackless trolleys and shall have a clear view to the rear of their vehicles, motorcycles, streetcars, or trackless trolleys by mirror.

(B) Whoever violates this section ~~shall be punished as provided in section 4513.99 of the Revised Code~~ is guilty of a minor misdemeanor.

Sec. 4513.24. (A) No person shall drive any motor vehicle on a street or highway in this state, other than a motorcycle or motorized bicycle, that is not equipped with a windshield.

(B) No person shall drive any motor vehicle, other than a bus, with any sign, poster, or other nontransparent material upon the front windshield, sidewings, side, or rear windows of such vehicle other than a certificate or other paper required to be displayed by law, except that there may be in the lower left-hand or right-hand corner of the windshield a sign, poster, or decal not to exceed four inches in height by six inches in width. No sign, poster, or decal shall be displayed in the front windshield in such a manner

as to conceal the vehicle identification number for the motor vehicle when, in accordance with federal law, that number is located inside the vehicle passenger compartment and so placed as to be readable through the vehicle glazing without moving any part of the vehicle.

(C) The windshield on every motor vehicle, streetcar, and trackless trolley shall be equipped with a device for cleaning rain, snow, or other moisture from the windshield. The device shall be maintained in good working order and so constructed as to be controlled or operated by the operator of the vehicle, streetcar, or trackless trolley.

(D) Whoever violates this section ~~shall be punished as provided in section 4513.99 of the Revised Code~~ is guilty of a minor misdemeanor.

Sec. 4513.242. (A) Notwithstanding section 4513.24 and division (F) of section 4513.241 of the Revised Code or any rule adopted thereunder, a decal, whether reflectorized or not, may be displayed upon any side window or siding of a motor vehicle if all of the following are met:

(1) The decal is necessary for public or private security arrangements to which the motor vehicle periodically is subjected;

(2) The decal is no larger than is necessary to accomplish the security arrangements;

(3) The decal does not obscure the vision of the motor vehicle operator or prevent a person looking into the motor vehicle from seeing or identifying persons or objects inside the motor vehicle.

(B) Whoever violates this section ~~shall be punished as provided in section 4513.99 of the Revised Code~~ is guilty of a minor misdemeanor.

Sec. 4513.28. (A) Whenever any motor truck, trackless trolley, bus, commercial tractor, trailer, semi-trailer, or pole trailer is disabled upon the traveled portion of any highway or the shoulder thereof outside of any municipality, or upon any freeway, expressway, thruway and connecting, entering or exiting ramps within a municipality, at any time when lighted lamps are required on vehicles and trackless trolleys, the operator of such vehicle or trackless trolley shall display the following warning devices upon the highway during the time the vehicle or trackless trolley is so disabled on the highway except as provided in division (B) of this section:

(1) A lighted fusee shall be immediately placed on the roadway at the traffic side of such vehicle or trackless trolley, unless red electric lanterns or red reflectors are displayed.

(2) Within the burning period of the fusee and as promptly as possible, three lighted flares or pot torches, or three red reflectors or three red electric lanterns shall be placed on the roadway as follows:

(a) One at a distance of forty paces or approximately one hundred feet in

advance of the vehicle;

(b) One at a distance of forty paces or approximately one hundred feet to the rear of the vehicle or trackless trolley except as provided in this section, each in the center of the lane of traffic occupied by the disabled vehicle or trackless trolley;

(c) One at the traffic side of the vehicle or trackless trolley.

(B) Whenever any vehicle used in transporting flammable liquids in bulk, or in transporting compressed flammable gases, is disabled upon a highway at any time or place mentioned in division (A) of this section, the driver of such vehicle shall display upon the roadway the following warning devices:

(1) One red electric lantern or one red reflector shall be immediately placed on the roadway at the traffic side of the vehicle;

(2) Two other red electric lanterns or two other red reflectors shall be placed to the front and rear of the vehicle in the same manner prescribed for flares in division (A) of this section.

(C) When a vehicle of a type specified in division (B) of this section is disabled, the use of flares, fusees, or any signal produced by flame as warning signals is prohibited.

(D) Whenever any vehicle or trackless trolley of a type referred to in this section is disabled upon the traveled portion of a highway or the shoulder thereof, outside of any municipality, or upon any freeway, expressway, thruway and connecting, entering or exiting ramps within a municipality, at any time when the display of fusees, flares, red reflectors, or electric lanterns is not required, the operator of such vehicle or trackless trolley shall display two red flags upon the roadway in the lane of traffic occupied by the disabled vehicle or trackless trolley, one at a distance of forty paces or approximately one hundred feet in advance of the vehicle or trackless trolley, and one at a distance of forty paces or approximately one hundred feet to the rear of the vehicle or trackless trolley, except as provided in this section.

(E) The flares, fusees, lanterns, red reflectors, and flags to be displayed as required in this section shall conform with the requirements of section 4513.27 of the Revised Code applicable thereto.

(F) In the event the vehicle or trackless trolley is disabled near a curve, crest of a hill, or other obstruction of view, the flare, flag, reflector, or lantern in that direction shall be placed as to afford ample warning to other users of the highway, but in no case shall it be placed less than forty paces or approximately one hundred feet nor more than one hundred twenty paces or approximately three hundred feet from the disabled vehicle or trackless

trolley.

(G) This section does not apply to the operator of any vehicle in a work area designated by protection equipment devices that are displayed and used in accordance with the manual adopted by the department of transportation under section 4511.09 of the Revised Code.

(H) Whoever violates this section ~~shall be punished as provided in section 4513.99 of the Revised Code~~ is guilty of a minor misdemeanor.

Sec. 4513.60. (A)(1) The sheriff of a county or chief of police of a municipal corporation, township, or township police district, within the sheriff's or chief's respective territorial jurisdiction, upon complaint of any person adversely affected, may order into storage any motor vehicle, other than an abandoned junk motor vehicle as defined in section 4513.63 of the Revised Code, that has been left on private residential or private agricultural property for at least four hours without the permission of the person having the right to the possession of the property. The sheriff or chief of police, upon complaint of the owner of a repair garage or place of storage, may order into storage any motor vehicle, other than an abandoned junk motor vehicle, that has been left at the garage or place of storage for a longer period than that agreed upon. The place of storage shall be designated by the sheriff or chief of police. When ordering a motor vehicle into storage pursuant to this division, a sheriff or chief of police, whenever possible, shall arrange for the removal of the motor vehicle by a private tow truck operator or towing company. Subject to division (C) of this section, the owner of a motor vehicle that has been removed pursuant to this division may recover the vehicle only in accordance with division (E) of this section.

(2) Divisions (A)(1) to (3) of this section do not apply to any private residential or private agricultural property that is established as a private tow-away zone in accordance with division (B) of this section.

(3) As used in divisions (A)(1) and (2) of this section, "private residential property" means private property on which is located one or more structures that are used as a home, residence, or sleeping place by one or more persons, if no more than three separate households are maintained in the structure or structures. "Private residential property" does not include any private property on which is located one or more structures that are used as a home, residence, or sleeping place by two or more persons, if more than three separate households are maintained in the structure or structures.

(B)(1) The owner of private property may establish a private tow-away zone only if all of the following conditions are satisfied:

(a) The owner posts on the owner's property a sign, that is at least eighteen inches by twenty-four inches in size, that is visible from all

entrances to the property, and that contains at least all of the following information:

(i) A notice that the property is a private tow-away zone and that vehicles not authorized to park on the property will be towed away;

(ii) The telephone number of the person from whom a towed-away vehicle can be recovered, and the address of the place to which the vehicle will be taken and the place from which it may be recovered;

(iii) A statement that the vehicle may be recovered at any time during the day or night upon the submission of proof of ownership and the payment of a towing charge, in an amount not to exceed ninety dollars, and a storage charge, in an amount not to exceed twelve dollars per twenty-four-hour period; except that the charge for towing shall not exceed one hundred fifty dollars, and the storage charge shall not exceed twenty dollars per twenty-four-hour period, if the vehicle has a manufacturer's gross vehicle weight rating in excess of ten thousand pounds and is a truck, bus, or a combination of a commercial tractor and trailer or semitrailer.

(b) The place to which the towed vehicle is taken and from which it may be recovered is conveniently located, is well lighted, and is on or within a reasonable distance of a regularly scheduled route of one or more modes of public transportation, if any public transportation is available in the municipal corporation or township in which the private tow-away zone is located.

(2) If a vehicle is parked on private property that is established as a private tow-away zone in accordance with division (B)(1) of this section, without the consent of the owner of the property or in violation of any posted parking condition or regulation, the owner or the owner's agent may remove, or cause the removal of, the vehicle, the owner and the operator of the vehicle shall be deemed to have consented to the removal and storage of the vehicle and to the payment of the towing and storage charges specified in division (B)(1)(a)(iii) of this section, and the owner, subject to division (C) of this section, may recover a vehicle that has been so removed only in accordance with division (E) of this section.

(3) If a municipal corporation requires tow trucks and tow truck operators to be licensed, no owner of private property located within the municipal corporation shall remove, or shall cause the removal and storage of, any vehicle pursuant to division (B)(2) of this section by an unlicensed tow truck or unlicensed tow truck operator.

(4) Divisions (B)(1) to (3) of this section do not affect or limit the operation of division (A) of this section or sections 4513.61 to 4513.65 of the Revised Code as they relate to property other than private property that

is established as a private tow-away zone under division (B)(1) of this section.

(C) If the owner or operator of a motor vehicle that has been ordered into storage pursuant to division (A)(1) of this section or of a vehicle that is being removed under authority of division (B)(2) of this section arrives after the motor vehicle or vehicle has been prepared for removal, but prior to its actual removal from the property, the owner or operator shall be given the opportunity to pay a fee of not more than one-half of the charge for the removal of motor vehicles under division (A)(1) of this section or of vehicles under division (B)(2) of this section, whichever is applicable, that normally is assessed by the person who has prepared the motor vehicle or vehicle for removal, in order to obtain release of the motor vehicle or vehicle. Upon payment of that fee, the motor vehicle or vehicle shall be released to the owner or operator, and upon its release, the owner or operator immediately shall move it so that:

(1) If the motor vehicle was ordered into storage pursuant to division (A)(1) of this section, it is not on the private residential or private agricultural property without the permission of the person having the right to possession of the property, or is not at the garage or place of storage without the permission of the owner, whichever is applicable.

(2) If the vehicle was being removed under authority of division (B)(2) of this section, it is not parked on the private property established as a private tow-away zone without the consent of the owner or in violation of any posted parking condition or regulation.

(D)(1) If an owner of private property that is established as a private tow-away zone in accordance with division (B)(1) of this section or the authorized agent of such an owner removes or causes the removal of a vehicle from that property under authority of division (B)(2) of this section, the owner or agent promptly shall notify the police department of the municipal corporation, township, or township police district in which the property is located, of the removal, the vehicle's license number, make, model, and color, the location from which it was removed, the date and time of its removal, the telephone number of the person from whom it may be recovered, and the address of the place to which it has been taken and from which it may be recovered.

(2) Each county sheriff and each chief of police of a municipal corporation, township, or township police district shall maintain a record of motor vehicles that the sheriff or chief orders into storage pursuant to division (A)(1) of this section and of vehicles removed from private property in the sheriff's or chief's jurisdiction that is established as a private

tow-away zone of which the sheriff or chief has received notice under division (D)(1) of this section. The record shall include an entry for each such motor vehicle or vehicle that identifies the motor vehicle's or vehicle's license number, make, model, and color, the location from which it was removed, the date and time of its removal, the telephone number of the person from whom it may be recovered, and the address of the place to which it has been taken and from which it may be recovered. Any information in the record that pertains to a particular motor vehicle or vehicle shall be provided to any person who, either in person or pursuant to a telephone call, identifies self as the owner or operator of the motor vehicle or vehicle and requests information pertaining to its location.

(3) Any person who registers a complaint that is the basis of a sheriff's or police chief's order for the removal and storage of a motor vehicle under division (A)(1) of this section shall provide the identity of the law enforcement agency with which the complaint was registered to any person who identifies self as the owner or operator of the motor vehicle and requests information pertaining to its location.

(E) The owner of a motor vehicle that is ordered into storage pursuant to division (A)(1) of this section or of a vehicle that is removed under authority of division (B)(2) of this section may reclaim it upon payment of any expenses or charges incurred in its removal, in an amount not to exceed ninety dollars, and storage, in an amount not to exceed twelve dollars per twenty-four-hour period; except that the charge for towing shall not exceed one hundred fifty dollars, and the storage charge shall not exceed twenty dollars per twenty-four-hour period, if the vehicle has a manufacturer's gross vehicle weight rating in excess of ten thousand pounds and is a truck, bus, or a combination of a commercial tractor and trailer or semitrailer. Presentation of proof of ownership, which may be evidenced by a certificate of title to the motor vehicle or vehicle also shall be required for reclamation of the vehicle. If a motor vehicle that is ordered into storage pursuant to division (A)(1) of this section remains unclaimed by the owner for thirty days, the procedures established by sections 4513.61 and 4513.62 of the Revised Code shall apply.

(F) No person shall remove, or cause the removal of, any vehicle from private property that is established as a private tow-away zone under division (B)(1) of this section other than in accordance with division (B)(2) of this section, and no person shall remove, or cause the removal of, any motor vehicle from any other private property other than in accordance with division (A)(1) of this section or sections 4513.61 to 4513.65 of the Revised Code.

(G)(4) Whoever violates division (B)(3) or (F) of this section is guilty of a minor misdemeanor.

~~(2) Except as otherwise provided in this division, whoever violates division (F) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to a violation of division (F) of this section, whoever violates division (F) of this section is guilty of a misdemeanor of the third degree.~~

Sec. 4513.65. (A) For purposes of this section, "junk motor vehicle" means any motor vehicle meeting the requirements of divisions (B), (C), (D), and (E) of section 4513.63 of the Revised Code that is left uncovered in the open on private property for more than seventy-two hours with the permission of the person having the right to the possession of the property, except if the person is operating a junk yard or scrap metal processing facility licensed under authority of sections 4737.05 to 4737.12 of the Revised Code, or regulated under authority of a political subdivision; or if the property on which the motor vehicle is left is not subject to licensure or regulation by any governmental authority, unless the person having the right to the possession of the property can establish that the motor vehicle is part of a bona fide commercial operation; or if the motor vehicle is a collector's vehicle.

No political subdivision shall prevent a person from storing or keeping, or restrict a person in the method of storing or keeping, any collector's vehicle on private property with the permission of the person having the right to the possession of the property; except that a political subdivision may require a person having such permission to conceal, by means of buildings, fences, vegetation, terrain, or other suitable obstruction, any unlicensed collector's vehicle stored in the open.

The sheriff of a county, or chief of police of a municipal corporation, within the sheriff's or chief's respective territorial jurisdiction, a state highway patrol trooper, a board of township trustees, the legislative authority of a municipal corporation, or the zoning authority of a township or a municipal corporation, may send notice, by certified mail with return receipt requested, to the person having the right to the possession of the property on which a junk motor vehicle is left, that within ten days of receipt of the notice, the junk motor vehicle either shall be covered by being housed in a garage or other suitable structure, or shall be removed from the property.

No person shall willfully leave a junk motor vehicle uncovered in the open for more than ten days after receipt of a notice as provided in this section. The fact that a junk motor vehicle is so left is prima-facie evidence

of willful failure to comply with the notice, and each subsequent period of thirty days that a junk motor vehicle continues to be so left constitutes a separate offense.

~~(B) Except as otherwise provided in this division, whoever~~ Whoever violates this section is guilty of a minor misdemeanor ~~on a first offense. If the offender previously has been convicted of or pleaded guilty to one violation of this section, whoever violates this section is guilty of a misdemeanor of the fourth degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, whoever violates this section is guilty of a misdemeanor of the third degree.~~

Sec. 4513.99. (A) Any violation of section ~~4513.03, 4513.04, 4513.05, 4513.06, 4513.07, 4513.071, 4513.09, 4513.10, 4513.11~~ ~~except for division (H) of that section, 4513.111, 4513.12, 4513.13, 4513.14, 4513.15, 4513.16, 4513.17, 4513.171, 4513.18, 4513.182, 4513.19, 4513.20, 4513.201, 4513.202, 4513.21, 4513.22, 4513.23, 4513.24, 4513.242, 4513.25, 4513.26, 4513.27, 4513.28, 4513.29, 4513.30, 4513.31, 4513.32, or 4513.34~~ of the Revised Code shall be punished under division (B) of this section.

(B) Whoever violates the sections of this chapter that are specifically required to be punished under this division, or any provision of sections 4513.03 to 4513.262 or 4513.27 to 4513.37 of the Revised Code for which violation no penalty is otherwise provided, is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

Sec. 4517.01. As used in sections 4517.01 to 4517.65 of the Revised Code:

(A) "Persons" includes individuals, firms, partnerships, associations, joint stock companies, corporations, and any combinations of individuals.

(B) "Motor vehicle" means motor vehicle as defined in section 4501.01 of the Revised Code and also includes "all-purpose vehicle" and "off-highway motorcycle" as those terms are defined in section 4519.01 of the Revised Code ~~and manufactured and mobile homes~~. "Motor vehicle" does not include a snowmobile as defined in section 4519.01 of the Revised Code ~~or manufactured and mobile homes~~.

(C) "New motor vehicle" means a motor vehicle, the legal title to which has never been transferred by a manufacturer, remanufacturer, distributor, or dealer to an ultimate purchaser.

(D) "Ultimate purchaser" means, with respect to any new motor vehicle, the first person, other than a dealer purchasing in the capacity of a dealer,

who in good faith purchases such new motor vehicle for purposes other than resale.

(E) "Business" includes any activities engaged in by any person for the object of gain, benefit, or advantage either direct or indirect.

(F) "Engaging in business" means commencing, conducting, or continuing in business, or liquidating a business when the liquidator thereof holds self out to be conducting such business; making a casual sale or otherwise making transfers in the ordinary course of business when the transfers are made in connection with the disposition of all or substantially all of the transferor's assets is not engaging in business.

(G) "Retail sale" or "sale at retail" means the act or attempted act of selling, bartering, exchanging, or otherwise disposing of a motor vehicle to an ultimate purchaser for use as a consumer.

(H) "Retail installment contract" includes any contract in the form of a note, chattel mortgage, conditional sales contract, lease, agreement, or other instrument payable in one or more installments over a period of time and arising out of the retail sale of a motor vehicle.

(I) "Farm machinery" means all machines and tools used in the production, harvesting, and care of farm products.

(J) "Dealer" or "motor vehicle dealer" means any new motor vehicle dealer, any motor vehicle leasing dealer, and any used motor vehicle dealer.

(K) "New motor vehicle dealer" means any person engaged in the business of selling at retail, displaying, offering for sale, or dealing in new motor vehicles pursuant to a contract or agreement entered into with the manufacturer, remanufacturer, or distributor of the motor vehicles.

(L) "Used motor vehicle dealer" means any person engaged in the business of selling, displaying, offering for sale, or dealing in used motor vehicles, at retail or wholesale, but does not mean any new motor vehicle dealer selling, displaying, offering for sale, or dealing in used motor vehicles incidentally to engaging in the business of selling, displaying, offering for sale, or dealing in new motor vehicles, any person engaged in the business of dismantling, salvaging, or rebuilding motor vehicles by means of using used parts, or any public officer performing official duties.

(M) "Motor vehicle leasing dealer" means any person engaged in the business of regularly making available, offering to make available, or arranging for another person to use a motor vehicle pursuant to a bailment, lease, sublease, or other contractual arrangement under which a charge is made for its use at a periodic rate for a term of thirty days or more, and title to the motor vehicle is in and remains in the motor vehicle leasing dealer who originally leases it, irrespective of whether or not the motor vehicle is

the subject of a later sublease, and not in the user, but does not mean a manufacturer or its affiliate leasing to its employees or to dealers.

(N) "Salesperson" means any person employed by a dealer or manufactured home broker to sell, display, and offer for sale, or deal in motor vehicles for a commission, compensation, or other valuable consideration, but does not mean any public officer performing official duties.

(O) "Casual sale" means any transfer of a motor vehicle by a person other than a new motor vehicle dealer, used motor vehicle dealer, motor vehicle salvage dealer, as defined in division (A) of section 4738.01 of the Revised Code, salesperson, motor vehicle auction owner, manufacturer, or distributor acting in the capacity of a dealer, salesperson, auction owner, manufacturer, or distributor, to a person who purchases the motor vehicle for use as a consumer.

(P) "Motor vehicle show" means a display of current models of motor vehicles whereby the primary purpose is the exhibition of competitive makes and models in order to provide the general public the opportunity to review and inspect various makes and models of motor vehicles at a single location.

(Q) "Motor vehicle auction owner" means any person who is engaged wholly or in part in the business of auctioning motor vehicles.

(R) "Manufacturer" means a person who manufactures, assembles, or imports motor vehicles, including motor homes, but does not mean a person who only assembles or installs a body, special equipment unit, finishing trim, or accessories on a motor vehicle chassis supplied by a manufacturer or distributor.

(S) "Tent-type fold-out camping trailer" means any vehicle intended to be used, when stationary, as a temporary shelter with living and sleeping facilities, and that is subject to the following properties and limitations:

(1) A minimum of twenty-five per cent of the fold-out portion of the top and sidewalls combined must be constructed of canvas, vinyl, or other fabric, and form an integral part of the shelter.

(2) When folded, the unit must not exceed:

- (a) Fifteen feet in length, exclusive of bumper and tongue;
- (b) Sixty inches in height from the point of contact with the ground;
- (c) Eight feet in width;
- (d) One ton gross weight at time of sale.

(T) "Distributor" means any person authorized by a motor vehicle manufacturer to distribute new motor vehicles to licensed new motor vehicle dealers, but does not mean a person who only assembles or installs a body,

special equipment unit, finishing trim, or accessories on a motor vehicle chassis supplied by a manufacturer or distributor.

(U) "Flea market" means a market place, other than a dealer's location licensed under this chapter, where a space or location is provided for a fee or compensation to a seller to exhibit and offer for sale or trade, motor vehicles to the general public.

(V) "Franchise" means any written agreement, contract, or understanding between any motor vehicle manufacturer or remanufacturer engaged in commerce and any motor vehicle dealer that purports to fix the legal rights and liabilities of the parties to such agreement, contract, or understanding.

(W) "Franchisee" means a person who receives new motor vehicles from the franchisor under a franchise agreement and who offers, sells, and provides service for such new motor vehicles to the general public.

(X) "Franchisor" means a new motor vehicle manufacturer, remanufacturer, or distributor who supplies new motor vehicles under a franchise agreement to a franchisee.

(Y) "Dealer organization" means a state or local trade association the membership of which is comprised predominantly of new motor vehicle dealers.

(Z) "Factory representative" means a representative employed by a manufacturer, remanufacturer, or by a factory branch primarily for the purpose of promoting the sale of its motor vehicles, parts, or accessories to dealers or for supervising or contacting its dealers or prospective dealers.

(AA) "Administrative or executive management" means those individuals who are not subject to federal wage and hour laws.

(BB) "Good faith" means honesty in the conduct or transaction concerned and the observance of reasonable commercial standards of fair dealing in the trade as is defined in division (S) of section 1301.01 of the Revised Code, including, but not limited to, the duty to act in a fair and equitable manner so as to guarantee freedom from coercion, intimidation, or threats of coercion or intimidation; provided however, that recommendation, endorsement, exposition, persuasion, urging, or argument shall not be considered to constitute a lack of good faith.

(CC) "Coerce" means to compel or attempt to compel by failing to act in good faith or by threat of economic harm, breach of contract, or other adverse consequences. Coerce does not mean to argue, urge, recommend, or persuade.

(DD) "Relevant market area" means any area within a radius of ten miles from the site of a potential new dealership, except that for

manufactured home or recreational vehicle dealerships the radius shall be twenty-five miles. The ten-mile radius shall be measured from the dealer's established place of business that is used exclusively for the purpose of selling, displaying, offering for sale, or dealing in motor vehicles.

(EE) "Wholesale" or "at wholesale" means the act or attempted act of selling, bartering, exchanging, or otherwise disposing of a motor vehicle to a transferee for the purpose of resale and not for ultimate consumption by that transferee.

(FF) "Motor vehicle wholesaler" means any person licensed as a dealer under the laws of another state and engaged in the business of selling, displaying, or offering for sale used motor vehicles, at wholesale, but does not mean any motor vehicle dealer as defined in this section.

(GG)(1) "Remanufacturer" means a person who assembles or installs passenger seating, walls, a roof elevation, or a body extension on a conversion van with the motor vehicle chassis supplied by a manufacturer or distributor, a person who modifies a truck chassis supplied by a manufacturer or distributor for use as a public safety or public service vehicle, a person who modifies a motor vehicle chassis supplied by a manufacturer or distributor for use as a limousine or hearse, or a person who modifies an incomplete motor vehicle cab and chassis supplied by a new motor vehicle dealer or distributor for use as a tow truck, but does not mean either of the following:

(a) A person who assembles or installs passenger seating, ~~walls,~~ a roof elevation, or a body extension on ~~a manufactured home as defined in division (C)(4) of section 3781.06 of the Revised Code, a mobile home as defined in division (O) and referred to in division (B) of section 4501.01 of the Revised Code,~~ or a recreational vehicle as defined in division (Q) and referred to in division (B) of section 4501.01 of the Revised Code;

(b) A person who assembles or installs special equipment or accessories for handicapped persons, as defined in section 4503.44 of the Revised Code, upon a motor vehicle chassis supplied by a manufacturer or distributor.

(2) For the purposes of division (GG)(1) of this section, "public safety vehicle or public service vehicle" means a fire truck, ambulance, school bus, street sweeper, garbage packing truck, or cement mixer, or a mobile self-contained facility vehicle.

(3) For the purposes of division (GG)(1) of this section, "limousine" means a motor vehicle, designed only for the purpose of carrying nine or fewer passengers, that a person modifies by cutting the original chassis, lengthening the wheelbase by forty inches or more, and reinforcing the chassis in such a way that all modifications comply with all applicable

federal motor vehicle safety standards. No person shall qualify as or be deemed to be a remanufacturer who produces limousines unless the person has a written agreement with the manufacturer of the chassis the person utilizes to produce the limousines to complete properly the remanufacture of the chassis into limousines.

(4) For the purposes of division (GG)(1) of this section, "hearse" means a motor vehicle, designed only for the purpose of transporting a single casket, that is equipped with a compartment designed specifically to carry a single casket that a person modifies by cutting the original chassis, lengthening the wheelbase by ten inches or more, and reinforcing the chassis in such a way that all modifications comply with all applicable federal motor vehicle safety standards. No person shall qualify as or be deemed to be a remanufacturer who produces hearses unless the person has a written agreement with the manufacturer of the chassis the person utilizes to produce the hearses to complete properly the remanufacture of the chassis into hearses.

(5) For the purposes of division (GG)(1) of this section, "mobile self-contained facility vehicle" means a mobile classroom vehicle, mobile laboratory vehicle, bookmobile, bloodmobile, testing laboratory, and mobile display vehicle, each of which is designed for purposes other than for passenger transportation and other than the transportation or displacement of cargo, freight, materials, or merchandise. A vehicle is remanufactured into a mobile self-contained facility vehicle in part by the addition of insulation to the body shell, and installation of all of the following: a generator, electrical wiring, plumbing, holding tanks, doors, windows, cabinets, shelving, and heating, ventilating, and air conditioning systems.

(6) For the purposes of division (GG)(1) of this section, "tow truck" means both of the following:

(a) An incomplete cab and chassis that are purchased by a remanufacturer from a new motor vehicle dealer or distributor of the cab and chassis and on which the remanufacturer then installs in a permanent manner a wrecker body it purchases from a manufacturer or distributor of wrecker bodies, installs an emergency flashing light pylon and emergency lights upon the mast of the wrecker body or rooftop, and installs such other related accessories and equipment, including push bumpers, front grille guards with pads and other custom-ordered items such as painting, special lettering, and safety striping so as to create a complete motor vehicle capable of lifting and towing another motor vehicle.

(b) An incomplete cab and chassis that are purchased by a remanufacturer from a new motor vehicle dealer or distributor of the cab

and chassis and on which the remanufacturer then installs in a permanent manner a car carrier body it purchases from a manufacturer or distributor of car carrier bodies, installs an emergency flashing light pylon and emergency lights upon the rooftop, and installs such other related accessories and equipment, including push bumpers, front grille guards with pads and other custom-ordered items such as painting, special lettering, and safety striping.

As used in division (GG)(6)(b) of this section, "car carrier body" means a mechanical or hydraulic apparatus capable of lifting and holding a motor vehicle on a flat level surface so that one or more motor vehicles can be transported, once the car carrier is permanently installed upon an incomplete cab and chassis.

(HH) "Operating as a new motor vehicle dealership" means engaging in activities such as displaying, offering for sale, and selling new motor vehicles at retail, operating a service facility to perform repairs and maintenance on motor vehicles, offering for sale and selling motor vehicle parts at retail, and conducting all other acts that are usual and customary to the operation of a new motor vehicle dealership. For the purposes of this chapter only, possession of either a valid new motor vehicle dealer franchise agreement or a new motor vehicle dealers license, or both of these items, is not evidence that a person is operating as a new motor vehicle dealership.

~~(II) "Manufactured home broker" means any person acting as a selling agent on behalf of an owner of a manufactured or mobile home that is subject to taxation under section 4503.06 of the Revised Code.~~

~~(JJ) "Outdoor power equipment" means garden and small utility tractors, walk-behind and riding mowers, chainsaws, and tillers.~~

~~(KK)~~(JJ) "Remote service facility" means premises that are separate from a licensed new motor vehicle dealer's sales facility by not more than one mile and that are used by the dealer to perform repairs, warranty work, recall work, and maintenance on motor vehicles pursuant to a franchise agreement entered into with a manufacturer of motor vehicles. A remote service facility shall be deemed to be part of the franchise agreement and is subject to all the rights, duties, obligations, and requirements of Chapter 4517. of the Revised Code that relate to the performance of motor vehicle repairs, warranty work, recall work, and maintenance work by new motor vehicle dealers.

Sec. 4517.02. (A) Except as otherwise provided in this section, no person shall do any of the following:

(1) Engage in the business of displaying or selling at retail new motor vehicles or assume to engage in that business, unless the person is licensed as a new motor vehicle dealer under sections 4517.01 to 4517.45 of the

Revised Code, or is a salesperson licensed under those sections and employed by a licensed new motor vehicle dealer;

(2) Engage in the business of offering for sale, displaying for sale, or selling at retail or wholesale used motor vehicles or assume to engage in that business, unless the person is licensed as a dealer under sections 4517.01 to 4517.45 of the Revised Code, or is a salesperson licensed under those sections and employed by a licensed used motor vehicle dealer or licensed new motor vehicle dealer;

(3) Engage in the business of regularly making available, offering to make available, or arranging for another person to use a motor vehicle, in the manner described in division (M) of section 4517.01 of the Revised Code, unless the person is licensed as a motor vehicle leasing dealer under sections 4517.01 to 4517.45 of the Revised Code;

(4) Engage in the business of motor vehicle auctioning or assume to engage in that business, unless the person is licensed as a motor vehicle auction owner under sections 4517.01 to 4517.45 of the Revised Code and the person uses an auctioneer who is licensed under Chapter 4707. of the Revised Code to conduct the motor vehicle auctions;

(5) Engage in the business of distributing motor vehicles or assume to engage in that business, unless the person is licensed as a distributor under sections 4517.01 to 4517.45 of the Revised Code;

(6) Make more than five casual sales of motor vehicles in a twelve-month period, commencing with the day of the month in which the first such sale is made, nor provide a location or space for the sale of motor vehicles at a flea market, without obtaining a license as a dealer under sections 4517.01 to 4517.45 of the Revised Code, provided that nothing in this section shall be construed to prohibit the disposition without a license of a motor vehicle originally acquired and held for purposes other than sale, rental, or lease to an employee, retiree, officer, or director of the person making the disposition, to a corporation affiliated with the person making the disposition, or to a person licensed under sections 4517.01 to 4517.45 of the Revised Code;

~~(7) Engage in the business of brokering manufactured homes unless that person is licensed as a manufactured home broker under sections 4517.01 to 4517.45 of the Revised Code.~~

(B) Nothing in this section shall be construed to require an auctioneer licensed under sections 4707.01 to 4707.19 of the Revised Code, to obtain a motor vehicle salesperson's license under sections 4517.01 to 4517.45 of the Revised Code when conducting an auction sale for a licensed motor vehicle dealer on the dealer's premises, or when conducting an auction sale for a

licensed motor vehicle auction owner; nor shall such an auctioneer be required to obtain a motor vehicle auction owner's license under sections 4517.01 to 4517.45 of the Revised Code when engaged in auctioning for a licensed motor vehicle auction owner.

(C) Sections 4517.01 to 4517.45 of the Revised Code do not apply to any of the following:

(1) Persons engaging in the business of selling commercial tractors, trailers, or semitrailers incidentally to engaging primarily in business other than the selling or leasing of motor vehicles;

(2) Mortgagees selling at retail only those motor vehicles that have come into their possession by a default in the terms of a mortgage contract;

(3) The leasing, rental, and interchange of motor vehicles used directly in the rendition of a public utility service by regulated motor carriers.

(D) When a partnership licensed under sections 4517.01 to 4517.45 of the Revised Code is dissolved by death, the surviving partners may operate under the license for a period of sixty days, and the heirs or representatives of deceased persons and receivers or trustees in bankruptcy appointed by any competent authority may operate under the license of the person succeeded in possession by that heir, representative, receiver, or trustee in bankruptcy.

(E) No remanufacturer shall engage in the business of selling at retail any new motor vehicle without having written authority from the manufacturer or distributor of the vehicle to sell new motor vehicles and to perform repairs under the terms of the manufacturer's or distributor's new motor vehicle warranty, unless, at the time of the sale of the vehicle, each customer is furnished with a binding agreement ensuring that the customer has the right to have the vehicle serviced or repaired by a new motor vehicle dealer who is franchised to sell and service vehicles of the same line-make as the chassis of the remanufactured vehicle purchased by the customer and whose service or repair facility is located within either twenty miles of the remanufacturer's location and place of business or twenty miles of the customer's residence or place of business. If there is no such new motor vehicle dealer located within twenty miles of the remanufacturer's location and place of business or the customer's residence or place of business, the binding agreement furnished to the customer may be with the new motor vehicle dealer who is franchised to sell and service vehicles of the same line-make as the chassis of the remanufactured vehicle purchased by the customer and whose service or repair facility is located nearest to the remanufacturer's location and place of business or the customer's residence or place of business. Additionally, at the time of sale of any vehicle, each

customer of the remanufacturer shall be furnished with a warranty issued by the remanufacturer for a term of at least one year.

(F) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor and shall be subject to a mandatory fine of one hundred dollars. If the offender previously has been convicted of or pleaded guilty to a violation of this section, whoever violates this section is guilty of a misdemeanor of the first degree and shall be subject to a mandatory fine of one thousand dollars.

Sec. 4517.03. (A) A place of business that is used for selling, displaying, offering for sale, or dealing in motor vehicles shall be considered as used exclusively for those purposes even though snowmobiles, farm machinery, outdoor power equipment, watercraft and related products, or products manufactured or distributed by a motor vehicle manufacturer with which the motor vehicle dealer has a franchise agreement are sold or displayed there, or if repair, accessory, gasoline and oil, storage, parts, service, or paint departments are maintained there, or such products or services are provided there, if the departments are operated or the products or services are provided for the business of selling, displaying, offering for sale, or dealing in motor vehicles. Places of business or departments in a place of business used to dismantle, salvage, or rebuild motor vehicles by means of using used parts, are not considered as being maintained for the purpose of assisting or furthering the selling, displaying, offering for sale, or dealing in motor vehicles. A place of business shall be considered as used exclusively for selling, displaying, offering for sale, or dealing in motor vehicles even though a business owned by a motor vehicle leasing dealer or a motor vehicle renting dealer is located at the place of business.

(B)(1) No new motor vehicle dealer shall sell, display, offer for sale, or deal in motor vehicles at any place except an established place of business that is used exclusively for the purpose of selling, displaying, offering for sale, or dealing in motor vehicles. The place of business shall have space, under roof, for the display of at least one new motor vehicle. The established place of business or, if the dealer operates a remote service facility, the dealer's remote service facility shall have facilities and space for the inspection, servicing, and repair of at least one motor vehicle. However a new motor vehicle dealer selling manufactured or mobile homes is exempt from the requirement that a place of business have space, under roof, for the display of at least one new motor vehicle and facilities and space for the inspection, servicing, and repair of at least one motor vehicle.

(2) A licensed new motor vehicle dealer may operate a remote service facility with the consent of the manufacturer and only to perform repairs,

warranty work, recall work, and maintenance on motor vehicles as part of the dealer's franchised and licensed new motor vehicle dealership. The remote service facility shall be included on the new motor vehicle dealer's license and be deemed to be part of the dealer's licensed location.

(3) No person shall use a remote service facility for selling, displaying, or offering for sale motor vehicles.

~~(4) Nothing in Chapter 4517. of the Revised Code shall be construed as prohibiting the sale of a new or used manufactured or mobile home located in a manufactured home park by a licensed new or used motor vehicle dealer.~~

(C) No used motor vehicle dealer shall sell, display, offer for sale, or deal in motor vehicles at any place except an established place of business that is used exclusively for the purpose of selling, displaying, offering for sale, or dealing in motor vehicles.

(D) No motor vehicle leasing dealer shall make a motor vehicle available for use by another, in the manner described in division (M) of section 4517.01 of the Revised Code, at any place except an established place of business that is used for leasing motor vehicles; except that a motor vehicle leasing dealer who is also a new motor vehicle dealer or used motor vehicle dealer may lease motor vehicles at the same place of business at which the dealer sells, offers for sale, or deals in new or used motor vehicles.

(E) No motor vehicle leasing dealer or motor vehicle renting dealer shall sell a motor vehicle within ninety days after a certificate of title to the motor vehicle is issued to the dealer, except when a salvage certificate of title is issued to replace the original certificate of title and except when a motor vehicle leasing dealer sells a motor vehicle to another motor vehicle leasing dealer at the end of a sublease pursuant to that sublease.

(F) No distributor shall distribute new motor vehicles to new motor vehicle dealers at any place except an established place of business that is used exclusively for the purpose of distributing new motor vehicles to new motor vehicle dealers; except that a distributor who is also a new motor vehicle dealer may distribute new motor vehicles at the same place of business at which the distributor sells, displays, offers for sale, or deals in new motor vehicles.

(G) No person, firm, or corporation that sells, displays, or offers for sale tent-type fold-out camping trailers is subject to the requirement that the person's, firm's, or corporation's place of business be used exclusively for the purpose of selling, displaying, offering for sale, or dealing in motor vehicles. No person, firm, or corporation that sells, displays, or offers for

sale tent-type fold-out camping trailers, trailers, semitrailers, or park trailers is subject to the requirement that the place of business have space, under roof, for the display of at least one new motor vehicle and facilities and space for the inspection, servicing, and repair of at least one motor vehicle.

~~(H) No manufactured or mobile home broker shall engage in the business of brokering manufactured or mobile homes at any place except an established place of business that is used exclusively for the purpose of brokering manufactured or mobile homes.~~

~~(I)~~ Nothing in this section shall be construed to prohibit persons licensed under this chapter from making sales calls.

~~(J)~~ Whoever violates this section is guilty of a misdemeanor of the fourth degree.

~~(K)~~ As used in this section:

(1) "Motor vehicle leasing dealer" has the same meaning as in section 4517.01 of the Revised Code.

(2) "Motor vehicle renting dealer" has the same meaning as in section 4549.65 of the Revised Code.

(3) "Watercraft" has the same meaning as in section 1547.01 of the Revised Code.

Sec. 4517.30. The motor vehicle dealers board shall consist of eleven members. The registrar of motor vehicles or the registrar's designee shall be a member of the board, and the other ten members shall be appointed by the governor with the advice and consent of the senate. Not more than five of the ten members other than the registrar shall be of any one political party, and of the ten:

(A) Three shall represent the public and shall not have engaged in the business of selling motor vehicles at retail in this state;

(B) Five shall have been engaged in the business of selling motor vehicles at retail in this state for at least five years and have been engaged in such business within two years prior to the date of their appointment. Of these five:

(1) Three shall have been engaged in the sale of new motor vehicles;

(2) One shall have been engaged in the business of selling ~~manufactured homes, mobile homes, or~~ recreational vehicles at retail;

(3) One shall have been engaged in the sale of used motor vehicles.

(C) Two shall have been engaged in the leasing of motor vehicles.

Terms of office of the ten members appointed by the governor shall be for three years, commencing on the fifth day of October and ending on the fourth day of October. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was

appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any appointed member shall continue in office subsequent to the expiration date of the member's term until a successor takes office, or until a period of sixty days has elapsed, whichever occurs first. Annually the board shall organize by selecting from its members a president. Each appointed member of the board shall receive an amount fixed in accordance with division (J) of section 124.15 of the Revised Code, and shall be reimbursed for the actual and necessary expenses incurred in the discharge of the member's official duties.

Sec. 4517.33. The motor vehicle dealers board shall hear appeals which may be taken from an order of the registrar of motor vehicles, refusing to issue a license. All appeals from any order of the registrar refusing to issue any license upon proper application must be taken within thirty days from the date of the order, or the order is final and conclusive. All appeals from orders of the registrar must be by petition in writing and verified under oath by the applicant whose application for license has been denied, and must set forth the reason for the appeal and the reason why, in the petitioner's opinion, the order of the registrar is not correct. In such appeals the board may make investigation to determine the correctness and legality of the order of the registrar.

The board may make rules governing its actions relative to the suspension and revocation of dealers', motor vehicle leasing dealers', ~~manufactured home brokers'~~, distributors', auction owners', and salespersons' licenses, and may, upon its own motion, and shall, upon the verified complaint in writing of any person, investigate the conduct of any licensee under sections 4517.01 to 4517.65 of the Revised Code. The board shall suspend or revoke or notify the registrar to refuse to renew any dealer's, motor vehicle leasing dealer's, ~~manufactured home broker's~~, distributor's, auction owner's, or salesperson's license, if any ground existed upon which the license might have been refused, or if a ground exists that would be cause for refusal to issue a license.

The board may suspend or revoke any license if the licensee has in any manner violated the rules issued pursuant to sections 4517.01 to 4517.65 of the Revised Code, or has violated section 4501.02 of the Revised Code, or has been convicted of committing a felony or violating any law that in any way relates to the selling, taxing, licensing, or regulation of sales of motor vehicles.

Sec. 4517.43. (A) The applications for licenses and the copies of

contracts required by sections 4517.04, 4517.05, 4517.051, ~~4517.052~~, 4517.06, 4517.07, 4517.08, and 4517.09 of the Revised Code are not part of the public records but are confidential information for the use of the registrar of motor vehicles and the motor vehicle dealers board. No person shall divulge any information contained in such applications and acquired by the person in the person's capacity as an official or employee of the bureau of motor vehicles or of the board, except in a report to the registrar, to the board, or when called upon to testify in any court or proceeding.

(B) Whoever violates this section is guilty of a minor misdemeanor.

Sec. 4519.02. (A) Except as provided in divisions (B), (C), and (D) of this section, no person shall operate any snowmobile, off-highway motorcycle, or all-purpose vehicle within this state unless the snowmobile, off-highway motorcycle, or all-purpose vehicle is registered and numbered in accordance with sections 4519.03 and 4519.04 of the Revised Code.

(B)(1) No registration is required for a snowmobile or off-highway motorcycle that is operated exclusively upon lands owned by the owner of the snowmobile or off-highway motorcycle, or on lands to which the owner of the snowmobile or off-highway motorcycle has a contractual right.

(2) No registration is required for an all-purpose vehicle that is used primarily ~~on a farm as a farm implement~~ for agricultural purposes when the owner qualifies for the current agricultural use valuation tax credit, unless it is to be used on any public land, trail, or right-of-way.

(3) Any all-purpose vehicle exempted from registration under division (B)(2) of this section and operated for agricultural purposes may use public roads and rights-of-way when traveling from one farm field to another, when such use does not violate section 4519.41 of the Revised Code.

(C) No registration is required for a snowmobile, off-highway motorcycle, or all-purpose vehicle owned and used in this state by a resident of another state whenever that state has in effect a registration law similar to this chapter and the snowmobile, off-highway motorcycle, or all-purpose vehicle is properly registered under that state's law. Any snowmobile, off-highway motorcycle, or all-purpose vehicle owned and used in this state by a resident of a state not having a registration law similar to this chapter shall comply with section 4519.09 of the Revised Code.

(D) No registration is required for a snowmobile, off-highway motorcycle, or all-purpose vehicle owned and used in this state by the United States, another state, or a political subdivision thereof, but the snowmobile, off-highway motorcycle, or all-purpose vehicle shall display the name of the owner thereon.

(E) The owner or operator of any all-purpose vehicle operated or used

upon the waters in this state shall comply with Chapters 1547. and 1548. of the Revised Code relative to the operation of watercraft.

(F) Except as otherwise provided in this division, whoever violates division (A) of this section shall be fined not less than fifty dollars but not more than one hundred dollars.

Sec. 4519.03. (A) The owner of every snowmobile, off-highway motorcycle, and all-purpose vehicle required to be registered under section 4519.02 of the Revised Code shall file an application for registration with the registrar of motor vehicles or a deputy registrar, on blanks furnished by the registrar for that purpose and containing all of the following information:

(1) A brief description of the snowmobile, off-highway motorcycle, or all-purpose vehicle, including the year, make, model, and the vehicle identification number;

(2) The name, residence, and business address of the owner;

(3) A statement that the snowmobile, off-highway motorcycle, or all-purpose vehicle is equipped as required by section 4519.20 of the Revised Code and any rule adopted under that section. The statement shall include a check list of the required equipment items in the form the registrar shall prescribe.

The application shall be signed by the owner of the snowmobile, off-highway motorcycle, or all-purpose vehicle and shall be accompanied by a fee as provided in division (C) of section 4519.04 of the Revised Code.

If the application is not in proper form, or if the vehicle for which registration is sought does not appear to be equipped as required by section 4519.20 of the Revised Code or any rule adopted under that section, the registration shall be refused, and no registration sticker, license plate, or validation sticker shall be issued.

(B) ~~On and after July 1, 1999, no~~ Except as provided in this division, no certificate of registration or renewal of a certificate of registration shall be issued for an off-highway motorcycle or all-purpose vehicle required to be registered under section 4519.02 of the Revised Code, and no certificate of registration issued under this chapter for an off-highway motorcycle or all-purpose vehicle that is sold or otherwise transferred shall be transferred to the new owner of the off-highway motorcycle or all-purpose vehicle as permitted by division (B) of section 4519.05 of the Revised Code, unless a certificate of title has been issued under this chapter for the motorcycle or vehicle, and the owner or new owner, as the case may be, presents a physical certificate of title or memorandum certificate of title for inspection at the time the owner or new owner first submits a registration application, registration renewal application, or registration transfer application for the

motorcycle or vehicle ~~on or after July 1, 1999~~, if a physical certificate of title or memorandum certificate has been issued by a clerk of a court of common pleas. If, under sections 4519.512 and 4519.58 of the Revised Code, a clerk instead has issued an electronic certificate of title for the applicant's off-highway motorcycle or all-purpose vehicle, that certificate may be presented for inspection at the time of first registration in a manner prescribed by rules adopted by the registrar. In the case of an off-highway motorcycle or all-purpose vehicle that was purchased prior to October 1, 2005, and for which a certificate of title has not been issued, the owner shall not be required to present a physical certificate of title or memorandum certificate of title or an electronic certificate of title for the motorcycle or vehicle but instead may present a signed affidavit of ownership in a form prescribed by the registrar. The affidavit shall include, at a minimum, the date of purchase, make, model, and vehicle identification number of the motorcycle or vehicle. If no vehicle identification number has been assigned to the off-highway motorcycle or all-purpose vehicle, then the serial number of the motorcycle or vehicle shall be presented at the time of application.

(C) When the owner of an off-highway motorcycle or all-purpose vehicle first registers it in the owner's name, and a certificate of title has been issued for the motorcycle or vehicle, the owner shall present for inspection a physical certificate of title or memorandum certificate of title showing title to the off-highway motorcycle or all-purpose vehicle in the name of the owner if a physical certificate of title or memorandum certificate has been issued by a clerk of a court of common pleas. If, under sections 4519.512 and 4519.58 of the Revised Code, a clerk instead has issued an electronic certificate of title for the applicant's off-highway motorcycle or all-purpose vehicle, that certificate may be presented for inspection at the time of first registration in a manner prescribed by rules adopted by the registrar. In the case of an off-highway motorcycle or all-purpose vehicle that was purchased prior to October 1, 2005, and for which a certificate of title has not been issued, the owner shall not be required to present a physical certificate of title or memorandum certificate of title or an electronic certificate of title for the motorcycle or vehicle but instead may present a signed affidavit of ownership in a form prescribed by the registrar. The affidavit shall include, at a minimum, the date of purchase, make, model, and vehicle identification number of the motorcycle or vehicle. If no vehicle identification number has been assigned to the off-highway motorcycle or all-purpose vehicle, then the serial number of the motorcycle or vehicle shall be presented at the time of application. If, when the owner of such an off-highway motorcycle or all-purpose vehicle first

makes application to register it in the owner's name, the application is not in proper form or the certificate of title or memorandum certificate of title does not accompany the registration or, in the case of an electronic certificate of title or ownership affidavit, it is not presented in a manner prescribed by the registrar, the registration shall be refused, and neither a certificate of registration nor a registration sticker, license plate, or validation sticker shall be issued. When a certificate of registration and registration sticker, license plate, or validation sticker are issued upon the first registration of an off-highway motorcycle or all-purpose vehicle by or on behalf of the owner, the official issuing them shall indicate the issuance with a stamp on the certificate of title ~~or~~, memorandum certificate of title, or affidavit, or, in the case of an electronic certificate of title, an electronic stamp or other notation as specified in rules adopted by the registrar.

(D) Each deputy registrar shall be allowed a fee of three dollars and fifty cents for each application or renewal application received by the deputy registrar, which shall be for the purpose of compensating the deputy registrar for services, and office and rental expense, as may be necessary for the proper discharge of the deputy registrar's duties in the receiving of applications and the issuing of certificates of registration.

Each deputy registrar, upon receipt of any application for registration, together with the registration fee, shall transmit the fee, together with the original and duplicate copy of the application, to the registrar in the manner and at the times the registrar, subject to the approval of the director of public safety and the treasurer of state, shall prescribe by rule.

Sec. 4519.04. (A) Upon the filing of an application for registration of a snowmobile, off-highway motorcycle, or all-purpose vehicle and the payment of the tax therefor, the registrar of motor vehicles or a deputy registrar shall assign to the snowmobile, off-highway motorcycle, or all-purpose vehicle a distinctive number and issue and deliver to the owner in such manner as the registrar may select, a certificate of registration, in such form as the registrar shall prescribe. Any number so assigned to a snowmobile, off-highway motorcycle, or all-purpose vehicle shall be a permanent number, and shall not be issued to any other snowmobile, off-highway motorcycle, or all-purpose vehicle.

(B)(1) In addition to the certificate of registration, the registrar or deputy registrar also shall issue to the owner of a snowmobile or off-highway motorcycle a two decal registration ~~sticker~~ stickers. The registrar shall prescribe the color and size of the ~~sticker~~, stickers and the combination of numerals and letters displayed on ~~it, and them~~. The placement of the ~~sticker~~ decal stickers shall be one on the snowmobile or

~~off-highway motorcycle.~~

~~Upon receipt of a certificate of registration for a snowmobile, the owner shall paint or otherwise attach upon each either side of the forward cowling of the snowmobile the identifying registration number, in block characters of not less than two inches in height and of such color as to be distinctly visible and legible or fuel tank.~~

(2) The registrar or deputy registrar also shall issue to the owner of an all-purpose vehicle, in addition to the certificate of registration, one license plate and a validation sticker, or a validation sticker alone when applicable upon a registration renewal. The license plate and validation sticker shall be displayed on the all-purpose vehicle so that they are distinctly visible, in accordance with such rules as the registrar adopts. The validation sticker shall indicate the expiration date of the registration period of the all-purpose vehicle. During each succeeding registration period following the issuance of the license plate and validation sticker, upon the filing of an application for registration and payment of the fee specified in division (C) of this section, a validation sticker alone shall be issued.

(C) Unless previously canceled, each certificate of registration issued for a snowmobile, off-highway motorcycle, or all-purpose vehicle expires upon the thirty-first day of December in the third year after the date it is issued. Application for renewal of a certificate may be made not earlier than ninety days preceding the expiration date, and shall be accompanied by a fee of thirty-one dollars and twenty-five cents.

Notwithstanding section 4519.11 of the Revised Code, of each thirty-one dollar and twenty-five-cent fee collected for the registration of an all-purpose vehicle, the registrar shall retain not more than five dollars to pay for the licensing and registration costs the bureau of motor vehicles incurs in registering the all-purpose vehicle. The remainder of the fee shall be deposited into the state treasury to the credit of the state recreational vehicle fund created by section 4519.11 of the Revised Code.

Sec. 4519.44. (A) No person who does not hold a valid, current motor vehicle driver's or commercial driver's license, motorcycle operator's endorsement, or probationary license, issued under Chapter 4506. or 4507. of the Revised Code or a valid, current driver's license issued by another jurisdiction, shall operate a snowmobile, off-highway motorcycle, or all-purpose vehicle on any street or highway in this state, on any portion of the right-of-way thereof, or on any public land or waters.

(B) No person who is less than sixteen years of age shall operate a snowmobile, off-highway motorcycle, or all-purpose vehicle on any land or waters other than private property or waters owned by or leased to the

person's parent or guardian, unless accompanied by another person who is eighteen years of age, or older, and who holds a license as provided in division (A) of this section, except that the department of natural resources may permit such operation on state controlled land under its jurisdiction when such person is less than sixteen years of age, ~~but is twelve years of age or older~~ and is accompanied by a parent or guardian who is a licensed driver eighteen years of age or older.

(C) Whoever violates this section shall be fined not less than fifty nor more than five hundred dollars, imprisoned not less than three nor more than thirty days, or both.

Sec. 4519.59. (A)(1) The clerk of a court of common pleas shall charge and retain fees as follows:

(a) Fifteen dollars for each certificate of title or duplicate certificate of title including the issuance of a memorandum certificate of title, authorization to print a non-negotiable evidence of ownership described in division (D) of section 4519.58 of the Revised Code, non-negotiable evidence of ownership printed by the clerk under division (E) of that section, and notation of any lien on a certificate of title that is applied for at the same time as the certificate of title. The clerk shall retain eleven dollars and fifty cents of that fee for each certificate of title when there is a notation of a lien or security interest on the certificate of title, twelve dollars and twenty-five cents when there is no lien or security interest noted on the certificate of title, and eleven dollars and fifty cents for each duplicate certificate of title.

(b) Five dollars for each certificate of title with no security interest noted that is issued to a licensed motor vehicle dealer for resale purposes. The clerk shall retain two dollars and twenty-five cents of that fee.

(c) Five dollars for each memorandum certificate of title or non-negotiable evidence of ownership that is applied for separately. The clerk shall retain that entire fee.

(2) The fees that are not retained by the clerk shall be paid to the registrar of motor vehicles by monthly returns, which shall be forwarded to the registrar not later than the fifth day of the month next succeeding that in which the certificate is forwarded or that in which the registrar is notified of a lien or cancellation of a lien.

(B)(1) The registrar shall pay twenty-five cents of the amount received for each certificate of title that is issued to a motor vehicle dealer for resale ~~and~~, one dollar for ~~all other~~ certificates of title issued with a lien or security interest noted on the certificate of title, and twenty-five cents for each certificate of title with no lien or security interest noted on the certificate of

title into the state bureau of motor vehicles fund established in section 4501.25 of the Revised Code.

(2) Fifty cents of the amount received for each certificate of title shall be paid by the registrar as follows:

(a) Four cents shall be paid into the state treasury to the credit of the motor vehicle dealers board fund created in section 4505.09 of the Revised Code, for use as described in division (B)(2)(a) of that section.

(b) Twenty-one cents shall be paid into the highway operating fund.

(c) Twenty-five cents shall be paid into the state treasury to the credit of the motor vehicle sales audit fund created in section 4505.09 of the Revised Code, for use as described in division (B)(2)(c) of that section.

(3) Two dollars of the amount received by the registrar for each certificate of title shall be paid into the state treasury to the credit of the automated title processing fund created in section 4505.09 of the Revised Code, for use as described in divisions (B)(3)(a) and (c) of that section.

Sec. 4549.10. (A) No person shall operate or cause to be operated upon a public road or highway a motor vehicle of a manufacturer or dealer unless the vehicle carries and displays two placards, except as provided in section 4503.21 of the Revised Code, issued by the director of public safety that bear the registration number of its manufacturer or dealer.

(B) Whoever violates division (A) of this section is guilty of illegal operation of a manufacturer's or dealer's motor vehicle, a minor misdemeanor ~~on a first offense and a misdemeanor of the fourth degree on each subsequent offense.~~

Sec. 4549.12. (A) No person who is the owner of a motor vehicle and a resident of this state shall operate or drive the motor vehicle upon the highways of this state, while it displays a distinctive number or identification mark issued by or under the authority of another state, without complying with the laws of this state relating to the registration and identification of motor vehicles.

(B) Whoever violates division (A) of this section is guilty of illegal operation by a resident of this state of a motor vehicle bearing the distinctive number or identification mark issued by a foreign jurisdiction, a minor misdemeanor ~~on a first offense and a misdemeanor of the fourth degree on each subsequent offense.~~

Sec. 4582.07. (A) The board of directors of a port authority shall prepare or cause to be prepared a plan for ~~the~~ any future development, construction, and improvement of the ~~port and its~~ maritime facilities ~~of the port authority~~, including such maps, profiles, and other data and descriptions as may be necessary to set forth the location and character of the work to be

undertaken by the port authority and a then-current good faith estimate of the cost of the proposed facilities. The plan also shall contain ~~a description of any and all financing under the port authority's proposal for payment of the cost of such facilities, including revenues, grants, subsidies, loans, and financing; provided, that the plan and any such proposal and the contents thereof, and anything contained or not contained therein, shall not affect the legality, validity, or enforceability of any bonds, notes, leases, or otherwise, and a description of any and all certificates, or other financing instruments, any real estate, operating or management contracts or instruments or any taxes, tax abatements or exemptions, tax credits, tax increment financing, emoluments, subsidies, grants, loans and assessments, or other financial participation related to maritime facilities or such plan or that has been proposed by the port authority and its public and private affiliates for such plan.~~ Upon the completion of such plan the board of directors shall cause notice by publication as ~~provided in section 4582.01 of the Revised Code to be given in~~ as to each county in which there is a political subdivision ~~participating that participated~~ in the creation of the port authority, ~~and shall likewise cause notice to be served upon the owners of the uplands contiguous to any submerged lands affected by such plan in the manner provided by law for service of notice in the levy of special assessments by municipal corporations, and shall permit the inspection of the plan at their~~ the port authority office by all persons interested. The notice shall fix the time and place for the hearing of all ~~objections to comments on~~ objections to comments on the plan, which shall be not less than thirty nor more than sixty days after the ~~last publication~~ completion of the notice ~~and after service of notice upon the owners of such uplands.~~ Any interested person may file written ~~objections to comments on~~ objections to comments on the plan, provided the ~~objections comments~~ objections comments are filed with the secretary of the board of directors at the secretary's office not less than five days prior to the date fixed for the hearing. After the hearing the board of directors may adopt the plan with any modifications or amendments to it as the official plan for the maritime facilities of the port authority.

(B) For purposes of this section and section 4582.08 of the Revised Code:

(1) "Maritime facilities" means docks, wharves, warehouses, piers, and other terminal and transportation buildings or structures used in connection with the transport, storage, or distribution of commercial goods on, over, or across the waterways or shorelines of this state, or buildings or structures for the construction, rehabilitation, maintenance, or repair of commercial vessels used for such purposes, which facilities are or are expected to be owned or leased by a port authority, operated by or on behalf of a port

authority, or publicly owned and financed by a port authority.

(2) "Notice by publication" means publication once in a newspaper of general circulation in the county or counties where such publication is required and the posting of the notice on the web site, if any, of the port authority. Notice is complete on the later of the date of posting or the date of newspaper publication.

Sec. 4582.08. The board of directors, from time to time after the adoption of an official plan for the maritime facilities of the port authority, shall have the power to modify, amend, or extend the plan; provided, that ~~upon~~ prior to the making of any modification, amendment or extension of the plan, the board shall cause notice by publication to be given and shall conduct a hearing, all as provided in section 4582.07 of the Revised Code, and shall not adopt any such modification, amendment, or extension until the notice has been given and the hearing held as provided in ~~this~~ that section. The board, from time to time after the adoption of an official plan under section 4582.07 of the Revised Code, also shall have the power to ~~consider, implement,~~ modify, amend, or ~~extend~~ supplement any proposal for any type of financing related to the plan and shall do so prior to undertaking any financing not identified in the plan as described in section 4582.07 of the Revised Code, then in effect; provided, that the board shall first cause notice to be given and shall conduct a hearing on ~~the~~ that proposal, all as provided in section 4582.07 of the Revised Code, and provided further that the plan, and any such proposal and the contents thereof, and anything contained or not contained therein, shall not affect the legality, validity, or enforceability of any bonds, notes, leases, certificates, or other financing instruments, any real estate, operating or management contracts or instruments or any taxes, tax abatements or exemptions, tax credits, tax increment financing, assessments, or other financial participation related to maritime facilities, the plan, or such proposal. Nothing in this section or in section 4582.07 of the Revised Code shall require a port authority to amend a plan, publish a notice, or hold a public hearing except to add or delete maritime facilities to the plan, to describe changes or deletions in the location or character of the maritime facilities covered by the plan, or to add, change, or delete financings not previously identified in the plan or cost projection changes not previously identified in the plan.

Sec. 4582.32. (A) The board of directors of a port authority shall prepare, or cause to be prepared, a plan for ~~the~~ any future development, construction, and improvement of the ~~port authority and its~~ maritime facilities of the port authority, including such maps, profiles, and other data and descriptions as may be necessary to set forth the location and character

of the work to be undertaken by the port authority and a then-current good faith estimate of the cost of the proposed facilities. The plan also shall contain ~~a description of any and all financing under the port authority's proposal for payment of the cost of such facilities, including revenues, grants, subsidies, loans, and financing; provided, that the plan and any such proposal and the contents thereof, and anything contained or not contained therein, shall not affect the legality, validity, or enforceability of any bonds, notes, leases, or otherwise, and a description of any and all certificates, or other financing instruments, any real estate, operating or management contracts or instruments or any taxes, tax abatements or exemptions, tax credits, tax increment financing, emoluments, subsidies, grants, loans and assessments, or other financial participation related to maritime facilities or such plan or that has been proposed by the port authority and its public and private affiliates for such plan.~~ Upon the completion of such plan the board of directors shall cause notice by publication to be given ~~in~~ as to each county in which there is a political subdivision ~~participating that participated~~ in the creation of the port authority, ~~and, in the case of a water port, shall likewise cause notice to be served upon the owners of the uplands contiguous to any submerged lands affected by such plan in the manner provided by law for service of notice in the levy of special assessments by municipal corporations, and shall permit the inspection of the plan at their~~ the port authority office by all persons interested. The notice shall fix the time and place for the hearing of all ~~objections to comments on~~ objections to comments on the plan, which shall be not less than thirty nor more than sixty days after the ~~last publication~~ completion of the notice ~~and after service of notice upon the owners of such uplands.~~ Any interested person may file written ~~objections to comments on~~ objections to comments on the plan, provided the ~~objections~~ comments are filed with the secretary of the board of directors at the secretary's office not less than five days prior to the date fixed for the hearing. After the hearing the board of directors may adopt the plan with any modifications or amendments thereto as the official plan for the maritime facilities of the port authority.

(B) For purposes of this section and section 4582.33 of the Revised Code:

(1) "Maritime facilities" means docks, wharves, warehouses, piers, and other terminal and transportation buildings or structures used in connection with the transport, storage, or distribution of commercial goods on, over, or across the waterways or shorelines of this state, or buildings or structures for the construction, rehabilitation, maintenance, or repair of commercial vessels used for such purposes, which facilities are or are expected to be owned or leased by a port authority, operated by or on behalf of a port

authority, or publicly owned and financed by a port authority.

(2) "Notice by publication" means publication once in a newspaper of general circulation in the county or counties where such publication is required and the posting of the notice on the web site, if any, of the port authority. Notice is complete on the later of the date of posting or the date of newspaper publication.

Sec. 4582.33. The board of directors, from time to time after the adoption of an official plan ~~under section 4582.32 of the Revised Code for the maritime facilities of the port authority,~~ shall have the power to modify, amend, or extend the plan, provided that ~~upon~~ prior to the making of any modification, amendment, or extension of the plan, the board shall cause notice by publication to be given and shall conduct a hearing, all as provided in section 4582.32 of the Revised Code, and shall not adopt any such modification, amendment, or extension until the notice has been given and the hearing held as provided in ~~this~~ that section. The board, from time to time after the adoption of an official plan under section 4582.32 of the Revised Code, also shall have the power to ~~consider, implement,~~ modify, amend, or ~~extend~~ supplement any proposal for any type of financing related to the plan and shall do so prior to undertaking any financing not identified in or pursuant to the plan as described in section 4582.07 of the Revised Code, then in effect; provided, that the board shall first cause notice to be given and shall conduct a hearing on ~~the~~ that proposal, all as provided in section ~~4582.07~~ 4582.32 of the Revised Code, and provided further that the plan, and any such proposal and the contents thereof, and anything contained or not contained therein, shall not affect the legality, validity, or enforceability of any bonds, notes, leases, certificates, or other financing instruments, any real estate, operating or management contracts or instruments or any taxes, tax abatements or exemptions, tax credits, tax increment financing, assessments or other financial participation related to maritime facilities, the plan, or such proposal. Nothing in this section or in section 4582.32 of the Revised Code shall require a port authority to amend a plan, publish a notice, or hold a public hearing except to add or delete maritime facilities to the plan, to describe changes or deletions in the location or character of the maritime facilities covered by the plan, or to add, change, or delete financings not previously identified in the plan or cost projection changes not previously identified in the plan.

Sec. 4582.71. (A) As used in this section:

(1) "Bond proceedings" means, with respect to obligations authorized under this section, the resolutions, certifications and agreements, including without limitation a venture capital agreement, the loan documents and any

trust agreements, and any authorized credit enhancement facilities or swaps or other hedging instruments, and amendments or supplements thereto, or to any one or more or combination of them, authorizing, awarding, or providing for the terms and conditions applicable to or providing for the security or liquidity of, the particular obligations, and the provisions contained in those obligations.

(2) "Issuing authority" means a port authority that, pursuant to a venture capital agreement, issues or issued obligations to fund one or more loans to the program fund.

(3) "Loan" means an extension of credit to or in aid of the program fund in any form, including loans to lenders or the purchase of loans, including the purchase for cancellation of any loan, and evidenced in any manner including, without limitation, by a loan agreement, a promissory note, a bond, note, certificate of participation or other security, a letter of credit and reimbursement agreement or other credit facility, or a standby bond or note purchase agreement, line of credit or other liquidity facility, and including, in any event, any related swap or other hedging instrument.

(4) "Obligations" means, as applicable to the issuing authority, bonds, notes, or other forms or evidences of obligation constituting revenue bonds as that term is used in division (A)(4) of section 4582.06 of the Revised Code, or port authority revenue bonds as that term is used in section 4582.48 and division (A)(8) of section 4582.31 of the Revised Code, which obligations are issued by the issuing authority pursuant to the bond proceedings and this section.

(5) "Port authority" means a port authority organized and existing under Chapter 4582. of the Revised Code.

(6) "Research and development costs" means costs of or in support of or related to the implementation of research and development purposes including, without limitation, capital formation, direct operating costs, costs of research and facilities, including interests in real property therefor, and other support, and costs of making grants, loans, including loans to lenders or the purchase of loans, subsidies, contributions, advances or guarantees, or direct investments in, or payment, or reimbursement from available moneys for, implementing research and development purposes consistent with Section 2p of Article VIII, Ohio Constitution, and the investment policy adopted by the venture capital authority pursuant to section 150.03 of the Revised Code, and includes financing charges, amounts necessary to establish the reserves required pursuant to the bond proceedings, interest on loans including loans purchased for cancellation, interest on the obligations from their date until the time determined in the bond proceedings when

interest is to be paid from sources other than the proceeds of obligations, legal expenses and other costs of or related to the issuance of obligations, estimates of costs and revenues or other expenses necessary or incident to determining the feasibility or practicability of the financing of any research and development costs with proceeds of obligations or other sources, administrative expenses related to obligations, and the application of the proceeds of obligations, including fees of the issuing authority, any trustee, and any other costs and expenses reasonably necessary or incident thereto or to the financing of research and development costs, and costs described in this division incurred prior to the issuance of obligations and paid, advanced, or borrowed by an issuing authority, the venture capital authority, the program fund or other public or private person or entity, which costs may be reimbursed from the proceeds of such obligations. "Research and development costs" does not include any otherwise qualifying costs that are in support of the purposes provided for in Section 15 of Article VIII, Ohio Constitution.

(7) "Tax credits" means the refundable tax credits authorized by section 150.07 of the Revised Code and to be issued by the venture capital authority to any lender.

(8) "Venture capital agreement" means an agreement between the venture capital authority and an issuing authority entered into under division (E) of section 150.02 of the Revised Code.

(9) "Venture capital authority" means the Ohio venture capital authority established under section 150.02 of the Revised Code.

(10) "Lender," "program fund," and "research and development purposes" have the same meanings as in section 150.01 of the Revised Code.

(B) An issuing authority may issue obligations pursuant to this section and Section 2p of Article VIII, Ohio Constitution, to make loans to the program fund to provide for research and development costs. The proceeds of the obligations shall be used to make loans to provide for research and development costs and all such proceeds shall be so used in accordance with the bond proceedings. Activities authorized by Section 2p of Article VIII, Ohio Constitution, shall be authorized purposes of port authorities to the extent necessary for a port authority to act as an issuing authority under this section.

(C) Except to any extent inconsistent with this section, all terms, provisions, and authorizations in Chapter 4582. of the Revised Code as applicable to the issuing authority, and the terms, provisions, and authorizations of sections 9.96, 9.98, 9.981, 9.982, and 9.983 of the Revised

Code apply to the obligations and the bond proceedings except as otherwise provided or provided for in those obligations and bond proceedings. The obligations shall be secured by a trust agreement between the issuing authority and a trustee, and such trust agreement, and the establishment, deposit, investment and application of special funds, and the safeguarding of moneys shall be governed by the bond proceedings and by Chapter 4582. of the Revised Code, as applicable to the issuing authority. Pursuant to the trust agreement and other bond proceedings, there shall be established, in addition to any other special funds in the custody of the trustee, one or more funds into which shall be deposited the proceeds of the obligations and the revenues pledged to the payment of the obligations, including a reserve fund in an amount established in, and to be funded as provided in, the bond proceedings.

(D) The trustee, for the benefit of the issuing authority, may be authorized under the venture capital agreement to receive and claim tax credits in accordance with division (E) of section 150.07 of the Revised Code. If the trustee is so authorized, the holders of the obligations, or any book-entry interests therein, shall have no rights with respect to the tax credits except any right established under the applicable trust agreement to direct the trustee to take the actions necessary to receive and claim any available tax credits. Upon receipt of any tax credit certificate issued by the venture capital authority, the trustee shall, within the times required by law, file an appropriate tax return to claim the applicable tax credits and, upon receipt of the proceeds of any such tax credits, shall promptly deposit the proceeds into the funds established in accordance with division (C) of this section.

(E) The obligations do not constitute a debt, or a pledge of the faith and credit, of the state, the issuing authority or any political subdivision of the state, and the holders or owners of the obligations have no right to have taxes levied by the general assembly or the taxing authority of the issuing authority or any political subdivision of the state for the payment of the principal of or interest or any premium on the obligations, but the obligations are payable solely from the revenues and funds pledged for their payment as authorized in or pursuant to this section and the bond proceedings, and the obligations shall contain on the face thereof a statement to the effect that the obligations, as to principal and interest and any premium, are not debts of the state, the issuing authority, or any political subdivision of the state, but are payable solely from the revenues and funds pledged for their payment.

(F) This section is intended to implement Section 2p of Article VIII,

Ohio Constitution, including provision for procedures for incurring and issuing obligations of local public entities and agencies authorized by that section, for the purpose of making loans to the program fund to provide for research and development costs, and shall be liberally construed to effect such purposes. The powers and authorizations granted in this section may be exercised jointly or separately by one or more issuing authorities and are in addition to and supplemental to the powers and authorizations otherwise granted to port authorities under applicable provisions of Chapter 4582. of the Revised Code and shall not be construed as a limitation on any such powers or authorizations.

Sec. 4709.12. (A) The barber board shall charge and collect the following fees:

- (1) For the application to take the barber examination, ninety dollars;
- (2) For an application to retake any part of the barber examination, forty-five dollars;
- (3) For the initial issuance of a license to practice as a barber, thirty dollars;
- (4) For the biennial renewal of the license to practice as a barber, one hundred ten dollars;
- (5) For the restoration of an expired barber license, one hundred dollars, and seventy-five dollars for each lapsed year, provided that the total fee shall not exceed six hundred ninety dollars;
- (6) For the issuance of a duplicate barber or shop license, forty-five dollars;
- (7) For the inspection of a new barber shop, change of ownership, or reopening of premises or facilities formerly operated as a barber shop, and issuance of a shop license, one hundred ten dollars;
- (8) For the biennial renewal of a barber shop license, seventy-five dollars;
- (9) For the restoration of a barber shop license, one hundred ten dollars;
- (10) For each inspection of premises for location of a new barber school, or each inspection of premises for relocation of a currently licensed barber school, seven hundred fifty dollars;
- (11) For the initial barber school license, one thousand dollars, and one thousand dollars for the renewal of the license;
- (12) For the restoration of a barber school license, one thousand dollars;
- (13) For the issuance of a student registration, forty dollars;
- (14) For the examination and issuance of a biennial teacher license, one hundred eighty-five dollars;
- (15) For the renewal of a biennial teacher license, one hundred fifty

dollars;

(16) For the restoration of an expired teacher license, two hundred twenty-five dollars, and sixty dollars for each lapsed year, provided that the total fee shall not exceed four hundred fifty dollars;

(17) For the issuance of a barber license by reciprocity pursuant to section 4709.08 of the Revised Code, three hundred dollars;

(18) For providing licensure information concerning an applicant, upon written request of the applicant, forty dollars.

(B) The board, subject to the approval of the controlling board, may establish fees in excess of the amounts provided in this section, provided that the fees do not exceed the amounts permitted by this section by more than fifty per cent.

(C) In addition to any other fee charged and collected under this section, the barber board shall ask each person renewing a license to practice as a barber whether the person wishes to make a two-dollar voluntary contribution to the Ed Jeffers barber museum. The board shall transmit any contributions to the treasurer of state for deposit into the occupational licensing fund.

Sec. 4713.32. When determining the total hours of instruction received by an applicant for a license under section 4713.28, 4713.30, or 4713.31 of the Revised Code, the state board of cosmetology shall not take into account more than ~~eight~~ ten hours of instruction per day. The board shall take into account instruction received more than five years prior to the date of application for the license in accordance with rules adopted under section 4713.08 of the Revised Code.

Sec. 4713.63. A practicing license, managing license, or instructor license that has not been renewed for any reason other than because it has been revoked, suspended, or classified inactive, or because the license holder has been given a waiver or extension under section 4713.60 of the Revised Code, is expired. An expired license may be restored if the person who held the license meets all of the following applicable conditions:

(A) Pays to the state board of cosmetology the restoration fee, the current renewal fee, and any applicable late fees;

(B) Pays ~~at a~~ a lapsed renewal fees fee of forty-five dollars per license renewal period that has elapsed since the license was last issued or renewed;

(C) ~~Submits proof satisfactory to the state board of cosmetology that the person has completed all applicable continuing education requirements;~~

~~(D) In the case of a practicing license or managing license that has been expired for more than two years, retakes and passes an examination conducted under section 4713.24 of the Revised Code for the branch of~~

~~cosmetology that the person seeks to practice or type of salon the person seeks to manage~~ consecutive license renewal periods, completes eight hours of continuing education for each license renewal period that has elapsed since the license was last issued or renewed, up to a maximum of twenty-four hours. At least four of those hours shall include a course pertaining to sanitation and safety methods.

The board shall deposit all fees it receives under division (B) of this section into the general revenue fund.

Sec. 4713.64. (A) In accordance with Chapter 119. of the Revised Code, the state board of cosmetology may deny, revoke, or suspend a license or permit issued by the board or impose a fine for any of the following:

(1) Failure to comply with the requirements of this chapter or rules adopted under it;

(2) Continued practice by a person knowingly having an infectious or contagious disease;

(3) Habitual drunkenness or addiction to any habit-forming drug;

(4) Willful false and fraudulent or deceptive advertising;

(5) Falsification of any record or application required to be filed with the board;

(6) Failure to pay a fine or abide by a suspension order issued by the board.

(B) The board may impose a separate fine for each offense listed in division (A) of this section. The amount of a fine shall be not more than ~~one~~ five hundred dollars if the violator has not previously been fined for that offense. The fine shall be not more than ~~five hundred~~ one thousand dollars if the violator has been fined for the same offense once before. The fine shall be not more than one thousand five hundred dollars if the violator has been fined for the same offense two or more times before.

(C) If a person fails to request a hearing within thirty days of the date the board, in accordance with section 119.07 of the Revised Code, notifies the person of the board's intent to act against the person under division (A) of this section, the board by a majority vote of a quorum of the board members may take the action against the person without holding an adjudication hearing.

(D) The board, after a hearing in accordance with Chapter 119. of the Revised Code, may suspend a tanning facility permit if the owner or operator fails to correct an unsafe condition that exists in violation of the board's rules or fails to cooperate in an inspection of the tanning facility. If a violation has resulted in a condition reasonably believed by an inspector to create an immediate danger to the health and safety of any person using the

tanning facility, the inspector may suspend the permit without a prior hearing until the condition is corrected or until a hearing in accordance with Chapter 119. of the Revised Code is held and the board either upholds the suspension or reinstates the permit.

Sec. 4717.31. (A) Only a funeral director licensed pursuant to this chapter may sell a preneed funeral contract that includes funeral services. Sections 4717.31 to 4717.38 of the Revised Code do not prohibit a person who is not a licensed funeral director from selling funeral goods pursuant to a preneed funeral contract; however, when a seller sells funeral goods pursuant to a preneed funeral contract, that seller shall comply with those sections unless the seller is specifically exempt from compliance under section 4717.38 of the Revised Code.

(B) An insurance agent licensed pursuant to Chapter 3905. of the Revised Code may sell, solicit, or negotiate the sale of an insurance policy or annuity that will be used to fund a preneed funeral contract, but in so doing the insurance agent may not offer advice or make recommendations about funeral services and may not discuss the advantages or disadvantages of any funeral service. In selling, soliciting, or negotiating the sale of an insurance policy or annuity that will be used to fund a preneed funeral contract, the insurance agent may do any of the following:

(1) Provide the person purchasing the insurance policy or annuity with price lists from one or more funeral homes and other materials that may assist the person in determining the cost of funeral goods and services;

(2) Discuss the cost of funeral goods and services with the person in order to assist the person in selecting the appropriate amount of life insurance or annuity coverage;

(3) Complete a worksheet or other record to calculate the estimated cost of a funeral.

(C) Activities conducted pursuant to division (B) of this section by an insurance agent licensed pursuant to Chapter 3905. of the Revised Code do not constitute funeral directing, funeral arranging, the business of directing and supervising funerals for profit, or the sale of a preneed funeral contract.

(D) No seller shall fail to comply with the requirements and duties specified in this section and sections 4717.32 to 4717.38 of the Revised Code.

(E) No trustee of a preneed funeral contract trust shall fail to comply with sections 4717.33, 4717.34, 4717.36, and 4717.37 of the Revised Code.

(F) No insurance agent or insurance company that sells or offers life insurance policies or annuities used to fund a preneed funeral contract shall fail to comply with this section and sections 4717.33, 4717.34, 4717.35, and

4717.37 of the Revised Code. To the extent this section and sections 4717.33, 4717.34, 4717.35, and 4717.37 of the Revised Code apply to insurance companies or insurance agents, those sections constitute laws of this state relating to insurance for purposes of sections 3901.03 and 3901.04 of the Revised Code and the superintendent of insurance shall enforce those sections with respect to insurance companies and insurance agents. The superintendent may adopt rules in accordance with Chapter 119. of the Revised Code for purposes of administering and enforcing this section and sections 4717.33, 4717.34, 4717.35, and 4717.37 of the Revised Code as those sections apply to insurance companies or insurance agents.

(G) A preneed funeral contract may be funded by the purchase or assignment of an insurance policy or annuity in accordance with section 3905.45 of the Revised Code. A preneed funeral contract that is funded by the purchase or assignment of an insurance policy or annuity in accordance with section 3905.45 of the Revised Code is not subject to section 4717.36 of the Revised Code.

(H) The board of embalmers and funeral directors shall administer and enforce the provisions of sections 4717.31 to 4717.38 of the Revised Code concerning the requirements for and sale of preneed funeral contracts. The superintendent of insurance shall enforce sections 4717.31, 4717.33, 4717.34, 4717.35, and 4717.37 of the Revised Code to the extent those sections apply to insurance companies and insurance agents. Payments from a trust, insurance policy, or annuity, including any fraudulent activities in which a person engages to obtain payments from a trust, insurance policy, or annuity, shall be regulated in accordance with Chapter 1111. or Title XXXIX of the Revised Code, as applicable.

(I) A Except as provided in division (K) of this section, a seller of a preneed funeral contract that is funded by insurance or otherwise annually shall submit to the board the reports the board requires pursuant to division (J) of this section.

(J) The Except as provided in division (K) of this section, the board shall adopt rules specifying the procedures and requirements for annual reporting of the sales of all preneed funeral contracts sold by every seller who is subject to sections 4717.31 to 4717.38 of the Revised Code.

(K) A cemetery company or cemetery association that sells merchandise or services pursuant to a preneed cemetery merchandise and services contract and that also sells funeral goods pursuant to a preneed funeral contract shall be deemed to have met the requirements in divisions (I) and (J) of this section by submitting the annual preneed funeral contract report to the division of real estate of the department of commerce along with or as

part of the annual cemetery merchandise and services contract affidavit required under division (F)(1) of section 1721.211 of the Revised Code.

Sec. 4729.42. (A) As used in this section, "qualified pharmacy technician" means a person who is under the personal supervision of a pharmacist and to whom all of the following apply:

(1) The person is eighteen years of age or older.

(2) The person possesses a high school diploma, possesses a certificate of high school equivalence, or was employed prior to April 8, 2009, as a pharmacy technician without a high school diploma or a certificate of high school equivalence.

(3) The person has passed an examination approved by the state board of pharmacy to determine a person's competency to perform services as a pharmacy technician.

(4) Except as otherwise provided in this section, the person has submitted to a criminal records check in accordance with section 4776.02 of the Revised Code as if the person was an applicant for an initial license who is subject to that section, and the results of the criminal records check provided as described in that section and section 4776.04 of the Revised Code do not show that the person previously has been convicted of or pleaded guilty to any felony in this state, any other state, or the United States.

(B) Except as provided in division (F) of this section, no person who is not a pharmacist, pharmacy intern, or qualified pharmacy technician shall do any of the following in a pharmacy or while performing a function of a pharmacy:

(1) Engage in the compounding of any drug;

(2) Package or label any drug;

(3) Prepare or mix any intravenous drug to be injected into a human being.

(C) No pharmacist shall allow any person employed or otherwise under the control of the pharmacist to violate division (B) of this section.

(D) No person who owns, manages, or conducts a pharmacy shall allow any person employed or otherwise under the control of the person who owns, manages, or conducts the pharmacy to violate division (B) of this section.

(E) No person who submits to a criminal records check in accordance with section 4776.02 of the Revised Code for the purpose of satisfying the criterion set forth in division (A)(4) of this section and who obtains a report pursuant to section 4776.02 or 4776.04 of the Revised Code containing the results of the criminal records check and any information provided by the

federal bureau of investigation shall modify or alter, or allow any other person to modify or alter, any item, record, or information contained in the report and thereafter use the modified or altered report for the purpose of satisfying the criterion set forth in division (A)(4) of this section or otherwise submit or use it for any purpose or in any manner identified in division (A) of section 2921.13 of the Revised Code.

(F)(1) Division (B) of this section does not prohibit a health care professional authorized to engage in the activities specified in division (B)(1), (2), or (3) of this section while acting in the course of the professional's practice.

(2) Division (B) of this section does not prohibit the activities performed by a student as an integral part of a pharmacy technician training program that is operated by a vocational school district or joint vocational school district, certified by the department of education, or approved by the Ohio board of regents.

(3) In the case of a person employed after April 8, 2009, division (B) of this section does not prohibit the person's activities for the first ~~two hundred ten days~~ twelve months following the initial date of employment, if both of the following apply:

(a) The person is participating in or has completed a pharmacy technician training program that meets the board's standards for those programs and is making substantial progress in preparation to take a pharmacy technician examination approved by the board.

(b) The results of the person's criminal records check provided as described in sections 4776.02 and 4776.04 of the Revised Code show that the person previously has not been convicted of or has not pleaded guilty to any felony in this state, any other state, or the United States.

(4) In the case of a person who completes a pharmacy technician training program that is operated by a vocational school district or joint vocational school district, division (B) of this section does not prohibit the person's activities for the first ~~two hundred ten days~~ twelve months following the date of completing the program, if both of the following apply:

(a) The person is making substantial progress in preparation to take a pharmacy technician examination approved by the board.

(b) The results of the person's criminal records check show that the person previously has not been convicted of or has not pleaded guilty to any felony in this state, any other state, or the United States.

(5) In the case of a person employed on April 8, 2009, in the capacity of a pharmacy technician, division (B) of this section does not do either of the

following:

(a) Require the person to undergo a criminal records check if the person has been employed for five years or longer;

(b) Prohibit the person's activities until the earlier of either of the following:

(i) If the person has not passed an examination described in division (A)(3) of this section, ~~one year~~ eighteen months after April 8, 2009;

(ii) If a criminal records check is required because the person has not been employed for five years or longer, the date on which the person and the employer receive the results of a criminal records check provided as described in sections 4776.02 and 4776.04 of the Revised Code that show the person previously has been convicted of or pleaded guilty to any felony in this state, any other state, or the United States.

(G) If, pursuant to rules adopted under section 4729.26 of the Revised Code, the board requires a person that develops or administers a pharmacy technician examination to submit examination materials to the board for approval, any examination materials that are submitted shall not be public records for purposes of section 149.43 of the Revised Code.

Sec. 4729.99. (A) Whoever violates section 4729.16, division (A) or (B) of section 4729.38, or section 4729.57 of the Revised Code is guilty of a minor misdemeanor. Each day's violation constitutes a separate offense.

(B) Whoever violates section 4729.27, 4729.28, or 4729.36 of the Revised Code is guilty of a misdemeanor of the third degree. Each day's violation constitutes a separate offense. If the offender previously has been convicted of or pleaded guilty to a violation of this chapter, that person is guilty of a misdemeanor of the second degree.

(C) Whoever violates section 4729.32, 4729.33, or 4729.34 of the Revised Code is guilty of a misdemeanor.

(D) Whoever violates division (A), (B), (D), or (E) of section 4729.51 of the Revised Code is guilty of a misdemeanor of the first degree.

(E)(1) Whoever violates section 4729.37, division (C)(2) of section 4729.51, division (J) of section 4729.54, or section 4729.61 of the Revised Code is guilty of a felony of the fifth degree. If the offender previously has been convicted of or pleaded guilty to a violation of this chapter or a violation of Chapter 2925. or 3719. of the Revised Code, that person is guilty of a felony of the fourth degree.

(2) If an offender is convicted of or pleads guilty to a violation of section 4729.37, division (C) of section 4729.51, division (J) of section 4729.54, or section 4729.61 of the Revised Code, if the violation involves the sale, offer to sell, or possession of a schedule I or II controlled

substance, with the exception of marihuana, and if the court imposing sentence upon the offender finds that the offender as a result of the violation is a major drug offender, as defined in section 2929.01 of the Revised Code, and is guilty of a specification of the type described in section 2941.1410 of the Revised Code, the court, in lieu of the prison term authorized or required by division (E)(1) of this section and sections 2929.13 and 2929.14 of the Revised Code and in addition to any other sanction imposed for the offense under sections 2929.11 to 2929.18 of the Revised Code, shall impose upon the offender, in accordance with division (D)(3)(a) of section 2929.14 of the Revised Code, the mandatory prison term specified in that division and may impose an additional prison term under division (D)(3)(b) of that section.

(3) Notwithstanding any contrary provision of section 3719.21 of the Revised Code, the clerk of court shall pay any fine imposed for a violation of section 4729.37, division (C) of section 4729.51, division (J) of section 4729.54, or section 4729.61 of the Revised Code pursuant to division (A) of section 2929.18 of the Revised Code in accordance with and subject to the requirements of division (F) of section 2925.03 of the Revised Code. The agency that receives the fine shall use the fine as specified in division (F) of section 2925.03 of the Revised Code.

(F) Whoever violates section 4729.531 of the Revised Code or any rule adopted thereunder or section 4729.532 of the Revised Code is guilty of a misdemeanor of the first degree.

(G) Whoever violates division (C)(1) of section 4729.51 of the Revised Code is guilty of a felony of the fourth degree. If the offender has previously been convicted of or pleaded guilty to a violation of this chapter, or of a violation of Chapter 2925. or 3719. of the Revised Code, that person is guilty of a felony of the third degree.

(H) Whoever violates division (C)(3) of section 4729.51 of the Revised Code is guilty of a misdemeanor of the first degree. If the offender has previously been convicted of or pleaded guilty to a violation of this chapter, or of a violation of Chapter 2925. or 3719. of the Revised Code, that person is guilty of a felony of the fifth degree.

(I)(1) Whoever violates division (B) of section 4729.42 of the Revised Code is guilty of unauthorized pharmacy-related drug conduct. Except as otherwise provided in this section, unauthorized pharmacy-related drug conduct is a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to a violation of division (B), (C), (D), or (E) of that section, unauthorized pharmacy-related drug conduct is a misdemeanor of the first degree on a second offense and a felony of the fifth degree on a third or subsequent offense.

(2) Whoever violates division (C) or (D) of section 4729.42 of the Revised Code is guilty of permitting unauthorized pharmacy-related drug conduct. Except as otherwise provided in this section, permitting unauthorized pharmacy-related drug conduct is a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to a violation of division (B), (C), (D), or (E) of that section, permitting unauthorized pharmacy-related drug conduct is a misdemeanor of the first degree on a second offense and a felony of the fifth degree on a third or subsequent offense.

(3) Whoever violates division (E) of section ~~4749.02~~ 4729.42 of the Revised Code is guilty of the offense of falsification under section 2921.13 of the Revised Code. In addition to any other sanction imposed for the violation, the offender is forever disqualified from engaging in any activity specified in division (B)(1), (2), or (3) of section ~~4749.02~~ 4729.42 of the Revised Code and from performing any function as a health care professional or health care worker. As used in this division, "health care professional" and "health care worker" have the same meanings as in section 2305.234 of the Revised Code.

(4) Notwithstanding any contrary provision of section 3719.21 of the Revised Code or any other provision of law that governs the distribution of fines, the clerk of the court shall pay any fine imposed pursuant to division (D)(1), (2), or (3) of this section to the state board of pharmacy if the board has adopted a written internal control policy under division (F)(2) of section 2925.03 of the Revised Code that addresses fine moneys that it receives under Chapter 2925. of the Revised Code and if the policy also addresses fine moneys paid under this division. The state board of pharmacy shall use the fines so paid in accordance with the written internal control policy to subsidize the board's law enforcement efforts that pertain to drug offenses.

Sec. 4731.10. Upon the request of a person ~~licensed who holds a certificate~~ to practice in this state pursuant to Chapter 4731. of the Revised Code and is seeking licensure in another state, the state medical board shall ~~certify an application for licensure in another~~ provide verification of the person's certificate to practice in this state. The fee for such ~~certification~~ verification shall be fifty dollars.

Sec. 4731.26. Upon application by the holder of a certificate to practice or certificate of registration issued under this chapter, the state medical board shall issue a duplicate certificate to replace one missing or damaged, to reflect a name change, or for any other reasonable cause. The fee for ~~such~~ a duplicate certificate to practice or duplicate certificate of registration shall be thirty-five dollars.

Sec. 4731.38. All vouchers of the state medical board shall be approved by the ~~board~~ board's president or, the board's executive secretary director, or ~~both~~, as another person authorized by the board.

Sec. 4731.65. As used in sections 4731.65 to 4731.71 of the Revised Code:

(A)(1) "Clinical laboratory services" means either of the following:

(a) Any examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment or for the assessment of health;

(b) Procedures to determine, measure, or otherwise describe the presence or absence of various substances or organisms in the body.

(2) "Clinical laboratory services" does not include the mere collection or preparation of specimens.

(B) "Designated health services" means any of the following:

(1) Clinical laboratory services;

(2) Home health care services;

(3) Outpatient prescription drugs.

(C) "Fair market value" means the value in arms-length transactions, consistent with general market value and:

(1) With respect to rentals or leases, the value of rental property for general commercial purposes, not taking into account its intended use;

(2) With respect to a lease of space, not adjusted to reflect the additional value the prospective lessee or lessor would attribute to the proximity or convenience to the lessor if the lessor is a potential source of referrals to the lessee.

(D) "Governmental health care program" means any program providing health care benefits that is administered by the federal government, this state, or a political subdivision of this state, including the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, health care coverage for public employees, health care benefits administered by the bureau of workers' compensation, the medicaid program established under Chapter 5111. of the Revised Code, ~~the disability medical assistance program established under Chapter 5115. of the Revised Code~~, and the children's buy-in program established under sections 5101.5211 to 5101.5216 of the Revised Code.

(E)(1) "Group practice" means a group of two or more holders of certificates under this chapter legally organized as a partnership, professional corporation or association, limited liability company, foundation, nonprofit corporation, faculty practice plan, or similar group practice entity, including an organization comprised of a nonprofit medical

clinic that contracts with a professional corporation or association of physicians to provide medical services exclusively to patients of the clinic in order to comply with section 1701.03 of the Revised Code and including a corporation, limited liability company, partnership, or professional association described in division (B) of section 4731.226 of the Revised Code formed for the purpose of providing a combination of the professional services of optometrists who are licensed, certificated, or otherwise legally authorized to practice optometry under Chapter 4725. of the Revised Code, chiropractors who are licensed, certificated, or otherwise legally authorized to practice chiropractic or acupuncture under Chapter 4734. of the Revised Code, psychologists who are licensed, certificated, or otherwise legally authorized to practice psychology under Chapter 4732. of the Revised Code, registered or licensed practical nurses who are licensed, certificated, or otherwise legally authorized to practice nursing under Chapter 4723. of the Revised Code, pharmacists who are licensed, certificated, or otherwise legally authorized to practice pharmacy under Chapter 4729. of the Revised Code, physical therapists who are licensed, certificated, or otherwise legally authorized to practice physical therapy under sections 4755.40 to 4755.56 of the Revised Code, occupational therapists who are licensed, certificated, or otherwise legally authorized to practice occupational therapy under sections 4755.04 to 4755.13 of the Revised Code, mechanotherapists who are licensed, certificated, or otherwise legally authorized to practice mechanotherapy under section 4731.151 of the Revised Code, and doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are licensed, certificated, or otherwise legally authorized for their respective practices under this chapter, to which all of the following apply:

(a) Each physician who is a member of the group practice provides substantially the full range of services that the physician routinely provides, including medical care, consultation, diagnosis, or treatment, through the joint use of shared office space, facilities, equipment, and personnel.

(b) Substantially all of the services of the members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group.

(c) The overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

(d) The group practice meets any other requirements that the state medical board applies in rules adopted under section 4731.70 of the Revised Code.

(2) In the case of a faculty practice plan associated with a hospital with a medical residency training program in which physician members may provide a variety of specialty services and provide professional services both within and outside the group, as well as perform other tasks such as research, the criteria in division (E)(1) of this section apply only with respect to services rendered within the faculty practice plan.

(F) "Home health care services" and "immediate family" have the same meanings as in the rules adopted under section 4731.70 of the Revised Code.

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

(H) A "referral" includes both of the following:

(1) A request by a holder of a certificate under this chapter for an item or service, including a request for a consultation with another physician and any test or procedure ordered by or to be performed by or under the supervision of the other physician;

(2) A request for or establishment of a plan of care by a certificate holder that includes the provision of designated health services.

(I) "Third-party payer" has the same meaning as in section 3901.38 of the Revised Code.

Sec. 4731.71. The auditor of state may implement procedures to detect violations of section 4731.66 or 4731.69 of the Revised Code within governmental health care programs administered by the state. The auditor of state shall report any violation of either section to the state medical board and shall certify to the attorney general in accordance with section 131.02 of the Revised Code the amount of any refund owed to a state-administered governmental health care program under section 4731.69 of the Revised Code as a result of a violation. If a refund is owed to the medicaid program established under Chapter 5111. of the Revised Code, ~~the disability medical assistance program established under Chapter 5115. of the Revised Code,~~ or the children's buy-in program established under sections 5101.5211 to 5101.5216 of the Revised Code, the auditor of state also shall report the amount to the department of job and family services.

The state medical board also may implement procedures to detect violations of section 4731.66 or 4731.69 of the Revised Code.

Sec. 4733.10. The state board of registration for professional engineers and surveyors shall prepare annually a listing of all registered professional engineers, registered professional surveyors, and firms that possess a certificate of authorization. The board shall provide a copy of this listing upon request to registrants of the board and to firms possessing a certificate

of authorization without charge and to the public upon request and payment of copy costs.

Additionally, the board shall issue an official verification of the status of any person registered as a professional engineer or professional surveyor in this state upon receipt of a verification form and the payment of a fee established by the board.

Sec. 4734.25. A license to practice chiropractic from the state chiropractic board expires ~~annually on the first day of January~~ biennially in accordance with the schedule established in rules adopted under this section and may be renewed. The renewal process shall be conducted in accordance with the standard renewal procedures of Chapter 4745. of the Revised Code, except that the board's executive director shall notify each license holder of the license renewal requirements of this section not later than sixty days prior to the license's expiration date. When an application for renewal is submitted, the applicant shall provide the information necessary to process the application and pay a renewal fee ~~of two hundred fifty dollars~~ in an amount the board specifies in rules adopted under this section.

Before a renewal of license is issued by the board, the licensee shall furnish the board with satisfactory evidence that the licensee has completed during the current licensing period not less than the number of hours of continuing education that the board requires in rules adopted under this section. For an activity to be applied toward the continuing education requirement, the activity must meet the board's approval as a continuing education activity, as specified in rules adopted under this section. Any exception from the continuing education requirement must be approved by the board.

~~Failure of a licensee to comply with this section, including failure to pay the renewal fee on or before the first day of January of each year,~~ shall operate as an automatic forfeiture of the right of the licensee to practice chiropractic in this state. A forfeited license may be reinstated by the board upon payment of all fees due and a penalty fee ~~of one hundred fifty dollars~~ in an amount the board specifies in rules adopted under this section for reinstatement, in addition to satisfying the board of having complied with the continuing education requirements of this section. If an individual's license has been forfeited for two or more years, the board may also require as a condition of reinstatement that the individual complete training or testing as specified by the board.

The board shall adopt any rules it considers necessary to implement this section, including standards for approval of continuing education in the practice of chiropractic. All rules adopted under this section shall be adopted

in accordance with Chapter 119. of the Revised Code.

Sec. 4735.06. (A) Application for a license as a real estate broker shall be made to the superintendent of real estate on forms furnished by the superintendent and filed with the superintendent and shall be signed by the applicant or its members or officers. Each application shall state the name of the person applying and the location of the place of business for which the license is desired, and give such other information as the superintendent requires in the form of application prescribed by the superintendent.

If the applicant is a partnership, limited liability company, limited liability partnership, or association, the names of all the members also shall be stated, and, if the applicant is a corporation, the names of its president and of each of its officers also shall be stated. The superintendent has the right to reject the application of any partnership, association, limited liability company, limited liability partnership, or corporation if the name proposed to be used by such partnership, association, limited liability company, limited liability partnership, or corporation is likely to mislead the public or if the name is not such as to distinguish it from the name of any existing partnership, association, limited liability company, limited liability partnership, or corporation licensed under this chapter, unless there is filed with the application the written consent of such existing partnership, association, limited liability company, limited liability partnership, or corporation, executed by a duly authorized representative of it, permitting the use of the name of such existing partnership, association, limited liability company, limited liability partnership, or corporation.

(B) A fee of ~~sixty-nine~~ one hundred dollars shall accompany the application for a real estate broker's license, which fee includes the fee for the initial year of the licensing period, if a license is issued. The application fee shall be retained by the superintendent if the applicant is admitted to the examination for the license or the examination requirement is waived, but, if an applicant is not so admitted and a waiver is not involved, one-half of the fee shall be retained by the superintendent to cover the expenses of processing the application and the other one-half shall be returned to the applicant. A fee of ~~sixty-nine~~ one hundred dollars shall be charged by the superintendent for each successive application made by an applicant. In the case of issuance of a three-year license, upon passing the examination, or upon waiver of the examination requirement, if the superintendent determines it is necessary, the applicant shall submit an additional fee determined by the superintendent based upon the number of years remaining in a real estate salesperson's licensing period.

(C) ~~Four dollars~~ One dollar of each application fee for a real estate

broker's license shall be credited to the real estate education and research fund, which is hereby created in the state treasury. The Ohio real estate commission may use the fund in discharging the duties prescribed in divisions (E), (F), (G), and (H) of section 4735.03 of the Revised Code and shall use it in the advancement of education and research in real estate at any institution of higher education in the state, or in contracting with any such institution or a trade organization for a particular research or educational project in the field of real estate, or in advancing loans, not exceeding eight hundred dollars, to applicants for salesperson licenses, to defray the costs of satisfying the educational requirements of division (F) of section 4735.09 of the Revised Code. Such loans shall be made according to rules established by the commission under the procedures of Chapter 119. of the Revised Code, and they shall be repaid to the fund within three years of the time they are made. No more than ten thousand dollars shall be lent from the fund in any one year.

The governor may appoint a representative from the executive branch to be a member ex officio of the commission for the purpose of advising on research requests or educational projects. The commission shall report to the general assembly on the third Tuesday after the third Monday in January of each year setting forth the total amount contained in the fund and the amount of each research grant that it has authorized and the amount of each research grant requested. A copy of all research reports shall be submitted to the state library of Ohio and the library of the legislative service commission.

(D) If the superintendent, with the consent of the commission, enters into an agreement with a national testing service to administer the real estate broker's examination, pursuant to division (A) of section 4735.07 of the Revised Code, the superintendent may require an applicant to pay the testing service's examination fee directly to the testing service. If the superintendent requires the payment of the examination fee directly to the testing service, each applicant shall submit to the superintendent a processing fee in an amount determined by the Ohio real estate commission pursuant to division (A)(2) of section 4735.10 of the Revised Code.

Sec. 4735.09. (A) Application for a license as a real estate salesperson shall be made to the superintendent of real estate on forms furnished by the superintendent and signed by the applicant. The application shall be in the form prescribed by the superintendent and shall contain such information as is required by this chapter and the rules of the Ohio real estate commission. The application shall be accompanied by the recommendation of the real estate broker with whom the applicant is associated or with whom the

applicant intends to be associated, certifying that the applicant is honest, truthful, and of good reputation, has not been convicted of a felony or a crime involving moral turpitude, and has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate, which conviction or adjudication the applicant has not disclosed to the superintendent, and recommending that the applicant be admitted to the real estate salesperson examination.

(B) A fee of ~~forty-nine~~ sixty dollars shall accompany the application, which fee includes the fee for the initial year of the licensing period, if a license is issued. The application fee shall be retained by the superintendent if the applicant is admitted to the examination for the license or the examination requirement is waived, but, if an applicant is not so admitted and a waiver is not involved, one-half of the fee shall be retained by the superintendent to cover the expenses of processing the application and the other one-half shall be returned to the applicant. A fee of ~~forty-nine~~ sixty dollars shall be charged by the superintendent for each successive application made by the applicant. ~~Four dollars~~ One dollar of each application fee shall be credited to the real estate education and research fund.

(C) There shall be no limit placed on the number of times an applicant may retake the examination.

(D) The superintendent, with the consent of the commission, may enter into an agreement with a recognized national testing service to administer the real estate salesperson's examination under the superintendent's supervision and control, consistent with the requirements of this chapter as to the contents of the examination.

If the superintendent, with the consent of the commission, enters into an agreement with a national testing service to administer the real estate salesperson's examination, the superintendent may require an applicant to pay the testing service's examination fee directly to the testing service. If the superintendent requires the payment of the examination fee directly to the testing service, each applicant shall submit to the superintendent a processing fee in an amount determined by the Ohio real estate commission pursuant to division (A)(1) of section 4735.10 of the Revised Code.

(E) The superintendent shall issue a real estate salesperson's license when satisfied that the applicant has received a passing score on each portion of the salesperson's examination as determined by rule by the real estate commission, except that the superintendent may waive one or more of the requirements of this section in the case of an applicant who is a licensed

real estate salesperson in another state pursuant to a reciprocity agreement with the licensing authority of the state from which the applicant holds a valid real estate salesperson's license.

(F) No applicant for a salesperson's license shall take the salesperson's examination who has not established to the satisfaction of the superintendent that the applicant:

(1) Is honest, truthful, and of good reputation;

(2)(a) Has not been convicted of a felony or crime of moral turpitude or, if the applicant has been so convicted, the superintendent has disregarded the conviction because the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant again will violate the laws involved;

(b) Has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate or, if the applicant has been so adjudged, at least two years have passed since the court decision and the superintendent has disregarded the adjudication because the applicant has proven, by a preponderance of the evidence, that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant again will violate the laws involved.

(3) Has not, during any period in which the applicant was licensed under this chapter, violated any provision of, or any rule adopted pursuant to this chapter, or, if the applicant has violated such provision or rule, has established to the satisfaction of the superintendent that the applicant will not again violate such provision or rule;

(4) Is at least eighteen years of age;

(5) If born after the year 1950, has a high school diploma or its equivalent as recognized by the state department of education;

(6)(a) If beginning instruction prior to August 1, 2001, has successfully completed at an institution of higher education all of the following:

(i) Thirty hours of classroom instruction in real estate practice;

(ii) Thirty hours of classroom instruction that includes the subjects of Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction in municipal, state, and federal civil rights law, new case law on housing

discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination shall be taught by a staff member of the Ohio civil rights commission who is knowledgeable with respect to those subjects. The requirements of this division do not apply to an applicant who is admitted to practice before the supreme court.

(iii) Thirty hours of classroom instruction in real estate appraisal;

(iv) Thirty hours of classroom instruction in real estate finance.

(b) Any person who has not been licensed as a real estate salesperson or broker within a four-year period immediately preceding the person's current application for the salesperson's examination shall have successfully completed the classroom instruction required by division (F)(6)(a) of this section within a ten-year period immediately preceding the person's current application for the salesperson's examination.

(7) If beginning instruction, as determined by the superintendent, on or after August 1, 2001, has successfully completed at an institution of higher education all of the following:

(a) Forty hours of classroom instruction in real estate practice;

(b) Forty hours of classroom instruction that includes the subjects of Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction in municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination shall be taught by a staff member of the Ohio civil rights commission who is knowledgeable with respect to those subjects. The requirements of this division do not apply to an applicant who is admitted to practice before the supreme court.

(c) Twenty hours of classroom instruction in real estate appraisal;

(d) Twenty hours of classroom instruction in real estate finance.

(G) No later than twelve months after the date of issue of a real estate salesperson license to a licensee, the licensee shall submit proof satisfactory to the superintendent, on forms made available by the superintendent, of completion, at an institution of higher education or any other institution approved by the commission, of ten hours of classroom instruction in real estate courses that cover current issues regarding consumers, real estate practice, ethics, and real estate law.

If proof of completion of the required instruction is not submitted within twelve months of the date a license is issued under this section, the

licensee's license is suspended automatically without the taking of any action by the superintendent. The superintendent immediately shall notify the broker with whom such salesperson is associated of the suspension of the salesperson's license. A salesperson whose license has been suspended under this division shall have twelve months after the date of the suspension of the salesperson's license to submit proof of successful completion of the instruction required under this division. No such license shall be reactivated by the superintendent until it is established, to the satisfaction of the superintendent, that the requirements of this division have been met and that the licensee is in compliance with this chapter. A licensee's license is revoked automatically without the taking of any action by the superintendent when the licensee fails to submit the required proof of completion of the education requirements under division (G) of this section within twelve months of the date the license is suspended.

(H) Examinations shall be administered with reasonable accommodations in accordance with the requirements of the "Americans with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C. 12101. The contents of an examination shall be consistent with the classroom instructional requirements of division (F)(6) or (7) of this section. An applicant who has completed the classroom instructional requirements of division (F)(6) or (7) of this section at the time of application shall be examined no later than twelve months after the applicant is notified of the applicant's admission to the examination.

Sec. 4735.12. (A) The real estate recovery fund is hereby created in the state treasury, to be administered by the superintendent of real estate. Amounts collected by the superintendent as prescribed in this section and interest earned on the assets of the fund shall be credited by the treasurer of state to the fund. The amount of money in the fund shall be ascertained by the superintendent as of the first day of July of each year.

The commission, in accordance with rules adopted under division (A)(2)(g) of section 4735.10 of the Revised Code, shall impose a special assessment not to exceed ten dollars per year for each year of a licensing period on each licensee filing a notice of renewal under section 4735.14 of the Revised Code if the amount available in the fund is less than ~~one million~~ five hundred thousand dollars on the first day of July preceding that filing. The commission may impose a special assessment not to exceed five dollars per year for each year of a licensing period if the amount available in the fund is greater than one million dollars, but less than two million dollars on the first day of July preceding that filing. The commission shall not impose a special assessment if the amount available in the fund exceeds two million

dollars on the first day of July preceding that filing.

(B)(1) Any person who obtains a final judgment in any court of competent jurisdiction against any broker or salesperson licensed under this chapter, on the grounds of conduct that is in violation of this chapter or the rules adopted under it, and that is associated with an act or transaction that only a licensed real estate broker or licensed real estate salesperson is authorized to perform as specified in division (A) or (C) of section 4735.01 of the Revised Code, may file a verified application, as described in division (B)(3) of this section, in ~~any~~ the court of common pleas of Franklin county for an order directing payment out of the real estate recovery fund of the portion of the judgment that remains unpaid and that represents the actual and direct loss sustained by the applicant.

(2) Punitive damages, attorney's fees, and interest on a judgment are not recoverable from the fund. In the discretion of the superintendent of real estate, court costs may be recovered from the fund, and, if the superintendent authorizes the recovery of court costs, the order of the court of common pleas then may direct their payment from the fund.

(3) The application shall specify the nature of the act or transaction upon which the underlying judgment was based, the activities of the applicant in pursuit of remedies available under law for the collection of judgments, and the actual and direct losses, attorney's fees, and the court costs sustained or incurred by the applicant. The applicant shall attach to the application a copy of each pleading and order in the underlying court action.

(4) The court shall order the superintendent to make such payments out of the fund when the person seeking the order has shown all of the following:

(a) The person has obtained a judgment, as provided in this division;

(b) All appeals from the judgment have been exhausted and the person has given notice to the superintendent, as required by division (C) of this section;

(c) The person is not a spouse of the judgment debtor, or the personal representative of such spouse;

(d) The person has diligently pursued the person's remedies against all the judgment debtors and all other persons liable to the person in the transaction for which the person seeks recovery from the fund;

(e) The person is making the person's application not more than one year after termination of all proceedings, including appeals, in connection with the judgment.

(5) Divisions (B)(1) to (4) of this section do not apply to any of the following:

(a) Actions arising from property management accounts maintained in the name of the property owner;

(b) A bonding company when it is not a principal in a real estate transaction;

(c) A person in an action for the payment of a commission or fee for the performance of an act or transaction specified or comprehended in division (A) or (C) of section 4735.01 of the Revised Code;

(d) Losses incurred by investors in real estate if the applicant and the licensee are principals in the investment.

(C) A person who applies to a court of common pleas for an order directing payment out of the fund shall file notice of the application with the superintendent. The superintendent may defend any such action on behalf of the fund and shall have recourse to all appropriate means of defense and review, including examination of witnesses, verification of actual and direct losses, and challenges to the underlying judgment required in division (B)(4)(a) of this section to determine whether the underlying judgment is based on activity only a licensed broker or licensed salesperson is permitted to perform. The superintendent may move the court at any time to dismiss the application when it appears there are no triable issues and the application is without merit. The motion may be supported by affidavit of any person having knowledge of the facts and may be made on the basis that the application, including the judgment referred to in it, does not form the basis for a meritorious recovery claim; provided, that the superintendent shall give written notice to the applicant at least ten days before such motion. The superintendent may, subject to court approval, compromise a claim based upon the application of an aggrieved party. The superintendent shall not be bound by any prior compromise or stipulation of the judgment debtor.

(D) Notwithstanding any other provision of this section, the liability of the fund shall not exceed forty thousand dollars for any one licensee. If a licensee's license is reactivated as provided in division (E) of this section, the liability of the fund for the licensee under this section shall again be forty thousand dollars, but only for transactions that occur subsequent to the time of reactivation.

If the forty-thousand-dollar liability of the fund is insufficient to pay in full the valid claims of all aggrieved persons by whom claims have been filed against any one licensee, the forty thousand dollars shall be distributed among them in the ratio that their respective claims bear to the aggregate of valid claims or in such other manner as the court finds equitable. Distribution of moneys shall be among the persons entitled to share in it, without regard to the order of priority in which their respective judgments

may have been obtained or their claims have been filed. Upon petition of the superintendent, the court may require all claimants and prospective claimants against one licensee to be joined in one action, to the end that the respective rights of all such claimants to the fund may be equitably adjudicated and settled.

(E) If the superintendent pays from the fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensed broker or salesperson, the license of the broker or salesperson shall be automatically suspended upon the date of payment from the fund. The superintendent shall not reactivate the suspended license of that broker or salesperson until the broker or salesperson has repaid in full, plus interest per annum at the rate specified in division (A) of section 1343.03 of the Revised Code, the amount paid from the fund on the broker's or salesperson's account. A discharge in bankruptcy does not relieve a person from the suspension and requirements for reactivation provided in this section unless the underlying judgment has been included in the discharge and has not been reaffirmed by the debtor.

(F) If, at any time, the money deposited in the fund is insufficient to satisfy any duly authorized claim or portion of a claim, the superintendent shall, when sufficient money has been deposited in the fund, satisfy such unpaid claims or portions, in the order that such claims or portions were originally filed, plus accumulated interest per annum at the rate specified in division (A) of section 1343.03 of the Revised Code.

(G) When, upon the order of the court, the superintendent has paid from the fund any sum to the judgment creditor, the superintendent shall be subrogated to all of the rights of the judgment creditor to the extent of the amount so paid, and the judgment creditor shall assign all the judgment creditor's right, title, and interest in the judgment to the superintendent to the extent of the amount so paid. Any amount and interest so recovered by the superintendent on the judgment shall be deposited in the fund.

(H) Nothing contained in this section shall limit the authority of the superintendent to take disciplinary action against any licensee under other provisions of this chapter; nor shall the repayment in full of all obligations to the fund by any licensee nullify or modify the effect of any other disciplinary proceeding brought pursuant to this chapter.

(I) The superintendent shall collect from the fund a service fee in an amount equivalent to the interest rate specified in division (A) of section 1343.03 of the Revised Code multiplied by the annual interest earned on the assets of the fund, to defray the expenses incurred in the administration of the fund.

Sec. 4735.13. (A) The license of a real estate broker shall be prominently displayed in the office or place of business of the broker, and no license shall authorize the licensee to do business except from the location specified in it. If the broker maintains more than one place of business within the state, the broker shall apply for and procure a duplicate license for each branch office maintained by the broker. Each branch office shall be in the charge of a licensed broker or salesperson. The branch office license shall be prominently displayed at the branch office location.

(B) The license of each real estate salesperson shall be mailed to and remain in the possession of the licensed broker with whom the salesperson is or is to be associated until the licensee places the license on inactive, voluntary hold, or resigned status or until the salesperson leaves the brokerage or is terminated. The broker shall keep each salesperson's license in a way that it can, and shall on request, be made immediately available for public inspection at the office or place of business of the broker. Except as provided in divisions (G) and (H) of this section, immediately upon the salesperson's leaving the association or termination of the association of a real estate salesperson with the broker, the broker shall return the salesperson's license to the superintendent of real estate.

The failure of a broker to return the license of a real estate salesperson or broker who leaves or who is terminated, via certified mail return receipt requested, within three business days of the receipt of a written request from the superintendent for the return of the license, is prima-facie evidence of misconduct under division (A)(6) of section 4735.18 of the Revised Code.

(C) Any licensee who is convicted of a felony or a crime involving moral turpitude or of violating any federal, state, or municipal civil rights law pertaining to discrimination in housing, or any court that issues a finding of an unlawful discriminatory practice pertaining to housing accommodations described in division (H) of section 4112.02 of the Revised Code or that convicts a licensee of a violation of any municipal civil rights law pertaining to housing discrimination, shall notify the superintendent of the conviction or finding within fifteen days. If a licensee fails to notify the superintendent within the required time, the superintendent immediately may revoke the license of the licensee.

Any court that convicts a licensee of a violation of any municipal civil rights law pertaining to housing discrimination also shall notify the Ohio civil rights commission within fifteen days of the conviction.

(D) In case of any change of business location, a broker shall give notice in writing to the superintendent, whereupon the superintendent shall issue new licenses for the unexpired period without charge. If a broker

changes a business location without giving the required notice and without receiving new licenses that action is prima-facie evidence of misconduct under division (A)(6) of section 4735.18 of the Revised Code.

(E) If a real estate broker desires to associate with another real estate broker in the capacity of a real estate salesperson, the broker shall apply to the superintendent to deposit the broker's real estate broker's license with the superintendent and for the issuance of a real estate salesperson's license. The application shall be made on a form prescribed by the superintendent and shall be accompanied by the recommendation of the real estate broker with whom the applicant intends to become associated and a fee of twenty-five dollars for the real estate salesperson's license. ~~Four dollars~~ One dollar of the fee shall be credited to the real estate education and research fund. If the superintendent is satisfied that the applicant is honest, truthful, and of good reputation, has not been convicted of a felony or a crime involving moral turpitude, and has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate, and that the association of the real estate broker and the applicant will be in the public interest, the superintendent shall grant the application and issue a real estate salesperson's license to the applicant. Any license so deposited with the superintendent shall be subject to this chapter. A broker who intends to deposit the broker's license with the superintendent, as provided in this section, shall give written notice of this fact in a format prescribed by the superintendent to all salespersons associated with the broker when applying to place the broker's license on deposit.

(F) If a real estate broker desires to become a member or officer of a partnership, association, limited liability company, limited liability partnership, or corporation that is or intends to become a licensed real estate broker, the broker shall notify the superintendent of the broker's intentions. The notice of intention shall be on a form prescribed by the superintendent and shall be accompanied by a fee of twenty-five dollars. ~~Four dollars~~ One dollar of the fee shall be credited to the real estate education and research fund.

No real estate broker who is a member or officer of a partnership, association, limited liability company, limited liability partnership, or corporation that is a licensed real estate broker shall perform any acts as a real estate broker other than as the agent of the partnership, association, limited liability company, limited liability partnership, or corporation, and such broker shall not have any real estate salespersons associated with the broker.

(G) If a real estate broker or salesperson enters the armed forces, the broker or salesperson may place the broker's or salesperson's license on deposit with the Ohio real estate commission. The licensee shall not be required to renew the license until the renewal date that follows the date of discharge from the armed forces. Any license deposited with the commission shall be subject to this chapter. Any licensee whose license is on deposit under this division and who fails to meet the continuing education requirements of section 4735.141 of the Revised Code because the licensee is in the armed forces shall satisfy the commission that the licensee has complied with the continuing education requirements within twelve months of the licensee's discharge. The commission shall notify the licensee of the licensee's obligations under section 4735.141 of the Revised Code at the time the licensee applies for reactivation of the licensee's license.

(H) If a licensed real estate salesperson submits an application to the superintendent to leave the association of one broker to associate with a different broker, the broker possessing the licensee's license need not return the salesperson's license to the superintendent. The superintendent may process the application regardless of whether the licensee's license is returned to the superintendent.

Sec. 4735.15. (A) The fees for reactivation or transfer of a license shall be as follows:

(1) Reactivation or transfer of a broker's license into or out of a partnership, association, limited liability company, limited liability partnership, or corporation or from one partnership, association, limited liability company, limited liability partnership, or corporation to another partnership, association, limited liability company, limited liability partnership, or corporation, twenty-five dollars. An application for such transfer shall be made to the superintendent of real estate on forms provided by the superintendent.

(2) Reactivation or transfer of a license by a real estate salesperson, ~~twenty~~ twenty-five dollars.

(B) Except as may otherwise be specified pursuant to division (F) of this section, the nonrefundable fees for a branch office license, license renewal, late filing, and foreign real estate dealer and salesperson license are as follows per year for each year of a licensing period:

(1) Branch office license, ~~eight~~ fifteen dollars;

(2) Renewal of a real estate broker's license, ~~forty-nine~~ sixty dollars. If the licensee is a partnership, association, limited liability company, limited liability partnership, or corporation, the full broker's renewal fee shall be

required for each member of such partnership, association, limited liability company, limited liability partnership, or corporation that is a real estate broker. If the real estate broker has not less than eleven nor more than twenty real estate salespersons associated with the broker, an additional fee of sixty-four dollars shall be assessed to the brokerage. For every additional ten real estate salespersons or fraction of that number, the brokerage assessment fee shall be increased in the amount of thirty-seven dollars.

(3) Renewal of a real estate salesperson's license, ~~thirty-nine~~ forty-five dollars;

(4) Renewal of a real estate broker's or salesperson's license filed within twelve months after the licensee's renewal date, an additional late filing penalty of fifty per cent of the required fee;

(5) Foreign real estate dealer's license and each renewal of the license, thirty dollars per salesperson employed by the dealer, but not less than one hundred fifty dollars;

(6) Foreign real estate salesperson's license and each renewal of the license, fifty dollars.

(C) All fees collected under this section shall be paid to the treasurer of state. ~~Four dollars~~ One dollar of each such fee shall be credited to the real estate education and research fund, except that for fees that are assessed only once every three years, ~~twelve~~ three dollars of each triennial fee shall be credited to the real estate education and research fund.

(D) In all cases, the fee and any penalty shall accompany the application for the license, license transfer, or license reactivation or shall accompany the filing of the renewal.

(E) The commission may establish by rule reasonable fees for services not otherwise established by this chapter.

(F) The commission may adopt rules that provide for a reduction in the fees established in divisions (B)(2) and (3) of this section.

Sec. 4736.01. As used in this chapter:

(A) "Environmental health science" means the aspect of public health science that includes, but is not limited to, the following bodies of knowledge: air quality, food quality and protection, hazardous and toxic substances, consumer product safety, housing, institutional health and safety, community noise control, radiation protection, recreational facilities, solid and liquid waste management, vector control, drinking water quality, milk sanitation, and rabies control.

(B) "Sanitarian" means a person who performs for compensation educational, investigational, technical, or administrative duties requiring specialized knowledge and skills in the field of environmental health

science.

(C) "Registered sanitarian" means a person who is registered as a sanitarian in accordance with this chapter.

(D) "Sanitarian-in-training" means a person who is registered as a sanitarian-in-training in accordance with this chapter.

(E) "Practice of environmental health" means consultation, instruction, investigation, inspection, or evaluation by an employee of a city health district, a general health district, the environmental protection agency, the department of health, or the department of agriculture requiring specialized knowledge, training, and experience in the field of environmental health science, with the primary purpose of improving or conducting administration or enforcement under any of the following:

(1) Chapter 911., 913., 917., 3717., ~~3718.~~, 3721., 3729., or 3733. of the Revised Code;

(2) Chapter 3734. of the Revised Code as it pertains to solid waste;

(3) Section 955.26, 3701.344, 3707.01, or 3707.03, sections 3707.38 to 3707.99, or section 3715.21 of the Revised Code;

(4) Rules adopted under section 3701.34 of the Revised Code pertaining to home sewage, rabies control, or swimming pools;

~~(5) Rules adopted under section 3701.935 of the Revised Code for school health and safety network inspections and rules adopted under section 3707.26 of the Revised Code for sanitary inspections.~~

"Practice of environmental health" does not include sampling, testing, controlling of vectors, reporting of observations, or other duties that do not require application of specialized knowledge and skills in environmental health science performed under the supervision of a registered sanitarian.

The state board of sanitarian registration may further define environmental health science in relation to specific functions in the practice of environmental health through rules adopted by the board under Chapter 119. of the Revised Code.

Sec. 4740.03. (A) The administrative section of the Ohio construction industry licensing board annually shall elect from among its members a chairperson and other officers as the board, by rule, designates. The chairperson shall preside over meetings of the administrative section or designate another member to preside in the chairperson's absence. The administrative section shall hold at least two regular meetings each year, but may meet at additional times as specified by rule, at the call of the chairperson, or upon the request of two or more members. A majority of the members of the administrative section constitutes a quorum for the transaction of all business. The administrative section may not take any

action without the concurrence of at least three of its members.

(B)(1) The administrative section shall employ a secretary, who is not a member of the board, to serve at the pleasure of the administrative section, and shall fix the compensation of the secretary. The secretary shall be in the unclassified civil service of the state.

(2) The secretary shall do all of the following:

(a) Keep or set standards for and delegate to another person the keeping of the minutes, books, and other records and files of the board and each section of the board;

(b) Issue all licenses in the name of the board;

(c) Send out all notices, including advance notices of meetings of the board and each section of the board, and attend to all correspondence of the board and each section of the board, under the direction of the administrative section;

(d) Receive and deposit all fees payable pursuant to this chapter into the ~~industrial compliance~~ labor operating fund created pursuant to section 121.084 of the Revised Code;

(e) Perform all other duties incidental to the office of the secretary or properly assigned to the secretary by the administrative section of the board.

(3) Before entering upon the discharge of the duties of the secretary, the secretary shall file with the treasurer of state a bond in the sum of five thousand dollars, payable to the state, to ensure the faithful performance of the secretary's duties. The board shall pay the premium of the bond in the same manner as it pays other expenditures of the board.

(C) Upon the request of the administrative section of the board, the director of commerce shall supply the board and its sections with personnel, office space, and supplies, as the director determines appropriate. The administrative section of the board shall employ any additional staff it considers necessary and appropriate.

(D) The chairperson of the board or the secretary, or both, as authorized by the board, shall approve all vouchers of the board.

Sec. 4740.11. The Ohio construction industry licensing board and its sections shall deposit all receipts and fines collected under this chapter into the state treasury to the credit of the ~~industrial compliance~~ labor operating fund created in section 121.084 of the Revised Code.

Sec. 4740.14. (A) There is hereby created within the department of commerce the residential construction advisory committee consisting of nine persons the director of commerce appoints. Of the advisory committee's members, three shall be general contractors who have recognized ability and experience in the construction of residential

buildings, two shall be building officials who have experience administering and enforcing a residential building code, one, chosen from a list of three names the Ohio fire chief's association submits, shall be from the fire service certified as a fire safety inspector who has at least ten years of experience enforcing fire or building codes, one shall be a residential contractor who has recognized ability and experience in the remodeling and construction of residential buildings, one shall be an architect registered pursuant to Chapter 4703. of the Revised Code, with recognized ability and experience in the architecture of residential buildings, and one, chosen from a list of three names the Ohio municipal league submits to the director, shall be a mayor of a municipal corporation in which the Ohio residential building code is being enforced in the municipal corporation by a certified building department.

(B) The director shall make appointments to the advisory committee within ninety days after May 27, 2005.

Terms of office shall be for three years, with each term ending on the date three years after the date of appointment. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. The director shall fill a vacancy in the manner provided for initial appointments. Any member appointed to fill a vacancy in an unexpired term shall hold office for the remainder of that term.

(C) The advisory committee shall do all of the following:

(1) Recommend to the board of building standards a building code for residential buildings. The committee shall recommend a code that it ~~models~~ may model on a residential building code a national model code organization issues, with adaptations necessary to implement the code in this state. If the board of building standards decides not to adopt a code the committee recommends, the committee shall revise the code and resubmit it until the board adopts a code the committee recommends as the state residential building code;

(2) Advise the board regarding the establishment of standards for certification of building officials who enforce the state residential building code;

(3) Assist the board in providing information and guidance to residential contractors and building officials who enforce the state residential building code;

(4) Advise the board regarding the interpretation of the state residential building code;

(5) Provide other assistance the committee considers necessary;

(6) Provide the board with a written report of the committee's findings

for each consideration required by division (D) of this section.

~~(D) In making~~ The committee shall not make its recommendation to the board pursuant to ~~division~~ divisions (C)(1), (2), and (4) of this section; until the advisory committee ~~shall consider~~ has considered all of the following:

(1) The impact that the state residential building code may have upon the health, safety, and welfare of the public;

(2) The economic reasonableness of the residential building code;

(3) The technical feasibility of the residential building code;

(4) The financial impact that the residential building code may have on the public's ability to purchase affordable housing.

(E) The advisory committee may provide the board with any rule the committee recommends to update or amend the state residential building code or any rule that the committee recommends to update or amend the state residential building code after receiving a petition described in division (A)(2) of section 3781.12 of the Revised Code.

~~(E)(F)~~ Members of the advisory committee shall receive no salary for the performance of their duties as members, but shall receive their actual and necessary expenses incurred in the performance of their duties as members of the advisory committee and shall receive a per diem for each day in attendance at an official meeting of the committee, to be paid from the ~~industrial compliance~~ labor operating fund in the state treasury, using fees collected in connection with residential buildings pursuant to division (F)(2) of section 3781.102 of the Revised Code and deposited in that fund.

~~(F)(G)~~ The advisory committee is not subject to divisions (A) and (B) of section 101.84 of the Revised Code.

Sec. 4741.41. There is hereby created the veterinarian loan repayment program. Under the program, the ~~Ohio board of regents~~ state veterinary medical licensing board, by means of a contract entered into under section 4741.44 of the Revised Code, may agree to repay all or part of the principal and interest of a government or other educational loan taken out by a veterinarian for the following expenses if the expenses were incurred while the veterinarian was enrolled, for a maximum of four years, in a veterinary college in the United States that, during the time of enrollment, was approved by the ~~state veterinary medical licensing~~ board or accredited by the American veterinary medical association:

(A) Tuition;

(B) Other educational expenses, such as fees, books, and laboratory expenses, for specific purposes and in amounts determined to be reasonable by the ~~state veterinary medical licensing~~ board;

(C) Room and board, in an amount determined to be reasonable by the

~~state veterinary medical licensing board.~~

No repayment shall exceed twenty thousand dollars in any year. If, however, a repayment results in an increase in the veterinarian's federal, state, or local income tax liability, the ~~Ohio board of regents board~~, at the veterinarian's request ~~and with the approval of the state veterinary medical licensing board~~, may reimburse the veterinarian for the increased tax liability regardless of the amount of the repayment made to the veterinarian in that year.

Sec. 4741.44. (A) A veterinarian who has signed a letter of intent under section 4741.43 of the Revised Code; and the state veterinary medical licensing board, ~~and the Ohio board of regents~~ may enter into a contract for the veterinarian's participation in the veterinarian loan repayment program. A lending institution also may be a party to the contract.

(B) The contract shall include all of the following obligations:

(1) The veterinarian agrees to provide large animal veterinary services or to provide veterinary services necessary to implement or enforce the law or to protect public health, as applicable, in a veterinary resource shortage area identified in the letter of intent for at least two years or one year per ten thousand dollars of repayment agreed to under division (B)(3) of this section, whichever is greater.

(2) When providing veterinary services in the veterinary resource shortage area, the veterinarian agrees to do both of the following:

(a) Provide veterinary services for a minimum of forty hours per week;

(b) Devote not less than sixty per cent of total monthly veterinary services to large animal veterinary services or veterinary services necessary to implement or enforce the law or to protect public health, as applicable.

(3) ~~The Ohio board of regents~~ state veterinary medical licensing board agrees, as provided in section 4741.41 of the Revised Code, to repay, so long as the veterinarian performs the service obligation agreed to under division (B)(1) of this section, all or part of the principal and interest of a government or other educational loan taken by the veterinarian for expenses described in section 4741.41 of the Revised Code.

(4) The veterinarian agrees to pay the ~~Ohio board of regents~~ state veterinary medical licensing board the following as damages if the veterinarian fails to complete the service obligation agreed to under division (B)(1) of this section:

(a) If the failure occurs during the first two years of the service obligation, two times the total amount the board has agreed to pay under division (B)(3) of this section;

(b) If the failure occurs after the first two years of the service obligation,

two times the total amount the board is still obligated to repay under division (B)(3) of this section.

(C) The contract may include any other terms agreed upon by the parties, including an assignment to the ~~Ohio board of regents~~ state veterinary medical licensing board of the veterinarian's duty to pay the principal and interest of a government or other educational loan taken by the veterinarian for expenses described in section 4741.41 of the Revised Code. If the ~~Ohio board of regents~~ state veterinary medical licensing board assumes the veterinarian's duty to pay a loan, the contract shall set forth the total amount of principal and interest to be paid, an amortization schedule, and the amount of each payment to be made under the schedule.

(D) Not later than the thirty-first day of January each year, the ~~Ohio board of regents~~ board shall mail to each veterinarian to whom or on whose behalf repayment is made under section 4741.41 of the Revised Code a statement showing the amount of principal and interest repaid by the ~~Ohio board of regents~~ board in the preceding year pursuant to the contract. The statement shall be sent by ordinary mail with address correction and forwarding requested in the manner prescribed by the United States postal service.

Sec. 4741.45. The state veterinary medical licensing board, in accordance with Chapter 119. of the Revised Code, shall adopt rules that do all of the following:

(A) Define "large animal veterinary services," "veterinary services necessary to implement or enforce the law," and "veterinary services necessary to protect public health";

(B) Designate veterinary resource shortage areas comprised of areas in this state that have limited access to each of the following:

- (1) Large animal veterinary services;
- (2) Veterinary services necessary to implement or enforce the law;
- (3) Veterinary services necessary to protect public health.

The designations may apply to a geographic area, one or more facilities within a particular area, or a population group of animals within a particular area.

(C) Establish priorities among veterinary resource shortage areas for use in recruiting veterinarians under the veterinarian loan repayment program;

(D) Establish priorities for use in determining eligibility among applicants for participation in the veterinarian loan repayment program;

(E) Establish any other requirement or procedure that is necessary to implement and administer sections 4741.40 to 4741.47 of the Revised Code.

In adopting the rules, the board shall consult with the state veterinarian

~~and the Ohio board of regents.~~

Sec. 4741.46. (A) The state veterinary medical licensing board may accept gifts of money from any source for the implementation and administration of sections 4741.40 to 4741.45 of the Revised Code. The board shall deposit all gifts so accepted into the state treasury to the credit of the veterinary resource shortage area fund, which is hereby created. The board shall use the fund for the implementation and administration of sections 4741.40 to 4741.45 of the Revised Code.

(B) ~~The Ohio board of regents~~ board may accept gifts of money from any source for the ~~implementation and administration of sections~~ purposes of providing loans under the veterinarian loan repayment program created in section 4741.41 and 4741.44 of the Revised Code. The board shall deposit all gifts so accepted together with all damages collected under division (B)(4) of section 4741.44 of the Revised Code into the state treasury to the credit of the veterinarian loan repayment fund, which is hereby created. The fund also shall consist of the portion of biennial renewal fees that is credited to the fund under section 4741.17 of the Revised Code. The board shall use the fund for the implementation and administration of the veterinarian loan repayment program ~~created in section 4741.41 of the Revised Code.~~

Sec. 4751.07. (A) Every individual who holds a valid license as a nursing home administrator issued under division (A) of section 4751.06 of the Revised Code, shall immediately upon issuance thereof be registered with the board of examiners of nursing home administrators and be issued a certificate of registration. Such individual shall annually apply to the board for a new certificate of registration on forms provided for such purpose prior to the expiration of the certificate of registration and shall at the same time submit satisfactory evidence to the board of having attended such continuing education programs or courses of study as may be prescribed in rules adopted by the board.

(B) Upon making an application for a new certificate of registration such individual shall pay the annual registration fee of ~~two~~ three hundred ~~fifty~~ dollars.

(C) Upon receipt of such application for registration and the registration fee required by divisions (A) and (B) of this section, the board shall issue a certificate of registration to such nursing home administrator.

(D) The license of a nursing home administrator who fails to comply with this section shall automatically lapse.

(E) A nursing home administrator who has been licensed and registered in this state who determines to temporarily abandon the practice of nursing home administration shall notify the board in writing immediately;

provided, that such individual may thereafter register to resume the practice of nursing home administration within the state upon complying with the requirements of this section regarding annual registration.

(F) Only an individual who has qualified as a licensed and registered nursing home administrator under Chapter 4751. of the Revised Code and the rules adopted thereunder, and who holds a valid current registration certificate pursuant to this section, may use the title "nursing home administrator," or the abbreviation "N.H.A." after the individual's name. No other person shall use such title or such abbreviation or any other words, letters, sign, card, or device tending to indicate or to imply that the person is a licensed and registered nursing home administrator.

(G) Every person holding a valid license entitling the person to practice nursing home administration in this state shall display said license in the nursing home which is the person's principal place of employment, and while engaged in the practice of nursing home administration shall have at hand the current registration certificate.

(H) Every person holding a valid temporary license shall have such license at hand while engaged in the practice of nursing home administration.

Sec. 4755.06. The occupational therapy section of the Ohio occupational therapy, physical therapy, and athletic trainers board may make reasonable rules in accordance with Chapter 119. of the Revised Code relating to, but not limited to, the following:

(A) The form and manner for filing applications for licensure under sections 4755.04 to 4755.13 of the Revised Code;

(B) The issuance, suspension, and revocation of the licenses and the conducting of investigations and hearings;

(C) Standards for approval of courses of study relative to the practice of occupational therapy;

(D) The time and form of examination for the licensure;

(E) Standards of ethical conduct in the practice of occupational therapy;

(F) The form and manner for filing applications for renewal and a schedule of deadlines for renewal;

(G) ~~Late fees and the~~ The conditions under which a license of a licensee who files a late application for renewal will be reinstated;

(H) Placing an existing license in escrow;

(I) The amount, scope, and nature of continuing education activities required for license renewal, including waivers ~~and the establishment of appropriate fees to be charged for the administrative costs associated with the review of~~ the continuing education ~~activities~~ requirements;

(J) ~~Limited permit guidelines~~ Guidelines for limited permits;

(K) Requirements for criminal records checks of applicants under section 4776.03 of the Revised Code;

(L) Subject to section 4755.061 of the Revised Code, the amount for each fee specified in section 4755.12 of the Revised Code that the section charges.

The section may hear testimony in matters relating to the duties imposed upon it, and the chairperson and secretary of the section may administer oaths. The section may require proof, beyond the evidence found in the application, of the honesty, truthfulness, and good reputation of any person named in an application for ~~such~~ licensure, before admitting the applicant to an examination or issuing a license.

Sec. 4755.061. If the occupational therapy section of the Ohio occupational therapy, physical therapy, and athletic trainers board adopts rules pursuant to section 4755.06 of the Revised Code relating to the amounts of the fees that the section may charge for the late renewal of licenses and the review of continuing education activities, as provided in divisions (A)(5) and (A)(6) of section 4755.12 of the Revised Code, the section shall not establish fee amounts for those services that exceed the actual costs the section incurs in providing the services to a licensee.

Sec. 4755.12. (A) The occupational therapy section of the Ohio occupational therapy, physical therapy, and athletic trainers board ~~shall~~ may charge a any or all of the following fees:

(1) ~~A nonrefundable examination fee, established pursuant to section 4755.03 of the Revised Code,~~ which is to be paid at the time of application for licensure-

~~The section shall charge an:~~

(2) An application fee for an initial license;

(3) ~~An initial licensure fee, established pursuant to section 4755.03 of the Revised Code.~~

~~The section shall charge a:~~

(4) A fee for biennial renewal fee and shall charge a of a license;

(5) A fee for late renewal of a license;

(6) A fee for the review of continuing education activities;

(7) ~~A fee for a limited permit, established pursuant to section 4755.03 of the Revised Code;~~

(8) A fee for verification of a license.

(B) Any person who is qualified to practice occupational therapy as certified by the section, but who is not in the active practice, as defined by section rule, may register with the section as a nonactive licensee at a

biennial fee, established pursuant to section 4755.03 of the Revised Code.

(C) The section may, by rule, provide for the waiver of all or part of a fee when the license is issued less than one hundred days before the date on which it will expire.

(D) Except when all or part of a fee is waived under division (C) of this section, the amount charged by the occupational therapy section for each of its fees shall be the applicable amount established in rules adopted under section 4755.06 of the Revised Code.

Sec. 4757.10. The counselor, social worker, and marriage and family therapist board may adopt any rules necessary to carry out this chapter.

The board shall adopt rules that do all of the following:

(A) Concern intervention for and treatment of any impaired person holding a license or certificate of registration issued under this chapter;

(B) Establish standards for training and experience of supervisors described in division (C) of section 4757.30 of the Revised Code;

(C) Define the requirement that an applicant be of good moral character in order to be licensed or registered under this chapter;

(D) Establish requirements for criminal records checks of applicants under section 4776.03 of the Revised Code;

(E) Establish a graduated system of fines based on the scope and severity of violations and the history of compliance, not to exceed five hundred dollars per incident, that any professional standards committee of the board may charge for a disciplinary violation described in section 4757.36 of the Revised Code.

All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code. When it adopts rules under this section or any other section of this chapter, the board may consider standards established by any national association or other organization representing the interests of those involved in professional counseling, social work, or marriage and family therapy.

Sec. 4757.31. (A) Subject to division (B) of this section, the counselor, social worker, and marriage and family therapist board shall establish, and may from time to time adjust, fees to be charged for the following:

(1) Examination for licensure as a professional clinical counselor, professional counselor, marriage and family therapist, independent marriage and family therapist, social worker, or independent social worker;

(2) Initial licenses of professional clinical counselors, professional counselors, marriage and family therapists, independent marriage and family therapists, social workers, and independent social workers, except that the board shall charge only one fee to a person who fulfills all requirements for

more than one of the following initial licenses: an initial license as a social worker or independent social worker, an initial license as a professional counselor or professional clinical counselor, and an initial license as a marriage and family therapist or independent marriage and family therapist;

(3) Initial certificates of registration of social work assistants;

(4) Renewal and late renewal of licenses of professional clinical counselors, professional counselors, marriage and family therapists, independent marriage and family therapists, social workers, and independent social workers and renewal and late renewal of certificates of registration of social work assistants;

(5) Verification, to another jurisdiction, of a license or registration issued by the board;

(6) Continuing education programs offered by the board to licensees or registrants.

(B) The fees charged under division (A)(1) of this section shall be established in amounts sufficient to cover the direct expenses incurred in examining applicants for licensure. The fees charged under divisions (A)(2); ~~(3), and (4)~~ to (6) of this section shall be nonrefundable and shall be established in amounts sufficient to cover the necessary expenses in administering this chapter and rules adopted under it that are not covered by fees charged under division (A)(1) or (C) of this section. The renewal fee for a license or certificate of registration shall not be less than the initial fee for that license or certificate. The fees charged for licensure and registration and the renewal of licensure and registration may differ for the various types of licensure and registration, but shall not exceed one hundred twenty-five dollars each, unless the board determines that amounts in excess of one hundred twenty-five dollars are needed to cover its necessary expenses in administering this chapter and rules adopted under it and the amounts in excess of one hundred twenty-five dollars are approved by the controlling board.

(C) All receipts of the board shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund. All vouchers of the board shall be approved by the chairperson or executive director of the board, or both, as authorized by the board.

Sec. 4757.36. (A) The appropriate professional standards ~~committees~~ committee of the counselor, social worker, and marriage and family therapist board may, in accordance with Chapter 119. of the Revised Code, ~~may refuse to issue a license or certificate of registration applied for under this chapter; refuse to renew a license or certificate of registration issued under this chapter; suspend, revoke, or otherwise restrict a license or~~

~~certificate of registration issued under this chapter; or reprimand a person holding a license or certificate of registration issued under this chapter. Such actions may be taken by the appropriate committee if the applicant for a license or certificate of registration or the person holding a license or certificate of registration has~~ take any action specified in division (B) of this section against an individual who has applied for or holds a license to practice as a professional clinical counselor, professional counselor, independent marriage and family therapist, marriage and family therapist, social worker, or independent social worker, or a certificate of registration to practice as a social work assistant, for any reason described in division (C) of this section.

(B) In its imposition of sanctions against an individual, the board may do any of the following:

(1) Refuse to issue or refuse to renew a license or certificate of registration;

(2) Suspend, revoke, or otherwise restrict a license or certificate of registration;

(3) Reprimand an individual holding a license or certificate of registration;

(4) Impose a fine in accordance with the graduated system of fines established by the board in rules adopted under section 4757.10 of the Revised Code.

(C) The appropriate professional standards committee of the board may take an action specified in division (B) of this section for any of the following reasons:

~~(1) Committed a violation of~~ Commission of an act that violates any provision of this chapter or rules adopted under it;

(2) Knowingly ~~made~~ making a false statement on an application for licensure or registration, or for renewal of a license or certificate of registration;

(3) ~~Accepted~~ Accepting a commission or rebate for referring persons to any professionals licensed, certified, or registered by any court or board, commission, department, division, or other agency of the state, including, but not limited to, individuals practicing counseling, social work, or marriage and family therapy or practicing in fields related to counseling, social work, or marriage and family therapy;

(4) ~~Failed~~ A failure to comply with section 4757.12 of the Revised Code;

(5) ~~Been convicted~~ A conviction in this or any other state of ~~any~~ a crime that is a felony in this state;

(6) ~~Had the ability~~ A failure to perform properly as a professional clinical counselor, professional counselor, independent marriage and family therapist, marriage and family therapist, social work assistant, social worker, or independent social worker ~~impaired~~ due to the use of alcohol or other drugs or any other physical or mental condition;

(7) ~~Been convicted~~ A conviction in this state or in any other state of a misdemeanor committed in the course of practice as a professional clinical counselor, professional counselor, independent marriage and family therapist, marriage and family therapist, social work assistant, social worker, or independent social worker;

(8) ~~Practiced~~ Practicing outside the scope of practice applicable to that person;

(9) ~~Practiced without complying with~~ Practicing in violation of the supervision requirements specified under sections 4757.21 and 4757.26, and division ~~(F)~~(E) of section 4757.30, of the Revised Code;

(10) ~~Violated~~ A violation of the person's code of ethical practice adopted by rule of the board pursuant to section 4757.11 of the Revised Code;

(11) ~~Had~~ Revocation or suspension of a license or certificate of registration ~~revoked or suspended, or voluntarily surrendered~~ the voluntary surrender of a license or certificate of registration in another state or jurisdiction for an offense that would be a violation of this chapter.

~~(B)~~(D) One year or more after the date of suspension or revocation of a license or certificate of registration under this section, application may be made to the appropriate professional standards committee for reinstatement. The committee may accept or refuse an application for reinstatement. If a license has been suspended or revoked, the committee may require an examination for reinstatement.

(E) On request of the board, the attorney general shall bring and prosecute to judgment a civil action to collect any fine imposed under division (B)(4) of this section that remains unpaid.

(F) All fines collected under division (B)(4) of this section shall be deposited into the state treasury to the credit of the occupational licensing and regulatory fund.

Sec. 4763.01. As used in this chapter:

(A) "Real estate appraisal" or "appraisal" means an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of identified real estate that is classified as either a valuation or an analysis.

(B) "Valuation" means an estimate of the value of real estate.

(C) "Analysis" means a study of real estate for purposes other than valuation.

(D) "Appraisal report" means a written communication of a real estate appraisal, appraisal review, or appraisal consulting service or an oral communication of a real estate appraisal ~~accompanied, appraisal review, or appraisal consulting service that is documented~~ by a writing that supports the oral communication.

(E) "Appraisal assignment" means an engagement for which a person licensed or certified under this chapter is employed ~~or~~, retained, or engaged to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased real estate appraisal.

(F) "Specialized services" means all appraisal services, other than appraisal assignments, including, but not limited to, valuation and analysis given in connection with activities such as real estate brokerage, mortgage banking, real estate counseling, and real estate tax counseling, and specialized marketing, financing, and feasibility studies.

(G) "Real estate" has the same meaning as in section 4735.01 of the Revised Code.

(H) "Appraisal foundation" means a nonprofit corporation incorporated under the laws of the state of Illinois on November 30, 1987, for the purposes of establishing and improving uniform appraisal standards by defining, issuing, and promoting those standards; establishing appropriate criteria for the certification and recertification of qualified appraisers by defining, issuing, and promoting the qualification criteria and disseminating the qualification criteria to others; and developing or assisting in development of appropriate examinations for qualified appraisers.

(I) "Prepare" means to develop and communicate, whether through a personal physical inspection or through the act or process of critically studying a report prepared by another who made the physical inspection, an appraisal, analysis, or opinion, or specialized service and to report the results. If the person who develops and communicates the appraisal or specialized service does not make the personal inspection, the name of the person who does make the personal inspection shall be identified on the appraisal or specialized service reported.

(J) "Report" means any communication, written, oral, or by any other means of transmission of information, of a real estate appraisal, appraisal review, appraisal consulting service, or specialized service that is transmitted to a client or employer upon completion of the appraisal or service.

(K) "State-certified general real estate appraiser" means any person who

satisfies the certification requirements of this chapter relating to the appraisal of all types of real property and who holds a current and valid certificate or renewal certificate issued to the person pursuant to this chapter.

(L) "State-certified residential real estate appraiser" means any person who satisfies the certification requirements only relating to the appraisal of one to four units of single-family residential real estate without regard to transaction value or complexity and who holds a current and valid certificate or renewal certificate issued to the person pursuant to this chapter.

(M) "State-licensed residential real estate appraiser" means any person who satisfies the licensure requirements of this chapter relating to the appraisal of noncomplex one-to-four unit single-family residential real estate having a transaction value of less than one million dollars and complex one-to-four unit single-family residential real estate having a transaction value of less than two hundred fifty thousand dollars and who holds a current and valid license or renewal license issued to the person pursuant to this chapter.

(N) "Certified or licensed real estate appraisal" means an appraisal prepared and reported by a certificate holder or licensee under this chapter acting within the scope of certification or licensure and as a disinterested third party.

(O) "State-registered real estate appraiser assistant" means any person, other than a state-certified general real estate appraiser, state-certified residential real estate appraiser, or a state-licensed residential real estate appraiser, who satisfies the registration requirements of this chapter for participating in the development and preparation of real estate appraisals and who holds a current and valid registration or renewal registration issued to the person pursuant to this chapter.

(P) "Institution of higher education" means a state university or college, a private college or university located in this state that possesses a certificate of authorization issued by the Ohio board of regents pursuant to Chapter 1713. of the Revised Code, or an accredited college or university located outside this state that is accredited by an accrediting organization or professional accrediting association recognized by the Ohio board of regents.

(Q) "Division of real estate" may be used interchangeably with, and for all purposes has the same meaning as, "division of real estate and professional licensing."

(R) "Superintendent" or "superintendent of real estate" means the superintendent of the division of real estate and professional licensing of this

state. Whenever the division or superintendent of real estate is referred to or designated in any statute, rule, contract, or other document, the reference or designation shall be deemed to refer to the division or superintendent of real estate and professional licensing, as the case may be.

(S) "Appraisal review" means the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal, appraisal review, or appraisal consulting assignment.

(T) "Appraisal consulting" means the act or process of developing an analysis, recommendation, or opinion to solve a problem related to real estate.

(U) "Work file" means documentation used during the preparation of an appraisal report or necessary to support an appraiser's analyses, opinions, or conclusions.

Sec. 4763.03. (A) In addition to any other duties imposed on the real estate appraiser board under this chapter, the board shall:

(1) Adopt rules, in accordance with Chapter 119. of the Revised Code, in furtherance of this chapter, including, but not limited to, all of the following:

(a) Defining, with respect to state-certified general real estate appraisers, state-certified residential real estate appraisers, and state-licensed residential real estate appraisers, the type of educational experience, appraisal experience, and other equivalent experience that satisfy the requirements of this chapter. The rules shall require that all appraisal experience performed after January 1, 1996, meet the uniform standards of professional practice established by the appraisal foundation.

(b) Establishing the examination specifications for state-certified general real estate appraisers, state-certified residential real estate appraisers, and state-licensed residential real estate appraisers;

(c) Relating to disciplinary proceedings conducted in accordance with section 4763.11 of the Revised Code, including rules governing the reinstatement of certificates, registrations, and licenses that have been suspended pursuant to those proceedings;

(d) Identifying any additional information to be included on the forms specified in division (C) of section 4763.12 of the Revised Code, provided that the rules shall not require any less information than is required in that division;

(e) Establishing the fees set forth in section 4763.09 of the Revised Code;

(f) Establishing the amount of the assessment required by division

(A)(2) of section 4763.05 of the Revised Code. The board annually shall determine the amount due from each applicant for an initial certificate, registration, and license in an amount that will maintain the real estate appraiser recovery fund at the level specified in division (A) of section 4763.16 of the Revised Code. The board may, if the fund falls below that amount, require current certificate holders, registrants, and licensees to pay an additional assessment.

(g) Defining the educational requirements pursuant to division (C) of section 4763.05 of the Revised Code;

(h) Establishing a real estate appraiser assistant program for the registration of real estate appraiser assistants.

(2) Prescribe by rule the requirements for the examinations required by division (D) of section 4763.05 of the Revised Code;

(3) Periodically review the standards for ~~preparation and reporting of real estate appraisals~~ the development and reporting of appraisal reports provided in this chapter and adopt rules explaining and interpreting those standards;

(4) Hear appeals, pursuant to Chapter 119. of the Revised Code, from decisions and orders the superintendent of real estate issues pursuant to this chapter;

(5) Request the initiation by the superintendent of investigations of violations of this chapter or the rules adopted pursuant thereto, as the board determines appropriate;

(6) Determine the appropriate disciplinary actions to be taken against certificate holders, registrants, and licensees under this chapter as provided in section 4763.11 of the Revised Code.

(B) In addition to any other duties imposed on the superintendent of real estate under this chapter, the superintendent shall:

(1) Prescribe the form and content of all applications required by this chapter;

(2) Receive applications for certifications, registrations, and licenses and renewal thereof under this chapter and establish the procedures for processing, approving, and disapproving those applications;

(3) Retain records and all application materials submitted to the superintendent;

(4) Establish the time and place for conducting the examinations required by division (D) of section 4763.05 of the Revised Code;

(5) Issue certificates, registrations, and licenses and maintain a register of the names and addresses of all persons issued a certificate, registration, or license under this chapter;

(6) Perform any other functions and duties, including the employment of staff, necessary to administer this chapter;

(7) Administer this chapter;

(8) Issue all orders necessary to implement this chapter;

(9) Investigate complaints, upon the superintendent's own motion or upon receipt of a complaint or upon a request of the board, concerning any violation of this chapter or the rules adopted pursuant thereto or the conduct of any person holding a certificate, registration, or license issued pursuant to this chapter;

(10) Establish and maintain an investigation and audit section to investigate complaints and conduct inspections, audits, and other inquiries as in the judgment of the superintendent are appropriate to enforce this chapter. The investigators and auditors have the right to review and audit the business records of certificate holders, registrants, and licensees during normal business hours. The superintendent may utilize the investigators and auditors employed pursuant to division (B)(4) of section 4735.05 of the Revised Code or currently licensed certificate holders or licensees to assist in performing the duties of this division.

(11) Appoint a referee or examiner for any proceeding involving the ~~revocation or suspension of a certificate, registration, or license under section 3123.47 or~~ disciplinary action of a certificate holder, licensee, or registrant under section 4763.11 of the Revised Code;

(12) Administer the real estate appraiser recovery fund;

(13) Conduct the examinations required by division (D) of section 4763.05 of the Revised Code at least four times per year.

(C) The superintendent may do all of the following:

(1) In connection with investigations and audits under division (B) of this section, subpoena witnesses as provided in section 4763.04 of the Revised Code;

(2) Apply to the appropriate court to enjoin any violation of this chapter. Upon a showing by the superintendent that any person has violated or is about to violate this chapter, the court shall grant an injunction, restraining order, or other appropriate relief, or any combination thereof.

(D) All information that is obtained by investigators and auditors performing investigations or conducting inspections, audits, and other inquiries pursuant to division (B)(10) of this section, from certificate holders, registrants, licensees, complainants, or other persons, and all reports, documents, and other work products that arise from that information and that are prepared by the investigators, auditors, or other personnel of the department of commerce, shall be held in confidence by the superintendent,

the investigators and auditors, and other personnel of the department.

(E) This section does not prevent the division of real estate and professional licensing from releasing information relating to certificate holders, registrants, and licensees to the superintendent of financial institutions for purposes relating to the administration of sections 1322.01 to 1322.12 of the Revised Code, to the superintendent of insurance for purposes relating to the administration of Chapter 3953. of the Revised Code, to the attorney general, or to local law enforcement agencies and local prosecutors. Information released by the division pursuant to this section remains confidential.

(F) Any rule the board adopts shall not exceed the requirements specified in federal law or regulations.

Sec. 4763.04. The real estate appraiser board or the superintendent ~~or~~ of real estate may compel, by order or subpoena, the attendance of witnesses to testify in relation to any matter over which the board or the superintendent has jurisdiction and which is the subject of the inquiry and investigation by the board or superintendent, and require the production of any book, paper, or document pertaining to such matter. For such purpose, the board or the superintendent has the same power as judges of county courts to administer oaths, compel the attendance of witnesses, and punish witnesses for refusal to testify. Sheriffs and service of the subpoena may be made by constables or by certified mail, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refuses to accept delivery. Sheriffs or constables shall serve and return such process and shall receive the same fees for doing so as are allowed for like service if service of the subpoena is made by sheriffs or constables. Witnesses shall receive, after their appearance before the board or the superintendent, the fees and mileage provided for under section 119.094 of the Revised Code. If two or more witnesses travel together in the same vehicle, the mileage fee shall be paid to only one of those witnesses, but the witnesses may agree to divide the fee among themselves in any manner.

In addition to the powers and duties granted to the board and the superintendent under this section, in case any person fails to file any statement or report, obey any subpoena, give testimony, answer questions, or produce books, records, or papers as required by the board or the superintendent under this chapter, the court of common pleas of any county in the state, upon application made to it by the board or the superintendent setting forth the failure, may make an order awarding process of subpoena or subpoena duces tecum for the person to appear and testify before the board or the superintendent, and may order any person to give testimony and

answer questions, and to produce books, records, or papers, as required by the board or the superintendent. Upon the filing of such order in the office of the clerk of the court of common pleas, the clerk, under the seal of the court, shall issue process or subpoena, and each day thereafter until the examination of the person is completed. The subpoena may contain a direction that the witness bring with the witness to the examination any books, records, or papers mentioned in the subpoena. The clerk also shall issue, under the seal of the court, such other orders, in reference to the examination, appearance, and production of books, records, or papers, as the court directs. If any person summoned by subpoena fails to obey the subpoena, to give testimony, to answer questions as required, or to obey an order of the court, the court, on motion supported by proof, may order an attachment for contempt to be issued against the person charged with disobedience of any order or injunction issued by the court under this chapter. If the person is brought before the court by virtue of the attachment, and if upon a hearing the disobedience appears, the court may order the offender to be committed and kept in close custody.

Sec. 4763.05. (A)(1)(a) A person shall make application for an initial state-certified general real estate appraiser certificate, an initial state-certified residential real estate appraiser certificate, an initial state-licensed residential real estate appraiser license, or an initial state-registered real estate appraiser assistant registration in writing to the superintendent of real estate on a form the superintendent prescribes. The application shall include the address of the applicant's principal place of business and all other addresses at which the applicant currently engages in the business of preparing real estate appraisals and the address of the applicant's current residence. The superintendent shall retain the applicant's current residence address in a separate record which shall not constitute a public record for purposes of section 149.03 of the Revised Code. The application shall indicate whether the applicant seeks certification as a general real estate appraiser or as a residential real estate appraiser, licensure as a residential real estate appraiser, or registration as a real estate appraiser assistant and be accompanied by the prescribed examination and certification, registration, or licensure fees set forth in section 4763.09 of the Revised Code. The application also shall include ~~a fingerprint of the applicant;~~ a pledge, signed by the applicant, that the applicant will comply with the standards set forth in this chapter; and a statement that the applicant understands the types of misconduct for which disciplinary proceedings may be initiated against the applicant pursuant to this chapter.

(b) Upon the filing of an application and payment of any examination

and certification, registration, or licensure fees, the superintendent of real estate shall request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the applicant's fingerprints in accordance with division (A)(11) of section 109.572 of the Revised Code. Notwithstanding division (K) of section 121.08 of the Revised Code, the superintendent of real estate shall request that criminal record information from the federal bureau of investigation be obtained as part of the criminal records check. Any fee required under division (C)(3) of section 109.572 of the Revised Code shall be paid by the applicant.

(2) For purposes of providing funding for the real estate appraiser recovery fund established by section 4763.16 of the Revised Code, the real estate appraiser board shall levy an assessment against each person issued an initial certificate, registration, or license and against current licensees, registrants, and certificate holders, as required by board rule. The assessment is in addition to the application and examination fees for initial applicants required by division (A)(1) of this section and the renewal fees required for current certificate holders, registrants, and licensees. The superintendent of real estate shall deposit the assessment into the state treasury to the credit of the real estate appraiser recovery fund. The assessment for initial certificate holders, registrants, and licensees shall be paid prior to the issuance of a certificate, registration, or license, and for current certificate holders, registrants, and licensees, at the time of renewal.

(B) An applicant for an initial general real estate appraiser certificate, residential real estate appraiser certificate, or residential real estate appraiser license shall possess experience in real estate appraisal as the board prescribes by rule. In addition to any other information required by the board, the applicant shall furnish, under oath, a detailed listing of the appraisal reports or file memoranda for each year for which experience is claimed and, upon request of the superintendent or the board, shall make available for examination a sample of the appraisal reports prepared by the applicant in the course of the applicant's practice.

(C) An applicant for an initial certificate, registration, or license shall be at least eighteen years of age, honest, truthful, and of good reputation and shall present satisfactory evidence to the superintendent that the applicant has successfully completed any education requirements the board prescribes by rule.

(D) An applicant for an initial general real estate appraiser or residential real estate appraiser certificate or residential real estate appraiser license shall take and successfully complete a written examination in order to

qualify for the certificate or license.

The board shall prescribe the examination requirements by rule.

(E)(1) A nonresident, natural person of this state who has complied with this section may obtain a certificate, registration, or license. The board shall adopt rules relating to the certification, registration, and licensure of a nonresident applicant whose state of residence the board determines to have certification, registration, or licensure requirements that are substantially similar to those set forth in this chapter and the rules adopted thereunder.

(2) The board shall recognize on a temporary basis a certification or license issued in another state and shall register on a temporary basis an appraiser who is certified or licensed in another state if all of the following apply:

(a) The temporary registration is to perform an appraisal assignment that is part of a federally related transaction.

(b) The appraiser's business in this state is of a temporary nature.

(c) The appraiser registers with the board pursuant to this division.

An appraiser who is certified or licensed in another state shall register with the board for temporary practice before performing an appraisal assignment in this state in connection with a federally related transaction.

The board shall adopt rules relating to registration for the temporary recognition of certification and licensure of appraisers from another state. The registration for temporary recognition of certified or licensed appraisers from another state shall not authorize completion of more than one appraisal assignment in this state. The board shall not issue more than two registrations for temporary practice to any one applicant in any calendar year.

(3) In addition to any other information required to be submitted with the nonresident applicant's or appraiser's application for a certificate, registration, license, or temporary recognition of a certificate or license, each nonresident applicant or appraiser shall submit a statement consenting to the service of process upon the nonresident applicant or appraiser by means of delivering that process to the secretary of state if, in an action against the applicant, certificate holder, registrant, or licensee arising from the applicant's, certificate holder's, registrant's, or licensee's activities as a certificate holder, registrant, or licensee, the plaintiff, in the exercise of due diligence, cannot effect personal service upon the applicant, certificate holder, registrant, or licensee.

(F) The superintendent shall not issue a certificate, registration, or license to, or recognize on a temporary basis an appraiser from another state that is a corporation, partnership, or association. This prohibition shall not

be construed to prevent a certificate holder or licensee from signing an appraisal report on behalf of a corporation, partnership, or association.

(G) Every person licensed, registered, or certified under this chapter shall notify the superintendent, on a form provided by the superintendent, of a change in the address of the licensee's, registrant's, or certificate holder's principal place of business or residence within thirty days of the change. If a licensee's, registrant's, or certificate holder's license, registration, or certificate is revoked or not renewed, the licensee, registrant, or certificate holder immediately shall return the annual and any renewal certificate, registration, or license to the superintendent.

(H)(1) The superintendent shall not issue a certificate, registration, or license to any person, or recognize on a temporary basis an appraiser from another state, who does not meet applicable minimum criteria for state certification, registration, or licensure prescribed by federal law or rule.

(2) The superintendent shall not issue a general real estate appraiser certificate, residential real estate appraiser certificate, residential real estate appraiser license, or real estate appraiser assistant registration to any person who has been convicted of or pleaded guilty to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities, including a violation of an existing or former law of this state, any other state, or the United States that substantially is equivalent to such an offense. However, if the applicant has pleaded guilty to or been convicted of such an offense, the superintendent shall not consider the offense if the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant will commit such an offense again.

Sec. 4763.06. (A) A person licensed, registered, or certified under this chapter may obtain a renewal certificate, registration, or license by filing a renewal application with and paying the renewal fee set forth in section 4763.09 of the Revised Code and any amount assessed pursuant to division (A)(2) of section 4763.05 of the Revised Code to the superintendent of real estate. The renewal application shall include a statement, signed by the certificate holder, registrant, or licensee, that the certificate holder, registrant, or licensee has not, during the immediately preceding twelve-month period, been convicted of or pleaded guilty to any criminal offense described in division (H)(2) of section 4763.05 of the Revised Code. The certificate holder, registrant, or licensee shall file the renewal

application at least thirty days, but no earlier than one hundred twenty days, prior to expiration of the certificate holder's, registrant's, or licensee's current certificate, registration, or license.

(B) A certificate holder, registrant, or licensee who fails to renew a certificate, registration, or license prior to its expiration is ineligible to obtain a renewal certificate, registration, or license and shall comply with section 4763.05 of the Revised Code in order to regain certification, registration, or licensure, except that a certificate holder, registrant, or licensee may, ~~within three months after the expiration of the certificate holder's, registrant's, or licensee's certificate, registration, or license,~~ renew the certificate, registration, or license without having to comply with section 4763.05 of the Revised Code by payment doing either of the following:

(1) Filing a renewal application and submitting payment of all fees for renewal and payment of the late filing fee set forth in section 4763.09 of the Revised Code within three months after the expiration of the certificate holder's, registrant's, or licensee's certificate, registration, or license;

(2) Obtaining a medical exception under division (C) of this section, filing a renewal application, and submitting payment of all fees for renewal and payment of the late filing fee set forth in section 4763.09 of the Revised Code. A certificate holder, registrant, or licensee who applies for late renewal of the certificate holder's, registrant's, or licensee's certificate, registration, or license may not engage in ~~at~~ any activities permitted by the certification, registration, or license being renewed ~~for~~ during the three-month period following the certificate's, registration's, or license's normal expiration date, or during the time period for which a medical exception applies, until all renewal fees and the late filing fee have been paid.

(C) The superintendent may grant a medical exception upon application by a person certified, registered, or licensed under this chapter. To receive an exception, the certificate holder, registrant, or licensee shall submit a request to the superintendent with proof satisfactory that a medical exception is warranted. If the superintendent makes a determination that satisfactory proof has not been presented, within fifteen days of the date of the denial of the medical exception the certificate holder, registrant, or licensee may file with the division of real estate a request that the real estate appraiser board review the determination. The board may adopt reasonable rules in accordance with Chapter 119. of the Revised Code to implement this division.

Sec. 4763.07. (A) Every state-certified general real estate appraiser, state-certified residential real estate appraiser; and state-licensed residential

~~real estate appraiser, and state-registered real estate appraiser assistant shall submit proof of successfully completing a minimum of fourteen classroom hours of continuing education instruction in courses or seminars approved by the real estate appraiser board. The certificate holder and licensee shall have satisfied the fourteen-hour continuing education requirements within the one-year period immediately following the issuance of the initial certificate or license and shall satisfy those requirements annually thereafter. A state-registered real estate appraiser assistant who remains in this classification for more than two years shall satisfy in the third and successive years this section's requirements. If the A certificate holder or, licensee, or registrant who fails to submit proof to the superintendent of meeting these requirements, the certificate holder's, registrant's, or licensee's certificate or license automatically is suspended. The superintendent shall notify the certificate holder or licensee of the suspension and if the certificate holder or licensee fails to submit proof to the superintendent of meeting those requirements within three months from the date of suspension, the superintendent shall revoke the certificate or license. If a certificate holder or licensee whose certificate or license has been revoked under this division desires to be certified or licensed under this chapter the certificate holder or licensee shall apply for an initial certificate or license and shall meet all of the requirements of section 4763.05 of the Revised Code for the issuance of a certificate or license is ineligible to obtain a renewal certificate, license, or registration and shall comply with section 4763.05 of the Revised Code in order to regain a certificate, license, or registration, except that the certificate holder, licensee, or registrant may submit proof to the superintendent of meeting these requirements within three months after the date of expiration of the certificate, license, or registration, or by obtaining a medical exception under division (E) of this section, without having to comply with section 4763.05 of the Revised Code. A certificate holder, licensee, or registrant may not engage in any activities permitted by the certificate, license, or registration during the three-month period following the certificate's, license's, or registration's normal expiration date or during the time period for which a medical exception applies.~~

A certificate holder ~~and~~, licensee, or registrant may satisfy all or a portion of the required hours of classroom instruction in the following manner:

(1) Completion of an educational program of study determined by the board to be equivalent, for continuing education purposes, to courses or seminars approved by the board;

(2) Participation, other than as a student, in educational processes or programs approved by the board that relate to real estate appraisal theory, practices, or techniques.

A certificate holder ~~and a~~ licensee, or registrant shall present to the superintendent of real estate evidence of the manner in which the certificate holder ~~and~~ licensee, or registrant satisfied the requirements of division (A) of this section.

(B) The board shall adopt rules for implementing a continuing education program for state-certified general real estate appraisers, state-certified residential real estate appraisers, state-licensed residential real estate appraisers, and state-registered real estate appraiser assistants for the purpose of assuring that certificate holders ~~and~~ licensees, and registrants have current knowledge of real estate appraisal theories, practices, and techniques that will provide a high degree of service and protection to members of the public. In addition to any other provisions the board considers appropriate, the rules adopted by the board shall prescribe the following:

(1) Policies and procedures for obtaining board approval of courses of instruction and seminars;

(2) Standards, policies, and procedures to be applied in evaluating the alternative methods of complying with continuing education requirements set forth in divisions (A)(1) and (2) of this section;

(3) Standards, monitoring methods, and systems for recording attendance to be employed by course sponsors as a prerequisite to approval of courses for continuing education credit.

(C) No amendment or rescission of a rule the board adopts pursuant to division (B) of this section shall operate to deprive a certificate holder or licensee of credit toward renewal of certification or licensure for any course of instruction completed by the certificate holder or licensee prior to the effective date of the amendment or rescission that would have qualified for credit under the rule as it existed prior to amendment or rescission.

(D) The superintendent of real estate shall not issue a renewal certificate, registration, or license to any person who does not meet applicable minimum criteria for state certification, registration, or licensure prescribed by federal law or rule.

(E) The superintendent may grant a medical exception upon application by a person certified, registered, or licensed under this chapter. To receive an exception, the certificate holder, registrant, or licensee shall submit a request to the superintendent with proof satisfactory that a medical exception is warranted. If the superintendent makes a determination that

satisfactory proof has not been presented, within fifteen days of the date of the denial of the medical exception, the certificate holder, registrant, or licensee may file with the division of real estate a request that the real estate appraiser board review the determination. The board may adopt reasonable rules in accordance with Chapter 119. of the Revised Code to implement this division.

Sec. 4763.09. (A) The real estate appraiser board shall adopt rules, in accordance with Chapter 119. of the Revised Code, for the establishment of the following fees:

(1) The examination fee required under division (A) of section 4763.05 of the Revised Code, up to a maximum of one hundred fifty dollars, which fee shall be nonrefundable;

(2) The initial state-certified general real estate appraiser and state-certified residential real estate appraiser certification and state-licensed residential real estate appraiser license fees, and the annual renewal thereof, up to a maximum of one hundred ~~twenty-five~~ seventy-five dollars each;

(3) The initial real estate appraiser assistant registration fee, and the annual renewal thereof, up to a maximum of ~~fifty~~ one hundred dollars;

(4) The late filing fee for renewal of a certification, registration, or license, which shall be one-half of the certification, registration, and licensure fees established pursuant to divisions (A)(2) and (3) of this section;

(5) The amount to be charged to cover the cost of the issuance of a temporary certificate or license under division (E)(2) of section 4763.05 of the Revised Code;

(6) Other reasonable fees as needed, including any annual pass-through charges imposed by the federal government.

(B) An applicant for certification or licensure under this chapter shall pay the examination fee directly to a testing service if so prescribed and in such amount as the superintendent of real estate prescribes. The balance, if any, of the examination fee shall accompany the application.

Sec. 4763.11. (A) Within ~~five~~ ten business days after a person files a ~~signed~~ written complaint against a person certified, registered, or licensed under this chapter with the division of real estate, the superintendent of real estate shall acknowledge receipt of the complaint ~~or request and send a by sending~~ notice to the certificate holder, registrant, or licensee ~~describing the acts of which there is a~~ that includes a copy of the complaint. The acknowledgement to the complainant and the notice to the certificate holder, registrant, or licensee ~~shall~~ may state that an informal mediation meeting will be held with the complainant, the certificate holder, registrant, or

licensee, and an investigator from the investigation and audit section of the division, if the complainant and certificate holder, registrant, or licensee both file a request for such a meeting within ~~ten business~~ twenty calendar days thereafter on a form the superintendent provides after the acknowledgment and notice are mailed.

(B) If the complainant and certificate holder, registrant, or licensee both file with the division requests for an informal mediation meeting, the superintendent shall notify the complainant and certificate holder, registrant, or licensee of the date of the meeting, ~~which shall be within twenty business days thereafter, except that the complainant, certificate holder, registrant, or licensee may request an extension of up to fifteen business days for good cause shown by regular mail.~~ If the complainant and certificate holder, registrant, or licensee reach an accommodation at an informal mediation meeting, the investigator shall ~~so~~ report the accommodation to the superintendent ~~and to~~ the complainant, and the certificate holder, registrant, or licensee and the complaint file shall be closed, ~~unless, based upon the investigator's report, the superintendent finds evidence that the certificate holder, registrant, or licensee has violated division (G) of this section upon the superintendent receiving satisfactory notice that the accommodation has been fulfilled.~~

(C) If the complainant and certificate holder, registrant, or licensee fail to agree to an informal mediation meeting or fail to reach an accommodation, ~~or if the superintendent finds evidence of a violation of division (G) of this section pursuant to an investigation conducted pursuant to division (B)(9) of section 4763.03 of the Revised Code agreement, or fail to fulfill an accommodation agreement,~~ the superintendent shall, ~~within five business days of such determination, notify the complainant and certificate holder, registrant, or licensee and investigate~~ assign the complaint to an investigator for an investigation into the conduct of the certificate holder, registrant, or licensee against whom the complaint is filed.

(D) ~~Within sixty business days after receipt of the complaint, or, if an informal meeting is held, within sixty days after such meeting~~ Upon the conclusion of the investigation, the investigator shall file a written report of the results of the investigation with the superintendent. ~~Within ten business days thereafter, the~~ The superintendent shall review the report and determine whether there exists reasonable and substantial evidence of a violation of division (G) of this section by the certificate holder, registrant, or licensee. If the superintendent finds such evidence exists, ~~within five business days of that determination,~~ the superintendent shall notify the complainant and certificate holder, registrant, or licensee of the determination. The certificate

holder, registrant, or licensee may request a hearing pursuant to Chapter 119. of the Revised Code. If a formal hearing is conducted, the hearing examiner shall file a report of findings of fact and conclusions of law with the superintendent, the board, the complainant and the certificate holder, licensee, or registrant after the conclusion of the formal hearing. Within ten calendar days of receipt of the copy of the hearing examiner's finding of fact and conclusions of law, the certificate holder, licensee, or registrant or the division may file with the board written objections to the hearing examiner's report, which shall be considered by the board before approving, modifying, or rejecting the hearing examiner's report. If the superintendent finds that such evidence does not exist, ~~within five business days thereafter~~, the superintendent shall notify the complainant and certificate holder, registrant, or licensee of that determination and the basis for the determination. Within fifteen business days after the superintendent notifies the complainant and certificate holder, registrant, or licensee that such evidence does not exist, the complainant may file with the division a request that the real estate appraiser board review the determination. If the complainant files such request, the board shall review the determination at the next regularly scheduled meeting held at least fifteen business days after the request is filed but no longer than six months after the request is filed. The board may hear the testimony of the complainant, certificate holder, registrant, or licensee at the meeting upon the request of that party. If the board affirms the determination of the superintendent, the superintendent shall notify the complainant and the certificate holder, registrant, or licensee within five business days thereafter. If the board reverses the determination of the superintendent, a hearing before a hearing examiner shall be held and the complainant and certificate holder, registrant, or licensee notified as provided in this division.

(E) The board shall review the referee's or hearing examiner's report and the evidence at the next regularly scheduled board meeting held at least fifteen business days after receipt of the referee's or examiner's report. The board may hear the testimony of the complainant, certificate holder, registrant, or licensee upon request. If the complainant is the Ohio civil rights commission, the board shall review the complaint

(F) If the board determines that a licensee, registrant, or certificate holder has violated this chapter for which disciplinary action may be taken under division (G) of this section, after review of the referee's or examiner's report and the evidence as provided in division (E) of this section, the board shall order the disciplinary action the board considers appropriate, which may include, but is not limited to, any of the following:

(1) Reprimand of the certificate holder, registrant, or licensee;
 (2) Imposition of a fine, not exceeding, two thousand five hundred dollars per violation;

(3) Requirement of the completion of additional education courses. Any course work imposed pursuant to this section shall not count toward continuing education requirements or prelicense or precertification requirements set forth in section 4763.05 of the Revised Code.

(4) Suspension of the certificate, registration, or license for a specific period of time;

~~(3) Suspension of the certificate, registration, or license until the certificate holder, registrant, or licensee complies with conditions the board sets, including but not limited to, successful completion of the real estate appraiser examination described in division (D) of section 4763.05 of the Revised Code or completion of a specific number of hours of continuing education instruction in courses or seminars approved by the board;~~

~~(4)(5) Revocation of the certificate, registration, or license.~~

The decision and order of the board is final, subject to review in the manner provided for in Chapter 119. of the Revised Code and appeal to any court of common pleas.

(G) The board shall take any disciplinary action authorized by this section against a certificate holder, registrant, or licensee who is found to have committed any of the following acts, omissions, or violations during the appraiser's certification, registration, or licensure:

(1) Procuring or attempting to procure a certificate, registration, or license pursuant to this chapter by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for certification, registration, or licensure, or by any means of fraud or misrepresentation;

(2) Paying, or attempting to pay, anything of value, other than the fees or assessments required by this chapter, to any member or employee of the board for the purpose of procuring a certificate, registration, or license;

(3) Being convicted in a criminal proceeding for a felony or a crime involving moral turpitude;

(4) Dishonesty, fraud, or misrepresentation, with the intent to either benefit the certificate holder, registrant, or licensee or another person or injure another person;

(5) Violation of any of the standards for the development ~~or~~, preparation, communication, or reporting of real estate appraisals an appraisal report set forth in this chapter and rules of the board;

~~(6) Failure or refusal to exercise reasonable diligence in developing an~~

~~appraisal, preparing, or communicating an appraisal report, or communicating an appraisal;~~

(7) ~~Negligence or incompetence in developing an appraisal, in preparing, communicating, or reporting an appraisal report, or in communicating an appraisal;~~

(8) ~~Willfully Violating or willfully disregarding or violating this chapter or the rules adopted thereunder;~~

(9) Accepting an appraisal assignment where the employment is contingent upon the appraiser preparing or reporting a predetermined estimate, analysis, or opinion, or where the fee to be paid for the appraisal is contingent upon the opinion, conclusion, or valuation attained or upon the consequences resulting from the appraisal assignment;

(10) Violating the confidential nature of governmental records to which the certificate holder, registrant, or licensee gained access through employment or engagement as an appraiser by a governmental agency;

(11) Entry of final judgment against the certificate holder, registrant, or licensee on the grounds of fraud, deceit, misrepresentation, or gross negligence in the making of any appraisal of real estate;

(12) Violating any federal or state civil rights law;

(13) Having published advertising, whether printed, radio, display, or of any other nature, which was misleading or inaccurate in any material particular, or in any way having misrepresented any appraisal or specialized service;

(14) Failing to provide copies of records to the superintendent or failing to maintain records for five years as required by section 4763.14 of the Revised Code. Failure of a certificate holder, licensee, or registrant to comply with a subpoena issued under division (C)(1) of section 4763.03 of the Revised Code is prima-facie evidence of a violation of division (G)(14) of section 4763.11 of the Revised Code.

(15) Failing to provide notice to the board as required in division (I) of this section.

(H) The board immediately shall notify the superintendent of real estate of any disciplinary action taken under this section against a certificate holder, registrant, or licensee who also is licensed under Chapter 4735. of the Revised Code, and also shall notify any other federal, state, or local agency and any other public or private association that the board determines is responsible for licensing or otherwise regulating the professional or business activity of the appraiser. Additionally, the board shall notify the complainant and any other party who may have suffered financial loss because of the certificate holder's, registrant's, or licensee's violations, that

the complainant or other party may sue for recovery under section 4763.16 of the Revised Code. The notice provided under this division shall specify the conduct for which the certificate holder, registrant, or licensee was disciplined and the disciplinary action taken by the board and the result of that conduct.

(I) A certificate holder, registrant, or licensee shall notify the board ~~of the existence of a criminal conviction of the type~~ within fifteen days of the agency's issuance of an order revoking or permanently surrendering any professional license, certificate, or registration by any public entity other than the division of real estate. A certificate holder, registrant, or licensee who is convicted of a felony or crime of moral turpitude as described in division (G)(3) of this section shall notify the board of the conviction within fifteen days of the conviction.

(J) If the board determines that a certificate holder, registrant, or licensee has violated this chapter for which disciplinary action may be taken under division (G) of this section as a result of an investigation conducted by the superintendent upon the superintendent's own motion or upon the request of the board, the superintendent shall notify the certificate holder, registrant, or licensee of the certificate holder's, registrant's, or licensee's right to a hearing pursuant to Chapter 119. of the Revised Code and to an appeal of a final determination of such administrative proceedings to any court of common pleas.

(K) All notices, written reports, and determinations issued pursuant to this section shall be mailed via certified mail, return receipt requested. If the certified notice is returned because of failure of delivery or was unclaimed, the notice, written reports, or determinations are deemed served if the superintendent sends the notice, written reports, or determination via regular mail and obtains a certificate of mailing of the notice, written reports, or determination. Refusal of delivery by personal service or by mail is not failure of delivery and service is deemed to be complete.

Sec. 4763.13. (A) In engaging in appraisal activities, a person certified, registered, or licensed under this chapter shall comply with the applicable standards prescribed by the board of governors of the federal reserve system, the federal deposit insurance corporation, the comptroller of the currency, the office of thrift supervision, the national credit union administration, and the resolution trust corporation in connection with federally related transactions under the jurisdiction of the applicable agency or instrumentality. A certificate holder, registrant, and licensee also shall comply with the uniform standards of professional appraisal practice, as adopted by the appraisal standards board of the appraisal foundation and

such other standards adopted by the real estate appraiser board, to the extent that those standards do not conflict with applicable federal standards in connection with a particular federally related transaction.

(B) The terms "state-licensed residential real estate appraiser," "state-certified residential real estate appraiser," "state-certified general real estate appraiser," and "state-registered real estate appraiser assistant" shall be used to refer only to those persons who have been issued the applicable certificate, registration, or license or renewal certificate, registration, or license pursuant to this chapter. None of these terms shall be used following or in connection with the name or signature of a partnership, corporation, or association or in a manner that could be interpreted as referring to a person other than the person to whom the certificate, registration, or license has been issued. No person shall fail to comply with this division.

(C) No person, other than a certificate holder, a registrant, or a licensee, shall assume or use a title, designation, or abbreviation that is likely to create the impression that the person possesses certification, registration, or licensure under this chapter, provided that professional designations containing the term "certified appraiser" and being used on or before July 26, 1989, shall not be construed as being misleading under this division. No person other than a person certified or licensed under this chapter shall describe or refer to an appraisal or other evaluation of real estate located in this state as being certified.

(D) The terms "state-certified or state-licensed real estate appraisal report," "state-certified or state-licensed appraisal report," or "state-certified or state-licensed appraisal" shall be used to refer only to those real estate appraisals conducted by a certificate holder or licensee as a disinterested and unbiased third party provided that the certificate holder or licensee provides certification with the appraisal and provided further that if a licensee is providing the appraisal, such terms shall only be used if the licensee is acting within the scope of the licensee's license. No person shall fail to comply with this division.

(E) Nothing in this chapter shall preclude a partnership, corporation, or association which employs ~~or~~, retains, or engages the services of a certificate holder or licensee to advertise that the partnership, corporation, or association offers state-certified or state-licensed appraisals through a certificate holder or licensee if the advertisement clearly states such fact in accordance with guidelines for such advertisements established by rule of the real estate appraiser board.

(F) Except as otherwise provided in section 4763.19 of the Revised Code, nothing in this chapter shall preclude a person who is not licensed or

certified under this chapter from appraising real estate for compensation.

Sec. 4763.14. A person licensed, registered, or certified under this chapter shall retain for a period of five years the original or a true copy of each written contract for the person's services relating to real estate appraisal work ~~and, all appraisal reports, and all work file documentation and supporting data assembled and formulated by the person~~ in preparing those reports. The retention period begins on the date the appraisal is submitted to the client unless, prior to expiration of the retention period, the certificate holder, registrant, or licensee is notified that the appraisal or report is the subject of or is otherwise involved in pending litigation, in which case the retention period begins on the date of final disposition of the litigation.

A certificate holder, registrant, and a licensee shall make available all records required to be maintained under this section for inspection and copying by the superintendent of real estate or the real estate appraiser board, or both, upon reasonable notice to the certificate holder, registrant, or licensee.

Sec. 4763.17. Every partnership, corporation, or association which employs ~~or, retains, or engages~~ the services of a person licensed, registered, or certified under this chapter, whether the certificate holder, registrant, or licensee is an independent contractor or under the supervision or control of the partnership, corporation, or association, is jointly and severally liable for any damages incurred by any person as a result of an act or omission concerning a state-certified or state-licensed real estate appraisal prepared or facilitated in the preparation by a certificate holder, registrant, or licensee while employed ~~or, retained, or engaged~~ by the partnership, corporation, or association.

Sec. 4765.11. (A) The state board of emergency medical services shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code and division (C) of this section that establish all of the following:

(1) Procedures for its governance and the control of its actions and business affairs;

(2) Standards for the performance of emergency medical services by first responders, emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic;

(3) Application fees for certificates of accreditation, certificates of approval, certificates to teach, and certificates to practice, which shall be deposited into the trauma and emergency medical services fund created in section 4513.263 of the Revised Code;

(4) Criteria for determining when the application or renewal fee for a

certificate to practice may be waived because an applicant cannot afford to pay the fee;

(5) Procedures for issuance and renewal of certificates of accreditation, certificates of approval, certificates to teach, and certificates to practice, including any procedures necessary to ensure that adequate notice of renewal is provided in accordance with division (D) of section 4765.30 of the Revised Code;

(6) Procedures for suspending or revoking certificates of accreditation, certificates of approval, certificates to teach, and certificates to practice;

(7) Grounds for suspension or revocation of a certificate to practice issued under section 4765.30 of the Revised Code and for taking any other disciplinary action against a first responder, EMT-basic, EMT-I, or paramedic;

(8) Procedures for taking disciplinary action against a first responder, EMT-basic, EMT-I, or paramedic;

(9) Standards for certificates of accreditation and certificates of approval;

(10) Qualifications for certificates to teach;

(11) Requirements for a certificate to practice;

(12) The curricula, number of hours of instruction and training, and instructional materials to be used in adult and pediatric emergency medical services training programs and adult and pediatric emergency medical services continuing education programs;

(13) Procedures for conducting courses in recognizing symptoms of life-threatening allergic reactions and in calculating proper dosage levels and administering injections of epinephrine to adult and pediatric patients who suffer life-threatening allergic reactions;

(14) Examinations for certificates to practice;

(15) Procedures for administering examinations for certificates to practice;

(16) Procedures for approving examinations that demonstrate competence to have a certificate to practice renewed without completing an emergency medical services continuing education program;

(17) Procedures for granting extensions and exemptions of emergency medical services continuing education requirements;

(18) Procedures for approving the additional emergency medical services first responders are authorized by division (C) of section 4765.35 of the Revised Code to perform, EMTs-basic are authorized by division (C) of section 4765.37 of the Revised Code to perform, EMTs-I are authorized by division (B)(5) of section 4765.38 of the Revised Code to perform, and

paramedics are authorized by division (B)(6) of section 4765.39 of the Revised Code to perform;

(19) Standards and procedures for implementing the requirements of section 4765.06 of the Revised Code, including designations of the persons who are required to report information to the board and the types of information to be reported;

(20) Procedures for administering the emergency medical services grant program established under section 4765.07 of the Revised Code;

(21) Procedures consistent with Chapter 119. of the Revised Code for appealing decisions of the board;

(22) Minimum qualifications and peer review and quality improvement requirements for persons who provide medical direction to emergency medical service personnel;

(23) The manner in which a patient, or a patient's parent, guardian, or custodian may consent to the board releasing identifying information about the patient under division (D) of section 4765.102 of the Revised Code;

(24) Circumstances under which a training program or continuing education program, or portion of either type of program, may be taught by a person who does not hold a certificate to teach issued under section 4765.23 of the Revised Code;

(25) Certification cycles for certificates issued under sections 4765.23 and 4765.30 of the Revised Code and certificates issued by the executive director of the state board of emergency medical services under section 4765.55 of the Revised Code that establish a common expiration date for all certificates.

(B) The board may adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code and division (C) of this section that establish the following:

(1) Specifications of information that may be collected under the trauma system registry and incidence reporting system created under section 4765.06 of the Revised Code;

(2) Standards and procedures for implementing any of the recommendations made by any committees of the board or under section 4765.04 of the Revised Code;

(3) Requirements that a person must meet to receive a certificate to practice as a first responder pursuant to division (A)(2) of section 4765.30 of the Revised Code;

(4) Any other rules necessary to implement this chapter.

(C) In developing and administering rules adopted under this chapter, the state board of emergency medical services shall consult with regional

directors and regional physician advisory boards created by section 4765.05 of the Revised Code and emphasize the special needs of pediatric and geriatric patients.

(D) Except as otherwise provided in this division, before adopting, amending, or rescinding any rule under this chapter, the board shall submit the proposed rule to the director of public safety for review. The director may review the proposed rule for not more than sixty days after the date it is submitted. If, within this sixty-day period, the director approves the proposed rule or does not notify the board that the rule is disapproved, the board may adopt, amend, or rescind the rule as proposed. If, within this sixty-day period, the director notifies the board that the proposed rule is disapproved, the board shall not adopt, amend, or rescind the rule as proposed unless at least twelve members of the board vote to adopt, amend, or rescind it.

This division does not apply to an emergency rule adopted in accordance with section 119.03 of the Revised Code.

Sec. 4765.17. (A) The state board of emergency medical services shall issue the appropriate certificate of accreditation or certificate of approval to an applicant who is of good reputation and meets the requirements of section 4765.16 of the Revised Code. The board shall grant or deny a certificate of accreditation or certificate of approval within one hundred twenty days of receipt of the application. The board may issue or renew a certificate of accreditation or certificate of approval on a provisional basis to an applicant who is of good reputation and is in substantial compliance with the requirements of section 4765.16 of the Revised Code. The board shall inform an applicant receiving such a certificate of the conditions ~~he~~ that must ~~meet~~ be met to complete compliance with section 4765.16 of the Revised Code.

(B) Except as provided in division (C) of this section, a certificate of accreditation or certificate of approval is valid for ~~three~~ up to five years and may be renewed by the board pursuant to procedures and standards established in rules adopted under section 4765.11 of the Revised Code. An application for renewal shall be accompanied by the appropriate renewal fee established in rules adopted under section 4765.11 of the Revised Code.

(C) A certificate of accreditation or certificate of approval issued on a provisional basis is valid for ~~one year and shall not be renewed~~ the length of time established by the board. If the board finds that the holder of such a certificate has met the conditions it specifies under division (A) of this section, the board shall issue the appropriate certificate of accreditation or certificate of approval.

(D) A certificate of accreditation is valid only for the emergency medical services training program or programs for which it is issued. The holder of a certificate of accreditation may apply to operate additional training programs in accordance with rules adopted by the board under section 4765.11 of the Revised Code. Any additional training programs shall expire on the expiration date of the applicant's current certificate. A certificate of approval is valid only for the emergency medical services continuing education program for which it is issued. Neither is transferable.

(E) ~~The operator holder of an accredited~~ a certificate of accreditation or approved program a certificate of approval may offer courses ~~from the program~~ at more than one location in accordance with rules adopted under section 4765.11 of the Revised Code.

Sec. 4765.23. The state board of emergency medical services shall issue a certificate to teach in an emergency medical services training program or an emergency medical services continuing education program to any applicant who it determines meets the qualifications established in rules adopted under section 4765.11 of the Revised Code. The certificate shall indicate each type of instruction and training the certificate holder may teach under the certificate.

A certificate to teach ~~is valid for two years~~ shall have a certification cycle established by the board and may be renewed by the board pursuant to ~~procedures established in~~ rules adopted under section 4765.11 of the Revised Code. An application for renewal shall be accompanied by the appropriate renewal fee established in rules adopted under section 4765.11 of the Revised Code.

The board may suspend or revoke a certificate to teach pursuant to rules adopted under section 4765.11 of the Revised Code.

Sec. 4765.30. (A)(1) The state board of emergency medical services shall issue a certificate to practice as a first responder to an applicant who meets all of the following conditions:

(a) Except as provided in division (A)(2) of this section, is a volunteer for a nonprofit emergency medical service organization or a nonprofit fire department;

(b) Holds the appropriate certificate of completion issued in accordance with section 4765.24 of the Revised Code;

(c) Passes the appropriate examination conducted under section 4765.29 of the Revised Code;

(d) Is not in violation of any provision of this chapter or the rules adopted under it;

(e) Meets any other certification requirements established in rules

adopted under section 4765.11 of the Revised Code.

(2) The board may waive the requirement to be a volunteer for a nonprofit entity if the applicant meets other requirements established in rules adopted under division (B)(3) of section 4765.11 of the Revised Code relative to a person's eligibility to practice as a first responder.

(B) The state board of emergency medical services shall issue a certificate to practice as an emergency medical technician-basic to an applicant who meets all of the following conditions:

(1) Holds a certificate of completion in emergency medical services training-basic issued in accordance with section 4765.24 of the Revised Code;

(2) Passes the examination for emergency medical technicians-basic conducted under section 4765.29 of the Revised Code;

(3) Is not in violation of any provision of this chapter or the rules adopted under it;

(4) Meets any other certification requirements established in rules adopted under section 4765.11 of the Revised Code.

(C) The state board of emergency medical services shall issue a certificate to practice as an emergency medical technician-intermediate or emergency medical technician-paramedic to an applicant who meets all of the following conditions:

(1) Holds a certificate to practice as an emergency medical technician-basic;

(2) Holds the appropriate certificate of completion issued in accordance with section 4765.24 of the Revised Code;

(3) Passes the appropriate examination conducted under section 4765.29 of the Revised Code;

(4) Is not in violation of any provision of this chapter or the rules adopted under it;

(5) Meets any other certification requirements established in rules adopted under section 4765.11 of the Revised Code.

(D) A certificate to practice ~~is valid for three years~~ shall have a certification cycle established by the board and may be renewed by the board pursuant to ~~procedures established in~~ rules adopted under section 4765.11 of the Revised Code. Not later than sixty days prior to the expiration date of an individual's certificate to practice, the board shall notify the individual of the scheduled expiration ~~and furnish an application for renewal.~~

An application for renewal shall be accompanied by the appropriate renewal fee established in rules adopted under section 4765.11 of the

Revised Code, unless the board waives the fee on determining pursuant to those rules that the applicant cannot afford to pay the fee. Except as provided in division (B) of section 4765.31 of the Revised Code, the application shall include evidence of either of the following:

(1) That the applicant received a certificate of completion from the appropriate emergency medical services continuing education program pursuant to section 4765.24 of the Revised Code;

(2) That the applicant has successfully passed an examination that demonstrates the competence to have a certificate renewed without completing an emergency medical services continuing education program. The board shall approve such examinations in accordance with rules adopted under section 4765.11 of the Revised Code.

(E) The board shall not require an applicant for renewal of a certificate to practice to take an examination as a condition of renewing the certificate. This division does not preclude the use of examinations by operators of approved emergency medical services continuing education programs as a condition for issuance of a certificate of completion in emergency medical services continuing education.

Sec. 4766.09. This chapter does not apply to any of the following:

(A) A person rendering services with an ambulance in the event of a disaster situation when licensees' vehicles based in the locality of the disaster situation are incapacitated or insufficient in number to render the services needed;

(B) Any person operating an ambulance, ambulette, rotorcraft air ambulance, or fixed wing air ambulance outside this state unless receiving a person within this state for transport to a location within this state;

(C) A publicly owned or operated emergency medical service organization and the vehicles it owns or leases and operates, except as provided in section 307.051, division (G) of section 307.055, division (F) of section 505.37, division (B) of section 505.375, and division (B)(3) of section 505.72 of the Revised Code;

(D) An ambulance, ambulette, rotorcraft air ambulance, fixed wing air ambulance, or nontransport vehicle owned or leased and operated by the federal government;

(E) A publicly owned and operated fire department vehicle;

(F) Emergency vehicles owned by a corporation and operating only on the corporation's premises, for the sole use by that corporation;

(G) An ambulance, nontransport vehicle, or other emergency medical service organization vehicle owned and operated by a municipal corporation;

(H) A motor vehicle titled in the name of a volunteer rescue service organization, as defined in section 4503.172 of the Revised Code;

(I) A public emergency medical service organization;

(J) A fire department, rescue squad, or life squad comprised of volunteers who provide services without expectation of remuneration and do not receive payment for services other than reimbursement for expenses;

(K) A private, nonprofit emergency medical service organization when fifty per cent or more of its personnel are volunteers, as defined in section 4765.01 of the Revised Code;

(L) Emergency medical service personnel who are regulated by the state board of emergency medical services under Chapter 4765. of the Revised Code;

(M) Any of the following that operates a transit bus, as that term is defined in division (Q) of section 5735.01 of the Revised Code, unless the entity provides ambulette services that are reimbursed under the state medicaid plan:

(1) A public nonemergency medical service organization;

(2) An urban or rural public transit system;

(3) A private nonprofit organization that receives grants under section 5501.07 of the Revised Code.

(N)(1) An entity ~~or vehicle owned by an entity that~~, to the extent it provides ambulette services, if the entity meets all of the following conditions:

(a) The entity is certified by the department of aging or the department's designee ~~under in accordance with~~ section 173.391 of the Revised Code ~~and or operates under a contract or grant agreement with the department or the department's designee in accordance with~~ section 173.392 of the Revised Code.

(b) The entity meets the requirements of section 4766.14 of the Revised Code, ~~unless the entity or,~~

(c) The entity does not provide ambulette services that are reimbursed under the state medicaid plan.

(2) A vehicle, to the extent it is used to provide ambulette services, if the vehicle meets both of the following conditions:

(a) The vehicle is owned by an entity that meets the conditions specified in division (N)(1) of this section.

(b) The vehicle ~~provides~~ does not provide ambulette services that are reimbursed under the state medicaid plan;.

(O) A vehicle that meets both of the following criteria, unless the vehicle provides services that are reimbursed under the state medicaid plan:

(1) The vehicle was purchased with funds from a grant made by the United States secretary of transportation under 49 U.S.C. 5310;

(2) The department of transportation holds a lien on the vehicle.

Sec. 4767.05. (A) There is hereby created the Ohio cemetery dispute resolution commission, which shall consist of nine members to be appointed by the governor with the advice and consent of the senate as follows:

(1) One member shall be the management authority of a municipal, township, or union cemetery and shall be selected from a list of four names submitted to the governor. Two of the four names shall be submitted by the Ohio township association and two names shall be submitted by the Ohio municipal league.

(2) Four members shall be individuals employed in a management position by a cemetery company or cemetery association. Two of the four members shall be selected from a list of four names submitted to the governor by the Ohio association of cemeteries and two shall be selected from a list of four names submitted by the Ohio association of cemetery superintendents and officials.

(3) Two members shall be employed in a management position by a cemetery that is owned or operated by a religious, fraternal, or benevolent society and shall be selected from a list of four names submitted by the Ohio association of cemetery superintendents and officials.

(4) Two members, at least one of whom shall be at least sixty-five years of age, shall be representatives of the public with no financial interest in the death care industry.

Each member of the commission, except for the two members who represent the public, shall, at the time of appointment, have had a minimum of five consecutive years of experience in the active administration and management of a cemetery in this state.

(B) Within ninety days after the effective date of this section, the governor shall make initial appointments to the commission. Of the initial appointments, two shall be for terms ending one year after the effective date of this section, two shall be for terms ending two years after that date, two shall be for terms ending three years after that date, and three shall be for terms ending four years after that date. Thereafter, terms of office shall be for four years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Vacancies shall be filled in the manner provided for original appointments, with each appointee, other than a representative of the public, being appointed from a list of two names submitted to the governor by the

association or organization that was required to nominate candidates for initial appointment to the position that has become vacant. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first. No person shall serve as a member of the commission for more than two consecutive terms, excluding any term served to fill an initial appointment to a term of less than four years or an unexpired term caused by a vacancy.

(C) The commission annually shall elect from among its members a chairperson, vice-chairperson, and secretary, each of whom shall serve a term of one year in that office. The commission shall meet at least four times a year. Additional meetings may be called by the chairperson, or by the vice-chairperson when the chairperson is disabled, or by a majority of the members of the commission. A majority of the members constitutes a quorum to transact and vote on business of the commission.

The chairperson or vice-chairperson may:

- (1) Administer oaths;
- (2) Issue subpoenas;
- (3) Summon witnesses;
- (4) Compel the production of books, papers, records, and other forms of evidence;
- (5) Fix the time and place for hearing any matter related to compliance with sections 1721.19, 1721.20, 1721.21, 1721.211, 4735.02, ~~4735.22~~, and 4767.02 of the Revised Code.

The chairperson shall designate three members of the commission to serve on the crematory review board in accordance with section 4717.03 of the Revised Code for such time as the chairperson finds appropriate. Members designated to serve on the crematory review board shall perform all functions necessary to carry out the duties of the board as described in section 4717.03 of the Revised Code. Members who serve on the crematory review board shall receive no compensation for such service.

(D) Before entering upon the duties of office, each member of the commission shall take the oath pursuant to section 3.22 of the Revised Code. The governor may remove any member for misconduct, neglect of duty, incapacity, or malfeasance in accordance with section 3.04 of the Revised Code.

(E) Members of the commission shall receive no compensation but shall be reimbursed for their actual and necessary expenses incurred in the

performance of their duties as members of the commission.

(F) The division of real estate in the department of commerce shall provide the commission with meeting space, staff services, and other technical assistance required by the commission in carrying out its duties pursuant to sections 4767.05 to 4767.08 of the Revised Code.

Sec. 4767.07. (A) Any person may file a complaint regarding the activity, practice, policy, or procedure of, or regarding an alleged violation of section 1721.19, 1721.20, 1721.21, 1721.211, 4735.02, ~~4735.22~~, or 4767.02 of the Revised Code by, any person operating or maintaining a cemetery registered pursuant to section 4767.03 of the Revised Code that adversely affects or may adversely affect the interest of an owner or family member of the owner of a cemetery lot or burial, entombment, or columbarium right. All complaints shall be in writing and submitted to the division of real estate in the department of commerce on forms provided by the division.

(B) With respect to complaints filed pursuant to division (A) of this section, the division of real estate shall do all of the following:

(1) Acknowledge receipt of the complaint by sending written notice to the person who filed the complaint not more than twenty days after receipt of the complaint;

(2) Send written notice of the complaint within seven days after receipt of the complaint to the person responsible for the operation and maintenance of the cemetery that is the subject of the complaint;

(3) Before taking further action, allow the owner or the person responsible for the operation and maintenance of the cemetery that is the subject of a complaint thirty days after the date the division sends notice of the complaint to respond to the division with respect to the complaint.

(C) The cemetery dispute resolution commission shall hear each complaint filed pursuant to division (A) of this section within one hundred eighty days after its filing, unless it has been resolved by the parties to the complaint.

Sec. 4767.08. (A) The Ohio cemetery dispute resolution commission, on its own motion or as a result of a complaint received pursuant to section 4767.07 of the Revised Code and with good cause shown, shall investigate or cause to be investigated alleged violations of sections 1721.19, 1721.20, 1721.21, 1721.211, 4735.02, ~~4735.22, and 4767.03~~ 4767.02, and 4767.03 of the Revised Code. If the commission or the superintendent of the division of real estate in the department of commerce believes that a violation has occurred, the commission or superintendent shall do all of the following:

(1) Review the financial records of the cemetery to ensure compliance

with sections 1721.21 and 1721.211 of the Revised Code;

(2) Request the prosecuting attorney of the county in which the alleged violation occurred to initiate such proceedings as are appropriate.

(B) If, as a result of an investigation, the commission or the superintendent believes that a person has violated Chapter 1345. of the Revised Code, the commission or superintendent shall report the findings to the attorney general.

(C) The commission, at any time, may dismiss a complaint if it determines there is not good cause shown for the complaint. If the commission dismisses a complaint, it shall notify the person who filed the complaint within twenty days of reaching its decision and identify the reason why the complaint was dismissed.

(D) When necessary for the division of real estate to perform the duties required by sections 4767.07 and 4767.08 of the Revised Code, the superintendent of the division, after consultation with at least a majority of the members of the cemetery dispute resolution commission, may issue subpoenas and compel the production of books, papers, records, and other forms of evidence.

Sec. 4776.02. (A) An applicant for an initial license or restored license from a licensing agency, or a person seeking to satisfy the criteria for being a qualified pharmacy technician that are specified in section 4729.42 of the Revised Code, shall submit a request to the bureau of criminal identification and investigation for a criminal records check of the applicant or person. The request shall be accompanied by a completed copy of the form prescribed under division (C)(1) of section 109.572 of the Revised Code, a set of fingerprint impressions obtained as described in division (C)(2) of that section, and the fee prescribed under division (C)(3) of that section. The applicant or person shall ask the superintendent of the bureau of criminal identification and investigation in the request to obtain from the federal bureau of investigation any information it has pertaining to the applicant or person.

An applicant or person requesting a criminal records check shall provide the bureau of criminal identification and investigation with the applicant's or person's name and address and, regarding an applicant, with the licensing agency's name and address.

(B) Upon receipt of the completed form, the set of fingerprint impressions, and the fee provided for in division (A) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check of the applicant or person under division (B) of section 109.572 of the Revised Code. Upon completion of

the criminal records check, the superintendent shall do whichever of the following is applicable:

(1) If the request was submitted by an applicant for an initial license or restored license, report the results of the criminal records check and any information the federal bureau of investigation provides to the licensing agency identified in the request for a criminal records check;

(2) If the request was submitted by a person seeking to satisfy the criteria for being a qualified pharmacy technician that are specified in section 4729.42 of the Revised Code, do both of the following:

(a) Report the results of the criminal records check and any information the federal bureau of investigation provides to the person who submitted the request;

(b) Report the results of the portion of the criminal records check performed by the bureau of criminal identification and investigation under division (B)(1) of section 109.572 of the Revised Code to the employer or potential employer specified in the request of the person who submitted the request and send a letter to that employer or potential employer regarding the information provided by the federal bureau of investigation that states either that based on that information there is no record of any conviction or that based on that information the person who submitted the request may not meet the criteria that are specified in section ~~4729.02~~ 4729.42 of the Revised Code, whichever is applicable.

Sec. 4781.01. As used in this chapter:

(A) "Industrialized unit" has the same meaning as in division (C)(3) of section 3781.06 of the Revised Code.

(B) "Installation" means any of the following:

(1) The temporary or permanent construction of stabilization, support, and anchoring systems for manufactured housing;

(2) The placement and erection of a manufactured housing unit or components of a unit on a structural support system;

(3) The supporting, blocking, leveling, securing, anchoring, underpinning, or adjusting of any section or component of a manufactured housing unit;

(4) The joining or connecting of all sections or components of a manufactured housing unit.

(C) "Manufactured home" has the same meaning as in division (C)(4) of section 3781.06 of the Revised Code.

(D) "Manufactured home park" has the same meaning as in division (A) of section 3733.01 of the Revised Code.

(E) "Manufactured housing" means manufactured homes and mobile

homes.

(F) "Manufactured housing installer" means an individual who installs manufactured housing.

(G) "Mobile home" has the same meaning as in division (O) of section 4501.01 of the Revised Code.

(H) "Model standards" means the federal manufactured home installation standards established pursuant to 42 U.S.C. 5404.

(I) "Permanent foundation" has the same meaning as in division (C)(5) of section 3781.06 of the Revised Code.

(J) "Business" includes any activities engaged in by any person for the object of gain, benefit, or advantage either direct or indirect.

(K) "Casual sale" means any transfer of a manufactured home or mobile home by a person other than a manufactured housing dealer, manufactured housing salesperson, or manufacturer to an ultimate consumer or a person who purchases the home for use as a residence.

(L) "Engaging in business" means commencing, conducting, or continuing in business, or liquidating a business when the liquidator thereof holds self out to be conducting such business; making a casual sale or otherwise making transfers in the ordinary course of business when the transfers are made in connection with the disposition of all or substantially all of the transferor's assets is not engaging in business.

(M) "Manufactured home park operator" has the same meaning as "operator" in section 3733.01 of the Revised Code.

(N) "Manufactured housing broker" means any person acting as a selling agent on behalf of an owner of a manufactured home or mobile home that is subject to taxation under section 4503.06 of the Revised Code.

(O) "Manufactured housing dealer" means any person engaged in the business of selling at retail, displaying, offering for sale, or dealing in manufactured homes or mobile homes.

(P) "Manufacturer" means a person who manufactures, assembles, or imports manufactured homes or mobile homes.

(Q) "Retail sale" or "sale at retail" means the act or attempted act of selling, bartering, exchanging, or otherwise disposing of a manufactured home or mobile home to an ultimate purchaser for use as a residence.

(R) "Salesperson" means any individual employed by a manufactured housing dealer or manufactured housing broker to sell, display, and offer for sale, or deal in manufactured homes or mobile homes for a commission, compensation, or other valuable consideration, but does not mean any public officer performing official duties.

(S) "Ultimate purchaser" means, with respect to any new manufactured

home, the first person, other than a manufactured housing dealer purchasing in the capacity of a manufactured housing dealer, who purchases such new manufactured home for purposes other than resale.

Sec. 4781.02. (A) There is hereby created the manufactured homes commission which consists of nine members, with three members appointed by the governor, three members appointed by the president of the senate, and three members appointed by the speaker of the house of representatives.

(B)(1) Commission members shall be residents of this state, except for members appointed pursuant to divisions (B)(3)(b) and (B)(4)(a) of this section. Members shall be selected from a list of persons the Ohio manufactured homes association, or any successor entity, recommends, except for appointments made pursuant to division (B)(2) of this section.

(2) The governor shall appoint the following members:

(a) One member to represent the board of building standards, who may be a member of the board or a board employee not in the classified civil service, with an initial term ending December 31, 2007;

(b) One member to represent the department of health, who may be a department employee not in the classified civil service, with an initial term ending December 31, 2005;

(c) One member whose primary residence is a manufactured home, with an initial term ending December 31, 2006.

(3) The president of the senate shall appoint the following members:

(a) Two members who are manufactured housing installers who have been actively engaged in the installation of manufactured housing for the five years immediately prior to appointment, with the initial term of one installer ending December 31, 2007, and the initial term of the other installer ending December 31, 2005.

(b) One member who manufactures manufactured homes in this state or who manufactures manufactured homes in another state and ships homes into this state, to represent manufactured home manufacturers, with an initial term ending December 31, 2006.

(4) The speaker of the house of representatives shall appoint the following members:

(a) One member who operates a manufactured or mobile home retail business in this state to represent manufactured ~~and mobile home retailers~~ housing dealers, with an initial term ending December 31, 2007;

(b) One member who is a manufactured home park operator or is employed by an operator, with an initial term ending December 31, 2005;

(c) One member to represent the Ohio manufactured home association, or any successor entity, who may be the president or executive director of

the association or the successor entity, with an initial term ending December 31, 2006.

(C)(1) After the initial term, each term of office is for four years ending on the thirty-first day of December. A member holds office from the date of appointment until the end of the term. No member may serve more than two consecutive four-year terms.

(2) Any member appointed to fill a vacancy that occurs prior to the expiration of a term continues in office for the remainder of that term. Any member continues in office subsequent to the expiration date of the term until the member's successor takes office or until sixty days have elapsed, which ever occurs first.

(3) A vacancy on the commission does not impair the authority of the remaining members to exercise all of the commission's powers.

(D)(1) The governor may remove any member from office for incompetence, neglect of duty, misfeasance, nonfeasance, malfeasance, or unprofessional conduct in office.

(2) Vacancies shall be filled in the manner of the original appointment.

Sec. 4781.04. (A) The manufactured homes commission shall adopt rules pursuant to Chapter 119. of the Revised Code to do all of the following:

(1) Establish uniform standards that govern the installation of manufactured housing. Not later than one hundred eighty days after the secretary of the United States department of housing and urban development adopts model standards for the installation of manufactured housing or amends those standards, the commission shall amend its standards as necessary to be consistent with, and not less stringent than, the model standards for the design and installation of manufactured housing the secretary adopts or any manufacturers' standards that the secretary determines are equal to or not less stringent than the model standards.

(2) Govern the inspection of the installation of manufactured housing. The rules shall specify that the ~~department of health or a licenser, as determined by the director of health,~~ commission, any building department or personnel of any department, any licenser or personnel of any licenser, or any private third party, certified pursuant to section 4781.07 of the Revised Code shall conduct all inspections of the installation of manufactured housing located in manufactured home parks to determine compliance with the uniform installation standards the commission establishes pursuant to this section. ~~The rules shall specify that all installation inspections in a manufactured home park the department of health or the licenser conducts shall be conducted by a person who has completed an installation training~~

~~course approved by the commission pursuant to division (B) of section 4781.04 of the Revised Code.~~

As used in division (A)(2) of this section, "licensor" has the same meaning as in section 3733.01 of the Revised Code.

(3) Govern the design, construction, installation, approval, and inspection of foundations and the base support systems for manufactured housing. ~~The rules shall specify that the department of health or the licensor, as determined by the director of health, commission, any building department or personnel of any department, any licensor or personnel of any licensor, or any private third party, certified pursuant to section 4781.07 of the Revised Code shall conduct all inspections of the installation, foundations, and base support systems of manufactured housing located in manufactured home parks to determine compliance with the uniform installation standards and foundation and base support system design the commission establishes pursuant to this section. The rules shall specify that all foundation and base support system inspections in a manufactured home park the department of health or the licensor conducts shall be conducted by a person who has completed an installation training course approved by the commission pursuant to division (B) of section 4781.04 of the Revised Code.~~

As used in division (A)(3) of this section, "licensor" has the same meaning as in section 3733.01 of the Revised Code.

(4) Govern the training, experience, and education requirements for manufactured housing installers, manufactured housing dealers, manufactured housing brokers, and manufactured housing salespersons;

(5) Establish a code of ethics for manufactured housing installers;

(6) Govern the issuance, revocation, and suspension of licenses to manufactured housing installers;

(7) Establish fees for the issuance and renewal of licenses, for conducting inspections to determine an applicant's compliance with this chapter and the rules adopted pursuant to it, and for the commission's expenses incurred in implementing this chapter;

(8) Establish conditions under which a licensee may enter into contracts to fulfill the licensee's responsibilities;

(9) Govern the investigation of complaints concerning any violation of this chapter or the rules adopted pursuant to it or complaints involving the conduct of any licensed manufactured housing installer or person installing manufactured housing without a license, licensed manufactured housing dealer, licensed manufactured housing broker, or manufactured housing salesperson;

(10) Establish a dispute resolution program for the timely resolution of warranty issues involving new manufactured homes, disputes regarding responsibility for the correction or repair of defects in manufactured housing, and the installation of manufactured housing. The rules shall provide for the timely resolution of disputes between manufacturers, ~~retailers~~ manufactured housing dealers, and installers regarding the correction or repair of defects in manufactured housing that are reported by the purchaser of the home during the one-year period beginning on the date of installation of the home. The rules also shall provide that decisions made regarding the dispute under the program are not binding upon the purchaser of the home or the other parties involved in the dispute unless the purchaser so agrees in a written acknowledgement that the purchaser signs and delivers to the program within ten business days after the decision is issued.

(11) Establish the requirements and procedures for the certification of building departments and building department personnel pursuant to section 4781.07 of the Revised Code;

(12) Establish fees to be charged to building departments and building department personnel applying for certification and renewal of certification pursuant to section 4781.07 of the Revised Code;

(13) Carry out any other provision of this chapter.

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

(1) Prepare and administer a licensure examination to determine an applicant's knowledge of manufactured housing installation and other aspects of installation the commission determines appropriate;

(2) Select, provide, or procure appropriate examination questions and answers for the licensure examination and establish the criteria for successful completion of the examination;

(3) Prepare and distribute any application form this chapter requires;

(4) Receive applications for licenses and renewal of licenses and issue licenses to qualified applicants;

(5) Establish procedures for processing, approving, and disapproving applications for licensure;

(6) Retain records of applications for licensure, including all application materials submitted and a written record of the action taken on each application;

(7) Review the design and plans for manufactured housing installations, foundations, and support systems;

(8) Inspect a sample of homes at a percentage the commission determines to evaluate the construction and installation of manufactured housing installations, foundations, and support systems to determine

compliance with the standards the commission adopts;

(9) Investigate complaints concerning violations of this chapter or the rules adopted pursuant to it, or the conduct of any manufactured housing installer, manufactured housing dealer, manufactured housing broker, or manufactured housing salesperson;

(10) Determine appropriate disciplinary actions for violations of this chapter;

(11) Conduct audits and inquiries of manufactured housing installers, manufactured housing dealers, and manufactured housing brokers as appropriate for the enforcement of this chapter. The commission, or any person the commission employs for the purpose, may review and audit the business records of any manufactured housing installer, dealer, or broker during normal business hours.

(12) Approve an installation training course, which may be offered by the Ohio manufactured homes association or other entity;

(13) Perform any function or duty necessary to administer this chapter and the rules adopted pursuant to it.

Sec. 4781.05. The executive director of the manufactured homes commission shall do all of the following:

(A) With commission approval, secure and manage office space, supplies, and the professional and clerical staff necessary to effectively perform the executive director's and commission's duties;

(B) Pursuant to rules the commission adopts, review applications for manufactured housing installer licenses, manufactured housing dealer licenses, manufactured housing broker licenses, and manufactured housing salesperson licenses and on behalf of the commission, issue licenses to qualified persons;

(C) Administer the dispute resolution program the commission develops if the commission does not contract with the Ohio manufactured homes association or another entity to administer the program;

(D) Administer any continuing education program the commission develops;

(E) Collect fees the commission establishes;

(F) Except as provided in divisions (A)(2) and (3) of section 4781.04 of the Revised Code, employ installation inspectors and investigators to serve at the executive director's pleasure to assist in carrying out the executive director's duties under this chapter or the duties the commission delegates to the executive director;

(G) Serve as secretary of the commission and maintain a written record of the commission's meetings and proceedings;

(H) Notify manufactured housing installers, manufactured housing dealers, manufactured housing brokers, and manufactured housing salespersons of changes in this chapter and the rules adopted pursuant to it;

(I) Do all things the commission requests or delegates for the administration and enforcement of this chapter.

Sec. 4781.06. (A) The manufactured homes commission may delegate to the executive director any of its duties set forth in division (B) of section 4781.04 of the Revised Code.

(B) The commission may enter into a contract with the Ohio manufactured homes association or another entity to administer the dispute resolution program created pursuant to section 4781.04 of the Revised Code. The contract shall specify the terms for the administration of the program.

(C)(1) The commission may enter into a contract with any private third party, municipal corporation, township, county, state agency, or the Ohio manufactured homes association, or any successor entity, to perform any of the commission's functions set forth in division (B) of section 4781.04 of the Revised Code that the commission has not delegated to the executive director. Each contract shall specify the compensation to be paid to the private third party, municipal corporation, township, county, state agency, or the Ohio manufactured homes association, or successor entity, for the performance of the commission's functions.

(2) Except as provided in this division, the commission shall not enter into any contract with any person or building department to accept and approve plans and specifications or to inspect manufactured housing foundations and the installation of manufactured housing unless that person or building department is certified pursuant to section 4781.07 of the Revised Code. The commission shall ~~not~~ require inspectors the Ohio department of health employs to obtain certification pursuant to section 4781.07 of the Revised Code, ~~but shall require inspectors to complete an installation training course approved by the commission pursuant to division (B) of section 4781.04 of the Revised Code.~~

Sec. 4781.07. (A) Pursuant to rules the manufactured homes commission adopts, the commission may certify municipal, township, and county building departments and the personnel of those departments, licensors as defined in section 3733.01 of the Revised Code and the personnel of those licensors, or any private third party, to exercise the commission's enforcement authority, accept and approve plans and specifications for foundations, support systems and installations, and inspect manufactured housing foundations, support systems, and manufactured housing installations. Any certification is effective for three years.

(B) Following an investigation and finding of facts that support its action, the commission may revoke or suspend certification. The commission may initiate an investigation on its own motion or the petition of a person affected by the enforcement or approval of plans.

Sec. 4781.16. (A) Except as provided in division (E) of this section, no person shall do any of the following:

(1) Engage in the business of displaying or selling at retail manufactured homes or mobile homes or assume to engage in that business, unless the person is licensed as a manufactured housing dealer under this chapter, or is a salesperson licensed under this chapter and employed by a licensed manufactured housing dealer;

(2) Make more than five casual sales of manufactured homes or mobile homes in a twelve-month period without obtaining a license as a manufactured housing dealer under this chapter;

(3) Engage in the business of brokering manufactured homes unless that person is licensed as a manufactured housing broker under this chapter.

(B)(1) Except as provided in this division, no manufactured housing dealer shall sell, display, offer for sale, or deal in manufactured homes or mobile homes at any place except an established place of business that is used exclusively for the purpose of selling, displaying, offering for sale, or dealing in manufactured homes or mobile homes.

(2) No manufactured housing broker shall engage in the business of brokering manufactured or mobile homes at any place except an established place of business that is used exclusively for the purpose of brokering manufactured and mobile homes.

(3) A place of business used for the brokering or sale of manufactured homes or mobile homes is considered to be used exclusively for brokering, selling, displaying, offering for sale, or dealing in manufactured or mobile homes even though industrialized units, as defined by section 3781.06 of the Revised Code, are brokered, sold, displayed, offered for sale, or dealt at the same place of business.

(4) If the licensed manufactured housing dealer is a manufactured home park operator, then all of the following apply:

(a) An established place of business that is located in the operator's manufactured home park and that is used for selling, leasing, and renting manufactured homes and mobile homes in that manufactured home park is considered to be used exclusively for that purpose even though rent and other activities related to the operation of the manufactured home park take place at the same location or office.

(b) The dealer's established place of business in the manufactured home

park shall be staffed by someone licensed and regulated under this chapter who could reasonably assist any retail customer with or without an appointment, but such established place of business need not satisfy office size, display lot size, and physical barrier requirements applicable to other used motor vehicle dealers.

(c) The manufactured and mobile homes being offered for sale, lease, or rental by the dealer may be located on individual rental lots inside the operator's manufactured home park.

(C) Nothing in this chapter shall be construed as prohibiting the sale of a new or used manufactured or mobile home located in a manufactured home park by a licensed manufactured housing dealer.

(D) Nothing in this section shall be construed to prohibit persons licensed under this chapter from making sales calls.

(E)(1) This chapter does not apply to mortgagees selling at retail only those manufactured homes or mobile homes that have come into their possession by a default in the terms of a mortgage contract.

(2) When a partnership licensed under this chapter is dissolved by death, the surviving partners may operate under the manufactured housing dealer license for a period of sixty days, and the heirs or representatives of deceased persons and receivers or trustees in bankruptcy appointed by any competent authority may operate under the license of the person succeeded in possession by that heir, representative, receiver, or trustee in bankruptcy.

Sec. 4781.17. (A) Each person applying for a manufactured housing dealer's license or manufactured housing broker's license shall complete and deliver to the manufactured homes commission, before the first day of April, a separate application for license for each county in which the business of selling or brokering manufactured or mobile homes is to be conducted. The application shall be in the form prescribed by the commission and accompanied by the fee established by the commission. The applicant shall sign and swear to the application that shall include all of the following:

(1) Name of applicant and location of principal place of business;

(2) Name or style under which business is to be conducted and, if a corporation, the state of incorporation;

(3) Name and address of each owner or partner and, if a corporation, the names of the officers and directors;

(4) The county in which the business is to be conducted and the address of each place of business therein;

(5) A statement of the previous history, record, and association of the applicant and of each owner, partner, officer, and director, that is sufficient to establish to the satisfaction of the commission the reputation in business

of the applicant:

(6) A statement showing whether the applicant has previously applied for a manufactured housing dealer's license, manufactured housing broker's license, manufactured housing salesperson's license, or, prior to July 1, 2010, a motor vehicle dealer's license, manufactured home broker's license, or motor vehicle salesperson's license, and the result of the application, and whether the applicant has ever been the holder of any such license that was revoked or suspended;

(7) If the applicant is a corporation or partnership, a statement showing whether any partner, employee, officer, or director has been refused a manufactured housing dealer's license, manufactured housing broker's license, manufactured housing salesperson's license, or, prior to July 1, 2010, a motor vehicle dealer's license, manufactured home broker's license, or motor vehicle salesperson's license, or has been the holder of any such license that was revoked or suspended;

(8) Any other information required by the commission.

(B) Each person applying for a manufactured housing salesperson's license shall complete and deliver to the manufactured homes commission before the first day of July an application for license. The application shall be in the form prescribed by the commission and shall be accompanied by the fee established by the commission. The applicant shall sign and swear to the application that shall include all of the following:

(1) Name and post-office address of the applicant;

(2) Name and post-office address of the manufactured housing dealer or manufactured housing broker for whom the applicant intends to act as salesperson;

(3) A statement of the applicant's previous history, record, and association, that is sufficient to establish to the satisfaction of the commission the applicant's reputation in business;

(4) A statement as to whether the applicant intends to engage in any occupation or business other than that of a manufactured housing salesperson;

(5) A statement as to whether the applicant has ever had any previous application for a manufactured housing salesperson license refused or, prior to July 1, 2010, any application for a motor vehicle salesperson license refused, and whether the applicant has previously had a manufactured housing salesperson or motor vehicle salesperson license revoked or suspended;

(6) A statement as to whether the applicant was an employee of or salesperson for a manufactured housing dealer or manufactured housing

broker whose license was suspended or revoked:

(7) A statement of the manufactured housing dealer or manufactured housing broker named therein, designating the applicant as the dealer's or broker's salesperson;

(8) Any other information required by the commission.

(C) Any application for a manufactured housing dealer or manufactured housing broker delivered to the commission under this section also shall be accompanied by a photograph, as prescribed by the commission, of each place of business operated, or to be operated, by the applicant.

(D) The manufactured homes commission shall deposit all license fees into the state treasury to the credit of the occupational licensing and regulatory fund.

Sec. 4781.18. (A) The manufactured homes commission shall deny the application of any person for a license as a manufactured housing dealer or manufactured housing broker and refuse to issue the license if the commission finds that any of the following is true of the applicant:

(1) The applicant has made any false statement of a material fact in the application.

(2) The applicant has not complied with this chapter or the rules adopted by the commission under this chapter.

(3) The applicant is of bad business repute or has habitually defaulted on financial obligations.

(4) The applicant has been guilty of a fraudulent act in connection with selling or otherwise dealing in manufactured housing or in connection with brokering manufactured housing.

(5) The applicant has entered into or is about to enter into a contract or agreement with a manufacturer or distributor of manufactured homes that is contrary to the requirements of this chapter.

(6) The applicant is insolvent.

(7) The applicant is of insufficient responsibility to ensure the prompt payment of any final judgments that might reasonably be entered against the applicant because of the transaction of business as a manufactured housing dealer or manufactured housing broker during the period of the license applied for, or has failed to satisfy any such judgment.

(8) The applicant has no established place of business that, where applicable, is used or will be used for the purpose of selling, displaying, offering for sale or dealing in manufactured housing at the location for which application is made.

(9) Within less than twelve months prior to making application, the applicant has been denied a manufactured housing dealer's license or

manufactured housing broker's license, or has any such license revoked.

(B) The commission shall deny the application of any person for a license as a salesperson and refuse to issue the license if the commission finds that any of the following is true of the applicant:

(1) The applicant has made any false statement of a material fact in the application.

(2) The applicant has not complied with this chapter or the rules adopted by the commission under this chapter.

(3) The applicant is of bad business repute or has habitually defaulted on financial obligations.

(4) The applicant has been guilty of a fraudulent act in connection with selling or otherwise dealing in manufactured housing.

(5) The applicant has not been designated to act as salesperson for a manufactured housing dealer or manufactured housing broker licensed to do business in this state under this chapter, or intends to act as salesperson for more than one licensed manufactured housing dealer or manufactured housing broker at the same time, unless the licensed dealership is owned or operated by the same corporation, regardless of the county in which the dealership's facility is located.

(6) The applicant holds a current manufactured housing dealer's or manufactured housing broker's license issued under this chapter, and intends to act as salesperson for another licensed manufactured housing dealer or manufactured housing broker.

(7) Within less than twelve months prior to making application, the applicant has been denied a salesperson's license or had a salesperson's license revoked.

(8) The applicant was salesperson for, or in the employ of, a manufactured housing dealer or manufactured housing broker at the time the dealer's or broker's license was revoked.

(C) If an applicant for a manufactured housing dealer or manufactured housing broker's license is a corporation or partnership, the commission may refuse to issue a license if any officer, director, or partner of the applicant has been guilty of any act or omission that would be cause for refusing or revoking a license issued to such officer, director, or partner as an individual. The commission's finding may be based upon facts contained in the application or upon any other information the commission may have.

(D) Notwithstanding division (A)(4) of this section, the commission shall not deny the application of any person and refuse to issue a license if the commission finds that the applicant is engaged or will engage in the business of selling at retail any new manufactured homes and demonstrates

that the applicant has posted a bond, surety, or certificate of deposit with the commission in an amount not less than one hundred thousand dollars for the protection and benefit of the applicant's customers.

(E) A decision made by the commission under this section may be based upon any statement contained in the application or upon any facts within the commission's knowledge.

(F) Immediately upon denying an application for any of the reasons in this section, the commission shall enter a final order together with the commission's findings. If the application is denied by the executive director of the commission under authority of section 4781.05 of the Revised Code, the executive director shall enter a final order together with the director's findings and certify the same to the commission. The commission shall issue to the applicant a written notice of refusal to grant a license that shall disclose the reason for refusal.

Sec. 4781.19. (A) At the time the manufactured homes commission grants the application of any person for a license as a manufactured housing dealer, manufactured housing broker, or manufactured housing salesperson, the commission shall issue to the person a license that includes the name and post-office address of the person licensed. If a manufactured housing dealer or manufactured housing broker has more than one place of business in a county, the dealer or broker shall make application, in such form as the commission prescribes, for a certified copy of the license issued to the dealer or broker for each place of business in the county.

(B) The commission may require each applicant for a manufactured housing dealer's license, manufactured housing broker's license, and manufactured housing salesperson's license issued under this chapter to pay an additional fee, which shall be used by the commission to pay the costs of obtaining a record of any arrests and convictions of the applicant from the bureau of identification and investigation. The amount of the fee shall be equal to that paid by the commission to obtain such record.

(C) In the event of the loss, mutilation, or destruction of a manufactured housing dealer's license, manufactured housing broker's license, or manufactured housing salesperson's license, any licensee may make application to the commission, in the form prescribed by the commission, for a duplicate copy thereof and pay a fee established by the commission.

(D) All manufactured housing dealers' licenses, all manufactured housing brokers' licenses, and all manufactured housing salespersons' licenses issued or renewed shall expire biennially on a day within the two-year cycle that is prescribed by the manufactured homes commission, unless sooner suspended or revoked. Before the first day after the day

prescribed by the commission in the year that the license expires, each licensed manufactured housing dealer, manufactured housing broker, and manufactured housing salesperson, in the year in which the license will expire, shall file an application, in such form as the commission prescribes, for the renewal of such license. The fee required by this section for the original license shall accompany the application.

(E) Each manufactured housing dealer and manufactured housing broker shall keep the license or a certified copy thereof and a current list of the dealer's or the broker's licensed salespersons, showing the names, addresses, and serial numbers of their licenses, posted in a conspicuous place in each place of business. Each salesperson shall carry the salesperson's license or a certified copy thereof and shall exhibit such license or copy upon demand to any inspector of the commission, state highway patrol trooper, police officer, or person with whom the salesperson seeks to transact business as a manufactured housing salesperson.

Sec. 4781.20. The applications for licenses submitted under section 4781.17 of the Revised Code are not part of the public records but are confidential information for the use of the manufactured homes commission. No person shall divulge any information contained in such applications and acquired by the person in the person's capacity as an official or employee of the manufactured homes commission, except in a report to the commission, or when called upon to testify in any court or proceeding.

Sec. 4781.21. (A) The manufactured homes commission may make rules governing its actions relative to the suspension and revocation of manufactured housing dealers', manufactured housing brokers', and manufactured housing salespersons' licenses, and may, upon its own motion, and shall, upon the verified complaint in writing of any person, investigate the conduct of any licensee under this chapter. The commission shall suspend, revoke, or refuse to renew any manufactured housing dealer's, manufactured housing broker's, or manufactured housing salesperson's license, if any ground existed upon which the license might have been refused, or if a ground exists that would be cause for refusal to issue a license.

The commission may suspend or revoke any license if the licensee has in any manner violated the rules adopted by the commission under this chapter, or has been convicted of committing a felony or violating any law that in any way relates to the selling, taxing, licensing, or regulation of sales of manufactured or mobile homes.

(B) Any salesperson's license shall be suspended upon the termination, suspension, or revocation of the license of the manufactured housing dealer

or manufactured housing broker for whom the salesperson is acting, or upon the salesperson leaving the service of the manufactured housing dealer or manufactured housing broker. Upon the termination, suspension, or revocation of the license of the manufactured housing dealer or manufactured housing broker for whom the salesperson is acting, or upon the salesperson leaving the service of a licensed manufactured housing or manufactured housing broker, the licensed salesperson may make application to the commission, in such form as the commission prescribes, to have the salesperson's license reinstated, transferred, and registered as a salesperson for another dealer or broker. If the information contained in the application is satisfactory to the commission, the commission shall reinstate, transfer, or register the salesperson's license as a salesperson for other dealer or broker. The commission shall establish the fee for the reinstatement and transfer of license. No license issued to a dealer, broker, or salesperson under this chapter may be transferred to any other person.

(C) Any person whose manufactured housing dealer's license, manufactured housing broker's license, or manufactured housing salesperson's license is revoked, suspended, denied, or not renewed may request an adjudication hearing on the matter within thirty days after receipt of the notice of the action. If no appeal is taken within thirty days after receipt of the order, the order is final and conclusive. All appeals must be by petition in writing and verified under oath by the applicant whose application for license has been revoked, suspended, denied, or not renewed and must set forth the reason for the appeal and the reason why, in the petitioner's opinion, the order is not correct. In such appeals the board may make investigation to determine the correctness and legality of the appealed order. The hearing shall be held in accordance with Chapter 119. of the Revised Code.

Sec. 4781.22. No manufactured housing dealer licensed under this chapter shall do any of the following:

(A) Directly or indirectly, solicit the sale of a manufactured home or mobile home through an interested person other than a salesperson licensed in the employ of a licensed dealer;

(B) Pay any commission or compensation in any form to any person in connection with the sale of a manufactured home or mobile home unless the person is licensed as a salesperson in the employ of the dealer;

(C) Fail to immediately notify the manufactured homes commission upon termination of the employment of any person licensed as a salesperson to sell, display, offer for sale, or deal in manufactured homes or mobile homes for the dealer.

Sec. 4781.23. (A) Each licensed manufactured housing dealer and manufactured housing broker shall notify the manufactured homes commission of any change in status as a manufactured housing dealer or manufactured housing broker during the period for which the dealer or broker is licensed, if the change of status concerns either of the following:

(1) Personnel of owners, partners, officers, or directors;

(2) Location of an office or principal place of business.

(B) The notification required by division (A) of this section shall be made by filing with the commission, within fifteen days after the change of status, a supplemental statement in a form prescribed by the commission showing in what respect the status has been changed.

The commission may adopt a rule exempting from the notification requirement of division (A)(1) of this section any dealer if stock in the dealer or its parent company is publicly traded and if there are public records filed with and in the possession of state or federal agencies that provide the information required by division (A)(1) of this section.

Sec. 4781.24. (A) Every retail sale of a manufactured home or mobile home shall be preceded by a written contract that shall contain all of the agreements of the parties and shall be signed by the buyer and the seller. The seller, upon execution of the contract and before the delivery of the manufactured or mobile home, shall deliver to the buyer a copy of the contract that shall clearly describe all of the following:

(1) The home sold to the buyer, including, where applicable, its vehicle identification number;

(2) The sale price of the home, and, if applicable, the amount paid down by the buyer;

(3) The amount credited to the buyer for any trade-in and a description thereof;

(4) The amount of any finance charge;

(5) The amount charged for any home insurance and a statement of the types of insurance provided by the policy or policies;

(6) The amount of any other charge and a specification of its purpose;

(7) The net balance of payment due from the buyer including the terms of the payment of the net balance.

(B) A manufactured housing dealer may contract for and receive a documentary service charge for a retail sale of a manufactured home or mobile home. The documentary service charge shall be specified in writing without itemization of the individual services provided and shall not be more than the lesser of the following:

(1) The amount allowed in a retail installment contract;

(2) Ten per cent of the amount the buyer is required to pay pursuant to the contract, excluding tax, title, and registration fees, and any negative equity adjustment.

(C) This section does not apply to a casual sale of a manufactured home or mobile home.

Sec. 4781.25. The manufactured homes commission shall adopt rules for the regulation of manufactured housing brokers in accordance with Chapter 119. of the Revised Code. The rules shall require that a manufactured housing broker maintain a bond of a surety company authorized to transact business in this state in an amount determined by the commission. The rules also shall require each person licensed as a manufactured housing broker to maintain at all times a special or trust bank account that is noninterest-bearing, is separate and distinct from any personal or other account of the broker, and into which shall be deposited and maintained all escrow funds, security deposits, and other moneys received by the broker in a fiduciary capacity. In a form determined by the commission, a manufactured housing broker shall submit written proof to the commission of the continued maintenance of the special or trust account. A depository where special or trust accounts are maintained in accordance with this section shall be located in this state.

Sec. 4781.99. (A) Whoever violates division (A) of section 4781.16 of the Revised Code is guilty of a minor misdemeanor on a first offense and shall be subject to a mandatory fine of one hundred dollars. On a second offense, the person is guilty of a misdemeanor of the first degree and shall be subject to a mandatory fine of one thousand dollars.

(B) Whoever violates section 4781.20 of the Revised Code is guilty of a minor misdemeanor.

(C) Whoever violates any of the following is guilty of a misdemeanor of the fourth degree:

- (1) Division (B) or (C) of section 4781.16 of the Revised Code;
- (2) Section 4781.22 of the Revised Code;
- (3) Section 4781.23 of the Revised Code;
- (4) Division (A) of section 4781.24 of the Revised Code;
- (5) Section 4781.25 of the Revised Code.

Sec. 4905.801. (A) No person shall transport or cause to be transported any shipment of material that is subject to division (A)(1) of section 4163.07 of the Revised Code within, into, or through this state by rail or motor carrier unless the person, at least four days prior to the date of the shipment, pays to the public utilities commission the following fees for each shipment:

- (1) Two thousand five hundred dollars for each shipment by a motor

carrier;

(2) Four thousand five hundred dollars for the first cask designated for transport by rail and three thousand dollars for each additional cask designated for transport by rail that is shipped by the same person or entity in the same shipment.

(B)(1) This section does not apply to either of the following:

(a) Any shipment of material that is subject to division (A)(1) of section 4163.07 of the Revised Code by or for the United States government for military or national defense purposes;

(b) Any shipment of material that is subject to division (A)(1) of section 4163.07 of the Revised Code to or from a plant that is owned by the United States department of energy and that is located in this state or to or from entities that operate on land located in this state that is owned or controlled by the United States department of energy or the United States department of defense.

(2) Except as provided in division (B)(1)(a) and (b) of this section, this section applies to all other shipments of any material that is subject to division (A)(1) of section 4163.07 of the Revised Code by or for the United States government to the extent permitted by federal law.

(C) Whoever violates division (A) of this section is liable for a civil penalty in an amount not to exceed ten times the amount of the fee that is due under this section. The attorney general, upon the request of the public utilities commission, shall bring a civil action to collect the penalty. Penalties collected under this section shall be deposited in the state treasury to the credit of the radioactive waste transportation fund created in section 4905.802 of the Revised Code.

(D) If a highway route controlled quantity shipment of a material that is subject to division (A)(1) of section 4163.07 of the Revised Code has been the subject of a United States department of transportation level VI inspection and has passed the inspection, the shipment shall not otherwise be subject to inspection by state or local officials unless such inspection is determined to be necessary by the state highway patrol. The public utilities commission shall establish procedures for the reduction of the fee established in division (A) of this section for such shipments to incorporate police escort services only. The procedures shall require the payment of the fee only after the police escort has been completed.

Sec. 4928.01. (A) As used in this chapter:

(1) "Ancillary service" means any function necessary to the provision of electric transmission or distribution service to a retail customer and includes, but is not limited to, scheduling, system control, and dispatch services;

reactive supply from generation resources and voltage control service; reactive supply from transmission resources service; regulation service; frequency response service; energy imbalance service; operating reserve-spinning reserve service; operating reserve-supplemental reserve service; load following; back-up supply service; real-power loss replacement service; dynamic scheduling; system black start capability; and network stability service.

(2) "Billing and collection agent" means a fully independent agent, not affiliated with or otherwise controlled by an electric utility, electric services company, electric cooperative, or governmental aggregator subject to certification under section 4928.08 of the Revised Code, to the extent that the agent is under contract with such utility, company, cooperative, or aggregator solely to provide billing and collection for retail electric service on behalf of the utility company, cooperative, or aggregator.

(3) "Certified territory" means the certified territory established for an electric supplier under sections 4933.81 to 4933.90 of the Revised Code.

(4) "Competitive retail electric service" means a component of retail electric service that is competitive as provided under division (B) of this section.

(5) "Electric cooperative" means a not-for-profit electric light company that both is or has been financed in whole or in part under the "Rural Electrification Act of 1936," 49 Stat. 1363, 7 U.S.C. 901, and owns or operates facilities in this state to generate, transmit, or distribute electricity, or a not-for-profit successor of such company.

(6) "Electric distribution utility" means an electric utility that supplies at least retail electric distribution service.

(7) "Electric light company" has the same meaning as in section 4905.03 of the Revised Code and includes an electric services company, but excludes any self-generator to the extent that it consumes electricity it so produces, sells that electricity for resale, or obtains electricity from a generating facility it hosts on its premises.

(8) "Electric load center" has the same meaning as in section 4933.81 of the Revised Code.

(9) "Electric services company" means an electric light company that is engaged on a for-profit or not-for-profit basis in the business of supplying or arranging for the supply of only a competitive retail electric service in this state. "Electric services company" includes a power marketer, power broker, aggregator, or independent power producer but excludes an electric cooperative, municipal electric utility, governmental aggregator, or billing and collection agent.

(10) "Electric supplier" has the same meaning as in section 4933.81 of the Revised Code.

(11) "Electric utility" means an electric light company that has a certified territory and is engaged on a for-profit basis either in the business of supplying a noncompetitive retail electric service in this state or in the businesses of supplying both a noncompetitive and a competitive retail electric service in this state. "Electric utility" excludes a municipal electric utility or a billing and collection agent.

(12) "Firm electric service" means electric service other than nonfirm electric service.

(13) "Governmental aggregator" means a legislative authority of a municipal corporation, a board of township trustees, or a board of county commissioners acting as an aggregator for the provision of a competitive retail electric service under authority conferred under section 4928.20 of the Revised Code.

(14) A person acts "knowingly," regardless of the person's purpose, when the person is aware that the person's conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when the person is aware that such circumstances probably exist.

(15) "Level of funding for low-income customer energy efficiency programs provided through electric utility rates" means the level of funds specifically included in an electric utility's rates on October 5, 1999, pursuant to an order of the public utilities commission issued under Chapter 4905. or 4909. of the Revised Code and in effect on October 4, 1999, for the purpose of improving the energy efficiency of housing for the utility's low-income customers. The term excludes the level of any such funds committed to a specific nonprofit organization or organizations pursuant to a stipulation or contract.

(16) "Low-income customer assistance programs" means the percentage of income payment plan program, the home energy assistance program, the home weatherization assistance program, and the targeted energy efficiency and weatherization program.

(17) "Market development period" for an electric utility means the period of time beginning on the starting date of competitive retail electric service and ending on the applicable date for that utility as specified in section 4928.40 of the Revised Code, irrespective of whether the utility applies to receive transition revenues under this chapter.

(18) "Market power" means the ability to impose on customers a sustained price for a product or service above the price that would prevail in

a competitive market.

(19) "Mercantile customer" means a commercial or industrial customer if the electricity consumed is for nonresidential use and the customer consumes more than seven hundred thousand kilowatt hours per year or is part of a national account involving multiple facilities in one or more states.

(20) "Municipal electric utility" means a municipal corporation that owns or operates facilities to generate, transmit, or distribute electricity.

(21) "Noncompetitive retail electric service" means a component of retail electric service that is noncompetitive as provided under division (B) of this section.

(22) "Nonfirm electric service" means electric service provided pursuant to a schedule filed under section 4905.30 of the Revised Code or pursuant to an arrangement under section 4905.31 of the Revised Code, which schedule or arrangement includes conditions that may require the customer to curtail or interrupt electric usage during nonemergency circumstances upon notification by an electric utility.

(23) "Percentage of income payment plan arrears" means funds eligible for collection through the percentage of income payment plan rider, but uncollected as of July 1, 2000.

(24) "Person" has the same meaning as in section 1.59 of the Revised Code.

(25) "Advanced energy project" means any technologies, products, activities, or management practices or strategies that facilitate the generation or use of electricity or energy and that reduce or support the reduction of energy consumption or support the production of clean, renewable energy for industrial, distribution, commercial, institutional, governmental, research, not-for-profit, or residential energy users, including, but not limited to, advanced energy resources and renewable energy resources. "Advanced energy project" also includes any project described in division (A), (B), or (C) of section 4928.621 of the Revised Code.

(26) "Regulatory assets" means the unamortized net regulatory assets that are capitalized or deferred on the regulatory books of the electric utility, pursuant to an order or practice of the public utilities commission or pursuant to generally accepted accounting principles as a result of a prior commission rate-making decision, and that would otherwise have been charged to expense as incurred or would not have been capitalized or otherwise deferred for future regulatory consideration absent commission action. "Regulatory assets" includes, but is not limited to, all deferred demand-side management costs; all deferred percentage of income payment plan arrears; post-in-service capitalized charges and assets recognized in

connection with statement of financial accounting standards no. 109 (receivables from customers for income taxes); future nuclear decommissioning costs and fuel disposal costs as those costs have been determined by the commission in the electric utility's most recent rate or accounting application proceeding addressing such costs; the undepreciated costs of safety and radiation control equipment on nuclear generating plants owned or leased by an electric utility; and fuel costs currently deferred pursuant to the terms of one or more settlement agreements approved by the commission.

(27) "Retail electric service" means any service involved in supplying or arranging for the supply of electricity to ultimate consumers in this state, from the point of generation to the point of consumption. For the purposes of this chapter, retail electric service includes one or more of the following "service components": generation service, aggregation service, power marketing service, power brokerage service, transmission service, distribution service, ancillary service, metering service, and billing and collection service.

(28) "Starting date of competitive retail electric service" means January 1, 2001.

(29) "Customer-generator" means a user of a net metering system.

(30) "Net metering" means measuring the difference in an applicable billing period between the electricity supplied by an electric service provider and the electricity generated by a customer-generator that is fed back to the electric service provider.

(31) "Net metering system" means a facility for the production of electrical energy that does all of the following:

(a) Uses as its fuel either solar, wind, biomass, landfill gas, or hydropower, or uses a microturbine or a fuel cell;

(b) Is located on a customer-generator's premises;

(c) Operates in parallel with the electric utility's transmission and distribution facilities;

(d) Is intended primarily to offset part or all of the customer-generator's requirements for electricity.

(32) "Self-generator" means an entity in this state that owns or hosts on its premises an electric generation facility that produces electricity primarily for the owner's consumption and that may provide any such excess electricity to another entity, whether the facility is installed or operated by the owner or by an agent under a contract.

(33) "Rate plan" means the standard service offer in effect on the effective date of the amendment of this section by S.B. 221 of the 127th

general assembly, July 31, 2008.

(34) "Advanced energy resource" means any of the following:

(a) Any method or any modification or replacement of any property, process, device, structure, or equipment that increases the generation output of an electric generating facility to the extent such efficiency is achieved without additional carbon dioxide emissions by that facility;

(b) Any distributed generation system consisting of customer cogeneration of electricity and thermal output simultaneously, primarily to meet the energy needs of the customer's facilities;

(c) Clean coal technology that includes a carbon-based product that is chemically altered before combustion to demonstrate a reduction, as expressed as ash, in emissions of nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or sulfur trioxide in accordance with the American society of testing and materials standard D1757A or a reduction of metal oxide emissions in accordance with standard D5142 of that society, or clean coal technology that includes the design capability to control or prevent the emission of carbon dioxide, which design capability the commission shall adopt by rule and shall be based on economically feasible best available technology or, in the absence of a determined best available technology, shall be of the highest level of economically feasible design capability for which there exists generally accepted scientific opinion;

(d) Advanced nuclear energy technology consisting of generation III technology as defined by the nuclear regulatory commission; other, later technology; or significant improvements to existing facilities;

(e) Any fuel cell used in the generation of electricity, including, but not limited to, a proton exchange membrane fuel cell, phosphoric acid fuel cell, molten carbonate fuel cell, or solid oxide fuel cell;

(f) Advanced solid waste or construction and demolition debris conversion technology, including, but not limited to, advanced stoker technology, and advanced fluidized bed gasification technology, that results in measurable greenhouse gas emissions reductions as calculated pursuant to the United States environmental protection agency's waste reduction model (WARM).

(g) Demand-side management and any energy efficiency improvement;

(h) Methane gas emitted from an operating or abandoned coal mine.

(35) "Renewable energy resource" means solar photovoltaic or solar thermal energy, wind energy, power produced by a hydroelectric facility, geothermal energy, fuel derived from solid wastes, as defined in section 3734.01 of the Revised Code, through fractionation, biological decomposition, or other process that does not principally involve

combustion, biomass energy, biologically derived methane gas, or energy derived from nontreated by-products of the pulping process or wood manufacturing process, including bark, wood chips, sawdust, and lignin in spent pulping liquors. "Renewable energy resource" includes, but is not limited to, any fuel cell used in the generation of electricity, including, but not limited to, a proton exchange membrane fuel cell, phosphoric acid fuel cell, molten carbonate fuel cell, or solid oxide fuel cell; wind turbine located in the state's territorial waters of Lake Erie; storage facility that will promote the better utilization of a renewable energy resource that primarily generates off peak; or distributed generation system used by a customer to generate electricity from any such energy. As used in division (A)(35) of this section, "hydroelectric facility" means a hydroelectric generating facility that is located at a dam on a river, or on any water discharged to a river, that is within or bordering this state or within or bordering an adjoining state and meets all of the following standards:

(a) The facility provides for river flows that are not detrimental for fish, wildlife, and water quality, including seasonal flow fluctuations as defined by the applicable licensing agency for the facility.

(b) The facility demonstrates that it complies with the water quality standards of this state, which compliance may consist of certification under Section 401 of the "Clean Water Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and demonstrates that it has not contributed to a finding by this state that the river has impaired water quality under Section 303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 U.S.C. 1313.

(c) The facility complies with mandatory prescriptions regarding fish passage as required by the federal energy regulatory commission license issued for the project, regarding fish protection for riverine, anadromous, and catadromus fish.

(d) The facility complies with the recommendations of the Ohio environmental protection agency and with the terms of its federal energy regulatory commission license regarding watershed protection, mitigation, or enhancement, to the extent of each agency's respective jurisdiction over the facility.

(e) The facility complies with provisions of the "Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 to 1544, as amended.

(f) The facility does not harm cultural resources of the area. This can be shown through compliance with the terms of its federal energy regulatory commission license or, if the facility is not regulated by that commission, through development of a plan approved by the Ohio historic preservation office, to the extent it has jurisdiction over the facility.

(g) The facility complies with the terms of its federal energy regulatory commission license or exemption that are related to recreational access, accommodation, and facilities or, if the facility is not regulated by that commission, the facility complies with similar requirements as are recommended by resource agencies, to the extent they have jurisdiction over the facility; and the facility provides access to water to the public without fee or charge.

(h) The facility is not recommended for removal by any federal agency or agency of any state, to the extent the particular agency has jurisdiction over the facility.

(B) For the purposes of this chapter, a retail electric service component shall be deemed a competitive retail electric service if the service component is competitive pursuant to a declaration by a provision of the Revised Code or pursuant to an order of the public utilities commission authorized under division (A) of section 4928.04 of the Revised Code. Otherwise, the service component shall be deemed a noncompetitive retail electric service.

Sec. 5101.073. There is hereby created in the state treasury the ODJFS general services administration and operating fund. The director of job and family services may submit a deposit modification and payment detail report to the treasurer of state after the completion of the reconciliation of all final transactions with the federal government regarding a federal grant for a program the department of job and family services administers and a final closeout for the grant. On receipt of the report, the treasurer of state shall transfer the money in the refunds and audit settlements fund that is the subject of the report to the ODJFS general services administration and operating fund. Money in the ODJFS general services administration and operating fund shall be used to pay for the expenses of the programs the department administers and the department's administrative expenses, including the costs of state hearings under section 5101.35 of the Revised Code, required audit adjustments, and other related expenses.

Sec. 5101.11. This section does not apply to contracts entered into under section 5111.90 or 5111.91 of the Revised Code.

(A) As used in this section:

(1) "Entity" includes an agency, board, commission, or department of the state or a political subdivision of the state; a private, nonprofit entity; a school district; a private school; or a public or private institution of higher education.

(2) "Federal financial participation" means the federal government's share of expenditures made by an entity in implementing a program

administered by the department of job and family services.

(B) At the request of any public entity having authority to implement a program administered by the department of job and family services or any private entity under contract with a public entity to implement a program administered by the department, the department may seek to obtain federal financial participation for costs incurred by the entity. Federal financial participation may be sought from programs operated pursuant to Title IV-A, Title IV-E, and Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended; the "Food Stamp and Nutrition Act of 1964," 78 Stat. 703, 2008 (7 U.S.C. 2011, as amended et seq.); and any other statute or regulation under which federal financial participation may be available, except that federal financial participation may be sought only for expenditures made with funds for which federal financial participation is available under federal law.

(C) All funds collected by the department of job and family services pursuant to division (B) of this section shall be distributed to the entities that incurred the costs, except for any amounts retained by the department pursuant to division (D)(3) of this section.

(D) In distributing federal financial participation pursuant to this section, the department may either enter into an agreement with the entity that is to receive the funds or distribute the funds in accordance with rules adopted under division (F) of this section. If the department decides to enter into an agreement to distribute the funds, the agreement may include terms that do any of the following:

(1) Provide for the whole or partial reimbursement of any cost incurred by the entity in implementing the program;

(2) In the event that federal financial participation is disallowed or otherwise unavailable for any expenditure, require the department of job and family services or the entity, whichever party caused the disallowance or unavailability of federal financial participation, to assume responsibility for the expenditures;

(3) Permit the department to retain not more than five per cent of the amount of the federal financial participation to be distributed to the entity;

(4) Require the public entity to certify the availability of sufficient unencumbered funds to match the federal financial participation it receives under this section;

(5) Establish the length of the agreement, which may be for a fixed or a continuing period of time;

(6) Establish any other requirements determined by the department to be necessary for the efficient administration of the agreement.

(E) An entity that receives federal financial participation pursuant to this section for a program aiding children and their families shall establish a process for collaborative planning with the department of job and family services for the use of the funds to improve and expand the program.

(F) The director of job and family services shall adopt rules as necessary to implement this section, including rules for the distribution of federal financial participation pursuant to this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. The director may adopt or amend any statewide plan required by the federal government for a program administered by the department, as necessary to implement this section.

(G) Federal financial participation received pursuant to this section shall not be included in any calculation made under section 5101.16 or 5101.161 of the Revised Code.

Sec. 5101.16. (A) As used in this section and sections 5101.161 and 5101.162 of the Revised Code:

(1) "Disability financial assistance" means the financial assistance program established under Chapter 5115. of the Revised Code.

~~(2) "Disability medical assistance" means the medical assistance program established under Chapter 5115. of the Revised Code.~~

~~(3) "Food stamps~~ Supplemental nutrition assistance program" means the program administered by the department of job and family services pursuant to section 5101.54 of the Revised Code.

~~(4)~~(3) "Medicaid" means the medical assistance program established by Chapter 5111. of the Revised Code, excluding transportation services provided under that chapter.

~~(5)~~(4) "Ohio works first" means the program established by Chapter 5107. of the Revised Code.

~~(6)~~(5) "Prevention, retention, and contingency" means the program established by Chapter 5108. of the Revised Code.

~~(7)~~(6) "Public assistance expenditures" means expenditures for all of the following:

- (a) Ohio works first;
- (b) County administration of Ohio works first;
- (c) Prevention, retention, and contingency;
- (d) County administration of prevention, retention, and contingency;
- (e) Disability financial assistance;
- ~~(f) Disability medical assistance;~~
- ~~(g) County administration of disability financial assistance;~~
- ~~(h) County administration of disability medical assistance;~~

~~(i)(g)~~ County administration of ~~food stamps~~ the supplemental nutrition assistance program;

~~(j)(h)~~ County administration of medicaid.

~~(8)(7)~~ "Title IV-A program" has the same meaning as in section 5101.80 of the Revised Code.

(B) Each board of county commissioners shall pay the county share of public assistance expenditures in accordance with section 5101.161 of the Revised Code. Except as provided in division (C) of this section, a county's share of public assistance expenditures is the sum of all of the following for state fiscal year 1998 and each state fiscal year thereafter:

(1) The amount that is twenty-five per cent of the county's total expenditures for disability financial assistance and ~~disability medical assistance~~ and county administration of ~~those programs~~ that program during the state fiscal year ending in the previous calendar year that the department of job and family services determines are allowable.

(2) The amount that is ten per cent, or other percentage determined under division (D) of this section, of the county's total expenditures for county administration of ~~food stamps~~ the supplemental nutrition assistance program and medicaid during the state fiscal year ending in the previous calendar year that the department determines are allowable, less the amount of federal reimbursement credited to the county under division (E) of this section for the state fiscal year ending in the previous calendar year;

(3) A percentage of the actual amount of the county share of program and administrative expenditures during federal fiscal year 1994 for assistance and services, other than child care, provided under Titles IV-A and IV-F of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as those titles existed prior to the enactment of the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 110 Stat. 2105. The department of job and family services shall determine the actual amount of the county share from expenditure reports submitted to the United States department of health and human services. The percentage shall be the percentage established in rules adopted under division (F) of this section.

(C)(1) If a county's share of public assistance expenditures determined under division (B) of this section for a state fiscal year exceeds one hundred ten per cent of the county's share for those expenditures for the immediately preceding state fiscal year, the department of job and family services shall reduce the county's share for expenditures under divisions (B)(1) and (2) of this section so that the total of the county's share for expenditures under division (B) of this section equals one hundred ten per cent of the county's share of those expenditures for the immediately preceding state fiscal year.

(2) A county's share of public assistance expenditures determined under division (B) of this section may be increased pursuant to section 5101.163 of the Revised Code and a sanction under section 5101.24 of the Revised Code. An increase made pursuant to section 5101.163 of the Revised Code may cause the county's share to exceed the limit established by division (C)(1) of this section.

(D)(1) If the per capita tax duplicate of a county is less than the per capita tax duplicate of the state as a whole and division (D)(2) of this section does not apply to the county, the percentage to be used for the purpose of division (B)(2) of this section is the product of ten multiplied by a fraction of which the numerator is the per capita tax duplicate of the county and the denominator is the per capita tax duplicate of the state as a whole. The department of job and family services shall compute the per capita tax duplicate for the state and for each county by dividing the tax duplicate for the most recent available year by the current estimate of population prepared by the department of development.

(2) If the percentage of families in a county with an annual income of less than three thousand dollars is greater than the percentage of such families in the state and division (D)(1) of this section does not apply to the county, the percentage to be used for the purpose of division (B)(2) of this section is the product of ten multiplied by a fraction of which the numerator is the percentage of families in the state with an annual income of less than three thousand dollars a year and the denominator is the percentage of such families in the county. The department of job and family services shall compute the percentage of families with an annual income of less than three thousand dollars for the state and for each county by multiplying the most recent estimate of such families published by the department of development, by a fraction, the numerator of which is the estimate of average annual personal income published by the bureau of economic analysis of the United States department of commerce for the year on which the census estimate is based and the denominator of which is the most recent such estimate published by the bureau.

(3) If the per capita tax duplicate of a county is less than the per capita tax duplicate of the state as a whole and the percentage of families in the county with an annual income of less than three thousand dollars is greater than the percentage of such families in the state, the percentage to be used for the purpose of division (B)(2) of this section shall be determined as follows:

(a) Multiply ten by the fraction determined under division (D)(1) of this section;

(b) Multiply the product determined under division (D)(3)(a) of this section by the fraction determined under division (D)(2) of this section.

(4) The department of job and family services shall determine, for each county, the percentage to be used for the purpose of division (B)(2) of this section not later than the first day of July of the year preceding the state fiscal year for which the percentage is used.

(E) The department of job and family services shall credit to a county the amount of federal reimbursement the department receives from the United States departments of agriculture and health and human services for the county's expenditures for administration of ~~food-stamps~~ the supplemental nutrition assistance program and medicaid that the department determines are allowable administrative expenditures.

(F)(1) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code to establish all of the following:

(a) The method the department is to use to change a county's share of public assistance expenditures determined under division (B) of this section as provided in division (C) of this section;

(b) The allocation methodology and formula the department will use to determine the amount of funds to credit to a county under this section;

(c) The method the department will use to change the payment of the county share of public assistance expenditures from a calendar-year basis to a state fiscal year basis;

(d) The percentage to be used for the purpose of division (B)(3) of this section, which shall, except as provided in section 5101.163 of the Revised Code, meet both of the following requirements:

(i) The percentage shall not be less than seventy-five per cent nor more than eighty-two per cent;

(ii) The percentage shall not exceed the percentage that the state's qualified state expenditures is of the state's historic state expenditures as those terms are defined in 42 U.S.C. 609(a)(7).

(e) Other procedures and requirements necessary to implement this section.

(2) The director of job and family services may amend the rule adopted under division (F)(1)(d) of this section to modify the percentage on determination that the amount the general assembly appropriates for Title IV-A programs makes the modification necessary. The rule shall be adopted and amended as if an internal management rule and in consultation with the director of budget and management.

Sec. 5101.162. Subject to available federal funds and appropriations

made by the general assembly, the department of job and family services may, at its sole discretion, use available federal funds to reimburse county expenditures for county administration of ~~food stamps~~ the supplemental nutrition assistance program or medicaid even though the county expenditures meet or exceed the maximum allowable reimbursement amount established by rules adopted under section 5101.161 of the Revised Code. The director may adopt internal management rules in accordance with section 111.15 of the Revised Code to implement this section.

Sec. 5101.181. (A) As used in this section and section 5101.182 of the Revised Code, "public assistance" includes, in addition to Ohio works first, all of the following:

- (1) Prevention, retention, and contingency;
- (2) Medicaid;
- (3) Disability financial assistance;
- (4) ~~Disability medical assistance;~~

~~(5)~~ General assistance provided prior to July 17, 1995, under former Chapter 5113. of the Revised Code.

(B) As part of the procedure for the determination of overpayment to a recipient of public assistance under Chapter 5107., 5108., 5111., or 5115. of the Revised Code, the director of job and family services shall furnish quarterly the name and social security number of each individual who receives public assistance to the director of administrative services, the administrator of the bureau of workers' compensation, and each of the state's retirement boards. Within fourteen days after receiving the name and social security number of an individual who receives public assistance, the director of administrative services, administrator, or board shall inform the auditor of state as to whether such individual is receiving wages or benefits, the amount of any wages or benefits being received, the social security number, and the address of the individual. The director of administrative services, administrator, boards, and any agent or employee of those officials and boards shall comply with the rules of the director of job and family services restricting the disclosure of information regarding recipients of public assistance. Any person who violates this provision shall thereafter be disqualified from acting as an agent or employee or in any other capacity under appointment or employment of any state board, commission, or agency.

(C) The auditor of state may enter into a reciprocal agreement with the director of job and family services or comparable officer of any other state for the exchange of names, current or most recent addresses, or social security numbers of persons receiving public assistance under Title IV-A or

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

(D)(1) The auditor of state shall retain, for not less than two years, at least one copy of all information received under this section and sections 145.27, 742.41, 3307.20, 3309.22, 4123.27, 5101.182, and 5505.04 of the Revised Code. The auditor shall review the information to determine whether overpayments were made to recipients of public assistance under Chapters 5107., 5108., 5111., and 5115. of the Revised Code. The auditor of state shall initiate action leading to prosecution, where warranted, of recipients who received overpayments by forwarding the name of each recipient who received overpayment, together with other pertinent information, to the director of job and family services and the attorney general, to the district director of job and family services of the district through which public assistance was received, and to the county director of job and family services and county prosecutor of the county through which public assistance was received.

(2) The auditor of state and the attorney general or their designees may examine any records, whether in computer or printed format, in the possession of the director of job and family services or any county director of job and family services. They shall provide safeguards which restrict access to such records to purposes directly connected with an audit or investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of the programs and shall comply with the rules of the director of job and family services restricting the disclosure of information regarding recipients of public assistance. Any person who violates this provision shall thereafter be disqualified from acting as an agent or employee or in any other capacity under appointment or employment of any state board, commission, or agency.

(3) Costs incurred by the auditor of state in carrying out the auditor of state's duties under this division shall be borne by the auditor of state.

Sec. 5101.24. (A) As used in this section, "responsible county grantee" means whichever county grantee, as defined in section 5101.21 of the Revised Code, the director of job and family services determines is appropriate to take action against under division (C) of this section.

(B) Regardless of whether a family services duty is performed by a county family services agency, private or government entity pursuant to a contract entered into under section 307.982 of the Revised Code or division (C)(2) of section 5153.16 of the Revised Code, or private or government provider of a family service duty, the department of job and family services may take action under division (C) of this section against the responsible

county grantee if the department determines any of the following are the case:

(1) A requirement of a grant agreement entered into under section 5101.21 of the Revised Code that includes a grant for the family services duty, including a requirement for grant agreements established by rules adopted under that section, is not complied with;

(2) A county family services agency fails to develop, submit to the department, or comply with a corrective action plan under division (B) of section 5101.221 of the Revised Code, or the department disapproves the agency's corrective action plan developed under division (B) of section 5101.221 of the Revised Code;

(3) A requirement for the family services duty established by the department or any of the following is not complied with: a federal or state law, state plan for receipt of federal financial participation, grant agreement between the department and a federal agency, or executive order issued by the governor;

(4) The responsible county grantee is solely or partially responsible, as determined by the director of job and family services, for an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty regarding the family services duty.

(C) The department may take one or more of the following actions against the responsible county grantee when authorized by division (B)(1), (2), (3), or (4) of this section:

(1) Require the responsible county grantee to comply with a corrective action plan pursuant to a time schedule specified by the department. The corrective action plan shall be established or approved by the department and shall not require a county grantee to commit resources to the plan.

(2) Require the responsible county grantee to comply with a corrective action plan pursuant to a time schedule specified by the department. The corrective action plan shall be established or approved by the department and require a county grantee to commit to the plan existing resources identified by the agency.

(3) Require the responsible county grantee to do one of the following:

(a) Share with the department a final disallowance of federal financial participation or other sanction or penalty;

(b) Reimburse the department the final amount the department pays to the federal government or another entity that represents the amount the responsible county grantee is responsible for of an adverse audit finding, adverse quality control finding, final disallowance of federal financial

participation, or other sanction or penalty issued by the federal government, auditor of state, or other entity;

(c) Pay the federal government or another entity the final amount that represents the amount the responsible county grantee is responsible for of an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty issued by the federal government, auditor of state, or other entity;

(d) Pay the department the final amount that represents the amount the responsible county grantee is responsible for of an adverse audit finding or adverse quality control finding.

(4) Impose an administrative sanction issued by the department against the responsible county grantee. A sanction may be increased if the department has previously taken action against the responsible entity under this division.

(5) Perform, or contract with a government or private entity for the entity to perform, the family services duty until the department is satisfied that the responsible county grantee ensures that the duty will be performed satisfactorily. If the department performs or contracts with an entity to perform a family services duty under division (C)(5) of this section, the department may do either or both of the following:

(a) Spend funds in the county treasury appropriated by the board of county commissioners for the duty;

(b) Withhold funds allocated or reimbursements due to the responsible county grantee for the duty and spend the funds for the duty.

(6) Request that the attorney general bring mandamus proceedings to compel the responsible county grantee to take or cease the action that causes division (B)(1), (2), (3), or (4) of this section to apply. The attorney general shall bring mandamus proceedings in the Franklin county court of appeals at the department's request.

(7) If the department takes action under this division because of division (B)(3) of this section, temporarily withhold funds allocated or reimbursement due to the responsible county grantee until the department determines that the responsible county grantee is in compliance with the requirement. The department shall release the funds when the department determines that compliance has been achieved.

(D) If the department proposes to take action against the responsible county grantee under division (C) of this section, the department shall notify the responsible county grantee, director of the appropriate county family services agency, and county auditor. The notice shall be in writing and specify the action the department proposes to take. The department shall

send the notice by regular United States mail.

Except as provided by division (E) of this section, the responsible county grantee may request an administrative review of a proposed action in accordance with administrative review procedures the department shall establish. The administrative review procedures shall comply with all of the following:

(1) A request for an administrative review shall state specifically all of the following:

(a) The proposed action specified in the notice from the department for which the review is requested;

(b) The reason why the responsible county grantee believes the proposed action is inappropriate;

(c) All facts and legal arguments that the responsible county grantee wants the department to consider;

(d) The name of the person who will serve as the responsible county grantee's representative in the review.

(2) If the department's notice specifies more than one proposed action and the responsible county grantee does not specify all of the proposed actions in its request pursuant to division (D)(1)(a) of this section, the proposed actions not specified in the request shall not be subject to administrative review and the parts of the notice regarding those proposed actions shall be final and binding on the responsible county grantee.

(3) In the case of a proposed action under division (C)(1) of this section, the responsible county grantee shall have fifteen calendar days after the department mails the notice to the responsible county grantee to send a written request to the department for an administrative review. If it receives such a request within the required time, the department shall postpone taking action under division (C)(1) of this section for fifteen calendar days following the day it receives the request or extended period of time provided for in division (D)(5) of this section to allow a representative of the department and a representative of the responsible county grantee an informal opportunity to resolve any dispute during that fifteen-day or extended period.

(4) In the case of a proposed action under division (C)(2), (3), (4), (5), or (7) of this section, the responsible county grantee shall have thirty calendar days after the department mails the notice to the responsible county grantee to send a written request to the department for an administrative review. If it receives such a request within the required time, the department shall postpone taking action under division (C)(2), (3), (4), (5), or (7) of this section for thirty calendar days following the day it receives the request or

extended period of time provided for in division (D)(5) of this section to allow a representative of the department and a representative of the responsible county grantee an informal opportunity to resolve any dispute during that thirty-day or extended period.

(5) If the informal opportunity provided in division (D)(3) or (4) of this section does not result in a written resolution to the dispute within the fifteen- or thirty-day period, the director of job and family services and representative of the responsible county grantee may enter into a written agreement extending the time period for attempting an informal resolution of the dispute under division (D)(3) or (4) of this section.

(6) In the case of a proposed action under division (C)(3) of this section, the responsible county grantee may not include in its request disputes over a finding, final disallowance of federal financial participation, or other sanction or penalty issued by the federal government, auditor of state, or entity other than the department.

(7) If the responsible county grantee fails to request an administrative review within the required time, the responsible county grantee loses the right to request an administrative review of the proposed actions specified in the notice and the notice becomes final and binding on the responsible county grantee.

(8) If the informal opportunity provided in division (D)(3) or (4) of this section does not result in a written resolution to the dispute within the time provided by division (D)(3), (4), or (5) of this section, the director shall appoint an administrative review panel to conduct the administrative review. The review panel shall consist of department employees and one director or other representative of the type of county family services agency that is responsible for the kind of family services duty that is the subject of the dispute and serves a different county than the county served by the responsible county grantee. No individual involved in the department's proposal to take action against the responsible county grantee may serve on the review panel. The review panel shall review the responsible county grantee's request. The review panel may require that the department or responsible county grantee submit additional information and schedule and conduct an informal hearing to obtain testimony or additional evidence. A review of a proposal to take action under division (C)(3) of this section shall be limited solely to the issue of the amount the responsible county grantee shall share with the department, reimburse the department, or pay to the federal government, department, or other entity under division (C)(3) of this section. The review panel is not required to make a stenographic record of its hearing or other proceedings.

(9) After finishing an administrative review, an administrative review panel appointed under division (D)(8) of this section shall submit a written report to the director setting forth its findings of fact, conclusions of law, and recommendations for action. The director may approve, modify, or disapprove the recommendations. If the director modifies or disapproves the recommendations, the director shall state the reasons for the modification or disapproval and the actions to be taken against the responsible county grantee.

(10) The director's approval, modification, or disapproval under division (D)(9) of this section shall be final and binding on the responsible county grantee and shall not be subject to further departmental review.

(E) The responsible county grantee is not entitled to an administrative review under division (D) of this section for any of the following:

(1) An action taken under division (C)(6) of this section;

(2) An action taken under section 5101.242 of the Revised Code;

(3) An action taken under division (C)(3) of this section if the federal government, auditor of state, or entity other than the department has identified the responsible county grantee as being solely or partially responsible for an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty;

(4) An adjustment to an allocation, cash draw, advance, or reimbursement to a responsible county grantee that the department determines necessary for budgetary reasons;

(5) Withholding of a cash draw or reimbursement due to noncompliance with a reporting requirement established in rules adopted under section 5101.243 of the Revised Code;

(6) An action taken under division (C)(5) of this section if the department determines that an emergency exists.

(F) This section does not apply to other actions the department takes against the responsible county grantee pursuant to authority granted by another state law unless the other state law requires the department to take the action in accordance with this section.

(G) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section.

Sec. 5101.26. As used in this section and in sections 5101.27 to 5101.30 of the Revised Code:

(A) "County agency" means a county department of job and family services or a public children services agency.

(B) "Fugitive felon" means an individual who is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual is fleeing, for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual is fleeing or, in the case of New Jersey, a high misdemeanor, regardless of whether the individual has departed from the individual's usual place of residence.

(C) "Information" means records as defined in section 149.011 of the Revised Code, any other documents in any format, and data derived from records and documents that are generated, acquired, or maintained by the department of job and family services, a county agency, or an entity performing duties on behalf of the department or a county agency.

(D) "Law enforcement agency" means the state highway patrol, an agency that employs peace officers as defined in section 109.71 of the Revised Code, the adult parole authority, a county department of probation, a prosecuting attorney, the attorney general, similar agencies of other states, federal law enforcement agencies, and postal inspectors. "Law enforcement agency" includes the peace officers and other law enforcement officers employed by the agency.

(E) "Medical assistance provided under a public assistance program" means medical assistance provided under the programs established under sections 5101.49, 5101.50 to ~~5101.503~~, 5101.51 to ~~5101.5110~~, 5101.52 to ~~5101.529~~, and 5101.5211 to 5101.5216, ~~Chapters~~ Chapter 5111. ~~and 5115.~~, or any other provision of the Revised Code.

(F) "Public assistance" means financial assistance, medical assistance, or social services provided under a program administered by the department of job and family services or a county agency pursuant to Chapter 329., 5101., 5104., 5107., 5108., 5111., or 5115. of the Revised Code or an executive order issued under section 107.17 of the Revised Code.

(G) "Public assistance recipient" means an applicant for or recipient or former recipient of public assistance.

Sec. 5101.31. Any record, data, pricing information, or other information regarding a drug rebate agreement or a supplemental drug rebate agreement for the medicaid program established under Chapter 5111. of the Revised Code ~~or the disability medical assistance program established under section 5115.10 of the Revised Code~~ that the department of job and family services receives from a pharmaceutical manufacturer or creates pursuant to negotiation of the agreement is not a public record under section 149.43 of the Revised Code and shall be treated by the department as confidential information.

Sec. 5101.33. (A) As used in this section, "benefits" means any of the following:

(1) Cash assistance paid under Chapter 5107. or 5115. of the Revised Code;

(2) ~~Food-stamp~~ Supplemental nutrition assistance program benefits provided under section 5101.54 of the Revised Code;

(3) Any other program administered by the department of job and family services under which assistance is provided or service rendered;

(4) Any other program, service, or assistance administered by a person or government entity that the department determines may be delivered through the medium of electronic benefit transfer.

(B) The department of job and family services may make any payment or delivery of benefits to eligible individuals through the medium of electronic benefit transfer by doing all of the following:

(1) Contracting with an agent to supply debit cards to the department of job and family services for use by such individuals in accessing their benefits and to credit such cards electronically with the amounts specified by the director of job and family services pursuant to law;

(2) Informing such individuals about the use of the electronic benefit transfer system and furnishing them with debit cards and information that will enable them to access their benefits through the system;

(3) Arranging with specific financial institutions or vendors, county departments of job and family services, or persons or government entities for individuals to have their cards credited electronically with the proper amounts at their facilities;

(4) Periodically preparing vouchers for the payment of such benefits by electronic benefit transfer;

(5) Satisfying any applicable requirements of federal and state law.

(C) The department may enter into a written agreement with any person or government entity to provide benefits administered by that person or entity through the medium of electronic benefit transfer. A written agreement may require the person or government entity to pay to the department either or both of the following:

(1) A charge that reimburses the department for all costs the department incurs in having the benefits administered by the person or entity provided through the electronic benefit transfer system;

(2) A fee for having the benefits provided through the electronic benefit transfer system.

(D) The department may designate which counties will participate in the medium of electronic benefit transfer, specify the date a designated county

will begin participation, and specify which benefits will be provided through the medium of electronic benefit transfer in a designated county.

(E) The department may adopt rules in accordance with Chapter 119. of the Revised Code for the efficient administration of this section.

Sec. 5101.34. (A) There is hereby created in the department of job and family services the Ohio commission on fatherhood. The commission shall consist of the following members:

(1)(a) Four members of the house of representatives appointed by the speaker of the house, not more than two of whom are members of the same political party. Two of the members must be from legislative districts that include a county or part of a county that is among the one-third of counties in this state with the highest number per capita of households headed by females.

(b) Two members of the senate appointed by the president of the senate, each from a different political party. One of the members must be from a legislative district that includes a county or part of a county that is among the one-third of counties in this state with the highest number per capita of households headed by females.

(2) The governor, or the governor's designee;

(3) One representative of the judicial branch of government appointed by the chief justice of the supreme court;

(4) The directors of health, job and family services, rehabilitation and correction, alcohol and drug addiction services, and youth services and the superintendent of public instruction, or their designees;

(5) One representative of the Ohio family and children first cabinet council created under section 121.37 of the Revised Code appointed by the chairperson of the council;

(6) Five representatives of the general public appointed by the governor. These members shall have extensive experience in issues related to fatherhood.

(B) The appointing authorities of the Ohio commission on fatherhood shall make initial appointments to the commission within thirty days after ~~the effective date of this section~~ September 29, 1999. Of the initial appointments to the commission made pursuant to divisions (A)(3), (5), and (6) of this section, three of the members shall serve a term of one year and four shall serve a term of two years. Members so appointed subsequently shall serve two-year terms. A member appointed pursuant to division (A)(1) of this section shall serve on the commission until the end of the general assembly from which the member was appointed or until the member ceases to serve in the chamber of the general assembly in which the member serves

at the time of appointment, whichever occurs first. The governor or the governor's designee shall serve on the commission until the governor ceases to be governor. The directors and superintendent or their designees shall serve on the commission until they cease, or the director or superintendent a designee represents ceases, to be director or superintendent. Each member shall serve on the commission from the date of appointment until the end of the term for which the member was appointed. Members may be reappointed.

Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall serve on the commission for the remainder of that term. A member shall continue to serve on the commission subsequent to the expiration date of the member's term until the member's successor is appointed or until a period of sixty days has elapsed, whichever occurs first. Members shall serve without compensation but shall be reimbursed for necessary expenses.

Sec. 5101.36. Any application for public assistance gives a right of subrogation to the department of job and family services for any workers' compensation benefits payable to a person who is subject to a support order, as defined in section 3119.01 of the Revised Code, on behalf of the applicant, to the extent of any public assistance payments made on the applicant's behalf. If the director of job and family services, in consultation with a child support enforcement agency and the administrator of the bureau of workers' compensation, determines that a person responsible for support payments to a recipient of public assistance is receiving workers' compensation, the director shall notify the administrator of the amount of the benefit to be paid to the department of job and family services.

For purposes of this section, "public assistance" means medical assistance provided through the medical assistance program established under section 5111.01 of the Revised Code; Ohio works first provided under Chapter 5107. of the Revised Code; prevention, retention, and contingency benefits and services provided under Chapter 5108. of the Revised Code; or disability financial assistance provided under Chapter 5115. of the Revised Code; ~~or disability medical assistance provided under Chapter 5115. of the Revised Code.~~

Sec. 5101.47. (A) Except as provided in division (B) of this section, the director of job and family services may accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for one or more of the following:

(1) The medicaid program established by Chapter 5111. of the Revised Code;

(2) The children's health insurance program parts I, II, and III provided for under sections 5101.50, 5101.51, and 5101.52 of the Revised Code;

(3) Publicly funded child care provided under Chapter 5104. of the Revised Code;

(4) The ~~food-stamp~~ supplemental nutrition assistance program administered by the department of job and family services pursuant to section 5101.54 of the Revised Code;

(5) Other programs the director determines are supportive of children, adults, or families;

(6) Other programs regarding which the director determines administrative cost savings and efficiency may be achieved through the department accepting applications, determining eligibility, redetermining eligibility, or performing related administrative activities.

(B) If federal law requires a face-to-face interview to complete an eligibility determination for a program specified in or pursuant to division (A) of this section, the face-to-face interview shall not be conducted by the department of job and family services.

(C) Subject to division (B) of this section, if the director elects to accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for a program specified in or pursuant to division (A) of this section, both of the following apply:

(1) An individual seeking services under the program may apply for the program to the director or to the entity that state law governing the program authorizes to accept applications for the program.

(2) The director is subject to federal statutes and regulations and state statutes and rules that require, permit, or prohibit an action regarding accepting applications, determining or redetermining eligibility, and performing related administrative activities for the program.

(D) The director may adopt rules as necessary to implement this section.

Sec. 5101.50. (A) As used in sections 5101.50 to ~~5101.529~~ 5101.5210 of the Revised Code:

(1) "Children's health insurance program" means the program authorized by Title XXI of the "Social Security Act," 111 Stat. 552 (1997), 42 U.S.C.A. 1397aa.

(2) "Federal poverty guidelines" has the same meaning as in section 5101.46 of the Revised Code.

(B) The director of job and family services may continue to operate the children's health insurance program initially authorized by an executive

order issued under section 107.17 of the Revised Code as long as federal financial participation is available for the program. If operated, the program shall provide health assistance to uninsured individuals under nineteen years of age with family incomes not exceeding one hundred fifty per cent of the federal poverty guidelines. In accordance with 42 U.S.C.A. 1397aa, the director may provide for the health assistance to meet the requirements of 42 U.S.C.A. 1397cc, to be provided under the medicaid program established under Chapter 5111. of the Revised Code, or to be a combination of both.

Sec. 5101.504. (A) A school-based health center, as defined in 42 U.S.C. 1397jj(c)(9), may furnish health assistance services that the children's health insurance program part I covers if the center meets the requirements applicable to other providers providing those services.

(B) The director may adopt rules under section 5101.502 of the Revised Code pertaining to the billing, reimbursement, and data collection for school-based health centers.

Sec. 5101.5110. (A) A school-based health center, as defined in 42 U.S.C. 1397jj(c)(9), may furnish health assistance services that the children's health insurance program part II covers if the center meets the requirements applicable to other providers providing those services.

(B) The director may adopt rules under section 5101.512 of the Revised Code pertaining to the billing, reimbursement, and data collection for school-based health centers.

~~Sec. 5101.5110~~ 5101.5111. (A) The director of job and family services may submit a waiver request to the United States secretary of health and human services to provide health assistance to any individual who meets all of the following requirements:

(1) Is the parent of a child under nineteen years of age who resides with the parent and is eligible for health assistance under the children's health insurance program part I or II or the medicaid program established under Chapter 5111. of the Revised Code;

(2) Is uninsured;

(3) Has a family income that does not exceed one hundred per cent of the federal poverty guidelines.

(B) A waiver request the director submits under division (A) of this section may seek federal funds allotted to the state under Title XXI of the "Social Security Act," 111 Stat. 558 (1997), 42 U.S.C.A. 1397dd, as amended, that are not otherwise used to fund the children's health insurance program parts I and II.

(C) If a waiver request the director submits under division (A) of this section is granted, the director may adopt rules in accordance with Chapter

119. of the Revised Code as necessary for the efficient administration of the program authorization by the waiver.

Sec. 5101.5210. (A) A school-based health center, as defined in 42 U.S.C. 1397jj(c)(9), may furnish health assistance services that the children's health insurance program part III covers if the center meets the requirements applicable to other providers providing those services.

(B) The director may adopt rules under section 5101.522 of the Revised Code pertaining to the billing, reimbursement, and data collection for school-based health centers.

Sec. 5101.5212. (A) Under the children's buy-in program and subject to section 5101.5213 of the Revised Code, an individual who does both of the following in accordance with rules adopted under section 5101.5215 of the Revised Code qualifies for medical assistance under the program, unless the director of job and family services has adopted rules under division (B) of section 5101.5215 of the Revised Code to limit the number of individuals who may participate in the program at one time and the program is serving the maximum number of individuals specified in the rules:

~~(A)~~(1) Applies for the children's buy-in program;

~~(B)~~(2) Provides satisfactory evidence of all of the following:

~~(1)~~(a) That the individual is under nineteen years of age;

~~(2)~~(b) That the individual's countable family income exceeds ~~two~~ three hundred ~~fifty~~ per cent of the federal poverty guidelines;

~~(3)~~ That (c) Except as provided in division (B) of this section, that the individual has not had creditable coverage for at least ~~six~~ three months before enrolling in the children's buy-in program, ~~unless the individual lost the only creditable coverage available to the individual because the individual exhausted a lifetime benefit limitation;~~

~~(4)~~ That one or more of the following apply to the individual:

~~(a) The individual is unable to obtain creditable coverage due to a pre-existing condition of the individual;~~

~~(b) The individual lost the only creditable coverage available to the individual because the individual has exhausted a lifetime benefit limitation;~~

~~(c) The premium for the only creditable coverage available to the individual is greater than two hundred per cent of the premium applicable to the individual under the children's buy-in program;~~

~~(d) The individual participates in the program for medically handicapped children.~~

~~(5)~~(d) That the individual meets the additional eligibility requirements for the children's buy-in program established in rules adopted under section 5101.5215 of the Revised Code.

(B) Division (A)(2)(c) of this section does not apply to an individual who meets both of the following requirements:

(1) At least one of the following applies to the individual:

(a) The individual's parents are involuntarily unemployed.

(b) At least one of the individual's parents is unable to find work due to a disabling condition.

(c) At least one of the individual's parents involuntarily lost creditable coverage for the individual.

(d) The individual has creditable coverage under COBRA continuation coverage as defined in 42 U.S.C. 1396a(u)(3).

(2) At least one of the following applies to the individual:

(a) The cost of the least expensive creditable coverage available to the individual is greater than ten per cent of the individual's countable family income.

(b) The premium for the creditable coverage with the lowest premium available to the individual is greater than one hundred fifty per cent of the premium applicable to the individual under the children's buy-in program.

(c) The individual is unable to obtain creditable coverage due to a pre-existing condition of the individual.

(d) The individual lost the only creditable coverage available to the individual because the individual has exhausted a lifetime benefit limitation.

(e) The individual participates in the program for medically handicapped children.

Sec. 5101.5213. (A) An individual participating in the children's buy-in program shall be charged a monthly premium established by rules adopted under section 5101.5215 of the Revised Code. The amount of the monthly premium shall not be less than the following:

(1) In the case of an individual with countable family income exceeding ~~two~~ three hundred ~~fifty~~ per cent but not exceeding four hundred per cent of the federal poverty guidelines, the following amount:

(a) If no other member of the individual's family receives medical assistance under the program with the individual, one hundred dollars;

(b) If one or more members of the individual's family receive medical assistance under the program with the individual, one hundred fifty dollars.

(2) In the case of an individual with countable family income exceeding four hundred per cent but not exceeding five hundred per cent of the federal poverty guidelines, the following amount:

(a) If no other member of the individual's family receives medical assistance under the program with the individual, one hundred twenty-five dollars;

(b) If one or more members of the individual's family receive medical assistance under the program with the individual, one hundred seventy-five dollars.

(3) In the case of an individual with countable family income exceeding five hundred per cent of the federal poverty guidelines, the full amount of the actuarially determined cost of the premium.

(B) If the premium for the children's buy-in program is not paid for two consecutive months, the individual shall lose eligibility for the program. The individual may not resume participation in the program until the unpaid premiums that accrued before the individual lost eligibility are paid.

Sec. 5101.54. (A) The director of job and family services shall administer the ~~food-stamp~~ supplemental nutrition assistance program in accordance with the "Food Stamp and Nutrition Act of 1977," 91 Stat. 958, 2008 (7 U.S.C.A. 2011, ~~as amended et seq.~~). The department may:

(1) Prepare and submit to the secretary of the United States department of agriculture a plan for the administration of the ~~food-stamp~~ supplemental nutrition assistance program;

(2) Prescribe forms for applications, certificates, reports, records, and accounts of county departments of job and family services, and other matters;

(3) Require such reports and information from each county department of job and family services as may be necessary and advisable;

(4) Administer and expend any sums appropriated by the general assembly for the purposes of ~~this section~~ the supplemental nutrition assistance program and all sums paid to the state by the United States as authorized by the Food Stamp and Nutrition Act of 1977 2008;

(5) Conduct such investigations as are necessary;

(6) Enter into interagency agreements and cooperate with investigations conducted by the department of public safety, including providing information for investigative purposes, exchanging property and records, passing through federal financial participation, modifying any agreements with the United States department of agriculture, providing for the supply, security, and accounting of ~~food-stamp~~ supplemental nutrition assistance program benefits for investigative purposes, and meeting any other requirements necessary for the detection and deterrence of illegal activities in the ~~state food-stamp~~ supplemental nutrition assistance program;

(7) Adopt rules in accordance with Chapter 119. of the Revised Code governing employment and training requirements of recipients of ~~food stamp~~ supplemental nutrition assistance program benefits, including rules specifying which recipients are subject to the requirements and establishing

sanctions for failure to satisfy the requirements. The rules shall be consistent with 7 U.S.C.A. 2015 and, to the extent practicable, may provide for ~~food stamp benefit~~ the recipients to participate in work activities, developmental activities, and alternative work activities established under sections 5107.40 to 5107.69 of the Revised Code that are comparable to programs authorized by 7 U.S.C.A. 2015(d)(4). The rules may reference rules adopted under section 5107.05 of the Revised Code governing work activities, developmental activities, and alternative work activities established under sections 5107.40 to 5107.69 of the Revised Code.

(8) Adopt rules in accordance with section 111.15 of the Revised Code that are consistent with the Food ~~Stamp~~ and Nutrition Act of ~~1977~~ 2008, as amended, and regulations adopted thereunder governing the following:

(a) Eligibility requirements for the ~~food stamp~~ supplemental nutrition assistance program;

(b) Sanctions for failure to comply with eligibility requirements;

(c) Allotment of ~~food stamp~~ supplemental nutrition assistance program benefits;

(d) To the extent permitted under federal statutes and regulations, a system under which some or all recipients of ~~food stamp~~ supplemental nutrition assistance program benefits subject to employment and training requirements established by rules adopted under division (A)(7) of this section receive ~~food stamp~~ the benefits after satisfying the requirements;

(e) Administration of the program by county departments of job and family services;

(f) Other requirements necessary for the efficient administration of the program.

(9) Submit a plan to the United States secretary of agriculture for the department of job and family services to operate a simplified ~~food stamp~~ supplemental nutrition assistance program pursuant to 7 U.S.C.A. 2035 under which requirements governing the Ohio works first program established under Chapter 5107. of the Revised Code also govern the ~~food stamp~~ supplemental nutrition assistance program in the case of households receiving ~~food stamp~~ supplemental nutrition assistance program benefits and participating in Ohio works first.

(B) ~~Except while in the custody of the United States postal service, food stamps and any document necessary to obtain food stamps are the property of the department of job and family services from the time they are received in accordance with federal regulations by the department from the federal agency responsible for such delivery until they are received by a household entitled to receive them or by the authorized representative of the household.~~

~~(C)~~ A household that is entitled to receive ~~food stamps under the "Food Stamp Act of 1977," 91 Stat. 958, 7 U.S.C.A. 2011, as amended,~~ supplemental nutrition assistance program benefits and that is determined to be in immediate need of ~~food~~ nutrition assistance, shall receive certification of eligibility for program benefits, pending verification, within twenty-four hours, or, if mitigating circumstances occur, within seventy-two hours, after application, if:

(1) The results of the application interview indicate that the household will be eligible upon full verification;

(2) Information sufficient to confirm the statements in the application has been obtained from at least one additional source, not a member of the applicant's household. Such information shall be recorded in the case file, and shall include:

(a) The name of the person who provided the name of the information source;

(b) The name and address of the information source;

(c) A summary of the information obtained.

The period of temporary eligibility shall not exceed one month from the date of certification of temporary eligibility. If eligibility is established by full verification, benefits shall continue without interruption as long as eligibility continues.

At the time of application, the county department of job and family services shall provide to a household described in this division a list of community assistance programs that provide emergency food.

~~(D)~~~~(C)~~ All applications shall be approved or denied through full verification within thirty days from receipt of the application by the county department of job and family services.

~~(E)~~~~(D)~~ Nothing in this section shall be construed to prohibit the certification of households that qualify under federal regulations to receive ~~food stamps~~ supplemental nutrition assistance program benefits without charge under the "~~Food Stamp and Nutrition Act of 1977," 91 Stat. 958, 7 U.S.C.A. 2011, as amended 2008.~~

~~(F)~~~~(E)~~ Any person who applies for ~~food stamps under this section~~ the supplemental nutrition assistance program shall receive a voter registration application under section 3503.10 of the Revised Code.

Sec. 5101.541. The ~~food stamp~~ supplemental nutrition assistance program fund is hereby created in the state treasury. The fund shall consist of federal reimbursement for ~~food stamp~~ supplemental nutrition assistance program administrative expenses and other ~~food stamp~~ supplemental nutrition assistance program expenses. The department of job and family

services shall use the money credited to the fund to pay for ~~food-stamp~~ supplemental nutrition assistance program administrative expenses and other ~~food-stamp~~ supplemental nutrition assistance program expenses.

Sec. 5101.542. Immediately following a county department of job and family services' certification that a household determined under division (B) of section 5101.54 of the Revised Code to be in immediate need of nutrition assistance is eligible for the supplemental nutrition assistance program, the department of job and family services shall provide for the household to be sent by regular United States mail an electronic benefit transfer card containing the amount of benefits the household is eligible to receive under the program. The card shall be sent to the member of the household in whose name application for the supplemental nutrition assistance program was made or that member's authorized representative.

Sec. 5101.544. If the benefits of a household are reduced under a federal, state, or local means-tested public assistance program for failure of a member of the household to perform an action required under the program, the household may not receive, for the duration of the reduction, an increased allotment of ~~food-stamp~~ supplemental nutrition assistance program benefits as the result of a decrease in the income of the household to the extent that the decrease is the result of the reduction.

The department of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall be consistent with 7 U.S.C.A. 2017(d) and federal regulations.

Sec. 5101.571. As used in sections 5101.571 to 5101.591 of the Revised Code:

(A) "Information" means all of the following:

(1) An individual's name, address, date of birth, and social security number;

(2) The group or plan number, or other identifier, assigned by a third party to a policy held by an individual or a plan in which the individual participates and the nature of the coverage;

(3) Any other data the director of job and family services specifies in rules adopted under section 5101.591 of the Revised Code.

(B) "Medical assistance" means medical items or services provided under any of the following:

(1) Medicaid, as defined in section 5111.01 of the Revised Code;

(2) The children's health insurance program part I, part II, and part III established under sections 5101.50 to ~~5101.529~~, 5101.51, and 5101.52 of the Revised Code;

~~(3) The disability medical assistance program established under Chapter 5115. of the Revised Code;~~

~~(4) The children's buy-in program established under sections 5101.5211 to 5101.5216 of the Revised Code.~~

(C) "Medical support" means support specified as support for the purpose of medical care by order of a court or administrative agency.

(D) "Public assistance" means medical assistance or assistance under the Ohio works first program established under Chapter 5107. of the Revised Code.

(E)(1) Subject to division (E)(2) of this section, and except as provided in division (E)(3) of this section, "third party" means all of the following:

(a) A person authorized to engage in the business of sickness and accident insurance under Title XXXIX of the Revised Code;

(b) A person or governmental entity providing coverage for medical services or items to individuals on a self-insurance basis;

(c) A health insuring corporation as defined in section 1751.01 of the Revised Code;

(d) A group health plan as defined in 29 U.S.C. 1167;

(e) A service benefit plan as referenced in 42 U.S.C. 1396a(a)(25);

(f) A managed care organization;

(g) A pharmacy benefit manager;

(h) A third party administrator;

(i) Any other person or governmental entity that is, by law, contract, or agreement, responsible for the payment or processing of a claim for a medical item or service for a public assistance recipient or participant.

(2) Except when otherwise provided by 42 U.S.C. 1395y(b), a person or governmental entity listed in division (E)(1) of this section is a third party even if the person or governmental entity limits or excludes payments for a medical item or service in the case of a public assistance recipient.

(3) "Third party" does not include the program for medically handicapped children established under section 3701.023 of the Revised Code.

Sec. 5101.573. (A) Subject to divisions (B) and (C) of this section, a third party shall do all of the following:

(1) Accept the department of job and family services' right of recovery under section 5101.58 of the Revised Code and the assignment of rights to the department that are described in section 5101.59 of the Revised Code.;

(2) Respond to an inquiry by the department regarding a claim for payment of a medical item or service that was submitted to the third party not later than three years after the date of the provision of such medical item

or service;

(3) Pay a claim described in division (A)(2) of this section;

(4) Not deny a claim submitted by the department solely on the basis of the date of submission of the claim, type or format of the claim form, or a failure by the medical assistance recipient who is the subject of the claim to present proper documentation of coverage at the time of service, if both of the following are true:

(a) The claim was submitted by the department not later than three years after the date of the provision of the medical item or service;

(b) An action by the department to enforce its right of recovery under section 5101.58 of the Revised Code on the claim was commenced not later than six years after the department's submission of the claim.

(5) Consider the department's payment of a claim for a medical item or service to be the equivalent of the medical assistance recipient having obtained prior authorization for the item or service from the third party;

(6) Not deny a claim described in division (A)(5) of this section that is submitted by the department solely on the basis of the medical assistance recipient's failure to obtain prior authorization for the medical item or service.

(B) For purposes of the requirements in division (A) of this section, a third party shall treat a managed care organization as the department for a claim in which both of the following are true:

(1) The individual who is the subject of the claim received a medical item or service through a managed care organization that has entered into a contract with the department of job and family services under section ~~5111.16~~ 5111.17 of the Revised Code;

(2) The department has assigned its right of recovery for the claim to the managed care organization.

(C) The time limitations associated with the requirements in divisions (A)(2) and (A)(4) of this section apply only to submissions of claims to, and payments of claims by, a health insurer to which 42 U.S.C. 1396a(a)(25)(I) applies.

Sec. 5101.58. (A) The acceptance of public assistance gives an automatic right of recovery to the department of job and family services and a county department of job and family services against the liability of a third party for the cost of medical assistance paid on behalf of the public assistance recipient or participant. When an action or claim is brought against a third party by a public assistance recipient or participant, any payment, settlement or compromise of the action or claim, or any court award or judgment, is subject to the recovery right of the department of job

and family services or county department of job and family services. Except in the case of a recipient or participant who receives medical assistance through a managed care organization, the department's or county department's claim shall not exceed the amount of medical assistance paid by a department on behalf of the recipient or participant. A payment, settlement, compromise, judgment, or award that excludes the cost of medical assistance paid for by a department shall not preclude a department from enforcing its rights under this section.

(B) In the case of a recipient or participant who receives medical assistance through a managed care organization, the amount of the department's or county department's claim shall be the amount the managed care organization pays for medical assistance rendered to the recipient or participant, even if that amount is more than the amount a department pays to the managed care organization for the recipient's or participant's medical assistance.

(C) A recipient or participant, and the recipient's or participant's attorney, if any, shall cooperate with the departments. In furtherance of this requirement, the recipient or participant, or the recipient's or participant's attorney, if any, shall, not later than thirty days after initiating informal recovery activity or filing a legal recovery action against a third party, provide written notice of the activity or action to the ~~appropriate department or departments as follows:~~

~~(1) To only the department of job and family services when medical assistance under medicaid or the children's buy-in program has been paid;~~

~~(2) To the department of job and family services and the appropriate county department of job and family services when medical assistance under the disability medical assistance program has been paid.~~

(D) The written notice that must be given under division (C) of this section shall disclose the identity and address of any third party against whom the recipient or participant has or may have a right of recovery.

(E) No settlement, compromise, judgment, or award or any recovery in any action or claim by a recipient or participant where the departments have a right of recovery shall be made final without first giving the appropriate departments written notice as described in division (C) of this section and a reasonable opportunity to perfect their rights of recovery. If the departments are not given the appropriate written notice, the recipient or participant and, if there is one, the recipient's or participant's attorney, are liable to reimburse the departments for the recovery received to the extent of medical payments made by the departments.

(F) The departments shall be permitted to enforce their recovery rights

against the third party even though they accepted prior payments in discharge of their rights under this section if, at the time the departments received such payments, they were not aware that additional medical expenses had been incurred but had not yet been paid by the departments. The third party becomes liable to the department of job and family services or county department of job and family services as soon as the third party is notified in writing of the valid claims for recovery under this section.

(G)(1) Subject to division (G)(2) of this section, the right of recovery of a department does not apply to that portion of any judgment, award, settlement, or compromise of a claim, to the extent of attorneys' fees, costs, or other expenses incurred by a recipient or participant in securing the judgment, award, settlement, or compromise, or to the extent of medical, surgical, and hospital expenses paid by such recipient or participant from the recipient's or participant's own resources.

(2) Reasonable attorneys' fees, not to exceed one-third of the total judgment, award, settlement, or compromise, plus costs and other expenses incurred by the recipient or participant in securing the judgment, award, settlement, or compromise, shall first be deducted from the total judgment, award, settlement, or compromise. After fees, costs, and other expenses are deducted from the total judgment, award, settlement, or compromise, the department of job and family services or appropriate county department of job and family services shall receive no less than one-half of the remaining amount, or the actual amount of medical assistance paid, whichever is less.

(H) A right of recovery created by this section may be enforced separately or jointly by the department of job and family services or the appropriate county department of job and family services. To enforce their recovery rights, the departments may do any of the following:

(1) Intervene or join in any action or proceeding brought by the recipient or participant or on the recipient's or participant's behalf against any third party who may be liable for the cost of medical assistance paid;

(2) Institute and pursue legal proceedings against any third party who may be liable for the cost of medical assistance paid;

(3) Initiate legal proceedings in conjunction with any injured, diseased, or disabled recipient or participant or the recipient's or participant's attorney or representative.

(I) A recipient or participant shall not assess attorney fees, costs, or other expenses against the department of job and family services or a county department of job and family services when the department or county department enforces its right of recovery created by this section.

(J) The right of recovery given to the department under this section does

not include rights to support from any other person assigned to the state under sections 5107.20 and 5115.07 of the Revised Code, but includes payments made by a third party under contract with a person having a duty to support.

Sec. 5101.60. As used in sections 5101.60 to 5101.71 of the Revised Code:

(A) "Abuse" means the infliction upon an adult by self or others of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish.

(B) "Adult" means any person sixty years of age or older within this state who is handicapped by the infirmities of aging or who has a physical or mental impairment which prevents the person from providing for the person's own care or protection, and who resides in an independent living arrangement. An "independent living arrangement" is a domicile of a person's own choosing, including, but not limited to, a private home, apartment, trailer, or rooming house. ~~Except as otherwise provided in this division, An~~ "independent living arrangement" includes ~~a community alternative home~~ an adult care facility licensed pursuant to ~~section 3724.03 Chapter 3722.~~ of the Revised Code, but does not include other institutions or facilities licensed by the state, or facilities in which a person resides as a result of voluntary, civil, or criminal commitment. ~~"Independent living arrangement" does include adult care facilities licensed pursuant to Chapter 3722. of the Revised Code.~~

(C) "Caretaker" means the person assuming the responsibility for the care of an adult on a voluntary basis, by contract, through receipt of payment for care, as a result of a family relationship, or by order of a court of competent jurisdiction.

(D) "Court" means the probate court in the county where an adult resides.

(E) "Emergency" means that the adult is living in conditions which present a substantial risk of immediate and irreparable physical harm or death to self or any other person.

(F) "Emergency services" means protective services furnished to an adult in an emergency.

(G) "Exploitation" means the unlawful or improper act of a caretaker using an adult or an adult's resources for monetary or personal benefit, profit, or gain.

(H) "In need of protective services" means an adult known or suspected to be suffering from abuse, neglect, or exploitation to an extent that either life is endangered or physical harm, mental anguish, or mental illness results

or is likely to result.

(I) "Incapacitated person" means a person who is impaired for any reason to the extent that the person lacks sufficient understanding or capacity to make and carry out reasonable decisions concerning the person's self or resources, with or without the assistance of a caretaker. Refusal to consent to the provision of services shall not be the sole determinative that the person is incapacitated. "Reasonable decisions" are decisions made in daily living which facilitate the provision of food, shelter, clothing, and health care necessary for life support.

(J) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.

(K) "Neglect" means the failure of an adult to provide for self the goods or services necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caretaker to provide such goods or services.

(L) "Peace officer" means a peace officer as defined in section 2935.01 of the Revised Code.

(M) "Physical harm" means bodily pain, injury, impairment, or disease suffered by an adult.

(N) "Protective services" means services provided by the county department of job and family services or its designated agency to an adult who has been determined by evaluation to require such services for the prevention, correction, or discontinuance of an act of as well as conditions resulting from abuse, neglect, or exploitation. Protective services may include, but are not limited to, case work services, medical care, mental health services, legal services, fiscal management, home health care, homemaker services, housing-related services, guardianship services, and placement services as well as the provision of such commodities as food, clothing, and shelter.

(O) "Working day" means Monday, Tuesday, Wednesday, Thursday, and Friday, except when such day is a holiday as defined in section 1.14 of the Revised Code.

Sec. 5101.61. (A) As used in this section:

(1) "Senior service provider" means any person who provides care or services to a person who is an adult as defined in division (B) of section 5101.60 of the Revised Code.

(2) "Ambulatory health facility" means a nonprofit, public or proprietary freestanding organization or a unit of such an agency or organization that:

(a) Provides preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services furnished to an outpatient or ambulatory patient,

by or under the direction of a physician or dentist in a facility which is not a part of a hospital, but which is organized and operated to provide medical care to outpatients;

(b) Has health and medical care policies which are developed with the advice of, and with the provision of review of such policies, an advisory committee of professional personnel, including one or more physicians, one or more dentists, if dental care is provided, and one or more registered nurses;

(c) Has a medical director, a dental director, if dental care is provided, and a nursing director responsible for the execution of such policies, and has physicians, dentists, nursing, and ancillary staff appropriate to the scope of services provided;

(d) Requires that the health care and medical care of every patient be under the supervision of a physician, provides for medical care in a case of emergency, has in effect a written agreement with one or more hospitals and other centers or clinics, and has an established patient referral system to other resources, and a utilization review plan and program;

(e) Maintains clinical records on all patients;

(f) Provides nursing services and other therapeutic services in accordance with programs and policies, with such services supervised by a registered professional nurse, and has a registered professional nurse on duty at all times of clinical operations;

(g) Provides approved methods and procedures for the dispensing and administration of drugs and biologicals;

(h) Has established an accounting and record keeping system to determine reasonable and allowable costs;

(i) "Ambulatory health facilities" also includes an alcoholism treatment facility approved by the joint commission on accreditation of healthcare organizations as an alcoholism treatment facility or certified by the department of alcohol and drug addiction services, and such facility shall comply with other provisions of this division not inconsistent with such accreditation or certification.

(3) "Community mental health facility" means a facility which provides community mental health services and is included in the comprehensive mental health plan for the alcohol, drug addiction, and mental health service district in which it is located.

(4) "Community mental health service" means services, other than inpatient services, provided by a community mental health facility.

(5) "Home health agency" means an institution or a distinct part of an institution operated in this state which:

- (a) Is primarily engaged in providing home health services;
- (b) Has home health policies which are established by a group of professional personnel, including one or more duly licensed doctors of medicine or osteopathy and one or more registered professional nurses, to govern the home health services it provides and which includes a requirement that every patient must be under the care of a duly licensed doctor of medicine or osteopathy;
- (c) Is under the supervision of a duly licensed doctor of medicine or doctor of osteopathy or a registered professional nurse who is responsible for the execution of such home health policies;
- (d) Maintains comprehensive records on all patients;
- (e) Is operated by the state, a political subdivision, or an agency of either, or is operated not for profit in this state and is licensed or registered, if required, pursuant to law by the appropriate department of the state, county, or municipality in which it furnishes services; or is operated for profit in this state, meets all the requirements specified in divisions (A)(5)(a) to (d) of this section, and is certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.
- (6) "Home health service" means the following items and services, provided, except as provided in division (A)(6)(g) of this section, on a visiting basis in a place of residence used as the patient's home:
 - (a) Nursing care provided by or under the supervision of a registered professional nurse;
 - (b) Physical, occupational, or speech therapy ordered by the patient's attending physician;
 - (c) Medical social services performed by or under the supervision of a qualified medical or psychiatric social worker and under the direction of the patient's attending physician;
 - (d) Personal health care of the patient performed by aides in accordance with the orders of a doctor of medicine or osteopathy and under the supervision of a registered professional nurse;
 - (e) Medical supplies and the use of medical appliances;
 - (f) Medical services of interns and residents-in-training under an approved teaching program of a nonprofit hospital and under the direction and supervision of the patient's attending physician;
 - (g) Any of the foregoing items and services which:
 - (i) Are provided on an outpatient basis under arrangements made by the home health agency at a hospital or skilled nursing facility;
 - (ii) Involve the use of equipment of such a nature that the items and services cannot readily be made available to the patient in the patient's place

of residence, or which are furnished at the hospital or skilled nursing facility while the patient is there to receive any item or service involving the use of such equipment.

Any attorney, physician, osteopath, podiatrist, chiropractor, dentist, psychologist, any employee of a hospital as defined in section 3701.01 of the Revised Code, any nurse licensed under Chapter 4723. of the Revised Code, any employee of an ambulatory health facility, any employee of a home health agency, any employee of an adult care facility as defined in section 3722.01 of the Revised Code, ~~any employee of a community alternative home as defined in section 3724.01 of the Revised Code,~~ any employee of a nursing home, residential care facility, or home for the aging, as defined in section 3721.01 of the Revised Code, any senior service provider, any peace officer, coroner, clergyman, any employee of a community mental health facility, and any person engaged in social work or counseling having reasonable cause to believe that an adult is being abused, neglected, or exploited, or is in a condition which is the result of abuse, neglect, or exploitation shall immediately report such belief to the county department of job and family services. This section does not apply to employees of any hospital or public hospital as defined in section 5122.01 of the Revised Code.

(B) Any person having reasonable cause to believe that an adult has suffered abuse, neglect, or exploitation may report, or cause reports to be made of such belief to the department.

(C) The reports made under this section shall be made orally or in writing except that oral reports shall be followed by a written report if a written report is requested by the department. Written reports shall include:

(1) The name, address, and approximate age of the adult who is the subject of the report;

(2) The name and address of the individual responsible for the adult's care, if any individual is, and if the individual is known;

(3) The nature and extent of the alleged abuse, neglect, or exploitation of the adult;

(4) The basis of the reporter's belief that the adult has been abused, neglected, or exploited.

(D) Any person with reasonable cause to believe that an adult is suffering abuse, neglect, or exploitation who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from such a report, or any employee of the state or any of its subdivisions who is discharging responsibilities under section 5101.62 of the Revised Code shall be immune from civil or criminal liability on account of such

investigation, report, or testimony, except liability for perjury, unless the person has acted in bad faith or with malicious purpose.

(E) No employer or any other person with the authority to do so shall discharge, demote, transfer, prepare a negative work performance evaluation, or reduce benefits, pay, or work privileges, or take any other action detrimental to an employee or in any way retaliate against an employee as a result of the employee's having filed a report under this section.

(F) Neither the written or oral report provided for in this section nor the investigatory report provided for in section 5101.62 of the Revised Code shall be considered a public record as defined in section 149.43 of the Revised Code. Information contained in the report shall upon request be made available to the adult who is the subject of the report, to agencies authorized by the department to receive information contained in the report, and to legal counsel for the adult.

Sec. 5101.84. An individual otherwise ineligible for aid under Chapter 5107. or 5108. of the Revised Code or ~~food stamps~~ supplemental nutrition assistance program benefits under the "Food Stamp and Nutrition Act of 1977," 78 Stat. 703, 2008 (7 U.S.C. 2011, ~~as amended, et seq.~~) because of paragraph (a) of ~~section 115 of the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996,"~~ 110 Stat. 2105, 21 U.S.C. 862a; is eligible for the aid or benefits if the individual meets all other eligibility requirements for the aid or benefits.

Sec. 5103.02. As used in sections 5103.03 to 5103.17 of the Revised Code:

(A) ~~"Association~~ (1) Except as provided in division (A)(2) of this section, "association" or "institution" includes any all of the following:

(a) Any incorporated or unincorporated organization, society, association, or agency, public or private, that receives or cares for children for two or more consecutive weeks; ~~any~~

(b) Any individual, including the operator of a foster home, who, for hire, gain, or reward, receives or cares for children for two or more consecutive weeks, unless the individual is related to them by blood or marriage; ~~and any~~

(c) Any individual not in the regular employ of a court, or of an institution or association certified in accordance with section 5103.03 of the Revised Code, who in any manner becomes a party to the placing of children in foster homes, unless the individual is related to such children by blood or marriage, ~~or is the appointed guardian of such children; provided, that any,~~ or is authorized pursuant to Chapter 3107. of the Revised Code.

(2) The following are exempt from the requirements of sections 5103.03 to 5103.17 of the Revised Code:

(a) Any organization, society, association, school, agency, child guidance center, detention or rehabilitation facility, or children's clinic licensed, regulated, approved, operated under the direction of, or otherwise certified by the department of education, a local board of education, the department of youth services, the department of mental health, or the department of mental retardation and developmental disabilities, or any. This exemption includes any facility under the control of the department of youth services and any place of detention for children established and maintained pursuant to sections 2152.41 to 2152.44 of the Revised Code.

(b) Any individual who provides care for only a single-family group, placed there by their parents or other relative having custody, shall not be considered as being within the purview of these sections;

(c) A child day-care center subject to Chapter 5104. of the Revised Code.

(B) "Family foster home" means a foster home that is not a specialized foster home.

(C) "Foster caregiver" means a person holding a valid foster home certificate issued under section 5103.03 of the Revised Code.

(D) "Foster home" means a private residence in which children are received apart from their parents, guardian, or legal custodian, by an individual reimbursed for providing the children nonsecure care, supervision, or training twenty-four hours a day. "Foster home" does not include care provided for a child in the home of a person other than the child's parent, guardian, or legal custodian while the parent, guardian, or legal custodian is temporarily away. Family foster homes and specialized foster homes are types of foster homes.

(E) "Medically fragile foster home" means a foster home that provides specialized medical services designed to meet the needs of children with intensive health care needs who meet all of the following criteria:

(1) Under rules adopted by the department of job and family services governing payment under Chapter 5111. of the Revised Code for long-term care services, the children require a skilled level of care.

(2) The children require the services of a doctor of medicine or osteopathic medicine at least once a week due to the instability of their medical conditions.

(3) The children require the services of a registered nurse on a daily basis.

(4) The children are at risk of institutionalization in a hospital, skilled

nursing facility, or intermediate care facility for the mentally retarded.

(F) "Recommending agency" means a public children services agency, private child placing agency, or private noncustodial agency that recommends that the department of job and family services take any of the following actions under section 5103.03 of the Revised Code regarding a foster home:

- (1) Issue a certificate;
- (2) Deny a certificate;
- (3) Renew a certificate;
- (4) Deny renewal of a certificate;
- (5) Revoke a certificate.

(G) "Specialized foster home" means a medically fragile foster home or a treatment foster home.

(H) "Treatment foster home" means a foster home that incorporates special rehabilitative services designed to treat the specific needs of the children received in the foster home and that receives and cares for children who are emotionally or behaviorally disturbed, chemically dependent, mentally retarded, developmentally disabled, or who otherwise have exceptional needs.

Sec. 5103.03. (A) The director of job and family services shall adopt rules as necessary for the adequate and competent management of institutions or associations. The director shall ensure that foster care home study rules adopted under this section align any home study content, time period, and process with any home study content, time period, and process required by rules adopted under section 3107.033 of the Revised Code.

~~(B)(1)(a) Except for facilities under the control of the department of youth services, places of detention for children established and maintained pursuant to sections 2152.41 to 2152.44 of the Revised Code, and child day-care centers subject to Chapter 5104. of the Revised Code as provided in division (B)(1)(b) of this section, the department of job and family services every two four years shall pass upon the fitness of every institution and association that receives, or desires to receive and care for children, or places children in private homes.~~

(b) The department of job and family services every two years shall pass upon the fitness of any individual, including the operator of a foster home, who, for hire, gain, or reward, receives or cares for children for two or more consecutive weeks, unless the individual is related to them by blood or marriage.

(2) When the department of job and family services is satisfied as to the care given such children, and that the requirements of the statutes and rules

covering the management of such institutions and associations are being complied with, it shall issue to the institution or association a certificate to that effect. A certificate issued pursuant to division (B)(1)(a) of this section is valid for four years, unless sooner revoked by the department. A certificate issued pursuant to division (B)(1)(b) of this section is valid for two years, unless sooner revoked by the department. When determining whether an institution or association meets a particular requirement for certification, the department may consider the institution or association to have met the requirement if the institution or association shows to the department's satisfaction that it has met a comparable requirement to be accredited by a nationally recognized accreditation organization.

(3) The department may issue a temporary certificate valid for less than one year authorizing an institution or association to operate until minimum requirements have been met.

(4) An institution or association that knowingly makes a false statement that is included as a part of certification under this section is guilty of the offense of falsification under section 2921.13 of the Revised Code and the department shall not certify that institution or association.

(5) The department shall not issue a certificate to a prospective foster home or prospective specialized foster home pursuant to this section if the prospective foster home or prospective specialized foster home operates as a type A family day-care home pursuant to Chapter 5104. of the Revised Code. The department shall not issue a certificate to a prospective specialized foster home if the prospective specialized foster home operates a type B family day-care home pursuant to Chapter 5104. of the Revised Code.

(C) The department may revoke a certificate if it finds that the institution or association is in violation of law or rule. No juvenile court shall commit a child to an association or institution that is required to be certified under this section if its certificate has been revoked or, if after revocation, the date of reissue is less than fifteen months prior to the proposed commitment.

(D) ~~Every two years, on~~ On a date specified by the department in accordance with division (D)(1) or (2) of this section, each institution or association desiring certification or recertification shall submit to the department a report showing its condition, management, competency to care adequately for the children who have been or may be committed to it or to whom it provides care or services, the system of visitation it employs for children placed in private homes, and other information the department requires;

(1) Every four years, for an institution or association that receives a certificate pursuant to division (B)(1)(a) of this section;

(2) Every two years, for an individual who receives a certificate pursuant to division (B)(1)(b) of this section.

(E) The department shall, not less than once each year, send a list of certified institutions and associations to each juvenile court and certified association or institution.

(F) No person shall receive children or receive or solicit money on behalf of such an institution or association not so certified or whose certificate has been revoked.

(G)(1) The director may delegate by rule any duties imposed on it by this section to inspect and approve family foster homes and specialized foster homes to public children services agencies, private child placing agencies, or private noncustodial agencies.

(2) The director shall adopt rules that require a foster caregiver or other individual certified to operate a foster home under this section to notify the recommending agency that the foster caregiver or other individual is certified to operate a type B family day-care home under Chapter 5104. of the Revised Code.

(H) If the director of job and family services determines that an institution or association that cares for children is operating without a certificate, the director may petition the court of common pleas in the county in which the institution or association is located for an order enjoining its operation. The court shall grant injunctive relief upon a showing that the institution or association is operating without a certificate.

(I) If both of the following are the case, the director of job and family services may petition the court of common pleas of any county in which an institution or association that holds a certificate under this section operates for an order, and the court may issue an order, preventing the institution or association from receiving additional children into its care or an order removing children from its care:

(1) The department has evidence that the life, health, or safety of one or more children in the care of the institution or association is at imminent risk.

(2) The department has issued a proposed adjudication order pursuant to Chapter 119. of the Revised Code to deny renewal of or revoke the certificate of the institution or association.

Sec. 5104.04. (A) The department of job and family services shall establish procedures to be followed in investigating, inspecting, and licensing child day-care centers and type A family day-care homes.

(B)(1)(a) The department shall, at least ~~twice~~ once during every

twelve-month period of operation of a center or type A home, inspect the center or type A home. The department shall inspect a part-time center or part-time type A home at least once during every twelve-month period of operation. The department shall provide a written inspection report to the licensee within a reasonable time after each inspection. The licensee shall display all written reports of inspections conducted during the current licensing period in a conspicuous place in the center or type A home.

~~At least one inspection shall be unannounced and all inspections~~ Inspections may be unannounced. No person, firm, organization, institution, or agency shall interfere with the inspection of a center or type A home by any state or local official engaged in performing duties required of the state or local official by Chapter 5104. of the Revised Code or rules adopted pursuant to Chapter 5104. of the Revised Code, including inspecting the center or type A home, reviewing records, or interviewing licensees, employees, children, or parents.

(b) Upon receipt of any complaint that a center or type A home is out of compliance with the requirements of Chapter 5104. of the Revised Code or rules adopted pursuant to Chapter 5104. of the Revised Code, the department shall investigate the center or home, and both of the following apply:

(i) If the complaint alleges that a child suffered physical harm while receiving child care at the center or home or that the noncompliance alleged in the complaint involved, resulted in, or poses a substantial risk of physical harm to a child receiving child care at the center or home, the department shall inspect the center or home.

(ii) If division (B)(1)(b)(i) of this section does not apply regarding the complaint, the department may inspect the center or home.

(c) Division (B)(1)(b) of this section does not limit, restrict, or negate any duty of the department to inspect a center or type A home that otherwise is imposed under this section, or any authority of the department to inspect a center or type A home that otherwise is granted under this section when the department believes the inspection is necessary and it is permitted under the grant.

(2) If the department implements an instrument-based program monitoring information system, it may use an indicator checklist to comply with division (B)(1) of this section.

(3) The department shall contract with a third party by the first day of October in each even-numbered year to collect information concerning the amounts charged by the center or home for providing child care services for use in establishing reimbursement ceilings and payment pursuant to section

5104.30 of the Revised Code. The third party shall compile the information and report the results of the survey to the department not later than the first day of December in each even-numbered year.

(C) In the event a licensed center or type A home is determined to be out of compliance with the requirements of Chapter 5104. of the Revised Code or rules adopted pursuant to Chapter 5104. of the Revised Code, the department shall notify the licensee of the center or type A home in writing regarding the nature of the violation, what must be done to correct the violation, and by what date the correction must be made. If the correction is not made by the date established by the department, the department may commence action under Chapter 119. of the Revised Code to revoke the license. The department's commencement of an action to revoke the license is sufficient notice that the correction has not been made, and no other notice regarding the correction is required.

(D) The department may deny or revoke a license, or refuse to renew a license of a center or type A home, if the applicant knowingly makes a false statement on the application, does not comply with the requirements of Chapter 5104. or rules adopted pursuant to Chapter 5104. of the Revised Code, or has pleaded guilty to or been convicted of an offense described in section 5104.09 of the Revised Code.

(E) If the department finds, after notice and hearing pursuant to Chapter 119. of the Revised Code, that any person, firm, organization, institution, or agency licensed under section 5104.03 of the Revised Code is in violation of any provision of Chapter 5104. of the Revised Code or rules adopted pursuant to Chapter 5104. of the Revised Code, the department may issue an order of revocation to the center or type A home revoking the license previously issued by the department. Upon the issuance of any order of revocation, the person whose license is revoked may appeal in accordance with section 119.12 of the Revised Code.

(F) The surrender of a center or type A home license to the department or the withdrawal of an application for licensure by the owner or administrator of the center or type A home shall not prohibit the department from instituting any of the actions set forth in this section.

(G) Whenever the department receives a complaint, is advised, or otherwise has any reason to believe that a center or type A home is providing child care without a license issued or renewed pursuant to section 5104.03 and is not exempt from licensing pursuant to section 5104.02 of the Revised Code, the department shall investigate the center or type A home and may inspect the areas children have access to or areas necessary for the care of children in the center or type A home during suspected hours of

operation to determine whether the center or type A home is subject to the requirements of Chapter 5104. or rules adopted pursuant to Chapter 5104. of the Revised Code.

(H) The department, upon determining that the center or type A home is operating without a license, shall notify the attorney general, the prosecuting attorney of the county in which the center or type A home is located, or the city attorney, village solicitor, or other chief legal officer of the municipal corporation in which the center or type A home is located, that the center or type A home is operating without a license. Upon receipt of the notification, the attorney general, prosecuting attorney, city attorney, village solicitor, or other chief legal officer of a municipal corporation shall file a complaint in the court of common pleas of the county in which the center or type A home is located requesting that the court grant an order enjoining the owner from operating the center or type A home in violation of section 5104.02 of the Revised Code. The court shall grant such injunctive relief upon a showing that the respondent named in the complaint is operating a center or type A home and is doing so without a license.

(I) The department shall prepare an annual report on inspections conducted under this section. The report shall include the number of inspections conducted, the number and types of violations found, and the steps taken to address the violations. The department shall file the report with the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives on or before the first day of January of each year, beginning in 1999.

Sec. 5104.041. (A) All type A and type B family day-care homes shall procure and maintain one of the following:

(1) Liability insurance issued by an insurer authorized to do business in this state under Chapter 3905. of the Revised Code insuring the type A or type B family day-care home against liability arising out of, or in connection with, the operation of the family day-care home. Liability insurance procured under this division shall cover any cause for which the type A or type B family day-care home would be liable, in the amount of at least one hundred thousand dollars per occurrence and three hundred thousand dollars in the aggregate.

(2) ~~An affidavit~~ A written statement signed by the parent, guardian, or custodian of each child receiving child care from the type A or type B family day-care home that states all of the following:

(a) The family day-care home does not carry liability insurance described in division (A)(1) of this section;

(b) If the licensee of a type A family day-care home or the provider of a

type B family day-care home is not the owner of the real property where the family day-care home is located, the liability insurance, if any, of the owner of the real property may not provide for coverage of any liability arising out of, or in connection with, the operation of the family day-care home.

(B) If the licensee of a type A family day-care home or the provider of a type B family day-care home is not the owner of the real property where the family day-care home is located and the family day-care home procures liability insurance described in division (A)(1) of this section, that licensee or provider shall name the owner of the real property as an additional insured party on the liability insurance policy if all of the following apply:

(1) The owner of the real property requests the licensee or provider, in writing, to add the owner of the real property to the liability insurance policy as an additional insured party.

(2) The addition of the owner of the real property does not result in cancellation or nonrenewal of the insurance policy procured by the type A or type B family day-care home.

(3) The owner of the real property pays any additional premium assessed for coverage of the owner of the real property.

(C) Proof of insurance or ~~affidavit~~ written statement required under division (A) of this section shall be maintained at the type A or type B family day-care home and made available for review during inspection or investigation as required under this chapter.

(D) The director of job and family services shall adopt rules for the enforcement of this section.

Sec. 5104.051. (A)(1) The department of commerce is responsible for the inspections of child day-care centers as required by division (A)(1) of section 5104.05 of the Revised Code. Where there is a municipal, township, or county building department certified under section 3781.10 of the Revised Code to exercise enforcement authority with respect to the category of building occupancy which includes day-care centers, all inspections required under division (A)(1) of section 5104.05 of the Revised Code shall be made by that department according to the standards established by the board of building standards. Inspections in areas of the state where there is no municipal, township, or county building department certified under section 3781.10 of the Revised Code to exercise enforcement authority with respect to the category of building occupancy which includes day-care centers shall be made by personnel of the department of commerce. Inspections of centers shall be contingent upon payment of a fee by the applicant to the department having jurisdiction to inspect.

(2) The department of commerce is responsible for the inspections of

type A family day-care homes as required by division (B)(3) of section 5104.05 of the Revised Code. Where there is a municipal, township, or county building department certified under section 3781.10 of the Revised Code to exercise enforcement authority with respect to the category of building occupancy which includes type A homes, all inspections required under division (B)(3) of section 5104.05 of the Revised Code shall be made by that department according to the standards established by the board of building standards. Inspections in areas of the state where there is no municipal, township, or county building department certified under section 3781.10 of the Revised Code to exercise enforcement authority with respect to the category of building occupancy which includes type A homes shall be made by personnel of the department of commerce. Inspections of type A homes shall be contingent upon payment of a fee by the applicant to the department having jurisdiction to inspect.

(B) The state fire marshal is responsible for the inspections required by divisions (A)(2) and (B)(1) of section 5104.05 of the Revised Code. In municipal corporations and in townships outside municipal corporations where there is a fire prevention official, the inspections shall be made by the fire chief or the fire prevention official under the supervision of and according to the standards established by the state fire marshal. In townships outside municipal corporations where there is no fire prevention official, inspections shall be made by the employees of the state fire marshal.

(C) The state fire marshal shall enforce all statutes and rules pertaining to fire safety and fire prevention in child day-care centers and type A family day-care homes. In the event of a dispute between the state fire marshal and any other responsible officer under sections 5104.05 and 5104.051 of the Revised Code with respect to the interpretation or application of a specific fire safety statute or rule, the interpretation of the state fire marshal shall prevail.

(D) As used in this division, "licensor" has the same meaning as in section 3717.01 of the Revised Code.

The licensor for food service operations in the city or general health district in which the center is located is responsible for the inspections required under Chapter 3717. of the Revised Code.

(E) Any moneys collected by the department of commerce under this section shall be paid into the state treasury to the credit of the ~~industrial compliance~~ labor operating fund created in section 121.084 of the Revised Code.

Sec. 5104.30. (A) The department of job and family services is hereby designated as the state agency responsible for administration and

coordination of federal and state funding for publicly funded child care in this state. Publicly funded child care shall be provided to the following:

(1) Recipients of transitional child care as provided under section 5104.34 of the Revised Code;

(2) Participants in the Ohio works first program established under Chapter 5107. of the Revised Code;

(3) Individuals who would be participating in the Ohio works first program if not for a sanction under section 5107.16 of the Revised Code and who continue to participate in a work activity, developmental activity, or alternative work activity pursuant to an assignment under section 5107.42 of the Revised Code;

(4) A family receiving publicly funded child care on October 1, 1997, until the family's income reaches one hundred fifty per cent of the federal poverty line;

(5) Subject to available funds, other individuals determined eligible in accordance with rules adopted under section 5104.38 of the Revised Code.

The department shall apply to the United States department of health and human services for authority to operate a coordinated program for publicly funded child care, if the director of job and family services determines that the application is necessary. For purposes of this section, the department of job and family services may enter into agreements with other state agencies that are involved in regulation or funding of child care. The department shall consider the special needs of migrant workers when it administers and coordinates publicly funded child care and shall develop appropriate procedures for accommodating the needs of migrant workers for publicly funded child care.

(B) The department of job and family services shall distribute state and federal funds for publicly funded child care, including appropriations of state funds for publicly funded child care and appropriations of federal funds available under the child care block grant act, Title IV-A, and Title XX. The department may use any state funds appropriated for publicly funded child care as the state share required to match any federal funds appropriated for publicly funded child care.

(C) In the use of federal funds available under the child care block grant act, all of the following apply:

(1) The department may use the federal funds to hire staff to prepare any rules required under this chapter and to administer and coordinate federal and state funding for publicly funded child care.

(2) Not more than five per cent of the aggregate amount of the federal funds received for a fiscal year may be expended for administrative costs.

(3) The department shall allocate and use at least four per cent of the federal funds for the following:

(a) Activities designed to provide comprehensive consumer education to parents and the public;

(b) Activities that increase parental choice;

(c) Activities, including child care resource and referral services, designed to improve the quality, and increase the supply, of child care;

(d) Establishing a voluntary child day-care center quality-rating program in which participation in the program may allow a child day-care center to be eligible for grants, technical assistance, training, or other assistance and become eligible for unrestricted monetary awards for maintaining a quality rating.

(4) The department shall ensure that the federal funds will be used only to supplement, and will not be used to supplant, federal, state, and local funds available on the effective date of the child care block grant act for publicly funded child care and related programs. A If authorized by rules adopted by the department pursuant to section 5104.42 of the Revised Code, county ~~department~~ departments of job and family services may purchase child care from funds obtained through any other means.

(D) The department shall encourage the development of suitable child care throughout the state, especially in areas with high concentrations of recipients of public assistance and families with low incomes. The department shall encourage the development of suitable child care designed to accommodate the special needs of migrant workers. On request, the department, through its employees or contracts with state or community child care resource and referral service organizations, shall provide consultation to groups and individuals interested in developing child care. The department of job and family services may enter into interagency agreements with the department of education, the board of regents, the department of development, and other state agencies and entities whenever the cooperative efforts of the other state agencies and entities are necessary for the department of job and family services to fulfill its duties and responsibilities under this chapter.

The department shall develop and maintain a registry of persons providing child care. The director shall adopt rules pursuant to Chapter 119. of the Revised Code establishing procedures and requirements for the registry's administration.

(E)(1) The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing both of the following:

(a) Reimbursement ceilings for providers of publicly funded child care

not later than the first day of July in each odd-numbered year;

(b) A procedure for reimbursing and paying providers of publicly funded child care.

(2) In establishing reimbursement ceilings under division (E)(1)(a) of this section, the director shall do all of the following:

(a) Use the information obtained under division (B)(3) of section 5104.04 of the Revised Code;

(b) Establish an enhanced reimbursement ceiling for providers who provide child care for caretaker parents who work nontraditional hours;

(c) For a type B family day-care home provider that has received limited certification pursuant to rules adopted under division (G)(1) of section 5104.011 of the Revised Code, establish a reimbursement ceiling that is the following:

(i) If the provider is a person described in division (G)(1)(a)(i) of section 5104.011 of the Revised Code, seventy-five per cent of the reimbursement ceiling that applies to a type B family day-care home certified by the same county department of job and family services pursuant to section 5104.11 of the Revised Code;

(ii) If the provider is a person described in division (G)(1)(a)(ii) of section 5104.011 of the Revised Code, sixty per cent of the reimbursement ceiling that applies to a type B family day-care home certified by the same county department pursuant to section 5104.11 of the Revised Code.

(3) In establishing reimbursement ceilings under division (E)(1)(a) of this section, the director may establish different reimbursement ceilings based on any of the following:

(a) Geographic location of the provider;

(b) Type of care provided;

(c) Age of the child served;

(d) Special needs of the child served;

(e) Whether the expanded hours of service are provided;

(f) Whether weekend service is provided;

(g) Whether the provider has exceeded the minimum requirements of state statutes and rules governing child care;

(h) Any other factors the director considers appropriate.

(F) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement the voluntary child day-care center quality-rating program described in division (C)(3)(d) of this section.

Sec. 5104.32. (A) Except as provided in division (C) of this section, all purchases of publicly funded child care shall be made under a contract entered into by a licensed child day-care center, licensed type A family

day-care home, certified type B family day-care home, certified in-home aide, approved child day camp, licensed preschool program, licensed school child program, or border state child care provider and the county department of job and family services. A county department of job and family services may enter into a contract with a provider for publicly funded child care for a specified period of time or upon a continuous basis for an unspecified period of time. All contracts for publicly funded child care shall be contingent upon the availability of state and federal funds. The department of job and family services shall prescribe a standard form to be used for all contracts for the purchase of publicly funded child care, regardless of the source of public funds used to purchase the child care. To the extent permitted by federal law and notwithstanding any other provision of the Revised Code that regulates state or county contracts or contracts involving the expenditure of state, county, or federal funds, all contracts for publicly funded child care shall be entered into in accordance with the provisions of this chapter and are exempt from any other provision of the Revised Code that regulates state or county contracts or contracts involving the expenditure of state, county, or federal funds.

(B) Each contract for publicly funded child care shall specify at least the following:

(1) That the provider of publicly funded child care agrees to be paid for rendering services at the lowest of the rate customarily charged by the provider for children enrolled for child care, the reimbursement ceiling or rate of payment established pursuant to section 5104.30 of the Revised Code, or a rate the county department negotiates with the provider;

(2) That, if a provider provides child care to an individual potentially eligible for publicly funded child care who is subsequently determined to be eligible, the county department agrees to pay for all child care provided between the date the county department receives the individual's completed application and the date the individual's eligibility is determined;

(3) Whether the county department of job and family services, the provider, or a child care resource and referral service organization will make eligibility determinations, whether the provider or a child care resource and referral service organization will be required to collect information to be used by the county department to make eligibility determinations, and the time period within which the provider or child care resource and referral service organization is required to complete required eligibility determinations or to transmit to the county department any information collected for the purpose of making eligibility determinations;

(4) That the provider, other than a border state child care provider, shall

continue to be licensed, approved, or certified pursuant to this chapter and shall comply with all standards and other requirements in this chapter and in rules adopted pursuant to this chapter for maintaining the provider's license, approval, or certification;

(5) That, in the case of a border state child care provider, the provider shall continue to be licensed, certified, or otherwise approved by the state in which the provider is located and shall comply with all standards and other requirements established by that state for maintaining the provider's license, certificate, or other approval;

(6) Whether the provider will be paid by the county department of job and family services ~~or~~, the state department of job and family services, or in some other manner as prescribed by rules adopted under section 5104.42 of the Revised Code;

(7) That the contract is subject to the availability of state and federal funds.

(C) Unless specifically prohibited by federal law or by rules adopted under section 5104.42 of the Revised Code, the county department of job and family services shall give individuals eligible for publicly funded child care the option of obtaining certificates for payment that the individual may use to purchase services from any provider qualified to provide publicly funded child care under section 5104.31 of the Revised Code. Providers of publicly funded child care may present these certificates for payment for reimbursement in accordance with rules that the director of job and family services shall adopt. Only providers may receive reimbursement for certificates for payment. The value of the certificate for payment shall be based on the lowest of the rate customarily charged by the provider, the reimbursement ceiling or rate of payment established pursuant to section 5104.30 of the Revised Code, or a rate the county department negotiates with the provider. The county department may provide the certificates for payment to the individuals or may contract with child care providers or child care resource and referral service organizations that make determinations of eligibility for publicly funded child care pursuant to contracts entered into under section 5104.34 of the Revised Code for the providers or resource and referral service organizations to provide the certificates for payment to individuals whom they determine are eligible for publicly funded child care.

For each six-month period a provider of publicly funded child care provides publicly funded child day-care to the child of an individual given certificates for payment, the individual shall provide the provider certificates for days the provider would have provided publicly funded child care to the child had the child been present. ~~County departments shall specify the~~

~~maximum number of days providers will be provided certificates of payment for days the provider would have provided publicly funded child care had the child been present.~~ The maximum number of days providers shall be provided certificates shall not exceed ten days in a six-month period during which publicly funded child care is provided to the child regardless of the number of providers that provide publicly funded child care to the child during that period.

Sec. 5104.341. (A) Except as provided in division (B) of this section, both of the following apply:

(1) An eligibility determination made under section 5104.34 of the Revised Code for publicly funded child care is valid for one year;

(2) The county department of job and family services shall ~~redetermine~~ adjust the appropriate level of a fee charged under division (B) of section 5104.34 of the Revised Code ~~every six months during the one-year period, unless if a caretaker parent requests that the fee be reduced due to reports changes in income, family size, or both and the county department of job and family services approves the reduction.~~

(B) Division (A) of this section does not apply in either of the following circumstances:

(1) The publicly funded child care is provided under division (B)(4) of section 5104.35 of the Revised Code;

(2) The recipient of the publicly funded child care ceases to be eligible for publicly funded child care.

Sec. 5104.35. (A) The county department of job and family services shall do all of the following:

(1) Accept any gift, grant, or other funds from either public or private sources offered unconditionally or under conditions which are, in the judgment of the department, proper and consistent with this chapter and deposit the funds in the county public assistance fund established by section 5101.161 of the Revised Code;

(2) Recruit individuals and groups interested in certification as in-home aides or in developing and operating suitable licensed child day-care centers, type A family day-care homes, or certified type B family day-care homes, especially in areas with high concentrations of recipients of public assistance, and for that purpose provide consultation to interested individuals and groups on request;

(3) Inform clients of the availability of child care services;

(4) Pay to a child day-care center, type A family day-care home, certified type B family day-care home, in-home aide, approved child day camp, licensed preschool program, licensed school child program, or border

state child care provider for child care services, the amount provided for in division (B) of section 5104.32 of the Revised Code. If part of the cost of care of a child is paid by the child's parent or any other person, the amount paid shall be subtracted from the amount the ~~county department pays provider is paid.~~

(5) In accordance with rules adopted pursuant to section 5104.39 of the Revised Code, provide monthly reports to the director of job and family services and the director of budget and management regarding expenditures for the purchase of publicly funded child care.

(B) The county department of job and family services may do any of the following:

(1) To the extent permitted by federal law, use public child care funds to extend the hours of operation of the county department to accommodate the needs of working caretaker parents and enable those parents to apply for publicly funded child care;

(2) In accordance with rules adopted by the director of job and family services, request a waiver of the reimbursement ceiling established pursuant to section 5104.30 of the Revised Code for the purpose of paying a higher rate for publicly funded child care based upon the special needs of a child;

(3) To the extent permitted by federal law, use state and federal funds to pay deposits and other advance payments that a provider of child care customarily charges all children who receive child care from that provider;

(4) To the extent permitted by federal law, pay for up to thirty days of child care for a child whose caretaker parent is seeking employment, taking part in employment orientation activities, or taking part in activities in anticipation of enrollment or attendance in an education or training program or activity, if the employment or education or training program or activity is expected to begin within the thirty-day period.

Sec. 5104.39. (A) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code establishing a procedure for monitoring the expenditures of county departments of job and family services to ensure that expenditures do not exceed the available federal and state funds for publicly funded child care. The department, with the assistance of the office of budget and management and the child care advisory council created pursuant to section 5104.08 of the Revised Code, shall monitor the anticipated future expenditures of county departments for publicly funded child care and shall compare those anticipated future expenditures to available federal and state funds for publicly funded child care. Whenever the department determines that the anticipated future expenditures of the county departments will exceed the available federal and

state funds for publicly funded child care, ~~it~~ and the department reimburses the county departments in accordance with rules adopted under section 5104.42 of the Revised Code, the department shall promptly shall notify the county departments and, before the available state and federal funds are used, the director shall issue and implement an administrative order that shall specify both of the following:

(1) Priorities for expending the remaining available federal and state funds for publicly funded child care;

(2) Instructions and procedures to be used by the county departments.

(B) The order may do any or all of the following:

(1) Suspend enrollment of all new participants in any program of publicly funded child care;

(2) Limit enrollment of new participants to those with incomes at or below a specified percentage of the federal poverty line;

(3) Disenroll existing participants with income above a specified percentage of the federal poverty line.

(C) Each county department shall comply with the order no later than thirty days after it is issued. If the department fails to notify the county departments and to implement the reallocation priorities specified in the order before the available federal and state funds for publicly funded child care are used, the state department shall provide sufficient funds to the county departments for publicly funded child care to enable each county department to pay for all publicly funded child care that was provided by providers pursuant to contract prior to the date that the county department received notice under this section and the state department implemented in that county the priorities.

(D) If after issuing an order under this section to suspend or limit enrollment of new participants or disenroll existing participants the department determines that available state and federal funds for publicly funded child care exceed the anticipated future expenditures of the county departments, the director may issue and implement another administrative order increasing income eligibility levels to a specified percentage of the federal poverty line. The order shall include instructions and procedures to be used by the county departments. Each county department shall comply with the order not later than thirty days after it is issued.

(E) The department of job and family services shall do all of the following:

(1) Conduct a quarterly evaluation of the program of publicly funded child care that is operated pursuant to sections 5104.30 to 5104.39 of the Revised Code;

(2) Prepare reports based upon the evaluations that specify for each county the number of participants and amount of expenditures;

(3) Provide copies of the reports to both houses of the general assembly and, on request, to interested parties.

Sec. 5104.42. The director of job and family services shall adopt rules pursuant to section 111.15 of the Revised Code establishing a payment procedure for publicly funded child care. The rules may provide that the department of job and family services will ~~either~~ reimburse county departments of job and family services for payments made to providers of publicly funded child care ~~or, make direct payments to providers pursuant to an agreement entered into with a county board of commissioners pursuant to section 5101.21 of the Revised Code,~~ or establish another system for the payment of publicly funded child care.

Alternately, the director, by rule adopted in accordance with section 111.15 of the Revised Code, may establish a methodology for allocating among the county departments the state and federal funds appropriated for all publicly funded child care services. If the department chooses to allocate funds for publicly funded child care, it may provide the funds to each county department, up to the limit of the county's allocation, by advancing the funds or reimbursing county care expenditures. The rules adopted under this section may prescribe procedures for making the advances or reimbursements. The rules may establish a method under which the department may determine which county expenditures for child care services are allowable for use of and federal funds.

The rules may establish procedures that a county department shall follow when the county department determines that its anticipated future expenditures for publicly funded child care services will exceed the amount of state and federal funds allocated by the state department. The procedures may include suspending or limiting enrollment of new participants.

Sec. 5107.05. The director of job and family services shall adopt rules to implement this chapter. The rules shall be consistent with Title IV-A, Title IV-D, federal regulations, state law, the Title IV-A state plan submitted to the United States secretary of health and human services under section 5101.80 of the Revised Code, amendments to the plan, and waivers granted by the United States secretary. Rules governing eligibility, program participation, and other applicant and participant requirements shall be adopted in accordance with Chapter 119. of the Revised Code. Rules governing financial and other administrative requirements applicable to the department of job and family services and county departments of job and family services shall be adopted in accordance with section 111.15 of the

Revised Code.

(A) The rules shall specify, establish, or govern all of the following:

(1) A payment standard for Ohio works first based on federal and state appropriations that is increased in accordance with section 5107.04 of the Revised Code;

(2) For the purpose of section 5107.04 of the Revised Code, the method of determining the amount of cash assistance an assistance group receives under Ohio works first;

(3) Requirements for initial and continued eligibility for Ohio works first, including requirements regarding income, citizenship, age, residence, and assistance group composition;

(4) For the purpose of section 5107.12 of the Revised Code, application and verification procedures, including the minimum information an application must contain;

(5) The extent to which a participant of Ohio works first must notify, pursuant to section 5107.12 of the Revised Code, a county department of job and family services of additional income not previously reported to the county department;

(6) For the purpose of section 5107.16 of the Revised Code, ~~standards~~ all of the following:

(a) Standards for the determination of good cause for failure or refusal to comply in full with a provision of a self-sufficiency contract;

(b) The compliance form a member of an assistance group may complete to indicate willingness to come into full compliance with a provision of a self-sufficiency contract;

(c) The manner by which the compliance form is to be completed and provided to a county department of job and family services.

(7) The department of job and family services providing written notice of a sanction under section 5107.161 of the Revised Code;

(8) For the purpose of division (A)(2) of section 5107.17 of the Revised Code, the period of time by which a county department of job and family services is to receive a compliance form established in rules adopted under division (A)(6)(b) of this section;

(9) Requirements for the collection and distribution of support payments owed participants of Ohio works first pursuant to section 5107.20 of the Revised Code;

~~(9)~~(10) For the purpose of section 5107.22 of the Revised Code, what constitutes cooperating in establishing a minor child's paternity or establishing, modifying, or enforcing a child support order and good cause for failure or refusal to cooperate;

~~(10)~~(11) The requirements governing the LEAP program, including the definitions of "equivalent of a high school diploma" and "good cause," and the incentives provided under the LEAP program;

~~(11)~~(12) If the director implements section 5107.301 of the Revised Code, the requirements governing the award provided under that section, including the form that the award is to take and requirements an individual must satisfy to receive the award;

~~(12)~~(13) Circumstances under which a county department of job and family services may exempt a minor head of household or adult from participating in a work activity or developmental activity for all or some of the weekly hours otherwise required by section 5107.43 of the Revised Code.

~~(13)~~(14) The maximum amount of time the department will subsidize positions created by state agencies and political subdivisions under division (C) of section 5107.52 of the Revised Code;

~~(14)~~(15) The implementation of sections 5107.71 to 5107.717 of the Revised Code by county departments of job and family services;

~~(15)~~(16) A domestic violence screening process to be used for the purpose of division (A) of section 5107.71 of the Revised Code;

~~(16)~~(17) The minimum frequency with which county departments of job and family services must redetermine a member of an assistance group's need for a waiver issued under section 5107.714 of the Revised Code.

(B) The rules adopted under division (A)(3) of this section regarding income shall specify what is countable income, gross earned income, and gross unearned income for the purpose of section 5107.10 of the Revised Code.

The rules adopted under division (A)~~(9)~~(10) of this section shall be consistent with 42 U.S.C. 654(29).

The rules adopted under division (A)~~(12)~~(13) of this section shall specify that the circumstances include that a school or place of work is closed due to a holiday or weather or other emergency and that an employer grants the minor head of household or adult leave for illness or earned vacation.

(C) The rules may provide that a county department of job and family services is not required to take action under section 5107.76 of the Revised Code to recover an erroneous payment that is below an amount the department specifies.

Sec. 5107.16. (A) If a member of an assistance group fails or refuses, without good cause, to comply in full with a provision of a self-sufficiency contract entered into under section 5107.14 of the Revised Code, a county

department of job and family services shall sanction the assistance group as follows:

(1) For a first failure or refusal, the county department shall deny or terminate the assistance group's eligibility to participate in Ohio works first for one payment month or until the failure or refusal ceases, whichever is longer;

(2) For a second failure or refusal, the county department shall deny or terminate the assistance group's eligibility to participate in Ohio works first for three payment months or until the failure or refusal ceases, whichever is longer;

(3) For a third or subsequent failure or refusal, the county department shall deny or terminate the assistance group's eligibility to participate in Ohio works first for six payment months or until the failure or refusal ceases, whichever is longer.

(B) The director of job and family services shall establish standards for the determination of good cause for failure or refusal to comply in full with a provision of a self-sufficiency contract in rules adopted under section 5107.05 of the Revised Code.

(C) The director of job and family services shall provide a compliance form established in rules adopted under section 5107.05 of the Revised Code to an assistance group member who fails or refuses, without good cause, to comply in full with a provision of a self-sufficiency contract. The member's failure or refusal to comply in full with the provision shall be deemed to have ceased on the date a county department of job and family services receives the compliance form from the member if the compliance form is completed and provided to the county department in the manner specified in rules adopted under section 5107.05 of the Revised Code.

(D) After sanctioning an assistance group under division (A) of this section, a county department of job and family services shall continue to work with the assistance group.

~~(D)~~(E) An adult eligible for medicaid pursuant to division (A)(1)(a) of section 5111.01 of the Revised Code who is sanctioned under division (A)(3) of this section for a failure or refusal, without good cause, to comply in full with a provision of a self-sufficiency contract related to work responsibilities under sections 5107.40 to 5107.69 of the Revised Code loses eligibility for medicaid unless the adult is otherwise eligible for medicaid pursuant to another division of section 5111.01 of the Revised Code.

An assistance group that would be participating in Ohio works first if not for a sanction under this section shall continue to be eligible for all of the following:

(1) Publicly funded child care in accordance with division (A)(3) of section 5104.30 of the Revised Code;

(2) Support services in accordance with section 5107.66 of the Revised Code;

(3) To the extent permitted by the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C. 201, as amended, to participate in work activities, developmental activities, and alternative work activities in accordance with sections 5107.40 to 5107.69 of the Revised Code.

Sec. 5107.17. An assistance group that resumes participation in Ohio works first following a sanction under section 5107.16 of the Revised Code is not required to do either of the following:

(A) Reapply under section 5107.12 of the Revised Code, unless ~~it~~ either of the following applies:

(1) It is the assistance group's regularly scheduled time for an eligibility redetermination;

(2) The county department of job and family services does not receive the completed compliance form established in rules adopted under section 5107.05 of the Revised Code within the period of time specified in rules adopted under that section.

(B) Enter into a new self-sufficiency contract under section 5107.14 of the Revised Code, unless the county department of job and family services determines it is time for a new appraisal under section 5107.41 of the Revised Code or the assistance group's circumstances have changed in a manner necessitating an amendment to the self-sufficiency contract as determined using procedures included in the contract under division (B)(9) of section 5107.14 of the Revised Code.

Sec. 5107.78. ~~The department of job and family services shall include a notice with the following information with~~ With each cash assistance payment provided under Ohio works first to an assistance group residing in a county in which the computer system known as support enforcement tracking system is in operation:

~~(A) The number of months the assistance group has participated in Ohio works first and the remaining number of months the assistance group may participate in the program as limited by section 5107.18 of the Revised Code;~~

~~(B) The~~ the department of job and family services shall include a notice of the amount of support payments due a member of the assistance group that a child support enforcement agency collected and paid to the department pursuant to section 5107.20 of the Revised Code during the most recent month for which the department has this information.

Sec. 5108.04. Each county department of job and family services shall adopt a written statement of policies governing the prevention, retention, and contingency program for the county. The statement of policies shall be adopted not later than October 1, 2003, and shall be updated at least every two years thereafter. A county department may amend its statement of policies to modify, terminate, and establish new policies. A county department also may amend its statement of policies to suspend operation of its prevention, retention, and contingency program temporarily. The county director of job and family services shall sign and date the statement of policies and any amendment to it. Neither the statement of policies nor any amendment to it may have an effective date that is earlier than the date of the county director's signature.

Each county department of job and family services shall provide the department of job and family services a written copy of the statement of policies and any amendments it adopts to the statement not later than ten calendar days after the statement or amendment's effective date.

Sec. 5108.07. (A) Each statement of policies adopted under section 5108.04 of the Revised Code shall include the board of county commissioners' certification that the county department of job and family services complied with this chapter in adopting the statement of policies.

(B) The board of county commissioners shall revise its certification under division (A) of this section if ~~an amendment to the statement of policies that the county department adopts an amendment under section 5108.04 of the Revised Code to suspend operation of its prevention, retention, and contingency program temporarily or any other amendment under that section~~ the board considers to be significant ~~is adopted under section 5108.04 of the Revised Code.~~

Sec. 5111.01. As used in this chapter, "medical assistance program" or "medicaid" means the program that is authorized by this chapter and provided by the department of job and family services under this chapter, Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as amended, and the waivers of Title XIX requirements granted to the department by the centers for medicare and medicaid services of the United States department of health and human services.

The department of job and family services shall act as the single state agency to supervise the administration of the medicaid program. As the single state agency, the department shall comply with 42 C.F.R. 431.10(e). The department's rules governing medicaid are binding on other agencies that administer components of the medicaid program. No agency may establish, by rule or otherwise, a policy governing medicaid that is

inconsistent with a medicaid policy established, in rule or otherwise, by the director of job and family services.

(A) The department of job and family services may provide medical assistance under the medicaid program as long as federal funds are provided for such assistance, to the following:

(1) Families with children that meet either of the following conditions:

(a) The family meets the income, resource, and family composition requirements in effect on July 16, 1996, for the former aid to dependent children program as those requirements were established by Chapter 5107. of the Revised Code, federal waivers granted pursuant to requests made under former section 5101.09 of the Revised Code, and rules adopted by the department or any changes the department makes to those requirements in accordance with paragraph (a)(2) of section 114 of the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 110 Stat. 2177, 42 U.S.C.A. 1396u-1, for the purpose of implementing section ~~5111.019~~ 5111.0120 of the Revised Code. An adult loses eligibility for medicaid under division (A)(1)(a) of this section pursuant to division ~~(D)~~(E) of section 5107.16 of the Revised Code.

(b) The family does not meet the requirements specified in division (A)(1)(a) of this section but is eligible for medicaid pursuant to section 5101.18 of the Revised Code.

(2) Aged, blind, and disabled persons who meet the following conditions:

(a) Receive federal aid under Title XVI of the "Social Security Act," or are eligible for but are not receiving such aid, provided that the income from all other sources for individuals with independent living arrangements shall not exceed one hundred seventy-five dollars per month. The income standards hereby established shall be adjusted annually at the rate that is used by the United States department of health and human services to adjust the amounts payable under Title XVI.

(b) Do not receive aid under Title XVI, but meet any of the following criteria:

(i) Would be eligible to receive such aid, except that their income, other than that excluded from consideration as income under Title XVI, exceeds the maximum under division (A)(2)(a) of this section, and incurred expenses for medical care, as determined under federal regulations applicable to section 209(b) of the "Social Security Amendments of 1972," 86 Stat. 1381, 42 U.S.C.A. 1396a(f), as amended, equal or exceed the amount by which their income exceeds the maximum under division (A)(2)(a) of this section;

(ii) Received aid for the aged, aid to the blind, or aid for the

permanently and totally disabled prior to January 1, 1974, and continue to meet all the same eligibility requirements;

(iii) Are eligible for medicaid pursuant to section 5101.18 of the Revised Code.

(3) Persons to whom federal law requires, as a condition of state participation in the medicaid program, that medicaid be provided;

(4) Persons under age twenty-one who meet the income requirements for the Ohio works first program established under Chapter 5107. of the Revised Code but do not meet other eligibility requirements for the program. The director shall adopt rules in accordance with Chapter 119. of the Revised Code specifying which Ohio works first requirements shall be waived for the purpose of providing medicaid eligibility under division (A)(4) of this section.

(B) If sufficient funds are appropriated for the medicaid program, the department may provide medical assistance under the medicaid program to persons in groups designated by federal law as groups to which a state, at its option, may provide medical assistance under the medicaid program.

(C) The department may expand eligibility for the medicaid program to include individuals under age nineteen with family incomes at or below one hundred fifty per cent of the federal poverty guidelines, except that the eligibility expansion shall not occur unless the department receives the approval of the federal government. The department may implement the eligibility expansion authorized under this division on any date selected by the department, but not sooner than January 1, 1998.

(D) In addition to any other authority or requirement to adopt rules under this chapter, the director may adopt rules in accordance with section 111.15 of the Revised Code as the director considers necessary to establish standards, procedures, and other requirements regarding the provision of medical assistance under the medicaid program. The rules may establish requirements to be followed in applying for medicaid, making determinations of eligibility for medicaid, and verifying eligibility for medicaid. The rules may include special conditions as the department determines appropriate for making applications, determining eligibility, and verifying eligibility for any medical assistance that the department may provide under the medicaid program pursuant to division (C) of this section and section 5111.014 or ~~5111.019~~ 5111.0120 of the Revised Code.

Sec. ~~5111.019~~ 5111.0120. The director of job and family services shall submit to the United States secretary of health and human services an amendment to the state medicaid plan to make an individual eligible for medicaid who meets all of the following requirements:

(A) The individual is the parent of a child under nineteen years of age and resides with the child;

(B) The individual's family income does not exceed ninety per cent of the federal poverty guidelines;

(C) The individual is not otherwise eligible for medicaid;

(D) The individual satisfies all relevant requirements established by rules adopted under division (D) of section 5111.01 of the Revised Code.

Sec. 5111.0121. A parent eligible for the medicaid program pursuant to section 5111.0120 of the Revised Code shall not be required to undergo a redetermination of eligibility for the medicaid program more often than once every twelve months unless there are reasonable grounds to believe that circumstances have changed that may affect the parent's eligibility.

Sec. 5111.028. (A) Pursuant to section 5111.02 of the Revised Code, the director of job and family services shall adopt rules establishing procedures for the use of time-limited provider agreements under the medicaid program. Except as provided in division (E) of this section, all provider agreements shall be time-limited in accordance with the procedures established in the rules.

The department of job and family services shall phase-in the use of time-limited provider agreements pursuant to this section during a period commencing not later than January 1, 2008, and ending January 1, ~~2011~~ 2015.

(B) In the use of time-limited provider agreements pursuant to this section, all of the following apply:

(1) Each provider agreement shall expire not later than ~~three~~ seven years from the effective date of the agreement.

(2) During the phase-in period specified in division (A) of this section, the department may provide for the conversion of a provider agreement without a time limit to a provider agreement with a time limit. The department may take an action to convert the provider agreement by sending a notice by regular mail to the address of the provider on record with the department advising the provider of the conversion.

(3) The department may make the effective date of a provider agreement retroactive for a period not to exceed one year from the date of the provider's application for the agreement, as long as the provider met all medicaid program requirements during that period.

(C) The rules for use of time-limited provider agreements pursuant to this section shall include a process for re-enrollment of providers. All of the following apply to the re-enrollment process:

(1) The department of job and family services may terminate a

time-limited provider agreement or deny re-enrollment when a provider fails to file an application for re-enrollment within the time and in the manner required under the re-enrollment process.

(2) If a provider files an application for re-enrollment within the time and in the manner required under the re-enrollment process, but the provider agreement expires before the department acts on the application or before the effective date of the department's decision on the application, the provider may continue operating under the terms of the expired provider agreement until the effective date of the department's decision.

(3) A decision by the department to approve an application for re-enrollment becomes effective on the date of the department's decision. A decision by the department to deny re-enrollment shall take effect not sooner than thirty days after the date the department mails written notice of the decision to the provider. The department shall specify in the notice the date on which the provider is required to cease operating under the provider agreement.

(D) Pursuant to section 5111.06 of the Revised Code, the department is not required to take the actions specified in division (C)(1) of this section by issuing an order pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code.

(E) The use of time-limited provider agreements pursuant to this section does not apply to provider agreements issued to the following, including any provider agreements issued to the following that are otherwise time-limited under the medicaid program:

(1) A managed care organization under contract with the department pursuant to section 5111.17 of the Revised Code;

(2) A nursing facility, as defined in section 5111.20 of the Revised Code;

(3) An intermediate care facility for the mentally retarded, as defined in section 5111.20 of the Revised Code;

(4) A hospital.

Sec. 5111.0210. As used in this section, "advanced diagnostic imaging services" means magnetic resonance imaging services, computed tomography services, positron emission tomography services, cardiac nuclear medicine services, and similar imaging services.

Not later than January 1, 2010, the department of job and family services shall implement evidence-based, best practice guidelines or protocols and decision support tools for advanced diagnostic imaging services available under the fee-for-service component of the medicaid program.

Sec. 5111.032. (A) As used in this section:

(1) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(2) "Department" includes a designee of the department of job and family services.

(3) "Owner" means a person who has an ownership interest in a provider in an amount designated by the department of job and family services in rules adopted under this section.

(4) "Provider" means a person, institution, or entity that has a provider agreement with the department of job and family services pursuant to Title XIX of the "Social Security Act," 49 State. 620 (1965), 42 U.S.C. 1396, as amended.

(B)(1) Except as provided in division (B)(2) of this section, the department of job and family services may require that any provider, applicant to be a provider, employee or prospective employee of a provider, owner or prospective owner of a provider, officer or prospective officer of a provider, or board member or prospective board member of a provider submit to a criminal records check as a condition of obtaining a provider agreement, continuing to hold a provider agreement, being employed by a provider, having an ownership interest in a provider, or being an officer or board member of a provider. The department may designate the categories of persons who are subject to the criminal records check requirement. The department shall designate the times at which the criminal records checks must be conducted.

(2) The section does not apply to providers, applicants to be providers, employees of a provider, or prospective employees of a provider who are subject to criminal records checks under section 5111.033 or 5111.034 of the Revised Code.

(C)(1) The department shall inform each provider or applicant to be a provider whether the provider or applicant is subject to a criminal records check requirement under division (B) of this section. For providers, the information shall be given at times designated in rules adopted under this section. For applicants to be providers, the information shall be given at the time of initial application. When the information is given, the department shall specify which of the provider's or applicant's employees or prospective employees, owners or prospective owners, officers or prospective officers, or board members or prospective board members are subject to the criminal records check requirement.

(2) At times designated in rules adopted under this section, a provider that is subject to the criminal records check requirement shall inform each

person specified by the department under division (C)(1) of this section that the person is required, as applicable, to submit to a criminal records check for final consideration for employment in a full-time, part-time, or temporary position; as a condition of continued employment; or as a condition of becoming or continuing to be an officer, board member or owner of a provider.

(D)(1) If a provider or applicant to be a provider is subject to a criminal records check under this section, the department shall require the conduct of a criminal records check by the superintendent of the bureau of criminal identification and investigation. If a provider or applicant to be a provider for whom a criminal records check is required does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the individual from the federal bureau of investigation in a criminal records check, the department shall require the provider or applicant to request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the provider or applicant. Even if a provider or applicant for whom a criminal records check request is required presents proof of having been a resident of this state for the five-year period, the department may require that the provider or applicant request that the superintendent obtain information from the federal bureau of investigation and include it in the criminal records check of the provider or applicant.

(2) A provider shall require the conduct of a criminal records check by the superintendent with respect to each of the persons specified by the department under division (C)(1) of this section. If the person for whom a criminal records check is required does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent of the bureau of criminal identification and investigation has requested information about the individual from the federal bureau of investigation in a criminal records check, the individual shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the individual. Even if an individual for whom a criminal records check request is required presents proof of having been a resident of this state for the five-year period, the department may require the provider to request that the superintendent obtain information from the federal bureau of investigation and include it in the criminal records check of the person.

(E)(1) Criminal records checks required under this section for providers or applicants to be providers shall be obtained as follows:

(a) The department shall provide each provider or applicant information about accessing and completing the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section.

(b) The provider or applicant shall submit the required form and one complete set of fingerprint impressions directly to the superintendent for purposes of conducting the criminal records check using the applicable methods prescribed by division (C) of section 109.572 of the Revised Code. The applicant or provider shall pay all fees associated with obtaining the criminal records check.

(c) The superintendent shall conduct the criminal records check in accordance with section 109.572 of the Revised Code. The provider or applicant shall instruct the superintendent to submit the report of the criminal records check directly to the director of job and family services.

(2) Criminal records checks required under this section for persons specified by the department under division (C)(1) of this section shall be obtained as follows:

(a) The provider shall give to each person subject to criminal records check requirement information about accessing and completing the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section.

(b) The person shall submit the required form and one complete set of fingerprint impressions directly to the superintendent for purposes of conducting the criminal records check using the applicable methods prescribed by division (C) of section 109.572 of the Revised Code. The person shall pay all fees associated with obtaining the criminal records check.

(c) The superintendent shall conduct the criminal records check in accordance with section 109.572 of the Revised Code. The person subject to the criminal records check shall instruct the superintendent to submit the report of the criminal records check directly to the provider. The department may require the provider to submit the report to the department.

(F) If a provider or applicant to be a provider is given the information specified in division (E)(1)(a) of this section but fails to obtain a criminal records check, the department shall, as applicable, terminate the provider agreement or deny the application to be a provider.

If a person is given the information specified in division (E)(2)(a) of this

section but fails to obtain a criminal records check, the provider shall not, as applicable, permit the person to be an employee, owner, officer, or board member of the provider.

(G) Except as provided in rules adopted under division (J) of this section, the department shall terminate the provider agreement of a provider or the department shall not issue a provider agreement to an applicant if the provider or applicant is subject to a criminal records check under this section and the provider or applicant has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for any of the following, regardless of the date of the conviction, the date of entry of the guilty plea, or the date the applicant or provider was found eligible for intervention in lieu of conviction:

(1) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2909.04, 2909.05, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.11, 2917.31, 2919.12, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 2921.11, 2921.13, 2921.34, 2921.35, 2921.36, 2923.01, 2923.02, 2923.03, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 2925.23, 2927.12, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date;

(2) ~~An~~ A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (G)(1) of this section.

(H)(1)(a) Except as provided in rules adopted under division (J) of this section and subject to division (H)(2) of this section, no provider shall permit a person to be an employee, owner, officer, or board member of the provider if the person is subject to a criminal records check under this section and the person has been convicted of, has pleaded guilty to, or has

been found eligible for intervention in lieu of conviction for any of the offenses specified in division (G)(1) or (2) of this section.

(b) No provider shall employ a person who has been excluded from participating in the medicaid program, the medicare program operated pursuant to Title XVIII of the "Social Security Act," or any other federal health care program.

(2)(a) A provider may employ conditionally a person for whom a criminal records check is required under this section prior to obtaining the results of a criminal records check regarding the person, but only if the person submits a request for a criminal records check not later than five business days after the individual begins conditional employment.

(b) A provider that employs a person conditionally under authority of division (H)(2)(a) of this section shall terminate the person's employment if the results of the criminal records check request are not obtained within the period ending sixty days after the date the request is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the individual has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for any of the offenses specified in division (G)(1) or (2) of this section, the provider shall terminate the person's employment unless the provider chooses to employ the individual pursuant to division (J) of this section.

(I) The report of a criminal records check conducted pursuant to this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The person who is the subject of the criminal records check or the person's representative;

(2) The director of job and family services and the staff of the department in the administration of the medicaid program;

(3) A court, hearing officer, or other necessary individual involved in a case dealing with the denial or termination of a provider agreement;

(4) A court, hearing officer, or other necessary individual involved in a case dealing with a person's denial of employment, termination of employment, or employment or unemployment benefits.

(J) The department may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules may specify circumstances under which the department may continue a provider agreement or issue a provider agreement to an applicant when the provider or applicant has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for any of the offenses

specified in division (G)(1) or (2) of this section. The rules may also specify circumstances under which a provider may permit a person to be an employee, owner, officer, or board member of the provider, when the person has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for any of the offenses specified in division (G)(1) or (2) of this section.

Sec. 5111.033. (A) As used in this section:

(1) "Applicant" means a person who is under final consideration for employment or, after September 26, 2003, an existing employee with a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based waiver services to a person with disabilities. "Applicant" also means an existing employee with a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based waiver services to a person with disabilities after September 26, 2003.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(3) "Waiver agency" means a person or government entity that is not certified under the medicare program and is accredited by the community health accreditation program or the joint commission on accreditation of health care organizations or a company that provides home and community-based waiver services to persons with disabilities through department of job and family services administered home and community-based waiver programs.

(4) "Home and community-based waiver services" means services furnished under the provision of 42 C.F.R. 441, subpart G, that permit individuals to live in a home setting rather than a nursing facility or hospital. Home and community-based waiver services are approved by the centers for medicare and medicaid for specific populations and are not otherwise available under the medicaid state plan.

(B)(1) The chief administrator of a waiver agency shall require each applicant to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check with respect to the applicant. If an applicant for whom a criminal records check request is required under this division does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the chief administrator shall require the applicant to request that the

superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the applicant. Even if an applicant for whom a criminal records check request is required under this division presents proof of having been a resident of this state for the five-year period, the chief administrator may require the applicant to request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) The chief administrator shall provide the following to each applicant for whom a criminal records check request is required under division (B)(1) of this section:

(a) Information about accessing, completing, and forwarding to the superintendent of the bureau of criminal identification and investigation the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section;

(b) Written notification that the applicant is to instruct the superintendent to submit the completed report of the criminal records check directly to the chief administrator.

(3) An applicant given information and notification under divisions (B)(2)(a) and (b) of this section who fails to access, complete, and forward to the superintendent the form or the standard fingerprint impression sheet, or who fails to instruct the superintendent to submit the completed report of the criminal records check directly to the chief administrator, shall not be employed in any position in a waiver agency for which a criminal records check is required by this section.

(C)(1) Except as provided in rules adopted by the department of job and family services in accordance with division (F) of this section and subject to division (C)(2) of this section, no waiver agency shall employ a person in a position that involves providing home and community-based waiver services to persons with disabilities if the person has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for any of the following, regardless of the date of the conviction, the date of entry of the guilty plea, or the date the person was found eligible for intervention in lieu of conviction:

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2909.04, 2909.05, 2909.22, 2909.23, 2909.24,

2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.11, 2917.31, 2919.12, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 2921.11, 2921.13, 2921.34, 2921.35, 2921.36, 2923.01, 2923.02, 2923.03, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 2925.23, 2927.12, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date;

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

(2)(a) A waiver agency may employ conditionally an applicant for whom a criminal records check request is required under division (B) of this section prior to obtaining the results of a criminal records check regarding the individual, provided that the agency shall require the individual to request a criminal records check regarding the individual in accordance with division (B)(1) of this section not later than five business days after the individual begins conditional employment.

(b) A waiver agency that employs an individual conditionally under authority of division (C)(2)(a) of this section shall terminate the individual's employment if the results of the criminal records check request under division (B) of this section, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending sixty days after the date the request is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the individual has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for any of the offenses listed or described in division (C)(1) of this section, the agency shall terminate the individual's employment unless the agency chooses to employ the individual pursuant to division (F) of this section.

(D)(1) The fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (B) of this section shall be paid to the bureau of criminal identification and investigation by the applicant or the waiver

agency.

(2) If a waiver agency pays the fee, it may charge the applicant a fee not exceeding the amount the agency pays under division (D)(1) of this section. An agency may collect a fee only if the agency notifies the person at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the person will not be considered for employment.

(E) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The individual who is the subject of the criminal records check or the individual's representative;

(2) The chief administrator of the agency requesting the criminal records check or the administrator's representative;

(3) An administrator at the department;

(4) A court, hearing officer, or other necessary individual involved in a case dealing with a denial of employment of the applicant or dealing with employment or unemployment benefits of the applicant.

(F) The department shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which a waiver agency may employ a person who has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for an offense listed or described in division (C)(1) of this section.

(G) The chief administrator of a waiver agency shall inform each person, at the time of initial application for a position that involves providing home and community-based waiver services to a person with a disability, that the person is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the person comes under final consideration for employment.

(H)(1) A person who, on September 26, 2003, is an employee of a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based waiver services to a person with disabilities shall comply with this section within sixty days after September 26, 2003, unless division (H)(2) of this section applies.

(2) This section shall not apply to a person to whom all of the following apply:

(a) On September 26, 2003, the person is an employee of a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based waiver services to a person with

disabilities.

(b) The person previously had been the subject of a criminal background check relating to that position;

(c) The person has been continuously employed in that position since that criminal background check had been conducted.

Sec. 5111.034. (A) As used in this section:

(1) "Anniversary date" means the later of the effective date of the provider agreement relating to the independent provider or sixty days after September 26, 2003.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(3) "Department" includes a designee of the department of job and family services.

(4) "Independent provider" means a person who is submitting an application for a provider agreement or who has a provider agreement as an independent provider in a department of job and family services administered home and community-based services program providing home and community-based waiver services to consumers with disabilities.

(5) "Home and community-based waiver services" has the same meaning as in section 5111.033 of the Revised Code.

(B)(1) The department of job and family services shall inform each independent provider, at the time of initial application for a provider agreement that involves providing home and community-based waiver services to consumers with disabilities, that the independent provider is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the person is to become an independent provider in a department administered home and community-based waiver program.

(2) Beginning on September 26, 2003, the department shall inform each enrolled medicaid independent provider on or before time of the anniversary date of the provider agreement that involves providing home and community-based waiver services to consumers with disabilities that the independent provider is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted.

(C)(1) The department shall require the independent provider to complete a criminal records check prior to entering into a provider agreement with the independent provider and at least annually thereafter. If an independent provider for whom a criminal records check is required under this division does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal

records check is requested or provide evidence that within that five-year period the superintendent of the bureau of criminal identification and investigation has requested information about the independent provider from the federal bureau of investigation in a criminal records check, the department shall request that the independent provider obtain through the superintendent a criminal records request from the federal bureau of investigation as part of the criminal records check of the independent provider. Even if an independent provider for whom a criminal records check request is required under this division presents proof of having been a resident of this state for the five-year period, the department may request that the independent provider obtain information through the superintendent from the federal bureau of investigation in the criminal records check.

(2) The department shall provide the following to each independent provider for whom a criminal records check request is required under division (C)(1) of this section:

(a) Information about accessing, completing, and forwarding to the superintendent of the bureau of criminal identification and investigation the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section;

(b) Written notification that the independent provider is to instruct the superintendent to submit the completed report of the criminal records check directly to the department.

(3) An independent provider given information and notification under divisions (C)(2)(a) and (b) of this section who fails to access, complete, and forward to the superintendent the form or the standard fingerprint impression sheet, or who fails to instruct the superintendent to submit the completed report of the criminal records check directly to the department, shall not be approved as an independent provider.

(D) Except as provided in rules adopted by the department in accordance with division (G) of this section, the department shall not issue a new provider agreement to, and shall terminate an existing provider agreement of, an independent provider if the person has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for any of the following, regardless of the date of the conviction, the date of entry of the guilty plea, or the date the person was found eligible for intervention in lieu of conviction:

(1) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02,

2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2909.04, 2909.05, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.11, 2917.31, 2919.12, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 2921.11, 2921.13, 2921.34, 2921.35, 2921.36, 2923.01, 2923.02, 2923.03, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 2925.23, 2927.12, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date;

(2) ~~An~~ A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (D)(1) of this section.

(E) Each independent provider shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (C) of this section.

(F) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under division (C) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The person who is the subject of the criminal records check or the person's representative;

(2) An administrator at the department or the administrator's representative;

(3) A court, hearing officer, or other necessary individual involved in a case dealing with a denial or termination of a provider agreement related to the criminal records check.

(G) The department shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which the department may either issue a provider

agreement to an independent provider or allow an independent provider to maintain an existing provider agreement when the independent provider has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for an offense listed or described in division ~~(C)~~~~(4)~~(D)(1) or (2) of this section.

Sec. 5111.06. (A)(1) As used in this section and in sections 5111.061 and 5111.062 of the Revised Code:

(a) "Provider" means any person, institution, or entity that furnishes medicaid services under a provider agreement with the department of job and family services pursuant to Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.

(b) "Party" has the same meaning as in division (G) of section 119.01 of the Revised Code.

(c) "Adjudication" has the same meaning as in division (D) of section 119.01 of the Revised Code.

(2) This section does not apply to any action taken by the department of job and family services under sections 5111.35 to 5111.62 of the Revised Code.

(B) Except as provided in division (D) of this section and section 5111.914 of the Revised Code, the department shall do either of the following by issuing an order pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code:

(1) Enter into or refuse to enter into a provider agreement with a provider, or suspend, terminate, renew, or refuse to renew an existing provider agreement with a provider;

(2) Take any action based upon a final fiscal audit of a provider.

(C) Any party who is adversely affected by the issuance of an adjudication order under division (B) of this section may appeal to the court of common pleas of Franklin county in accordance with section 119.12 of the Revised Code.

(D) The department is not required to comply with division (B)(1) of this section whenever any of the following occur:

(1) The terms of a provider agreement require the provider to hold a license, permit, or certificate or maintain a certification issued by an official, board, commission, department, division, bureau, or other agency of state or federal government other than the department of job and family services, and the license, permit, certificate, or certification has been denied, revoked, not renewed, suspended, or otherwise limited.

(2) The terms of a provider agreement require the provider to hold a license, permit, or certificate or maintain certification issued by an official,

board, commission, department, division, bureau, or other agency of state or federal government other than the department of job and family services, and the provider has not obtained the license, permit, certificate, or certification.

(3) The provider agreement is denied, terminated, or not renewed due to the termination, refusal to renew, or denial of a license, permit, certificate, or certification by an official, board, commission, department, division, bureau, or other agency of this state other than the department of job and family services, notwithstanding the fact that the provider may hold a license, permit, certificate, or certification from an official, board, commission, department, division, bureau, or other agency of another state.

(4) The provider agreement is denied, terminated, or not renewed pursuant to division (C) or (F) of section 5111.03 of the Revised Code;

(5) The provider agreement is denied, terminated, or not renewed due to the provider's termination, suspension, or exclusion from the medicare program established under Title XVIII of the "Social Security Act," and the termination, suspension, or exclusion is binding on the provider's participation in the medicaid program;

(6) The provider agreement is denied, terminated, or not renewed due to the provider's pleading guilty to or being convicted of a criminal activity materially related to either the medicare or medicaid program;

(7) The provider agreement is denied, terminated, or suspended as a result of action by the United States department of health and human services and that action is binding on the provider's participation in the medicaid program;

(8) The provider agreement is suspended pursuant to section 5111.031 of the Revised Code pending indictment of the provider.

(9) The provider agreement is denied, terminated, or not renewed because the provider or its owner, officer, authorized agent, associate, manager, or employee has been convicted of one of the offenses that caused the provider agreement to be suspended pursuant to section 5111.031 of the Revised Code.

(10) The provider agreement is converted under section 5111.028 of the Revised Code from a provider agreement that is not time-limited to a provider agreement that is time-limited.

(11) The provider agreement is terminated or an application for re-enrollment is denied because the provider has failed to apply for re-enrollment within the time or in the manner specified for re-enrollment pursuant to section 5111.028 of the Revised Code.

(12) The provider agreement is terminated or not renewed because the

provider has not billed or otherwise submitted a medicaid claim to the department for two years or longer, ~~and the department has determined that the provider has moved from the address on record with the department without leaving an active forwarding address with the department.~~

(13) The provider agreement is denied, terminated, or not renewed because the provider fails to provide to the department the national provider identifier assigned the provider by the national provider system pursuant to 45 C.F.R. 162. 408.

In the case of a provider described in division (D)(12) or (13) of this section, the department may ~~terminate or not renew the~~ take its proposed action against a provider agreement by sending a notice explaining the ~~department's~~ proposed action to the provider. The notice shall be sent to the provider's address on record with the department. ~~The~~ In the case of a provider described in division (D)(12) of this section, the notice may be sent by regular mail. In the case of a provider described in division (D)(13) of this section, the notice shall be sent by certified mail.

(E) The department may withhold payments for services rendered by a medicaid provider under the ~~medical assistance~~ medicaid program during the pendency of proceedings initiated under division (B)(1) of this section. If the proceedings are initiated under division (B)(2) of this section, the department may withhold payments only to the extent that they equal amounts determined in a final fiscal audit as being due the state. This division does not apply if the department fails to comply with section 119.07 of the Revised Code, requests a continuance of the hearing, or does not issue a decision within thirty days after the hearing is completed. This division does not apply to nursing facilities and intermediate care facilities for the mentally retarded as defined in section 5111.20 of the Revised Code.

Sec. 5111.084. (A) There is hereby established the pharmacy and therapeutics committee of the department of job and family services. The committee shall assist the department with developing and maintaining a preferred drug list.

The committee shall review and recommend to the director of job and family services the drugs that should be included on the preferred drug list. The recommendations shall be made based on the evaluation of competent evidence regarding the relative safety, efficacy, and effectiveness of prescription drugs within a class or classes of prescription drugs.

(B) The committee shall consist of ten members and shall be appointed by the director of job and family services. The director shall seek recommendations for membership from relevant professional organizations. A candidate for membership recommended by a professional organization

shall have professional experience working with medicaid recipients. The director shall not appoint a member who is employed by the department.

The membership of the committee shall include:

~~(A)~~(1) Three pharmacists licensed under Chapter 4729. of the Revised Code;

~~(B)~~(2) Two doctors of medicine and two doctors of osteopathy who hold certificates to practice issued under Chapter 4731. of the Revised Code, one of whom is a family practice physician;

~~(C)~~(3) A registered nurse licensed under Chapter 4723. of the Revised Code;

~~(D)~~(4) A pharmacologist who has a doctoral degree;

~~(E)~~(5) A psychiatrist who holds a certificate to practice issued under Chapter 4731. of the Revised Code and specializes in psychiatry.

(C) The committee shall elect ~~one of~~ from among its members as a chairperson. Five committee members constitute a quorum.

The committee shall establish guidelines necessary for the committee's operation.

The committee may establish one or more subcommittees to investigate and analyze issues consistent with the duties of the committee under this section. The subcommittees may submit proposals regarding the issues to the committee and the committee may adopt, reject, or modify the proposals.

A vote by a majority of a quorum is necessary to make recommendations to the director. In the case of a tie, the chairperson shall decide the outcome.

(D) The director shall act on the committee's recommendations not later than thirty days after the recommendation is posted on the department's web site under division (F) of this section. If the director does not accept a recommendation of the committee, the director shall present the basis for this determination not later than fourteen days after making the determination or at the next scheduled meeting of the committee, whichever is sooner.

(E) An interested party may request, and shall be permitted, to make a presentation or submit written materials to the committee during a committee meeting. The presentation or other materials shall be relevant to an issue under consideration by the committee and any written material, including a transcript of testimony to be given on the day of the meeting, may be submitted to the committee in advance of the meeting.

(F) The department shall post the following on the department's web site:

(1) Guidelines established by the committee under division (C) of this section:

(2) A detailed committee agenda not later than fourteen days prior to the date of a regularly scheduled meeting and not later than seventy-two hours prior to the date of a special meeting called by the committee:

(3) Committee recommendations not later than seven days after the meeting at which the recommendation was approved:

(4) The director's final determination as to the recommendations made by the committee under this section.

Sec. 5111.092. (A) Not later than January 1, 2010, and each year thereafter, the department of job and family services shall prepare a report on the department's efforts to minimize fraud, waste, and abuse in the medicaid program.

(B) Each report shall include at least both of the following with regard to minimizing fraud, waste, and abuse in the medicaid program:

(1) Goals and objectives;

(2) Performance measures for monitoring all state and local activities.

(C) Each report shall be made available on the department's web site.

The department shall submit a copy of each report to the governor and, in accordance with section 101.68 of the Revised Code, the general assembly. Copies of the report also shall be made available to the public on request.

Sec. 5111.16. (A) As part of the medicaid program, the department of job and family services shall establish a care management system. The department shall submit, if necessary, applications to the United States department of health and human services for waivers of federal medicaid requirements that would otherwise be violated in the implementation of the system.

(B) The department shall implement the care management system in some or all counties and shall designate the medicaid recipients who are required or permitted to participate in the system. In the department's implementation of the system and designation of participants, all of the following apply:

(1) In the case of individuals who receive medicaid on the basis of being included in the category identified by the department as covered families and children, the department shall implement the care management system in all counties. All individuals included in the category shall be designated for participation, except for ~~individuals~~ individuals included in one or more of the medicaid recipient groups specified in 42 C.F.R. 438.50(d). ~~The department shall designate the participants not later than January 1, 2006. Beginning not later than December 31, 2006, the department shall ensure~~

that all participants are enrolled in health insuring corporations under contract with the department pursuant to section 5111.17 of the Revised Code.

(2) In the case of individuals who receive medicaid on the basis of being aged, blind, or disabled, as specified in division (A)(2) of section 5111.01 of the Revised Code, the department shall implement the care management system in all counties. All individuals included in the category shall be designated for participation, except for the individuals specified in divisions (B)(2)(a) to (e) of this section. ~~Beginning not later than December 31, 2006, the~~ The department shall ensure that all participants are enrolled in health insuring corporations under contract with the department pursuant to section 5111.17 of the Revised Code.

In designating participants who receive medicaid on the basis of being aged, blind, or disabled, the department shall not include any of the following:

- (a) Individuals who are under twenty-one years of age;
- (b) Individuals who are institutionalized;
- (c) Individuals who become eligible for medicaid by spending down their income or resources to a level that meets the medicaid program's financial eligibility requirements;
- (d) Individuals who are dually eligible under the medicaid program and the medicare program established under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended;
- (e) Individuals to the extent that they are receiving medicaid services through a medicaid waiver component, as defined in section 5111.85 of the Revised Code.

(3) Alcohol, drug addiction, and mental health services covered by medicaid shall not be included in any component of the care management system when the nonfederal share of the cost of those services is provided by a board of alcohol, drug ~~addiction~~ addiction, and mental health services or a state agency other than the department of job and family services, but the recipients of those services may otherwise be designated for participation in the system.

(C) Subject to division (B) of this section, the department may do both of the following under the care management system:

- (1) Require or permit participants in the system to obtain health care services from providers designated by the department;
- (2) Require or permit participants in the system to obtain health care services through managed care organizations under contract with the department pursuant to section 5111.17 of the Revised Code.

(D)(1) The department shall prepare an annual report on the care management system. The report shall address the department's ability to implement the system, including all of the following components:

(a) The required designation of participants included in the category identified by the department as covered families and children;

(b) The required designation of participants included in the aged, blind, or disabled category of medicaid recipients;

(c) ~~The conduct of the pilot program for chronically ill children established under section 5111.163 of the Revised Code;~~

~~(d) The use of any programs for enhanced care management.~~

(2) The department shall submit each annual report to the general assembly. The first report shall be submitted not later than October 1, 2007.

(E) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

Sec. 5111.176. (A) As used in this section:

(1) "Medicaid health insuring corporation" means a health insuring corporation that holds a certificate of authority under Chapter 1751. of the Revised Code and has entered into a contract with the department of job and family services pursuant to section 5111.17 of the Revised Code.

(2) "Managed care premium" means any premium payment, capitation payment, or other payment a medicaid health insuring corporation receives for providing, or arranging for the provision of, health care services to its members or enrollees residing in this state.

(B) Except as provided in division (C) of this section, all of the following apply:

(1) Each medicaid health insuring corporation shall pay to the department of job and family services a franchise permit fee for the period December 1, 2005, through December 31, 2005, and each calendar quarter occurring ~~thereafter~~ between January 1, 2006, and September 30, 2009.

(2) The fee to be paid is an amount that is equal to a percentage of the managed care premiums the medicaid health insuring corporation received in the period December 1, 2005, through December 31, 2005, and in the subsequent quarter to which the fee applies, excluding the amount of any managed care premiums the corporation returned or refunded to enrollees, members, or premium payers during the period December 1, 2005, through December 31, 2005, or the subsequent quarter to which the fee applies.

(3) The percentage to be used in calculating the fee shall be four and one-half per cent, unless the department adopts rules under division (L) of this section decreasing the percentage below four and one-half per cent or

increasing the percentage to not more than six per cent.

(C) The department shall reduce the franchise permit fee imposed under this section or terminate its collection of the fee if the department determines either of the following:

(1) That the reduction or termination is required to comply with federal statutes or regulations;

(2) That the fee does not qualify as a state share of medicaid expenditures eligible for federal financial participation.

(D) The franchise permit fee shall be paid on or before the thirtieth day following the end of the period December 1, 2005, through December 31, 2005, or the calendar quarter to which the fee applies. At the time the fee is submitted, the medicaid health insuring corporation shall file with the department a report on a form prescribed by the department. The corporation shall provide on the form all information required by the department and shall include with the form any necessary supporting documentation.

(E) The department may audit the records of any medicaid health insuring corporation to determine whether the corporation is in compliance with this section. The department may audit the records that pertain to the period December 1, 2005, through December 31, 2005, or a particular calendar quarter, at any time during the five years following the date the franchise permit fee payment for that period or quarter was due.

(F)(1) A medicaid health insuring corporation that does not pay the franchise permit fee in full by the date the payment is due is subject to any or all of the following:

(a) A monetary penalty in the amount of five hundred dollars for each day any part of the fee remains unpaid, except that the penalty shall not exceed an amount equal to five per cent of the total fee that was due;

(b) Withholdings from future managed care premiums pursuant to division (G) of this section;

(c) Termination of the corporation's medicaid provider agreement pursuant to division (H) of this section.

(2) Penalties imposed under division (F)(1)(a) of this section are in addition to and not in lieu of the franchise permit fee.

(G) If a medicaid health insuring corporation fails to pay the full amount of its franchise permit fee when due, or the full amount of a penalty imposed under division (F)(1)(a) of this section, the department may withhold an amount equal to the remaining amount due from any future managed care premiums to be paid to the corporation under the medicaid program. The department may withhold amounts under this division without providing

notice to the corporation. The amounts may be withheld until the amount due has been paid.

(H) The department may commence actions to terminate a medicaid health insuring corporation's medicaid provider agreement, and may terminate the agreement subject to division (I) of this section, if the corporation does any of the following:

- (1) Fails to pay its franchise permit fee or fails to pay the fee promptly;
- (2) Fails to pay a penalty imposed under division (F)(1)(a) of this section or fails to pay the penalty promptly;
- (3) Fails to cooperate with an audit conducted under division (E) of this section.

(I) At the request of a medicaid health insuring corporation, the department shall grant the corporation a hearing in accordance with Chapter 119. of the Revised Code, if either of the following is the case:

(1) The department has determined that the corporation owes an additional franchise permit fee or penalty as the result of an audit conducted under division (E) of this section.

(2) The department is proposing to terminate the corporation's medicaid provider agreement and the provisions of section 5111.06 of the Revised Code requiring an adjudication in accordance with Chapter 119. of the Revised Code are applicable.

(J)(1) At the request of a medicaid corporation, the department shall grant the corporation a reconsideration of any issue that arises out of the provisions of this section and is not subject to division (I) of this section. The department's decision at the conclusion of the reconsideration is not subject to appeal under Chapter 119. of the Revised Code or any other provision of the Revised Code.

(2) In conducting a reconsideration, the department shall do at least the following:

- (a) Specify the time frames within which a corporation must act in order to exercise its opportunity for a reconsideration;
- (b) Permit the corporation to present written arguments or other materials that support the corporation's position.

(K) There is hereby created in the state treasury the managed care assessment fund. Money collected from the franchise permit fees and penalties imposed under this section shall be credited to the fund. The department shall use the money in the fund to pay for medicaid services, the department's administrative costs, and contracts with medicaid health insuring corporations.

(L) The director of job and family services may adopt rules to

implement and administer this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5111.20. As used in sections 5111.20 to 5111.34 of the Revised Code:

(A) "Allowable costs" are those costs determined by the department of job and family services to be reasonable and do not include fines paid under sections 5111.35 to 5111.61 and section 5111.99 of the Revised Code.

(B) "Ancillary and support costs" means all reasonable costs incurred by a nursing facility other than direct care costs or capital costs. "Ancillary and support costs" includes, but is not limited to, costs of activities, social services, pharmacy consultants, habilitation supervisors, qualified mental retardation professionals, program directors, medical and habilitation records, program supplies, incontinence supplies, food, enterals, dietary supplies and personnel, laundry, housekeeping, security, administration, medical equipment, utilities, liability insurance, bookkeeping, purchasing department, human resources, communications, travel, dues, license fees, subscriptions, home office costs not otherwise allocated, legal services, accounting services, minor equipment, wheelchairs, resident transportation, maintenance and repairs, help-wanted advertising, informational advertising, start-up costs, organizational expenses, other interest, property insurance, employee training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted by the director of job and family services under section 5111.02 of the Revised Code, for personnel listed in this division. "Ancillary and support costs" also means the cost of equipment, including vehicles, acquired by operating lease executed before December 1, 1992, if the costs are reported as administrative and general costs on the facility's cost report for the cost reporting period ending December 31, 1992.

(C) "Capital costs" means costs of ownership and, in the case of an intermediate care facility for the mentally retarded, costs of nonextensive renovation.

(1) "Cost of ownership" means the actual expense incurred for all of the following:

(a) Depreciation and interest on any capital assets that cost five hundred dollars or more per item, including the following:

(i) Buildings;

(ii) Building improvements that are not approved as nonextensive renovations under section 5111.251 of the Revised Code;

(iii) Except as provided in division (B) of this section, equipment;

(iv) In the case of an intermediate care facility for the mentally retarded, extensive renovations;

(v) Transportation equipment.

(b) Amortization and interest on land improvements and leasehold improvements;

(c) Amortization of financing costs;

(d) Except as provided in division (K) of this section, lease and rent of land, building, and equipment.

The costs of capital assets of less than five hundred dollars per item may be considered capital costs in accordance with a provider's practice.

(2) "Costs of nonextensive renovation" means the actual expense incurred by an intermediate care facility for the mentally retarded for depreciation or amortization and interest on renovations that are not extensive renovations.

(D) "Capital lease" and "operating lease" shall be construed in accordance with generally accepted accounting principles.

(E) "Case-mix score" means the measure determined under section 5111.232 of the Revised Code of the relative direct-care resources needed to provide care and habilitation to a resident of a nursing facility or intermediate care facility for the mentally retarded.

(F)(1) "Date of licensure," for a facility originally licensed as a nursing home under Chapter 3721. of the Revised Code, means the date specific beds were originally licensed as nursing home beds under that chapter, regardless of whether they were subsequently licensed as residential facility beds under section 5123.19 of the Revised Code. For a facility originally licensed as a residential facility under section 5123.19 of the Revised Code, "date of licensure" means the date specific beds were originally licensed as residential facility beds under that section.

If nursing home beds licensed under Chapter 3721. of the Revised Code or residential facility beds licensed under section 5123.19 of the Revised Code were not required by law to be licensed when they were originally used to provide nursing home or residential facility services, "date of licensure" means the date the beds first were used to provide nursing home or residential facility services, regardless of the date the present provider obtained licensure.

If a facility adds nursing home beds or residential facility beds or extensively renovates all or part of the facility after its original date of licensure, it will have a different date of licensure for the additional beds or extensively renovated portion of the facility, unless the beds are added in a space that was constructed at the same time as the previously licensed beds

but was not licensed under Chapter 3721. or section 5123.19 of the Revised Code at that time.

(2) The definition of "date of licensure" in this section applies in determinations of the medicaid reimbursement rate for a nursing facility or intermediate care facility for the mentally retarded but does not apply in determinations of the franchise permit fee for a nursing facility or intermediate care facility for the mentally retarded.

(G) "Desk-reviewed" means that costs as reported on a cost report submitted under section 5111.26 of the Revised Code have been subjected to a desk review under division (A) of section 5111.27 of the Revised Code and preliminarily determined to be allowable costs.

(H) "Direct care costs" means all of the following:

(1)(a) Costs for registered nurses, licensed practical nurses, and nurse aides employed by the facility;

(b) Costs for direct care staff, administrative nursing staff, medical directors, respiratory therapists, and except as provided in division (H)(2) of this section, other persons holding degrees qualifying them to provide therapy;

(c) Costs of purchased nursing services;

(d) Costs of quality assurance;

(e) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted by the director of job and family services in accordance with Chapter 119. of the Revised Code, for personnel listed in divisions (H)(1)(a), (b), and (d) of this section;

(f) Costs of consulting and management fees related to direct care;

(g) Allocated direct care home office costs.

(2) In addition to the costs specified in division (H)(1) of this section, for nursing facilities only, direct care costs include costs of habilitation staff (other than habilitation supervisors), medical supplies, ~~emergency~~ oxygen, over-the-counter pharmacy products, physical therapists, physical therapy assistants, occupational therapists, occupational therapy assistants, speech therapists, audiologists, habilitation supplies, and universal precautions supplies.

(3) In addition to the costs specified in division (H)(1) of this section, for intermediate care facilities for the mentally retarded only, direct care costs include both of the following:

(a) Costs for physical therapists and physical therapy assistants, occupational therapists and occupational therapy assistants, speech therapists, audiologists, habilitation staff (including habilitation

supervisors), qualified mental retardation professionals, program directors, social services staff, activities staff, off-site day programming, psychologists and psychology assistants, and social workers and counselors;

(b) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted under section 5111.02 of the Revised Code, for personnel listed in division (H)(3)(a) of this section.

(4) Costs of other direct-care resources that are specified as direct care costs in rules adopted under section 5111.02 of the Revised Code.

(I) "Fiscal year" means the fiscal year of this state, as specified in section 9.34 of the Revised Code.

(J) "Franchise permit fee" means the following:

(1) In the context of nursing facilities, the fee imposed by sections 3721.50 to 3721.58 of the Revised Code;

(2) In the context of intermediate care facilities for the mentally retarded, the fee imposed by sections 5112.30 to 5112.39 of the Revised Code.

(K) "Indirect care costs" means all reasonable costs incurred by an intermediate care facility for the mentally retarded other than direct care costs, other protected costs, or capital costs. "Indirect care costs" includes but is not limited to costs of habilitation supplies, pharmacy consultants, medical and habilitation records, program supplies, incontinence supplies, food, enterals, dietary supplies and personnel, laundry, housekeeping, security, administration, liability insurance, bookkeeping, purchasing department, human resources, communications, travel, dues, license fees, subscriptions, home office costs not otherwise allocated, legal services, accounting services, minor equipment, maintenance and repairs, help-wanted advertising, informational advertising, start-up costs, organizational expenses, other interest, property insurance, employee training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted under section 5111.02 of the Revised Code, for personnel listed in this division. Notwithstanding division (C)(1) of this section, "indirect care costs" also means the cost of equipment, including vehicles, acquired by operating lease executed before December 1, 1992, if the costs are reported as administrative and general costs on the facility's cost report for the cost reporting period ending December 31, 1992.

(L) "Inpatient days" means all days during which a resident, regardless of payment source, occupies a bed in a nursing facility or intermediate care

facility for the mentally retarded that is included in the facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.33 of the Revised Code are considered inpatient days proportionate to the percentage of the facility's per resident per day rate paid for those days.

(M) "Intermediate care facility for the mentally retarded" means an intermediate care facility for the mentally retarded certified as in compliance with applicable standards for the medicaid program by the director of health in accordance with Title XIX.

(N) "Maintenance and repair expenses" means, except as provided in division (BB)(2) of this section, expenditures that are necessary and proper to maintain an asset in a normally efficient working condition and that do not extend the useful life of the asset two years or more. "Maintenance and repair expenses" includes but is not limited to the cost of ordinary repairs such as painting and wallpapering.

(O) "Medicaid days" means all days during which a resident who is a Medicaid recipient eligible for nursing facility services occupies a bed in a nursing facility that is included in the nursing facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.33 of the Revised Code are considered Medicaid days proportionate to the percentage of the nursing facility's per resident per day rate paid for those days.

(P) "Nursing facility" means a facility, or a distinct part of a facility, that is certified as a nursing facility by the director of health in accordance with Title XIX and is not an intermediate care facility for the mentally retarded. "Nursing facility" includes a facility, or a distinct part of a facility, that is certified as a nursing facility by the director of health in accordance with Title XIX and is certified as a skilled nursing facility by the director in accordance with Title XVIII.

(Q) "Operator" means the person or government entity responsible for the daily operating and management decisions for a nursing facility or intermediate care facility for the mentally retarded.

(R) "Other protected costs" means costs incurred by an intermediate care facility for the mentally retarded for medical supplies; real estate, franchise, and property taxes; natural gas, fuel oil, water, electricity, sewage, and refuse and hazardous medical waste collection; allocated other protected home office costs; and any additional costs defined as other protected costs in rules adopted under section 5111.02 of the Revised Code.

(S)(1) "Owner" means any person or government entity that has at least five per cent ownership or interest, either directly, indirectly, or in any

combination, in any of the following regarding a nursing facility or intermediate care facility for the mentally retarded:

- (a) The land on which the facility is located;
- (b) The structure in which the facility is located;
- (c) Any mortgage, contract for deed, or other obligation secured in whole or in part by the land or structure on or in which the facility is located;
- (d) Any lease or sublease of the land or structure on or in which the facility is located.

(2) "Owner" does not mean a holder of a debenture or bond related to the nursing facility or intermediate care facility for the mentally retarded and purchased at public issue or a regulated lender that has made a loan related to the facility unless the holder or lender operates the facility directly or through a subsidiary.

(T) "Patient" includes "resident."

(U) Except as provided in divisions (U)(1) and (2) of this section, "per diem" means a nursing facility's or intermediate care facility for the mentally retarded's actual, allowable costs in a given cost center in a cost reporting period, divided by the facility's inpatient days for that cost reporting period.

(1) When calculating indirect care costs for the purpose of establishing rates under section 5111.241 of the Revised Code, "per diem" means an intermediate care facility for the mentally retarded's actual, allowable indirect care costs in a cost reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the facility would have had during that period if its occupancy rate had been eighty-five per cent.

(2) When calculating capital costs for the purpose of establishing rates under section 5111.251 of the Revised Code, "per diem" means a facility's actual, allowable capital costs in a cost reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the facility would have had during that period if its occupancy rate had been ninety-five per cent.

(V) "Provider" means an operator with a provider agreement.

(W) "Provider agreement" means a contract between the department of job and family services and the operator of a nursing facility or intermediate care facility for the mentally retarded for the provision of nursing facility services or intermediate care facility services for the mentally retarded under the medicaid program.

(X) "Purchased nursing services" means services that are provided in a

nursing facility by registered nurses, licensed practical nurses, or nurse aides who are not employees of the facility.

(Y) "Reasonable" means that a cost is an actual cost that is appropriate and helpful to develop and maintain the operation of patient care facilities and activities, including normal standby costs, and that does not exceed what a prudent buyer pays for a given item or services. Reasonable costs may vary from provider to provider and from time to time for the same provider.

(Z) "Related party" means an individual or organization that, to a significant extent, has common ownership with, is associated or affiliated with, has control of, or is controlled by, the provider.

(1) An individual who is a relative of an owner is a related party.

(2) Common ownership exists when an individual or individuals possess significant ownership or equity in both the provider and the other organization. Significant ownership or equity exists when an individual or individuals possess five per cent ownership or equity in both the provider and a supplier. Significant ownership or equity is presumed to exist when an individual or individuals possess ten per cent ownership or equity in both the provider and another organization from which the provider purchases or leases real property.

(3) Control exists when an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization.

(4) An individual or organization that supplies goods or services to a provider shall not be considered a related party if all of the following conditions are met:

(a) The supplier is a separate bona fide organization.

(b) A substantial part of the supplier's business activity of the type carried on with the provider is transacted with others than the provider and there is an open, competitive market for the types of goods or services the supplier furnishes.

(c) The types of goods or services are commonly obtained by other nursing facilities or intermediate care facilities for the mentally retarded from outside organizations and are not a basic element of patient care ordinarily furnished directly to patients by the facilities.

(d) The charge to the provider is in line with the charge for the goods or services in the open market and no more than the charge made under comparable circumstances to others by the supplier.

(AA) "Relative of owner" means an individual who is related to an owner of a nursing facility or intermediate care facility for the mentally

retarded by one of the following relationships:

- (1) Spouse;
- (2) Natural parent, child, or sibling;
- (3) Adopted parent, child, or sibling;
- (4) Stepparent, stepchild, stepbrother, or stepsister;
- (5) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law;
- (6) Grandparent or grandchild;
- (7) Foster caregiver, foster child, foster brother, or foster sister.

(BB) "Renovation" and "extensive renovation" mean:

(1) Any betterment, improvement, or restoration of an intermediate care facility for the mentally retarded started before July 1, 1993, that meets the definition of a renovation or extensive renovation established in rules adopted by the director of job and family services in effect on December 22, 1992.

(2) In the case of betterments, improvements, and restorations of intermediate care facilities for the mentally retarded started on or after July 1, 1993:

(a) "Renovation" means the betterment, improvement, or restoration of an intermediate care facility for the mentally retarded beyond its current functional capacity through a structural change that costs at least five hundred dollars per bed. A renovation may include betterment, improvement, restoration, or replacement of assets that are affixed to the building and have a useful life of at least five years. A renovation may include costs that otherwise would be considered maintenance and repair expenses if they are an integral part of the structural change that makes up the renovation project. "Renovation" does not mean construction of additional space for beds that will be added to a facility's licensed or certified capacity.

(b) "Extensive renovation" means a renovation that costs more than sixty-five per cent and no more than eighty-five per cent of the cost of constructing a new bed and that extends the useful life of the assets for at least ten years.

For the purposes of division (BB)(2) of this section, the cost of constructing a new bed shall be considered to be forty thousand dollars, adjusted for the estimated rate of inflation from January 1, 1993, to the end of the calendar year during which the renovation is completed, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.

The department of job and family services may treat a renovation that

costs more than eighty-five per cent of the cost of constructing new beds as an extensive renovation if the department determines that the renovation is more prudent than construction of new beds.

(CC) "Title XIX" means Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended.

(DD) "Title XVIII" means Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.

Sec. 5111.21. (A) In order to be eligible for medicaid payments, the operator of a nursing facility or intermediate care facility for the mentally retarded shall do all of the following:

(1) Enter into a provider agreement with the department as provided in section 5111.22, 5111.671, or 5111.672 of the Revised Code;

(2) Apply for and maintain a valid license to operate if so required by law;

(3) ~~Comply~~ Subject to division (B) of this section, comply with all applicable state and federal laws and rules.

(B) A state rule that requires the operator of an intermediate care facility for the mentally retarded to have received approval of a plan for the proposed facility pursuant to section 5123.042 of the Revised Code as a condition of the operator being eligible for medicaid payments for the facility does not apply if, under section 5123.193 or 5123.197 of the Revised Code, a residential facility license was obtained or modified for the facility without obtaining approval of such a plan.

~~(C)~~(1) Except as provided in division ~~(B)~~~~(C)~~(2) of this section, the operator of a nursing facility that elects to obtain and maintain eligibility for payments under the medicaid program shall qualify all of the facility's medicaid-certified beds in the medicare program established by Title XVIII. The director of job and family services may adopt rules under section 5111.02 of the Revised Code to establish the time frame in which a nursing facility must comply with this requirement.

(2) The Ohio veteran's home agency is not required to qualify all of the medicaid-certified beds in a nursing facility the agency maintains and operates under section 5907.01 of the Revised Code in the medicare program.

Sec. 5111.211. (A) ~~The~~ Except as provided in division (C) of this section, the department of mental retardation and developmental disabilities is responsible for the nonfederal share of claims submitted for services that are covered by the medicaid program and provided to an eligible medicaid recipient by an intermediate care facility for the mentally retarded if all of the following are the case:

(1) The services are provided on or after July 1, 2003;

(2) The facility receives initial certification by the director of health as an intermediate care facility for the mentally retarded on or after June 1, 2003;

(3) The facility, or a portion of the facility, is licensed by the director of mental retardation and developmental disabilities as a residential facility under section 5123.19 of the Revised Code;

(4) There is a valid provider agreement for the facility.

(B) Each month, the department of job and family services shall invoice the department of mental retardation and developmental disabilities by interagency transfer voucher for the claims for which the department of mental retardation and developmental disabilities is responsible pursuant to this section.

(C) Division (A) of this section does not apply to claims submitted for an intermediate care facility for the mentally retarded if, under section 5123.193 or 5123.197 of the Revised Code, a residential facility license was obtained or modified for the facility without obtaining approval of a plan for the proposed residential facility pursuant to section 5123.042 of the Revised Code.

Sec. 5111.231. (A) As used in this section, "applicable calendar year" means the following:

(1) For the purpose of the department of job and family services' initial determination under division (D) of this section of each peer group's cost per case-mix unit, calendar year 2003;

(2) For the purpose of the department's subsequent determinations under division (D) of this section of each peer group's cost per case-mix unit, the calendar year the department selects.

(B) The department of job and family services shall pay a provider for each of the provider's eligible nursing facilities a per resident per day rate for direct care costs determined semiannually by multiplying the cost per case-mix unit determined under division (D) of this section for the facility's peer group by the facility's semiannual case-mix score determined under section 5111.232 of the Revised Code.

(C) For the purpose of determining nursing facilities' rate for direct care costs, the department shall establish three peer groups.

Each nursing facility located in any of the following counties shall be placed in peer group one: Brown, Butler, Clermont, Clinton, Hamilton, and Warren.

Each nursing facility located in any of the following counties shall be placed in peer group two: Ashtabula, Champaign, Clark, Cuyahoga, Darke,

Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, and Wood.

Each nursing facility located in any of the following counties shall be placed in peer group three: Adams, Allen, Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot.

(D)(1) At least once every ten years, the department shall determine a cost per case-mix unit for each peer group established under division (C) of this section. A cost per case-mix unit determined under this division for a peer group shall be used for subsequent years until the department redetermines it. To determine a peer group's cost per case-mix unit, the department shall do all of the following:

(a) Determine the cost per case-mix unit for each nursing facility in the peer group for the applicable calendar year by dividing each facility's desk-reviewed, actual, allowable, per diem direct care costs for the applicable calendar year by the facility's annual average case-mix score determined under section 5111.232 of the Revised Code for the applicable calendar year.

(b) Subject to division (D)(2) of this section, identify which nursing facility in the peer group is at the twenty-fifth percentile of the cost per case-mix units determined under division (D)(1)(a) of this section.

(c) Calculate the amount that is seven per cent above the cost per case-mix unit determined under division (D)(1)(a) of this section for the nursing facility identified under division (D)(1)(b) of this section.

(d) Multiply the amount calculated under division (D)(1)(c) of this section by the rate of inflation for the eighteen-month period beginning on the first day of July of the applicable calendar year and ending the last day of December of the calendar year immediately following the applicable calendar year using the following:

(i) In the case of the initial calculation made under division (D)(1)(d) of this section, the employment cost index for total compensation, health services component, published by the United States bureau of labor statistics, as the index existed on July 1, 2005;

(ii) In the case of subsequent calculations made under division (D)(1)(d)

of this section and except as provided in division (D)(1)(d)(iii) of this section, the employment cost index for total compensation, nursing and residential care facilities occupational group, published by the United States bureau of labor statistics;

(iii) If the United States bureau of labor statistics ceases to publish the index specified in division (D)(1)(d)(ii) of this section, the index the bureau subsequently publishes that covers nursing facilities' staff costs.

(2) In making the identification under division (D)(1)(b) of this section, the department shall exclude both of the following:

(a) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year;

(b) Nursing facilities whose cost per case-mix unit is more than one standard deviation from the mean cost per case-mix unit for all nursing facilities in the nursing facility's peer group for the applicable calendar year.

(3) The department shall not redetermine a peer group's cost per case-mix unit under this division based on additional information that it receives after the peer group's per case-mix unit is determined. The department shall redetermine a peer group's cost per case-mix unit only if it made an error in determining the peer group's cost per case-mix unit based on information available to the department at the time of the original determination.

Sec. 5111.232. (A)(1) The department of job and family services shall determine semiannual and annual average case-mix scores for nursing facilities by using all of the following:

(a) Data from a resident assessment instrument specified in rules adopted under section 5111.02 of the Revised Code pursuant to section 1919(e)(5) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396r(e)(5), as amended, for the following residents:

(i) When determining ~~semi-annual~~ semiannual case-mix scores, each resident who is a medicaid recipient;

(ii) When determining annual average case-mix scores, each resident regardless of payment source.

(b) Except as provided in rules authorized by ~~division~~ divisions (A)(2)(a) and (b) of this section, the case-mix values established by the United States department of health and human services;

(c) Except as modified in rules authorized by division (A)(2)(c) of this section, the grouper methodology used on June 30, 1999, by the United States department of health and human services for prospective payment of skilled nursing facilities under the medicare program established by Title XVIII.

(2) The director of job and family services may adopt rules under section 5111.02 of the Revised Code that do any of the following:

(a) Adjust the case-mix values specified in division (A)(1)(b) of this section to reflect changes in relative wage differentials that are specific to this state;

(b) Express all of those case-mix values in numeric terms that are different from the terms specified by the United States department of health and human services but that do not alter the relationship of the case-mix values to one another;

(c) Modify the grouper methodology specified in division (A)(1)(c) of this section as follows:

(i) Establish a different hierarchy for assigning residents to case-mix categories under the methodology;

(ii) Prohibit the use of the index maximizer element of the methodology;

(iii) Incorporate changes to the methodology the United States department of health and human services makes after June 30, 1999;

(iv) Make other changes the department determines are necessary.

(B) The department shall determine case-mix scores for intermediate care facilities for the mentally retarded using data for each resident, regardless of payment source, from a resident assessment instrument and grouper methodology prescribed in rules adopted under section 5111.02 of the Revised Code and expressed in case-mix values established by the department in those rules.

(C) Each calendar quarter, each provider shall compile complete assessment data, from the resident assessment instrument specified in rules authorized by division (A) or (B) of this section, for each resident of each of the provider's facilities, regardless of payment source, who was in the facility or on hospital or therapeutic leave from the facility on the last day of the quarter. Providers of a nursing facility shall submit the data to the department of health and, if required by rules, the department of job and family services. Providers of an intermediate care facility for the mentally retarded shall submit the data to the department of job and family services. The data shall be submitted not later than fifteen days after the end of the calendar quarter for which the data is compiled.

Except as provided in division (D) of this section, the department, every six months and after the end of each calendar year, shall calculate a semiannual and annual average case-mix score for each nursing facility using the facility's quarterly case-mix scores for that six-month period or calendar year. Also except as provided in division (D) of this section, the department, after the end of each calendar year, shall calculate an annual

average case-mix score for each intermediate care facility for the mentally retarded using the facility's quarterly case-mix scores for that calendar year. The department shall make the calculations pursuant to procedures specified in rules adopted under section 5111.02 of the Revised Code.

(D)(1) If a provider does not timely submit information for a calendar quarter necessary to calculate a facility's case-mix score, or submits incomplete or inaccurate information for a calendar quarter, the department may assign the facility a quarterly average case-mix score that is five per cent less than the facility's quarterly average case-mix score for the preceding calendar quarter. If the facility was subject to an exception review under division (C) of section 5111.27 of the Revised Code for the preceding calendar quarter, the department may assign a quarterly average case-mix score that is five per cent less than the score determined by the exception review. If the facility was assigned a quarterly average case-mix score for the preceding quarter, the department may assign a quarterly average case-mix score that is five per cent less than that score assigned for the preceding quarter.

The department may use a quarterly average case-mix score assigned under division (D)(1) of this section, instead of a quarterly average case-mix score calculated based on the provider's submitted information, to calculate the facility's rate for direct care costs being established under section 5111.23 or 5111.231 of the Revised Code for one or more months, as specified in rules authorized by division (E) of this section, of the quarter for which the rate established under section 5111.23 or 5111.231 of the Revised Code will be paid.

Before taking action under division (D)(1) of this section, the department shall permit the provider a reasonable period of time, specified in rules authorized by division (E) of this section, to correct the information. In the case of an intermediate care facility for the mentally retarded, the department shall not assign a quarterly average case-mix score due to late submission of corrections to assessment information unless the provider fails to submit corrected information prior to the eighty-first day after the end of the calendar quarter to which the information pertains. In the case of a nursing facility, the department shall not assign a quarterly average case-mix score due to late submission of corrections to assessment information unless the provider fails to submit corrected information prior to the earlier of the ~~eighty-first~~ forty-sixth day after the end of the calendar quarter to which the information pertains or the deadline for submission of such corrections established by regulations adopted by the United States department of health and human services under Titles XVIII and XIX.

(2) If a provider is paid a rate for a facility calculated using a quarterly average case-mix score assigned under division (D)(1) of this section for more than six months in a calendar year, the department may assign the facility a cost per case-mix unit that is five per cent less than the facility's actual or assigned cost per case-mix unit for the preceding calendar year. The department may use the assigned cost per case-mix unit, instead of calculating the facility's actual cost per case-mix unit in accordance with section 5111.23 or 5111.231 of the Revised Code, to establish the facility's rate for direct care costs for the following fiscal year.

(3) The department shall take action under division (D)(1) or (2) of this section only in accordance with rules authorized by division (E) of this section. The department shall not take an action that affects rates for prior payment periods except in accordance with sections 5111.27 and 5111.28 of the Revised Code.

(E) The director shall adopt rules under section 5111.02 of the Revised Code that do all of the following:

(1) Specify whether providers of a nursing facility must submit the assessment data to the department of job and family services;

(2) Specify the medium or media through which the completed assessment data shall be submitted;

(3) Establish procedures under which the assessment data shall be reviewed for accuracy and providers shall be notified of any data that requires correction;

(4) Establish procedures for providers to correct assessment data and specify a reasonable period of time by which providers shall submit the corrections. The procedures may limit the content of corrections by providers of nursing facilities in the manner required by regulations adopted by the United States department of health and human services under Titles XVIII and XIX.

(5) Specify when and how the department will assign case-mix scores or costs per case-mix unit under division (D) of this section if information necessary to calculate the facility's case-mix score is not provided or corrected in accordance with the procedures established by the rules. Notwithstanding any other provision of sections 5111.20 to 5111.33 of the Revised Code, the rules also may provide for the following:

(a) Exclusion of case-mix scores assigned under division (D) of this section from calculation of an intermediate care facility for the mentally retarded's annual average case-mix score and the maximum cost per case-mix unit for the facility's peer group;

(b) Exclusion of case-mix scores assigned under division (D) of this

section from calculation of a nursing facility's semiannual or annual average case-mix score and the cost per case-mix unit for the facility's peer group.

Sec. 5111.233. The costs of day programming shall be part of the direct care costs of an intermediate care facility for the mentally retarded as off-site day programming if the area in which the day programming is provided is not certified by the director of health as an intermediate care facility for the mentally retarded under Title XIX and regardless of either of the following:

(A) Whether or not the area in which the day programming is provided is less than two hundred feet away from the intermediate care facility for the mentally retarded;

(B) Whether or not the day programming is provided by an individual who, or organization that, is a related party to the provider of the intermediate care facility for the mentally retarded.

Sec. 5111.236. (A) As used in this section, "medically fragile child" means an individual under eighteen years of age who requires both of the following:

(1) The services of a doctor of medicine or osteopathic medicine at least once a week due to the instability of the individual's medical condition;

(2) The services of a registered nurse on a daily basis.

(B) The medicaid program shall cover oxygen services that a medical supplier with a valid medicaid provider agreement provides to a medicaid recipient who is a medically fragile child and resides in an intermediate care facility for the mentally retarded. The medicaid program shall cover such oxygen services regardless of any of the following:

(1) The percentage of the medicaid recipient's arterial oxygen saturation at rest, exercise, or sleep;

(2) The type of system used in delivering the oxygen to the medicaid recipient;

(3) Whether the intermediate care facility for the mentally retarded in which the medicaid recipient resides purchases or rents the equipment used in the delivery of the oxygen to the recipient.

(C) A medical supplier of an oxygen service shall bill the department of job and family services directly for oxygen services the medicaid program covers under this section. The provider of an intermediate care facility for the mentally retarded may not include the cost of an oxygen service covered by the medicaid program under this section in the facility's cost report unless the facility is the medical supplier of the oxygen service.

Sec. 5111.24. (A) As used in this section, "applicable calendar year" means the following:

(1) For the purpose of the department of job and family services' initial determination under division (D) of this section of each peer group's rate for ancillary and support costs, calendar year 2003;

(2) For the purpose of the department's subsequent determinations under division (D) of this section of each peer group's rate for ancillary and support costs, the calendar year the department selects.

(B) The department of job and family services shall pay a provider for each of the provider's eligible nursing facilities a per resident per day rate for ancillary and support costs determined for the nursing facility's peer group under division (D) of this section.

(C) For the purpose of determining nursing facilities' rate for ancillary and support costs, the department shall establish six peer groups.

Each nursing facility located in any of the following counties shall be placed in peer group one or two: Brown, Butler, Clermont, Clinton, Hamilton, and Warren. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group one. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group two.

Each nursing facility located in any of the following counties shall be placed in peer group three or four: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, and Wood. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group three. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group four.

Each nursing facility located in any of the following counties shall be placed in peer group five or six: Adams, Allen, Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group five. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group six.

(D)(1) At least once every ten years, the department shall determine the rate for ancillary and support costs for each peer group established under division (C) of this section. The rate for ancillary and support costs determined under this division for a peer group shall be used for subsequent years until the department redetermines it. To determine a peer group's rate for ancillary and support costs, the department shall do all of the following:

(a) Determine the rate for ancillary and support costs for each nursing facility in the peer group for the applicable calendar year by using the greater of the nursing facility's actual inpatient days for the applicable calendar year or the inpatient days the nursing facility would have had for the applicable calendar year if its occupancy rate had been ninety per cent. For the purpose of determining a nursing facility's occupancy rate under division (D)(1)(a) of this section, the department shall include any beds that the nursing facility removes from its medicaid-certified capacity unless the nursing facility also removes the beds from its licensed bed capacity.

(b) Subject to division (D)(2) of this section, identify which nursing facility in the peer group is at the twenty-fifth percentile of the rate for ancillary and support costs for the applicable calendar year determined under division (D)(1)(a) of this section.

(c) Calculate the amount that is three per cent above the rate for ancillary and support costs determined under division (D)(1)(a) of this section for the nursing facility identified under division (D)(1)(b) of this section.

(d) Multiply the amount calculated under division (D)(1)(c) of this section by the rate of inflation for the eighteen-month period beginning on the first day of July of the applicable calendar year and ending the last day of December of the calendar year immediately following the applicable calendar year using the following:

(i) In the case of the initial calculation made under division (D)(1)(d) of this section, the consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics, as that index existed on July 1, 2005;

(ii) In the case of subsequent calculations made under division (D)(1)(d) of this section and except as provided in division (D)(1)(d)(iii) of this section, the consumer price index for all items for all urban consumers for the midwest region, published by the United States bureau of labor statistics;

(iii) If the United States bureau of labor statistics ceases to publish the index specified in division (D)(1)(d)(ii) of this section, the index the bureau subsequently publishes that covers urban consumers' prices for items for the region that includes this state.

(2) In making the identification under division (D)(1)(b) of this section, the department shall exclude both of the following:

(a) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year;

(b) Nursing facilities whose ancillary and support costs are more than one standard deviation from the mean desk-reviewed, actual, allowable, per diem ancillary and support cost for all nursing facilities in the nursing facility's peer group for the applicable calendar year.

(3) The department shall not redetermine a peer group's rate for ancillary and support costs under this division based on additional information that it receives after the rate is determined. The department shall redetermine a peer group's rate for ancillary and support costs only if it made an error in determining the rate based on information available to the department at the time of the original determination.

Sec. 5111.243. The department of job and family services shall pay a provider for each of the provider's eligible nursing facilities a per resident per day rate for the franchise permit fees paid for the nursing facility. The rate shall be equal to the franchise permit fee for the fiscal year for which the rate is paid six dollars and twenty-five cents.

Sec. 5111.25. (A) As used in this section, "applicable calendar year" means the following:

(1) For the purpose of the department of job and family services' initial determination under division (D) of this section of each peer group's median rate for capital costs, calendar year 2003;

(2) For the purpose of the department's subsequent determinations under division (D) of this section of each peer group's median rate for capital costs, the calendar year the department selects.

(B) The department of job and family services shall pay a provider for each of the provider's eligible nursing facilities a per resident per day rate for capital costs. A nursing facility's rate for capital costs shall be the median rate for capital costs for the nursing facilities in the nursing facility's peer group as determined under division (D) of this section.

(C) For the purpose of determining nursing facilities' rate for capital costs, the department shall establish six peer groups.

Each nursing facility located in any of the following counties shall be placed in peer group one or two: Brown, Butler, Clermont, Clinton, Hamilton, and Warren. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group one. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group two.

Each nursing facility located in any of the following counties shall be placed in peer group three or four: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, and Wood. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group three. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group four.

Each nursing facility located in any of the following counties shall be placed in peer group five or six: Adams, Allen, Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group five. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group six.

(D)(1) At least once every ten years, the department shall determine the median rate for capital costs for each peer group established under division (C) of this section. The median rate for capital costs determined under this division for a peer group shall be used for subsequent years until the department redetermines it. To determine a peer group's median rate for capital costs, the department shall do both of the following:

(a) Subject to division (D)(2) of this section, use the greater of each nursing facility's actual inpatient days for the applicable calendar year or the inpatient days the nursing facility would have had for the applicable calendar year if its occupancy rate had been one hundred per cent.

(b) Exclude both of the following:

(i) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year;

(ii) Nursing facilities whose capital costs are more than one standard deviation from the mean desk-reviewed, actual, allowable, per diem capital cost for all nursing facilities in the nursing facility's peer group for the applicable calendar year.

(2) For the purpose of determining a nursing facility's occupancy rate

under division (D)(1)(a) of this section, the department shall include any beds that the nursing facility removes from its medicaid-certified capacity after June 30, 2005, unless the nursing facility also removes the beds from its licensed bed capacity.

(E) Buildings shall be depreciated using the straight line method over forty years or over a different period approved by the department. Components and equipment shall be depreciated using the straight-line method over a period designated in rules adopted under section 5111.02 of the Revised Code, consistent with the guidelines of the American hospital association, or over a different period approved by the department. Any rules authorized by this division that specify useful lives of buildings, components, or equipment apply only to assets acquired on or after July 1, 1993. Depreciation for costs paid or reimbursed by any government agency shall not be included in capital costs unless that part of the payment under sections 5111.20 to 5111.33 of the Revised Code is used to reimburse the government agency.

(F) The capital cost basis of nursing facility assets shall be determined in the following manner:

(1) Except as provided in division (F)(3) of this section, for purposes of calculating the rates to be paid for facilities with dates of licensure on or before June 30, 1993, the capital cost basis of each asset shall be equal to the desk-reviewed, actual, allowable, capital cost basis that is listed on the facility's cost report for the calendar year preceding the fiscal year during which the rate will be paid.

(2) For facilities with dates of licensure after June 30, 1993, the capital cost basis shall be determined in accordance with the principles of the medicare program established under Title XVIII, except as otherwise provided in sections 5111.20 to 5111.33 of the Revised Code.

(3) Except as provided in division (F)(4) of this section, if a provider transfers an interest in a facility to another provider after June 30, 1993, there shall be no increase in the capital cost basis of the asset if the providers are related parties or the provider to which the interest is transferred authorizes the provider that transferred the interest to continue to operate the facility under a lease, management agreement, or other arrangement. If the previous sentence does not prohibit the adjustment of the capital cost basis under this division, the basis of the asset shall be adjusted by the lesser of the following:

(a) One-half of the change in construction costs during the time that the transferor held the asset, as calculated by the department of job and family services using the "Dodge building cost indexes, northeastern and north

central states," published by Marshall and Swift;

(b) One-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time that the transferor held the asset.

(4) If a provider transfers an interest in a facility to another provider who is a related party, the capital cost basis of the asset shall be adjusted as specified in division (F)(3) of this section if all of the following conditions are met:

(a) The related party is a relative of owner;

(b) Except as provided in division (F)(4)(c)(ii) of this section, the provider making the transfer retains no ownership interest in the facility;

(c) The department of job and family services determines that the transfer is an arm's length transaction pursuant to rules adopted under section 5111.02 of the Revised Code. The rules shall provide that a transfer is an arm's length transaction if all of the following apply:

(i) Once the transfer goes into effect, the provider that made the transfer has no direct or indirect interest in the provider that acquires the facility or the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a creditor.

(ii) The provider that made the transfer does not reacquire an interest in the facility except through the exercise of a creditor's rights in the event of a default. If the provider reacquires an interest in the facility in this manner, the department shall treat the facility as if the transfer never occurred when the department calculates its reimbursement rates for capital costs.

(iii) The transfer satisfies any other criteria specified in the rules.

(d) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a provider making the transfer who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, the capital cost basis was adjusted most recently under division (F)(4) of this section or actual, allowable cost of ownership was determined most recently under division (G)(9) of this section.

(G) As used in this division:

"Imputed interest" means the lesser of the prime rate plus two per cent or ten per cent.

"Lease expense" means lease payments in the case of an operating lease and depreciation expense and interest expense in the case of a capital lease.

"New lease" means a lease, to a different lessee, of a nursing facility that previously was operated under a lease.

(1) Subject to division (B) of this section, for a lease of a facility that

was effective on May 27, 1992, the entire lease expense is an actual, allowable capital cost during the term of the existing lease. The entire lease expense also is an actual, allowable capital cost if a lease in existence on May 27, 1992, is renewed under either of the following circumstances:

(a) The renewal is pursuant to a renewal option that was in existence on May 27, 1992;

(b) The renewal is for the same lease payment amount and between the same parties as the lease in existence on May 27, 1992.

(2) Subject to division (B) of this section, for a lease of a facility that was in existence but not operated under a lease on May 27, 1992, actual, allowable capital costs shall include the lesser of the annual lease expense or the annual depreciation expense and imputed interest expense that would be calculated at the inception of the lease using the lessor's entire historical capital asset cost basis, adjusted by the lesser of the following amounts:

(a) One-half of the change in construction costs during the time the lessor held each asset until the beginning of the lease, as calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift;

(b) One-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time the lessor held each asset until the beginning of the lease.

(3) Subject to division (B) of this section, for a lease of a facility with a date of licensure on or after May 27, 1992, that is initially operated under a lease, actual, allowable capital costs shall include the annual lease expense if there was a substantial commitment of money for construction of the facility after December 22, 1992, and before July 1, 1993. If there was not a substantial commitment of money after December 22, 1992, and before July 1, 1993, actual, allowable capital costs shall include the lesser of the annual lease expense or the sum of the following:

(a) The annual depreciation expense that would be calculated at the inception of the lease using the lessor's entire historical capital asset cost basis;

(b) The greater of the lessor's actual annual amortization of financing costs and interest expense at the inception of the lease or the imputed interest expense calculated at the inception of the lease using seventy per cent of the lessor's historical capital asset cost basis.

(4) Subject to division (B) of this section, for a lease of a facility with a date of licensure on or after May 27, 1992, that was not initially operated under a lease and has been in existence for ten years, actual, allowable

capital costs shall include the lesser of the annual lease expense or the annual depreciation expense and imputed interest expense that would be calculated at the inception of the lease using the entire historical capital asset cost basis of the lessor, adjusted by the lesser of the following:

(a) One-half of the change in construction costs during the time the lessor held each asset until the beginning of the lease, as calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift;

(b) One-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time the lessor held each asset until the beginning of the lease.

(5) Subject to division (B) of this section, for a new lease of a facility that was operated under a lease on May 27, 1992, actual, allowable capital costs shall include the lesser of the annual new lease expense or the annual old lease payment. If the old lease was in effect for ten years or longer, the old lease payment from the beginning of the old lease shall be adjusted by the lesser of the following:

(a) One-half of the change in construction costs from the beginning of the old lease to the beginning of the new lease, as calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift;

(b) One-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, from the beginning of the old lease to the beginning of the new lease.

(6) Subject to division (B) of this section, for a new lease of a facility that was not in existence or that was in existence but not operated under a lease on May 27, 1992, actual, allowable capital costs shall include the lesser of annual new lease expense or the annual amount calculated for the old lease under division (G)(2), (3), (4), or (6) of this section, as applicable. If the old lease was in effect for ten years or longer, the lessor's historical capital asset cost basis shall be adjusted by the lesser of the following for purposes of calculating the annual amount under division (G)(2), (3), (4), or (6) of this section:

(a) One-half of the change in construction costs from the beginning of the old lease to the beginning of the new lease, as calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift;

(b) One-half of the change in the consumer price index for all items for

all urban consumers, as published by the United States bureau of labor statistics, from the beginning of the old lease to the beginning of the new lease.

In the case of a lease under division (G)(3) of this section of a facility for which a substantial commitment of money was made after December 22, 1992, and before July 1, 1993, the old lease payment shall be adjusted for the purpose of determining the annual amount.

(7) For any revision of a lease described in division (G)(1), (2), (3), (4), (5), or (6) of this section, or for any subsequent lease of a facility operated under such a lease, other than execution of a new lease, the portion of actual, allowable capital costs attributable to the lease shall be the same as before the revision or subsequent lease.

(8) Except as provided in division (G)(9) of this section, if a provider leases an interest in a facility to another provider who is a related party or previously operated the facility, the related party's or previous operator's actual, allowable capital costs shall include the lesser of the annual lease expense or the reasonable cost to the lessor.

(9) If a provider leases an interest in a facility to another provider who is a related party, regardless of the date of the lease, the related party's actual, allowable capital costs shall include the annual lease expense, subject to the limitations specified in divisions (G)(1) to (7) of this section, if all of the following conditions are met:

(a) The related party is a relative of owner;

(b) If the lessor retains an ownership interest, it is, except as provided in division (G)(9)(c)(ii) of this section, in only the real property and any improvements on the real property;

(c) The department of job and family services determines that the lease is an arm's length transaction pursuant to rules adopted under section 5111.02 of the Revised Code. The rules shall provide that a lease is an arm's length transaction if all of the following apply:

(i) Once the lease goes into effect, the lessor has no direct or indirect interest in the lessee or, except as provided in division (G)(9)(b) of this section, the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a lessor.

(ii) The lessor does not reacquire an interest in the facility except through the exercise of a lessor's rights in the event of a default. If the lessor reacquires an interest in the facility in this manner, the department shall treat the facility as if the lease never occurred when the department calculates its reimbursement rates for capital costs.

(iii) The lease satisfies any other criteria specified in the rules.

(d) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a lessor who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, the capital cost basis was adjusted most recently under division (F)(4) of this section or actual, allowable capital costs were determined most recently under division (G)(9) of this section.

(10) This division does not apply to leases of specific items of equipment.

~~(H) After the date on which a transaction of sale is closed, the provider shall refund to the department the amount of excess depreciation paid to the provider for the facility by the department for each year the provider has operated the facility under a provider agreement and prorated according to the number of medicaid patient days for which the provider has received payment for the facility. The provider of a facility that is sold or that voluntarily terminates participation in the medicaid program also shall refund any other amount that the department properly finds to be due after the audit conducted under this division. For the purposes of this division, "depreciation paid to the provider for the facility" means the amount paid to the provider for the nursing facility for capital costs pursuant to this section less any amount paid for interest costs, amortization of financing costs, and lease expenses. For the purposes of this division, "excess depreciation" is the nursing facility's depreciated basis, which is the provider's cost less accumulated depreciation, subtracted from the purchase price net of selling costs but not exceeding the amount of depreciation paid to the provider for the facility.~~

Sec. 5111.261. Except as otherwise provided in section 5111.264 of the Revised Code, the department of job and family services, in determining whether an intermediate care facility for the mentally retarded's direct care costs and indirect care costs are allowable, shall place no limit on specific categories of reasonable costs other than compensation of owners, compensation of relatives of owners, and compensation of administrators ~~and costs for resident meals that are prepared and consumed outside the facility.~~

Compensation cost limits for owners and relatives of owners shall be based on compensation costs for individuals who hold comparable positions but who are not owners or relatives of owners, as reported on facility cost reports. As used in this section, "comparable position" means the position that is held by the owner or the owner's relative, if that position is listed separately on the cost report form, or if the position is not listed separately,

the group of positions that is listed on the cost report form and that includes the position held by the owner or the owner's relative. In the case of an owner or owner's relative who serves the facility in a capacity such as corporate officer, proprietor, or partner for which no comparable position or group of positions is listed on the cost report form, the compensation cost limit shall be based on civil service equivalents and shall be specified in rules adopted under section 5111.02 of the Revised Code.

Compensation cost limits for administrators shall be based on compensation costs for administrators who are not owners or relatives of owners, as reported on facility cost reports. Compensation cost limits for administrators of four or more intermediate care facilities for the mentally retarded shall be the same as the limits for administrators of intermediate care facilities for the mentally retarded with one hundred fifty or more beds.

Sec. 5111.262. No person, other than the provider of a nursing facility, shall submit a claim for medicaid reimbursement for a service provided to a nursing facility resident if the service is included in a medicaid payment made to the provider of a nursing facility under sections 5111.20 to 5111.33 of the Revised Code or in the reimbursable expenses reported on a provider's cost report for a nursing facility. No provider of a nursing facility shall submit a separate claim for medicaid reimbursement for a service provided to a resident of the nursing facility if the service is included in a medicaid payment made to the provider under sections 5111.20 to 5111.33 of the Revised Code or in the reimbursable expenses on the provider's cost report for the nursing facility.

Sec. 5111.65. As used in sections 5111.65 to ~~5111.688~~ 5111.689 of the Revised Code:

(A) "Change of operator" means an entering operator becoming the operator of a nursing facility or intermediate care facility for the mentally retarded in the place of the exiting operator.

(1) Actions that constitute a change of operator include the following:

(a) A change in an exiting operator's form of legal organization, including the formation of a partnership or corporation from a sole proprietorship;

(b) A transfer of all the exiting operator's ownership interest in the operation of the facility to the entering operator, regardless of whether ownership of any or all of the real property or personal property associated with the facility is also transferred;

(c) A lease of the facility to the entering operator or the exiting operator's termination of the exiting operator's lease;

(d) If the exiting operator is a partnership, dissolution of the partnership;

(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply:

(i) The change in composition does not cause the partnership's dissolution under state law.

(ii) The partners agree that the change in composition does not constitute a change in operator.

(f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation.

(2) The following, alone, do not constitute a change of operator:

(a) A contract for an entity to manage a nursing facility or intermediate care facility for the mentally retarded as the operator's agent, subject to the operator's approval of daily operating and management decisions;

(b) A change of ownership, lease, or termination of a lease of real property or personal property associated with a nursing facility or intermediate care facility for the mentally retarded if an entering operator does not become the operator in place of an exiting operator;

(c) If the operator is a corporation, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator.

(B) "Effective date of a change of operator" means the day the entering operator becomes the operator of the nursing facility or intermediate care facility for the mentally retarded.

(C) "Effective date of a facility closure" means the last day that the last of the residents of the nursing facility or intermediate care facility for the mentally retarded resides in the facility.

(D) "Effective date of a voluntary termination" means the day the intermediate care facility for the mentally retarded ceases to accept medicaid patients.

(E) "Effective date of a voluntary withdrawal of participation" means the day the nursing facility ceases to accept new medicaid patients other than the individuals who reside in the nursing facility on the day before the effective date of the voluntary withdrawal of participation.

(F) "Entering operator" means the person or government entity that will become the operator of a nursing facility or intermediate care facility for the mentally retarded when a change of operator occurs.

(G) "Exiting operator" means any of the following:

(1) An operator that will cease to be the operator of a nursing facility or

intermediate care facility for the mentally retarded on the effective date of a change of operator;

(2) An operator that will cease to be the operator of a nursing facility or intermediate care facility for the mentally retarded on the effective date of a facility closure;

(3) An operator of an intermediate care facility for the mentally retarded that is undergoing or has undergone a voluntary termination;

(4) An operator of a nursing facility that is undergoing or has undergone a voluntary withdrawal of participation.

(H)(1) "Facility closure" means discontinuance of the use of the building, or part of the building, that houses the facility as a nursing facility or intermediate care facility for the mentally retarded that results in the relocation of all of the facility's residents. A facility closure occurs regardless of any of the following:

(a) The operator completely or partially replacing the facility by constructing a new facility or transferring the facility's license to another facility;

(b) The facility's residents relocating to another of the operator's facilities;

(c) Any action the department of health takes regarding the facility's certification under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended, that may result in the transfer of part of the facility's survey findings to another of the operator's facilities;

(d) Any action the department of health takes regarding the facility's license under Chapter 3721. of the Revised Code;

(e) Any action the department of mental retardation and developmental disabilities takes regarding the facility's license under section 5123.19 of the Revised Code.

(2) A facility closure does not occur if all of the facility's residents are relocated due to an emergency evacuation and one or more of the residents return to a medicaid-certified bed in the facility not later than thirty days after the evacuation occurs.

(I) "Fiscal year," "franchise permit fee." "intermediate care facility for the mentally retarded," "nursing facility," "operator," "owner," and "provider agreement" have the same meanings as in section 5111.20 of the Revised Code.

(J) "Qualified affiliated operator" means an operator to whom all of the following apply:

(1) The operator is affiliated with either of the following:

(a) The exiting operator for whom the affiliated operator is to assume

liability for the entire amount of the exiting operator's debt under the medicaid program or the portion of the debt that represents the franchise permit fee the exiting operator owes;

(b) The entering operator involved in the change of operator with the exiting operator specified in division (J)(1)(a) of this section.

(2) The operator has one or more valid provider agreements.

(3) During the twelve-month period preceding the month in which the department of job and family services receives the notice of the facility closure, voluntary termination, or voluntary withdrawal of participation under section 5111.66 of the Revised Code or the notice of the change of operator under section 5111.67 of the Revised Code, the average monthly medicaid payment made to the operator pursuant to the operator's one or more provider agreements equals at least ninety per cent of the average monthly medicaid payment made to the exiting operator pursuant to the exiting operator's provider agreement.

(K) "Voluntary termination" means an operator's voluntary election to terminate the participation of an intermediate care facility for the mentally retarded in the medicaid program but to continue to provide service of the type provided by a residential facility as defined in section 5123.19 of the Revised Code.

~~(K)~~(L) "Voluntary withdrawal of participation" means an operator's voluntary election to terminate the participation of a nursing facility in the medicaid program but to continue to provide service of the type provided by a nursing facility.

Sec. 5111.651. Sections 5111.65 to ~~5111.688~~ 5111.689 of the Revised Code do not apply to a nursing facility or intermediate care facility for the mentally retarded that undergoes a facility closure, voluntary termination, voluntary withdrawal of participation, or change of operator on or before September 30, 2005, if the exiting operator provided written notice of the facility closure, voluntary termination, voluntary withdrawal of participation, or change of operator to the department of job and family services on or before June 30, 2005.

Sec. 5111.68. (A) On receipt of a written notice under section 5111.66 of the Revised Code of a facility closure, voluntary termination, or voluntary withdrawal of participation or a written notice under section 5111.67 of the Revised Code of a change of operator, the department of job and family services shall ~~determine~~ estimate the amount of any overpayments made under the medicaid program to the exiting operator, including overpayments the exiting operator disputes, and other actual and potential debts the exiting operator owes or may owe to the department and United States centers for

medicare and medicaid services under the medicaid program, including a franchise permit fee. ~~In determining~~

(B) In estimating the exiting operator's other actual and potential debts to the department and the United States centers for medicare and medicaid services under the medicaid program, the department shall include use a debt estimation methodology the director of job and family services shall establish in rules adopted under section 5111.689 of the Revised Code. The methodology shall provide for estimating all of the following that the department determines is are applicable:

(1) Refunds due the department under section 5111.27 of the Revised Code;

(2) Interest owed to the department and United States centers for medicare and medicaid services;

(3) Final civil monetary and other penalties for which all right of appeal has been exhausted;

(4) Money owed the department and United States centers for medicare and medicaid services from any outstanding final fiscal audit, including a final fiscal audit for the last fiscal year or portion thereof in which the exiting operator participated in the medicaid program;

(5) Other amounts the department determines are applicable.

~~(B) If the department is unable to determine the amount of the overpayments and other debts for any period before the effective date of the entering operator's provider agreement or the effective date of the facility closure, voluntary termination, or voluntary withdrawal of participation, the department shall make a reasonable estimate of the overpayments and other debts for the period. The department shall make the estimate using information available to the department, including prior determinations of overpayments and other debts.~~

(C) The department shall provide the exiting operator written notice of the department's estimate under division (A) of this section not later than thirty days after the department receives the notice under section 5111.66 of the Revised Code of the facility closure, voluntary termination, or voluntary withdrawal of participation or the notice under section 5111.67 of the Revised Code of the change of operator. The department's written notice shall include the basis for the estimate.

Sec. 5111.681. (A) Except as provided in ~~division~~ divisions (B) and (C) of this section, the department of job and family services ~~shall~~ may withhold ~~the greater of the following~~ from payment due an exiting operator under the medicaid program:

~~(1) The the total amount of any overpayments made under the medicaid~~

~~program to the exiting operator, including overpayments the exiting operator disputes, and other actual and potential debts, including any unpaid penalties, specified in the notice provided under division (C) of section 5111.68 of the Revised Code that the exiting operator owes or may owe to the department and United States centers for medicare and medicaid services under the medicaid program;~~

~~(2) An amount equal to the average amount of monthly payments to the exiting operator under the medicaid program for the twelve month period immediately preceding the month that includes the last day the exiting operator's provider agreement is in effect or, in the case of a voluntary withdrawal of participation, the effective date of the voluntary withdrawal of participation.~~

~~(B) The~~ In the case of a change of operator, the following shall apply regarding a withholding under division (A) of this section if the entering operator or a qualified affiliated operator executes a successor liability agreement in a manner prescribed by the department to assume liability for the entire amount specified in the notice provided under division (C) of section 5111.68 of the Revised Code or the portion of that amount that represents the franchise permit fee the exiting operator owes:

(1) If the entering operator or a qualified affiliated operator assumes liability for the entire amount specified in the notice, the department may choose shall not to make the withholding under division (A) of this section if an entering operator does both of the following:

(1) Enters into a nontransferable, unconditional, written agreement with the department to pay the department any debt the exiting operator owes the department under the medicaid program;

(2) Provides the department a copy of the entering operator's balance sheet that assists the department in determining whether to make the withholding under division (A) of this section.

(2) If the entering operator or qualified affiliated operator assumes liability for only the portion of the amount specified in the notice that represents the franchise permit fee the exiting operator owes, the department shall exclude from the withholding the amount for which the entering operator or qualified affiliated operator assumes liability.

(C) In the case of a voluntary termination, voluntary withdrawal of participation, or facility closure, the following shall apply regarding a withholding under division (A) of this section if the exiting operator or a qualified affiliated operator executes a successor liability agreement in a manner prescribed by the department to assume liability for the entire amount specified in the notice provided under division (C) of section

5111.68 of the Revised Code or the portion of that amount that represents the franchise permit fee the exiting operator owes:

(1) If the exiting operator or qualified affiliated operator assumes liability for the entire amount specified in the notice, the department shall not make the withholding.

(2) If the exiting operator or qualified affiliated operator assumes liability for only the portion of the amount specified in the notice that represents the franchise permit fee the exiting operator owes, the department shall exclude from the withholding the amount for which the exiting operator or qualified affiliated operator assumes liability.

(D) Execution of a successor liability agreement does not waive an exiting operator's right to contest the amount specified in the notice the department provides the exiting operator under division (C) of section 5111.68 of the Revised Code.

Sec. 5111.685. The department of job and family services shall determine the actual amount of debt an exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program by completing all final fiscal audits not already completed and performing all other appropriate actions the department determines to be necessary. The department shall issue a an initial debt summary report on this matter not later than ~~ninety~~ sixty days after the date the exiting operator files the properly completed cost report required by section 5111.682 of the Revised Code with the department or, if the department waives the cost report requirement for the exiting operator, ~~ninety~~ sixty days after the date the department waives the cost report requirement. The report shall include the department's findings and the amount of debt the department determines the exiting operator owes the department and United States centers for medicare and medicaid services under the medicaid program. ~~Only the parts~~

The exiting operator and a qualified affiliated operator who executes a successor liability agreement under section 5111.681 of the Revised Code, if any, may request an informal settlement conference to contest any of the department's findings included in the initial debt summary report. The request for the conference must be submitted to the department not later than thirty days after the date the department issues the initial debt summary report. If the department has withheld money from payment due the exiting operator under division (A) of section 5111.681 of the Revised Code, the department shall conclude the conference not later than sixty days after the date the department receives the timely request for the conference unless the department and exiting operator or qualified affiliated operator agree to a

later conclusion date. The exiting operator or qualified affiliated operator may submit information to the department explaining what the operator contests before and during the conference, including documentation of the amount of any debt the department owes the operator. The department shall issue a revised debt summary report after the conference's conclusion. If the department has withheld money from payment due the exiting operator under division (A) of section 5111.681 of the Revised Code, the department shall issue the revised debt summary report not later than sixty days after the conference's conclusion. The revised debt summary report shall include the department's findings and the amount of debt the department determines the exiting operator owes the department and United States centers for medicare and medicaid services under the medicaid program. The department shall explain its findings and determination in the revised debt summary report.

The exiting operator and a qualified affiliated operator who executes a successor liability agreement under section 5111.681 of the Revised Code, if any, may request an adjudication regarding any part of the report that are subject to an adjudication as specified in section 5111.30 of the Revised Code are subject to an adjudication conducted initial and revised debt summary reports in accordance with Chapter 119. of the Revised Code. However, an initial debt summary report is not subject to the adjudication if a revised debt summary report is issued following an informal conference settlement conducted regarding it; the revised debt summary report is subject to the adjudication instead. The adjudication shall be consolidated with any other uncompleted adjudication that concerns a matter addressed in the initial or revised debt summary report. If the department has withheld money from payment due the exiting operator under division (A) of section 5111.681 of the Revised Code, the department shall complete the adjudication not later than sixty days after the department receives a request for the adjudication.

Sec. 5111.686. The department of job and family services shall release the actual amount withheld under division (A) of section 5111.681 of the Revised Code, less any amount the exiting operator owes the department and United States centers for medicare and medicaid services under the medicaid program, as follows:

(A) ~~Ninety one days after the date the exiting operator files a properly completed cost report required by section 5111.682 of the Revised Code unless~~ Unless the department issues the initial debt summary report required by section 5111.685 of the Revised Code not later than ~~ninety~~ sixty days after the date the exiting operator files the properly completed cost report required by section 5111.682 of the Revised Code, sixty-one days after the

date the exiting operator files the properly completed cost report;

~~(B) Not later than thirty days after the exiting operator agrees to a final fiscal audit resulting from the report required by section 5111.685 of the Revised Code if~~ If the department issues the initial debt summary report required by section 5111.685 of the Revised Code not later than ninety sixty days after the date the exiting operator files a properly completed cost report required by section 5111.682 of the Revised Code, not later than the following:

(1) Thirty days after the later of the deadline for requesting an informal settlement conference under section 5111.685 of the Revised Code and the deadline for requesting an adjudication under that section regarding the initial debt summary report if the exiting operator and a qualified affiliated operator who executes a successor liability agreement under section 5111.681 of the Revised Code, if any, fail to request both the conference and the adjudication on or before the deadline;

(2) Thirty days after the deadline for requesting an adjudication under section 5111.685 of the Revised Code regarding a revised debt summary report issued under that section if the exiting operator or a qualified affiliated operator who executes a successor liability agreement under section 5111.681 of the Revised Code, if any, requests an informal settlement conference under that section on or before the deadline for requesting the conference but fails to request an adjudication regarding the revised debt summary report on or before the deadline for requesting the adjudication;

(3) Thirty days after the completion of an adjudication of the initial or revised debt summary report if the exiting operator or a qualified affiliated operator who executes a successor liability agreement under section 5111.681 of the Revised Code, if any, requests the adjudication on or before the deadline for requesting the adjudication.

~~(C) Ninety one days after the date the department waives the cost report requirement of section 5111.682 of the Revised Code unless~~ Unless the department issues the initial debt summary report required by section 5111.685 of the Revised Code not later than ninety sixty days after the date the department waives the cost report requirement of section 5111.682 of the Revised Code, sixty-one days after the date the department waives the cost report requirement;

~~(D) Not later than thirty days after the exiting operator agrees to a final fiscal audit resulting from the report required by section 5111.685 of the Revised Code if~~ If the department issues the initial debt summary report required by section 5111.685 of the Revised Code not later than ninety sixty

days after the date the department waives the cost report requirement of section 5111.682 of the Revised Code, not later than the following:

(1) Thirty days after the later of the deadline for requesting an informal settlement conference under section 5111.685 of the Revised Code and the deadline for requesting an adjudication under that section regarding the initial debt summary report if the exiting operator and a qualified affiliated operator who executes a successor liability agreement under section 5111.681 of the Revised Code, if any, fail to request both the conference and the adjudication on or before the deadline;

(2) Thirty days after the deadline for requesting an adjudication under section 5111.685 of the Revised Code regarding a revised debt summary report issued under that section if the exiting operator or a qualified affiliated operator who executes a successor liability agreement under section 5111.681 of the Revised Code, if any, requests an informal settlement conference under that section on or before the deadline for requesting the conference but fails to request an adjudication regarding the revised debt summary report on or before the deadline for requesting the adjudication;

(3) Thirty days after the completion of an adjudication of the initial or revised debt summary report if the exiting operator or a qualified affiliated operator who executes a successor liability agreement under section 5111.681 of the Revised Code, if any, requests the adjudication on or before the deadline for requesting the adjudication.

Sec. 5111.688. (A) All amounts withheld under section 5111.681 of the Revised Code from payment due an exiting operator under the medicaid program shall be deposited into the medicaid payment withholding fund created by the controlling board pursuant to section 131.35 of the Revised Code. Money in the fund shall be used as follows:

(1) To pay an exiting operator when a withholding is released to the exiting operator under section 5111.686 or 5111.687 of the Revised Code;

(2) To pay the department of job and family services and United States centers for medicare and medicaid services the amount an exiting operator owes the department and United States centers under the medicaid program.

(B) Amounts paid from the medicaid payment withholding fund pursuant to division (A)(2) of this section shall be deposited into the appropriate department fund.

Sec. ~~5111.688~~ 5111.689. The director of job and family services ~~may~~ shall adopt rules under section 5111.02 of the Revised Code to implement sections 5111.65 to ~~5111.688~~ 5111.689 of the Revised Code, including rules applicable to an exiting operator that provides written notification under

section 5111.66 of the Revised Code of a voluntary withdrawal of participation. Rules adopted under this section shall comply with section 1919(c)(2)(F) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396r(c)(2)(F), regarding restrictions on transfers or discharges of nursing facility residents in the case of a voluntary withdrawal of participation. The rules may prescribe a medicaid reimbursement methodology and other procedures that are applicable after the effective date of a voluntary withdrawal of participation that differ from the reimbursement methodology and other procedures that would otherwise apply.

Sec. 5111.705. No individual shall be denied eligibility for the medicaid buy-in for workers with disabilities program on the basis that the individual receives services under a home and community-based services medicaid waiver component as defined in section ~~5111.851~~ 5111.85 of the Revised Code.

Sec. 5111.85. (A) As used in this section and sections 5111.851 to 5111.856 of the Revised Code, ~~"medicaid:~~

"Home and community-based services medicaid waiver component" means a medicaid waiver component under which home and community-based services are provided as an alternative to hospital, nursing facility, or intermediate care facility for the mentally retarded services.

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

"Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

"Medicaid waiver component" means a component of the medicaid program authorized by a waiver granted by the United States department of health and human services under section 1115 or 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1315 or 1396n. "Medicaid waiver component" does not include a care management system established under section 5111.16 of the Revised Code.

"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(B) The director of job and family services may adopt rules under Chapter 119. of the Revised Code governing medicaid waiver components that establish all of the following:

- (1) Eligibility requirements for the medicaid waiver components;
- (2) The type, amount, duration, and scope of services the medicaid waiver components provide;
- (3) The conditions under which the medicaid waiver components cover services;

(4) The amount the medicaid waiver components pay for services or the method by which the amount is determined;

(5) The manner in which the medicaid waiver components pay for services;

(6) Safeguards for the health and welfare of medicaid recipients receiving services under a medicaid waiver component;

(7) Procedures for both of the following:

(a) Identifying individuals who meet all of the following requirements:

(i) Are eligible for a home and community-based services medicaid waiver component and on a waiting list for the component;

(ii) Are receiving inpatient hospital services or residing in an intermediate care facility for the mentally retarded or nursing facility (as appropriate for the component);

(iii) Choose to be enrolled in the component.

(b) Approving the enrollment of individuals identified under the procedures established under division (B)(7)(a) of this section into the home and community-based services medicaid waiver component.

(8) Procedures for enforcing the rules, including establishing corrective action plans for, and imposing financial and administrative sanctions on, persons and government entities that violate the rules. Sanctions shall include terminating medicaid provider agreements. The procedures shall include due process protections.

~~(8)~~(9) Other policies necessary for the efficient administration of the medicaid waiver components.

(C) The director of job and family services may adopt different rules for the different medicaid waiver components. The rules shall be consistent with the terms of the waiver authorizing the medicaid waiver component.

(D) Any procedures established under division (B)(7) of this section for the PASSPORT program shall be consistent with section 173.401 of the Revised Code. Any procedures established under division (B)(7) of this section for the assisted living program shall be consistent with section 5111.894 of the Revised Code.

Sec. 5111.851. (A) As used in sections 5111.851 to 5111.855 of the Revised Code:

"Administrative agency" means, with respect to a home and community-based services medicaid waiver component, the department of job and family services or, if a state agency or political subdivision contracts with the department under section 5111.91 of the Revised Code to administer the component, that state agency or political subdivision.

~~"Home and community-based services medicaid waiver component"~~

~~means a medicaid waiver component under which home and community-based services are provided as an alternative to hospital, nursing facility, or intermediate care facility for the mentally retarded services.~~

~~"Hospital" has the same meaning as in section 3727.01 of the Revised Code.~~

~~"Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.~~

"Level of care determination" means a determination of whether an individual needs the level of care provided by a hospital, nursing facility, or intermediate care facility for the mentally retarded and whether the individual, if determined to need that level of care, would receive hospital, nursing facility, or intermediate care facility for the mentally retarded services if not for a home and community-based services medicaid waiver component.

"Medicaid buy-in for workers with disabilities program" means the component of the medicaid program established under sections 5111.70 to 5111.7011 of the Revised Code.

~~"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.~~

"Skilled nursing facility" means a facility certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.

(B) The following requirements apply to each home and community-based services medicaid waiver component:

(1) Only an individual who qualifies for a component shall receive that component's services.

(2) A level of care determination shall be made as part of the process of determining whether an individual qualifies for a component and shall be made each year after the initial determination if, during such a subsequent year, the administrative agency determines there is a reasonable indication that the individual's needs have changed.

(3) A written plan of care or individual service plan based on an individual assessment of the services that an individual needs to avoid needing admission to a hospital, nursing facility, or intermediate care facility for the mentally retarded shall be created for each individual determined eligible for a component.

(4) Each individual determined eligible for a component shall receive that component's services in accordance with the individual's level of care determination and written plan of care or individual service plan.

(5) No individual may receive services under a component while the

individual is a hospital inpatient or resident of a skilled nursing facility, nursing facility, or intermediate care facility for the mentally retarded.

(6) No individual may receive prevocational, educational, or supported employment services under a component if the individual is eligible for such services that are funded with federal funds provided under 29 U.S.C. 730 or the "Individuals with Disabilities Education Act," 111 Stat. 37 (1997), 20 U.S.C. 1400, as amended.

(7) Safeguards shall be taken to protect the health and welfare of individuals receiving services under a component, including safeguards established in rules adopted under section 5111.85 of the Revised Code and safeguards established by licensing and certification requirements that are applicable to the providers of that component's services.

(8) No services may be provided under a component by a provider that is subject to standards that 42 U.S.C. 1382e(e)(1) requires be established if the provider fails to comply with the standards applicable to the provider.

(9) Individuals determined to be eligible for a component, or such individuals' representatives, shall be informed of that component's services, including any choices that the individual or representative may make regarding the component's services, and given the choice of either receiving services under that component or, as appropriate, hospital, nursing facility, or intermediate care facility for the mentally retarded services.

(10) No individual shall lose eligibility for services under a component, or have the services reduced or otherwise disrupted, on the basis that the individual also receives services under the medicaid buy-in for workers with disabilities program.

(11) No individual shall lose eligibility for services under a component, or have the services reduced or otherwise disrupted, on the basis that the individual's income or resources increase to an amount above the eligibility limit for the component if the individual is participating in the medicaid buy-in for workers with disabilities program and the amount of the individual's income or resources does not exceed the eligibility limit for the medicaid buy-in for workers with disabilities program.

(12) No individual receiving services under a component shall be required to pay any cost sharing expenses for the services for any period during which the individual also participates in the medicaid buy-in for workers with disabilities program.

Sec. 5111.861. (A) As used in this section:

(1) "Assisted living program" means the medicaid waiver component created under section 5111.89 of the Revised Code.

(2) "Choices program" means the medicaid waiver component created

under section 173.403 of the Revised Code.

(3) "Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.

(4) "PASSPORT program" means the medicaid waiver component created under section 173.40 of the Revised Code.

(B) The director of job and family services shall submit a request to the United States secretary of health and human services pursuant to 42 U.S.C. 1396n to obtain a federal medicaid waiver that consolidates the following medicaid waiver components into one medicaid waiver component:

(1) The assisted living program;

(2) The choices program;

(3) The PASSPORT program.

(C) In seeking a consolidated federal medicaid waiver under this section, the director of job and family services shall work with the director of aging and provide for the waiver to do all of the following:

(1) For the part of the waiver that concerns the assisted living program, include the provisions that sections 5111.89 to 5111.894 of the Revised Code establish for the assisted living program;

(2) For the part of the waiver that concerns the choices program, include the provisions that section 173.403 of the Revised Code establish for the choices program;

(3) For the part of the waiver that concerns the PASSPORT program, include the provisions that sections 173.40 to 173.402 of the Revised Code establish for the PASSPORT program;

(4) For each part of the waiver, including the part that concerns the choices program, be available statewide.

(D) If the United States secretary approves the consolidated federal medicaid waiver sought under this section, all of the following shall apply:

(1) The department of job and family services shall enter into a contract with the department of aging under section 5111.91 of the Revised Code for the department of aging to administer the consolidated federal medicaid waiver, except that the department of job and family services, rather than the department of aging, shall administer the part of the waiver that concerns the assisted living program if the director of budget and management does not approve the contract;

(2) The director of job and family services shall adopt rules under section 5111.85 of the Revised Code to authorize the director of aging to adopt rules in accordance with Chapter 119. of the Revised Code that are needed to implement the consolidated federal medicaid waiver, except that the director of job and family services shall adopt rules under section

5111.85 of the Revised Code that are needed to implement the part of the waiver that concerns the assisted living program if the director of budget and management does not approve the contract the departments of job and family services and aging enter into under division (D)(1) of this section:

(3) Any statutory reference to the assisted living program shall mean the part of the consolidated federal medicaid waiver that concerns the assisted living program:

(4) Any statutory reference to the choices program shall mean the part of the consolidated federal medicaid waiver that concerns the choices program:

(5) Any statutory references to the PASSPORT program shall mean the part of the consolidated federal medicaid waiver that concerns the PASSPORT program.

Sec. 5111.874. (A) As used in sections 5111.874 to 5111.8710 of the Revised Code:

"Home and community-based services" has the same meaning as in section 5123.01 of the Revised Code.

"ICF/MR services" means intermediate care facility for the mentally retarded services covered by the medicaid program that an intermediate care facility for the mentally retarded provides to a resident of the facility who is a medicaid recipient eligible for medicaid-covered intermediate care facility for the mentally retarded services.

"Intermediate care facility for the mentally retarded" means an intermediate care facility for the mentally retarded that is certified as in compliance with applicable standards for the medicaid program by the director of health in accordance with Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended, and licensed as a residential facility under section 5123.19 of the Revised Code.

"Residential facility" has the same meaning as in section 5123.19 of the Revised Code.

(B) For the purpose of increasing the number of slots available for home and community-based services and subject to sections 5111.877 and 5111.878 of the Revised Code, the operator of an intermediate care facility for the mentally retarded may convert all of the beds in the facility from providing ICF/MR services to providing home and community-based services if all of the following requirements are met:

(1) The operator provides the directors of health, job and family services, and mental retardation and developmental disabilities at least ninety days' notice of the operator's intent to relinquish the facility's certification as an intermediate care facility for the mentally retarded and to

begin providing home and community-based services.

(2) The operator complies with the requirements of sections 5111.65 to ~~5111.688~~ 5111.689 of the Revised Code regarding a voluntary termination as defined in section 5111.65 of the Revised Code if those requirements are applicable.

(3) The operator notifies each of the facility's residents that the facility is to cease providing ICF/MR services and inform each resident that the resident may do either of the following:

(a) Continue to receive ICF/MR services by transferring to another facility that is an intermediate care facility for the mentally retarded willing and able to accept the resident if the resident continues to qualify for ICF/MR services;

(b) Begin to receive home and community-based services instead of ICF/MR services from any provider of home and community-based services that is willing and able to provide the services to the resident if the resident is eligible for the services and a slot for the services is available to the resident.

(4) The operator meets the requirements for providing home and community-based services, including the following:

(a) Such requirements applicable to a residential facility if the operator maintains the facility's license as a residential facility;

(b) Such requirements applicable to a facility that is not licensed as a residential facility if the operator surrenders the facility's residential facility license under section 5123.19 of the Revised Code.

(5) The director of mental retardation and developmental disabilities approves the conversion.

(C) The notice to the director of mental retardation and developmental disabilities under division (B)(1) of this section shall specify whether the operator wishes to surrender the facility's license as a residential facility under section 5123.19 of the Revised Code.

(D) If the director of mental retardation and developmental disabilities approves a conversion under division (B) of this section, the director of health shall terminate the certification of the intermediate care facility for the mentally retarded to be converted. The director of health shall notify the director of job and family services of the termination. On receipt of the director of health's notice, the director of job and family services shall terminate the operator's medicaid provider agreement that authorizes the operator to provide ICF/MR services at the facility. The operator is not entitled to notice or a hearing under Chapter 119. of the Revised Code before the director of job and family services terminates the medicaid

provider agreement.

Sec. 5111.875. (A) For the purpose of increasing the number of slots available for home and community-based services and subject to sections 5111.877 and 5111.878 of the Revised Code, a person who acquires, through a request for proposals issued by the director of mental retardation and developmental disabilities, a residential facility that is an intermediate care facility for the mentally retarded and for which the license as a residential facility was previously surrendered or revoked may convert some or all of the facility's beds from providing ICF/MR services to providing home and community-based services if all of the following requirements are met:

(1) The person provides the directors of health, job and family services, and mental retardation and developmental disabilities at least ninety days' notice of the person's intent to make the conversion.

(2) The person complies with the requirements of sections 5111.65 to ~~5111.688~~ 5111.689 of the Revised Code regarding a voluntary termination as defined in section 5111.65 of the Revised Code if those requirements are applicable.

(3) If the person intends to convert all of the facility's beds, the person notifies each of the facility's residents that the facility is to cease providing ICF/MR services and informs each resident that the resident may do either of the following:

(a) Continue to receive ICF/MR services by transferring to another facility that is an intermediate care facility for the mentally retarded willing and able to accept the resident if the resident continues to qualify for ICF/MR services;

(b) Begin to receive home and community-based services instead of ICF/MR services from any provider of home and community-based services that is willing and able to provide the services to the resident if the resident is eligible for the services and a slot for the services is available to the resident.

(4) If the person intends to convert some but not all of the facility's beds, the person notifies each of the facility's residents that the facility is to convert some of its beds from providing ICF/MR services to providing home and community-based services and inform each resident that the resident may do either of the following:

(a) Continue to receive ICF/MR services from any provider of ICF/MR services that is willing and able to provide the services to the resident if the resident continues to qualify for ICF/MR services;

(b) Begin to receive home and community-based services instead of

ICF/MR services from any provider of home and community-based services that is willing and able to provide the services to the resident if the resident is eligible for the services and a slot for the services is available to the resident.

(5) The person meets the requirements for providing home and community-based services at a residential facility.

(B) The notice provided to the directors under division (A)(1) of this section shall specify whether some or all of the facility's beds are to be converted. If some but not all of the beds are to be converted, the notice shall specify how many of the facility's beds are to be converted and how many of the beds are to continue to provide ICF/MR services.

(C) On receipt of a notice under division (A)(1) of this section, the director of health shall do the following:

(1) Terminate the certification of the intermediate care facility for the mentally retarded if the notice specifies that all of the facility's beds are to be converted;

(2) Reduce the facility's certified capacity by the number of beds being converted if the notice specifies that some but not all of the beds are to be converted.

(D) The director of health shall notify the director of job and family services of the termination or reduction under division (C) of this section. On receipt of the director of health's notice, the director of job and family services shall do the following:

(1) Terminate the person's medicaid provider agreement that authorizes the person to provide ICF/MR services at the facility if the facility's certification was terminated;

(2) Amend the person's medicaid provider agreement to reflect the facility's reduced certified capacity if the facility's certified capacity is reduced.

The person is not entitled to notice or a hearing under Chapter 119. of the Revised Code before the director of job and family services terminates or amends the medicaid provider agreement.

Sec. 5111.88. (A) As used in sections 5111.88 to 5111.8811 of the Revised Code:

(1) "Adult" means an individual at least eighteen years of age.

(2) "Authorized representative" means the following:

(a) In the case of a consumer who is a minor, the consumer's parent, custodian, or guardian;

(b) In the case of a consumer who is an adult, an individual selected by the consumer pursuant to section 5111.8810 of the Revised Code to act on

the consumer's behalf for purposes regarding home care attendant services.

(3) "Authorizing health care professional" means a health care professional who, pursuant to section 5111.887 of the Revised Code, authorizes a home care attendant to assist a consumer with self-administration of medication, nursing tasks, or both.

(4) "Consumer" means an individual to whom all of the following apply:

(a) The individual is enrolled in a participating medicaid waiver component.

(b) The individual has a medically determinable physical impairment to which both of the following apply:

(i) It is expected to last for a continuous period of not less than twelve months.

(ii) It causes the individual to require assistance with activities of daily living, self-care, and mobility, including either assistance with self-administration of medication or the performance of nursing tasks, or both.

(c) In the case of an individual who is an adult, the individual is mentally alert and is, or has an authorized representative who is, capable of selecting, directing the actions of, and dismissing a home care attendant.

(d) In the case of an individual who is a minor, the individual has an authorized representative who is capable of selecting, directing the actions of, and dismissing a home care attendant.

(5) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(6) "Custodian" has the same meaning as in section 2151.011 of the Revised Code.

(7) "Gastrostomy tube" means a percutaneously inserted catheter that terminates in the stomach.

(8) "Guardian" has the same meaning as in section 2111.01 of the Revised Code.

(9) "Health care professional" means a physician or registered nurse.

(10) "Home care attendant" means an individual holding a valid medicaid provider agreement in accordance with section 5111.881 of the Revised Code that authorizes the individual to provide home care attendant services to consumers.

(11) "Home care attendant services" means all of the following as provided by a home care attendant:

(a) Personal care aide services;

(b) Assistance with the self-administration of medication;

(c) Assistance with nursing tasks.

(12) "Jejunostomy tube" means a percutaneously inserted catheter that terminates in the jejunum.

(13) "Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.

(14) "Medication" means a drug as defined in section 4729.01 of the Revised Code.

(15) "Minor" means an individual under eighteen years of age.

(16) "Participating medicaid waiver component" means both of the following:

(a) The medicaid waiver component known as Ohio home care that the department of job and family services administers;

(b) The medicaid waiver component known as Ohio transitions II aging carve-out that the department of job and family services administers.

(17) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(18) "Practice of nursing as a registered nurse," "practice of nursing as a licensed practical nurse," and "registered nurse" have the same meanings as in section 4723.01 of the Revised Code. "Registered nurse" includes an advanced practice nurse, as defined in section 4723.01 of the Revised Code.

(19) "Schedule II," "schedule III," "schedule IV," and "schedule V" have the same meanings as in section 3719.01 of the Revised Code.

(B) The director of job and family services may submit requests to the United States secretary of health and human services to amend the federal medicaid waivers authorizing the participating medicaid waiver components to have those components cover home care attendant services in accordance with sections 5111.88 to 5111.8810 and rules adopted under section 5111.8811 of the Revised Code. Notwithstanding sections 5111.881 to 5111.8811 of the Revised Code, those sections shall be implemented regarding a participating medicaid waiver component only if the secretary approves a waiver amendment for the component.

Sec. 5111.881. The director of job and family services shall enter into a medicaid provider agreement with an individual to authorize the individual to provide home care attendant services to consumers if the individual does both of the following:

(A) Agrees to comply with the requirements of sections 5111.88 to 5111.8810 and rules adopted under section 5111.8811 of the Revised Code;

(B) Provides the director evidence satisfactory to the director of all of the following:

(1) That the individual either meets the personnel qualifications specified in 42 C.F.R. 484.4 for home health aides or has successfully completed at least one of the following:

(a) A competency evaluation program or training and competency evaluation program approved or conducted by the director of health under section 3721.31 of the Revised Code;

(b) A training program approved by the department of job and family services that includes training in at least all of the following and provides training equivalent to a training and competency evaluation program specified in division (B)(1)(a) of this section or meets the requirements of 42 C.F.R. 484.36(a):

(i) Basic home safety;

(ii) Universal precautions for the prevention of disease transmission, including hand-washing and proper disposal of bodily waste and medical instruments that are sharp or may produce sharp pieces if broken;

(iii) Personal care aide services;

(iv) The labeling, counting, and storage requirements for schedule II, III, IV, and V medications.

(2) That the individual has obtained a certificate of completion of a course in first aid from a first aid course to which all of the following apply:

(a) It is not provided solely through the internet.

(b) It includes hands-on training provided by a first aid instructor who is qualified to provide such training according to standards set in rules adopted under section 5111.8811 of the Revised Code.

(c) It requires the individual to demonstrate successfully that the individual has learned the first aid taught in the course.

(3) That the individual meets any other requirements for the medicaid provider agreement specified in rules adopted under section 5111.8811 of the Revised Code.

Sec. 5111.882. A home care attendant shall complete not less than twelve hours of in-service continuing education regarding home care attendant services each year and provide the director of job and family services evidence satisfactory to the director that the attendant satisfied this requirement. The evidence shall be submitted to the director not later than the annual anniversary of the issuance of the home care attendant's initial medicaid provider agreement.

Sec. 5111.883. A home care attendant shall do all of the following:

(A) Maintain a clinical record for each consumer to whom the attendant provides home care attendant services in a manner that protects the consumer's privacy;

(B) Participate in a face-to-face visit every ninety days with all of the following to monitor the health and welfare of each of the consumers to whom the attendant provides home care attendant services:

(1) The consumer;

(2) The consumer's authorized representative, if any;

(3) A registered nurse who agrees to answer any questions that the attendant, consumer, or authorized representative has about consumer care needs, medications, and other issues.

(C) Document the activities of each visit required by division (B) of this section in the consumer's clinical record with the assistance of the registered nurse.

Sec. 5111.884. (A) A home care attendant may assist a consumer with nursing tasks or self-administration of medication only after the attendant does both of the following:

(1) Subject to division (B) of this section, completes consumer-specific training in how to provide the assistance that the authorizing health care professional authorizes the attendant to provide to the consumer;

(2) At the request of the consumer, consumer's authorized representative, or authorizing health care professional, successfully demonstrates that the attendant has learned how to provide the authorized assistance to the consumer.

(B) The training required by division (A)(1) of this section shall be provided by either of the following:

(1) The authorizing health care professional;

(2) The consumer or consumer's authorized representative in cooperation with the authorizing health care professional.

Sec. 5111.885. A home care attendant shall comply with both of the following when assisting a consumer with nursing tasks or self-administration of medication:

(A) The written consent of the consumer or consumer's authorized representative provided to the director of job and family services under section 5111.886 of the Revised Code;

(B) The authorizing health care professional's written authorization provided to the director under section 5111.887 of the Revised Code.

Sec. 5111.886. To consent to a home care attendant assisting a consumer with nursing tasks or self-administration of medication, the consumer or consumer's authorized representative shall provide the director of job and family services a written statement signed by the consumer or authorized representative under which the consumer or authorized representative consents to both of the following:

(A) Having the attendant assist the consumer with nursing tasks or self-administration of medication;

(B) Assuming responsibility for directing the attendant when the attendant assists the consumer with nursing tasks or self-administration of medication.

Sec. 5111.887. To authorize a home care attendant to assist a consumer with nursing tasks or self-administration of medication, a health care professional shall provide the director of job and family services a written statement signed by the health care professional that includes all of the following:

(A) The consumer's name and address;

(B) A description of the nursing tasks or self-administration of medication with which the attendant is to assist the consumer, including, in the case of assistance with self-administration of medication, the name and dosage of the medication;

(C) The times or intervals when the attendant is to assist the consumer with the self-administration of each dosage of the medication or nursing tasks;

(D) The dates the attendant is to begin and cease providing the assistance;

(E) A list of severe adverse reactions the attendant must report to the health care professional should the consumer experience one or more of the reactions;

(F) At least one telephone number at which the attendant can reach the health care professional in an emergency;

(G) Instructions the attendant is to follow when assisting the consumer with nursing tasks or self-administration of medication, including instructions for maintaining sterile conditions and for storage of task-related equipment and supplies;

(H) The health care professional's attestation of both of the following:

(1) That the consumer or consumer's authorized representative has demonstrated to the health care professional the ability to direct the attendant;

(2) That the attendant has demonstrated to the health care professional the ability to provide the consumer assistance with nursing tasks or self-administration of medication that the health care professional has specifically authorized the attendant to provide and that the consumer or consumer's authorized representative has indicated to the health care professional that the consumer or authorized representative is satisfied with the attendant's demonstration.

Sec. 5111.888. When authorizing a home care attendant to assist a consumer with nursing tasks or self-administration of medication a health care professional may not authorize a home care attendant to do any of the following:

(A) Perform a task that is outside of the health care professional's scope of practice;

(B) Assist the consumer with the self-administration of a medication, including a schedule II, schedule III, schedule IV, or schedule V drug unless both of the following apply:

(1) The medication is administered orally, topically, or via a gastrostomy tube or jejunostomy tube, including through any of the following:

(a) In the case of an oral medication, a metered dose inhaler;

(b) In the case of a topical medication, including a transdermal medication, either of the following:

(i) An eye, ear, or nose drop or spray;

(ii) A vaginal or rectal suppository.

(c) In the case of a gastrostomy tube or jejunostomy tube, only through a pre-programmed pump.

(2) The medication is in its original container and the label attached to the container displays all of the following:

(a) The consumer's full name in print;

(b) The medication's dispensing date, which must not be more than twelve months before the date the attendant assists the consumer with self-administration of the medication;

(c) The exact dosage and means of administration that match the health care professional's authorization to the attendant.

(C) Assist the consumer with the self-administration of a schedule II, schedule III, schedule IV, or schedule V medication unless, in addition to meeting the requirements of division (B) of this section, all of the following apply:

(1) The medication has a warning label on its container.

(2) The attendant counts the medication in the consumer's or authorized representative's presence when the medication is administered to the consumer and records the count on a form used for the count as specified in rules adopted under section 5111.8811 of the Revised Code.

(3) The attendant recounts the medication in the consumer's or authorized representative's presence at least monthly and reconciles the recount on a log located in the consumer's clinical record.

(4) The medication is stored separately from all other medications and is

secured and locked at all times when not being administered to the consumer to prevent unauthorized access.

(D) Perform an intramuscular injection;

(E) Perform a subcutaneous injection unless it is for a routine dose of insulin;

(F) Program a pump used to deliver a medication unless the pump is used to deliver a routine dose of insulin;

(G) Insert, remove, or discontinue an intravenous access device;

(H) Engage in intravenous medication administration;

(I) Insert or initiate an infusion therapy;

(J) Perform a central line dressing change.

Sec. 5111.889. A home care attendant who provides home care attendant services to a consumer in accordance with the authorizing health care professional's authorization does not engage in the practice of nursing as a registered nurse or in the practice of nursing as a licensed practical nurse in violation of section 4723.03 of the Revised Code.

A consumer or the consumer's authorized representative shall report to the director of job and family services if a home care attendant engages in the practice of nursing as a registered nurse or the practice of nursing as a licensed practical nurse beyond the authorizing health care professional's authorization. The director shall forward a copy of each report to the board of nursing.

Sec. 5111.8810. A consumer who is an adult may select an individual to act on the consumer's behalf for purposes regarding home care attendant services by submitting a written notice of the consumer's selection of an authorized representative to the director of job and family services. The notice shall specifically identify the individual the consumer selects as authorized representative and may limit what the authorized representative may do on the consumer's behalf regarding home care attendant services. A consumer may not select the consumer's home care attendant to be the consumer's authorized representative.

Sec. 5111.8811. The director of job and family services shall adopt rules under section 5111.85 of the Revised Code as necessary for the implementation of sections 5111.88 to 5111.8810 of the Revised Code. The rules shall be consistent with federal and state law.

Sec. 5111.89. (A) As used in sections 5111.89 to 5111.894 of the Revised Code:

"Area agency on aging" has the same meaning as in section 173.14 of the Revised Code.

"Assisted living program" means the ~~medicaid waiver component for~~

~~which the director of job and family services is authorized by program created under this section to request a medicaid waiver.~~

"Assisted living services" means the following home and community-based services: personal care, homemaker, chore, attendant care, companion, medication oversight, and therapeutic social and recreational programming.

"County or district home" means a county or district home operated under Chapter 5155. of the Revised Code.

"Long-term care consultation program" means the program the department of aging is required to develop under section 173.42 of the Revised Code.

"Long-term care consultation program administrator" or "administrator" means the department of aging or, if the department contracts with an area agency on aging or other entity to administer the long-term care consultation program for a particular area, that agency or entity.

"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.

"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

"Residential care facility" has the same meaning as in section 3721.01 of the Revised Code.

"State administrative agency" means the department of job and family services if the department of job and family services administers the assisted living program or the department of aging if the department of aging administers the assisted living program.

~~(B) The director of job and family services may submit a request to the United States secretary of health and human services under 42 U.S.C. 1396n to obtain a waiver of federal medicaid requirements that would otherwise be violated in the creation and implementation of a program under which~~ There is hereby created the assisted living program. The program shall provide assisted living services to not more than one thousand eight hundred individuals who meet the program's eligibility requirements established under section 5111.891 of the Revised Code. The program may not serve more individuals than the number that is set by the United States secretary of health and human services when the medicaid waiver authorizing the program is approved. The program shall be operated as a separate medicaid waiver component until the United States secretary approves the consolidated federal medicaid waiver sought under section 5111.861 of the Revised Code. The program shall be part of the consolidated federal medicaid waiver sought under that section if the United

States secretary approves the waiver.

If the ~~secretary approves the medicaid waiver requested under this section and~~ the director of budget and management approves the contract, the department of job and family services shall enter into a contract with the department of aging under section 5111.91 of the Revised Code that provides for the department of aging to administer the assisted living program. The contract shall include an estimate of the program's costs.

The director of job and family services may adopt rules under section 5111.85 of the Revised Code regarding the assisted living program. The director of aging may adopt rules under Chapter 119. of the Revised Code regarding the program that the rules adopted by the director of job and family services authorize the director of aging to adopt.

Sec. 5111.891. To be eligible for the assisted living program, an individual must meet all of the following requirements:

(A) Need an intermediate level of care as determined under rule 5101:3-3-06 of the Administrative Code;

(B) At the time the individual applies for the assisted living program, be one of the following:

(1) A nursing facility resident who is seeking to move to a residential care facility and would remain in a nursing facility for long term care if not for the assisted living program;

(2) A participant of any of the following medicaid waiver components who would move to a nursing facility if not for the assisted living program:

(a) The PASSPORT program created under section 173.40 of the Revised Code;

(b) ~~The medicaid waiver component called the choices program that the department of aging administers~~ created under section 173.403 of the Revised Code;

(c) A medicaid waiver component that the department of job and family services administers.

(3) A resident of a residential care facility who has resided in a residential care facility for at least six months immediately before the date the individual applies for the assisted living program.

(C) At the time the individual receives assisted living services under the assisted living program, reside in a residential care facility that is authorized by a valid medicaid provider agreement to participate in the assisted living program, including both of the following:

(1) A residential care facility that is owned or operated by a metropolitan housing authority that has a contract with the United States department of housing and urban development to receive an operating

subsidy or rental assistance for the residents of the facility;

(2) A county or district home licensed as a residential care facility.

(D) Meet all other eligibility requirements for the assisted living program established in rules adopted under section 5111.85 of the Revised Code.

Sec. 5111.894. The state administrative agency may establish one or more waiting lists for the assisted living program. Only individuals eligible for the medicaid program may be placed on a waiting list.

Each month, each area agency on aging shall determine whether any individual who resides in the area that the area agency on aging serves and is on a waiting list for the assisted living program has been admitted to a nursing facility. If an area agency on aging determines that such an individual has been admitted to a nursing facility and that there is a vacancy in a residential care facility participating in the assisted living program that is acceptable to the individual, the agency shall notify the long-term care consultation program administrator serving the area in which the individual resides about the determination. The administrator shall determine whether the assisted living program is appropriate for the individual and whether the individual would rather participate in the assisted living program than continue residing in the nursing facility. If the administrator determines that the assisted living program is appropriate for the individual and the individual would rather participate in the assisted living program than continue residing in the nursing facility, the administrator shall so notify the state administrative agency.

On receipt of the notice from the administrator, the state administrative agency shall approve the individual's enrollment in the assisted living program regardless of any waiting list for the assisted living program, unless the enrollment would cause the assisted living program to exceed ~~the~~ any limit on the number of individuals who may participate in the program as set by ~~section 5111.89 of the Revised Code~~ the United States secretary of health and human services when the medicaid waiver authorizing the program is approved. Each quarter, the state administrative agency shall certify to the director of budget and management the estimated increase in costs of the assisted living program resulting from enrollment of individuals in the assisted living program pursuant to this section.

~~Not later than the last day of each calendar year, the director of job and family services shall submit to the general assembly a report regarding the number of individuals enrolled in the assisted living program pursuant to this section and the costs incurred and savings achieved as a result of the enrollments.~~

Sec. 5111.971. (A) As used in this section, "long-term care medicaid waiver component" means any of the following:

(1) The PASSPORT program created under section 173.40 of the Revised Code;

(2) ~~The medicaid waiver component called the choices program that the department of aging administers~~ created under section 173.403 of the Revised Code;

(3) A medicaid waiver component that the department of job and family services administers.

(B) The director of job and family services shall submit a request to the United States secretary of health and human services for a waiver of federal medicaid requirements that would be otherwise violated in the creation of a pilot program under which not more than two hundred individuals who meet the pilot program's eligibility requirements specified in division (D) of this section receive a spending authorization to pay for the cost of medically necessary home and community-based services that the pilot program covers. The spending authorization shall be in an amount not exceeding seventy per cent of the average cost under the medicaid program for providing nursing facility services to an individual. An individual participating in the pilot program shall also receive necessary support services, including fiscal intermediary and other case management services, that the pilot program covers.

(C) If the United States secretary of health and human services approves the waiver submitted under division (B) of this section, the department of job and family services shall enter into a contract with the department of aging under section 5111.91 of the Revised Code that provides for the department of aging to administer the pilot program that the waiver authorizes.

(D) To be eligible to participate in the pilot program created under division (B) of this section, an individual must meet all of the following requirements:

(1) Need an intermediate level of care as determined under rule 5101:3-3-06 of the Administrative Code or a skilled level of care as determined under rule 5101:3-3-05 of the Administrative Code;

(2) At the time the individual applies to participate in the pilot program, be one of the following:

(a) A nursing facility resident who would remain in a nursing facility if not for the pilot program;

(b) A participant of any long-term care medicaid waiver component who would move to a nursing facility if not for the pilot program.

(3) Meet all other eligibility requirements for the pilot program established in rules adopted under section 5111.85 of the Revised Code.

(E) The director of job and family services may adopt rules under section 5111.85 of the Revised Code as the director considers necessary to implement the pilot program created under division (B) of this section. The director of aging may adopt rules under Chapter 119. of the Revised Code as the director considers necessary for the pilot program's implementation. The rules may establish a list of medicaid-covered services not covered by the pilot program that an individual participating in the pilot program may not receive if the individual also receives medicaid-covered services outside of the pilot program.

Sec. 5112.03. (A) The director of job and family services shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code for the purpose of administering sections 5112.01 to 5112.21 of the Revised Code, including rules that do all of the following:

(1) Define as a "disproportionate share hospital" any hospital included under subsection (b) of section 1923 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396r-4(b), as amended, and any other hospital the director determines appropriate;

(2) Prescribe the form for submission of cost reports under section 5112.04 of the Revised Code;

(3) Establish, in accordance with division (A) of section 5112.06 of the Revised Code, the assessment rate or rates to be applied to hospitals under that section;

(4) Establish schedules for hospitals to pay installments on their assessments under section 5112.06 of the Revised Code and for governmental hospitals to pay installments on their intergovernmental transfers under section 5112.07 of the Revised Code;

(5) Establish procedures to notify hospitals of adjustments made under division (B)(2)(b) of section 5112.06 of the Revised Code in the amount of installments on their assessment;

(6) Establish procedures to notify hospitals of adjustments made under division (D) of section 5112.09 of the Revised Code in the total amount of their assessment and to adjust for the remainder of the program year the amount of the installments on the assessments;

(7) Establish, in accordance with section 5112.08 of the Revised Code, the methodology for paying hospitals under that section.

The director shall consult with hospitals when adopting the rules required by divisions (A)(4) and (5) of this section in order to minimize hospitals' cash flow difficulties.

(B) Rules adopted under this section may provide that "total facility costs" excludes costs associated with any of the following:

(1) Recipients of the medical assistance program;

(2) Recipients of financial assistance provided under Chapter 5115. of the Revised Code;

~~(3) Recipients of medical assistance provided under Chapter 5115. of the Revised Code;~~

~~(4)~~ Recipients of the program for medically handicapped children established under section 3701.023 of the Revised Code;

~~(5)~~(4) Recipients of the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended:

~~(6)~~(5) Recipients of Title V of the "Social Security Act";

~~(7)~~(6) Any other category of costs deemed appropriate by the director in accordance with Title XIX of the "Social Security Act" and the rules adopted under that title.

Sec. 5112.08. The director of job and family services shall adopt rules under section 5112.03 of the Revised Code establishing a methodology to pay hospitals that is sufficient to expend all money in the indigent care pool. Under the rules:

(A) The department of job and family services may classify similar hospitals into groups and allocate funds for distribution within each group.

(B) The department shall establish a method of allocating funds to hospitals, taking into consideration the relative amount of indigent care provided by each hospital or group of hospitals. The amount to be allocated shall be based on any combination of the following indicators of indigent care that the director considers appropriate:

(1) Total costs, volume, or proportion of services to recipients of the medical assistance program, including recipients enrolled in health insuring corporations;

(2) Total costs, volume, or proportion of services to low-income patients in addition to recipients of the medical assistance program, which may include recipients of Title V of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and recipients of financial ~~or medical~~ assistance provided under Chapter 5115. of the Revised Code;

(3) The amount of uncompensated care provided by the hospital or group of hospitals;

(4) Other factors that the director considers to be appropriate indicators of indigent care.

(C) The department shall distribute funds to each hospital or group of

hospitals in a manner that first may provide for an additional distribution to individual hospitals that provide a high proportion of indigent care in relation to the total care provided by the hospital or in relation to other hospitals. The department shall establish a formula to distribute the remainder of the funds. The formula shall be consistent with section 1923 of the "Social Security Act," 42 U.S.C.A. 1396r-4, as amended, shall be based on any combination of the indicators of indigent care listed in division (B) of this section that the director considers appropriate.

(D) The department shall distribute funds to each hospital in installments not later than ten working days after the deadline established in rules for each hospital to pay an installment on its assessment under section 5112.06 of the Revised Code. In the case of a governmental hospital that makes intergovernmental transfers, the department shall pay an installment under this section not later than ten working days after the earlier of that deadline or the deadline established in rules for the governmental hospital to pay an installment on its intergovernmental transfer. If the amount in the hospital care assurance program fund created under section 5112.18 of the Revised Code and the portion of the health care - federal fund created under section 5111.943 of the Revised Code that is credited to that fund pursuant to division (B) of section 5112.18 of the Revised Code are insufficient to make the total distributions for which hospitals are eligible to receive in any period, the department shall reduce the amount of each distribution by the percentage by which the amount and portion are insufficient. The department shall distribute to hospitals any amounts not distributed in the period in which they are due as soon as moneys are available in the funds.

Sec. 5112.17. (A) As used in this section:

(1) "Federal poverty guideline" means the official poverty guideline as revised annually by the United States secretary of health and human services in accordance with section 673 of the "Community Service Block Grant Act," 95 Stat. 511 (1981), 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

(2) "Third-party payer" means any private or public entity or program that may be liable by law or contract to make payment to or on behalf of an individual for health care services. "Third-party payer" does not include a hospital.

(B) Each hospital that receives funds distributed under sections 5112.01 to 5112.21 of the Revised Code shall provide, without charge to the individual, basic, medically necessary hospital-level services to individuals who are residents of this state, are not recipients of the medical assistance

program, and whose income is at or below the federal poverty guideline. Recipients of disability financial assistance ~~and recipients of disability medical assistance~~ provided under Chapter 5115. of the Revised Code qualify for services under this section. The director of job and family services shall adopt rules under section 5112.03 of the Revised Code specifying the hospital services to be provided under this section.

(C) Nothing in this section shall be construed to prevent a hospital from requiring an individual to apply for eligibility under the medical assistance program before the hospital processes an application under this section. Hospitals may bill any third-party payer for services rendered under this section. Hospitals may bill the medical assistance program, in accordance with Chapter 5111. of the Revised Code and the rules adopted under that chapter, for services rendered under this section if the individual becomes a recipient of the program. Hospitals may bill individuals for services under this section if all of the following apply:

(1) The hospital has an established post-billing procedure for determining the individual's income and canceling the charges if the individual is found to qualify for services under this section.

(2) The initial bill, and at least the first follow-up bill, is accompanied by a written statement that does all of the following:

(a) Explains that individuals with income at or below the federal poverty guideline are eligible for services without charge;

(b) Specifies the federal poverty guideline for individuals and families of various sizes at the time the bill is sent;

(c) Describes the procedure required by division (C)(1) of this section.

(3) The hospital complies with any additional rules the department adopts under section 5112.03 of the Revised Code.

Notwithstanding division (B) of this section, a hospital providing care to an individual under this section is subrogated to the rights of any individual to receive compensation or benefits from any person or governmental entity for the hospital goods and services rendered.

(D) Each hospital shall collect and report to the department, in the form and manner prescribed by the department, information on the number and identity of patients served pursuant to this section.

(E) This section applies beginning May 22, 1992, regardless of whether the department has adopted rules specifying the services to be provided. Nothing in this section alters the scope or limits the obligation of any governmental entity or program, including the program awarding reparations to victims of crime under sections 2743.51 to 2743.72 of the Revised Code and the program for medically handicapped children

established under section 3701.023 of the Revised Code, to pay for hospital services in accordance with state or local law.

Sec. 5112.30. As used in sections 5112.30 to 5112.39 of the Revised Code:

(A) "Franchise permit fee rate" means the following:

(1) Until August 1, 2009, eleven dollars and ninety-eight cents;

(2) For the period beginning August 1, 2009, and ending June 30, 2010, fourteen dollars and seventy-five cents;

(3) For fiscal year 2011, thirteen dollars and fifty-five cents;

(4) For fiscal year 2012 and each fiscal year thereafter, the rate used for the immediately preceding fiscal year as adjusted in accordance with the composite inflation factor established in rules adopted under section 5112.39 of the Revised Code.

(B) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code, except that, until August 1, 2009, it does not include any such facility operated by the department of mental retardation and developmental disabilities.

(B)(C) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

Sec. 5112.31. The department of job and family services shall do all of the following:

(A) ~~For~~ Subject to division (B) of this section and for the purposes specified in sections 5112.37 and 5112.371 of the Revised Code, annually assess for each fiscal year each intermediate care facility for the mentally retarded a franchise permit fee equal to ~~eleven dollars and ninety-eight cents~~ the franchise permit fee rate multiplied by the product of the following:

(1) The number of beds certified under Title XIX of the "Social Security Act" on the first day of May of the calendar year in which the assessment is determined pursuant to division (A) of section 5112.33 of the Revised Code;

(2) The following number of days:

(a) For fiscal year 2010, the following:

(i) For the part of fiscal year 2010 during which the franchise permit fee rate is eleven dollars and ninety-eight cents, the number of days during fiscal year 2010 during which the franchise permit fee rate is that amount;

(ii) For the part of fiscal year 2010 during which the franchise permit fee rate is fourteen dollars and seventy-five cents, the number of days during fiscal year 2010 during which the franchise permit fee is that amount;

(iii) For fiscal year 2011 and each fiscal year thereafter, the number of days in the fiscal year beginning on the first day of July of the same calendar year.

~~(B) Beginning July 1, 2009, and the first day of each July thereafter, adjust fees determined under division (A) of this section in accordance with the composite inflation factor established in rules adopted under section 5112.39 of the Revised Code~~ If the total amount of the franchise permit fee assessed under division (A) of this section for a fiscal year exceeds five and one-half per cent of the actual net patient revenue for all intermediate care facilities for the mentally retarded for that fiscal year, do both of the following:

(1) Recalculate the assessments under division (A) of this section using a per bed per day rate equal to five and one-half per cent of actual net patient revenue for all intermediate care facilities for the mentally retarded for that fiscal year;

(2) Refund the difference between the amount of the franchise permit fee assessed for that fiscal year under division (A) of this section and the amount recalculated under division (B)(1) of this section as a credit against the assessments imposed under division (A) of this section for the subsequent fiscal year.

(C) If the United States secretary of health and human services determines that the franchise permit fee established by sections 5112.30 to 5112.39 of the Revised Code would be an impermissible health care-related tax under section 1903(w) of the "Social Security Act," 42 U.S.C.A. 1396b(w), as amended, take all necessary actions to cease implementation of those sections in accordance with rules adopted under section 5112.39 of the Revised Code.

Sec. 5112.37. There is hereby created in the state treasury the home and community-based services for the mentally retarded and developmentally disabled fund. ~~Ninety-four~~ Eighty-four and ~~twenty-eight hundredths~~ two tenths per cent of all installment payments and penalties paid by an intermediate care facility for the mentally retarded under sections 5112.33 and 5112.34 of the Revised Code for state fiscal year 2010 shall be deposited into the fund. Seventy-nine and twelve hundredths per cent of all installment payments and penalties paid by an intermediate care facility for the mentally retarded under sections 5112.33 and 5112.34 of the Revised Code for state fiscal year 2011 and thereafter shall be deposited into the fund. The department of job and family services shall distribute the money in the fund in accordance with rules adopted under section 5112.39 of the Revised Code. The departments of job and family services and mental retardation and developmental disabilities shall use the money for the medicaid program established under Chapter 5111. of the Revised Code and home and community-based services to mentally retarded and

developmentally disabled persons.

Sec. 5112.371. There is hereby created in the state treasury the department of developmental disabilities operating and services fund. Fifteen and eight tenths per cent of all installment payments and penalties paid by an intermediate care facility for the mentally retarded under sections 5112.33 and 5112.34 of the Revised Code for state fiscal year 2010 shall be deposited into the fund. Twenty and eighty-eight hundredths per cent of all installment payments and penalties paid by an intermediate care facility for the mentally retarded under sections 5112.33 and 5112.34 of the Revised Code for state fiscal year 2011 and thereafter shall be deposited into the fund. The money in the fund shall be used for the expenses of the programs that the department of mental retardation and developmental disabilities administers and the department's administrative expenses.

Sec. 5112.39. The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to do all of the following:

(A) Establish a composite inflation factor ~~with which to adjust franchise permit fees under~~ for the purpose of division (A)(4) of section 5112.31 5112.30 of the Revised Code;

(B) Prescribe the actions the department will take to cease implementation of sections 5112.30 to 5112.39 of the Revised Code if the United States secretary of health and human services determines that the franchise permit fee imposed under section 5112.31 of the Revised Code is an impermissible health care-related tax under section 1903(w) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396b(w), as amended;

(C) Establish the method of distributing the money in the home and community-based services for the mentally retarded and developmentally disabled fund created by section 5112.37 of the Revised Code;

(D) Establish any other requirements or procedures the director considers necessary to implement sections 5112.30 to 5112.39 of the Revised Code.

Sec. 5112.40. As used in sections 5112.40 to 5112.48 of the Revised Code:

(A) "Assessment program year" means the twelve-month period beginning the first day of October of a calendar year and ending the last day of September of the following calendar year.

(B) "Cost reporting period" means the period of time used by a hospital in reporting costs for purposes of the medicare program.

(C) "Federal fiscal year" means the twelve-month period beginning the

first day of October of a calendar year and ending the last day of September of the following calendar year.

(D)(1) Except as provided in division (D)(2) of this section, "hospital" means a hospital to which any of the following applies:

(a) The hospital is registered under section 3701.07 of the Revised Code as a general medical and surgical hospital or a pediatric general hospital and provides inpatient hospital services, as defined in 42 C.F.R. 440.10.

(b) The hospital is recognized under the medicare program as a cancer hospital and is exempt from the medicare prospective payment system.

(c) The hospital is a psychiatric hospital licensed under section 5119.20 of the Revised Code.

(2) "Hospital" does not include either of the following:

(a) A federal hospital;

(b) A hospital that does not charge any of its patients for its services.

(E) "Hospital care assurance program" means the program established under sections 5112.01 to 5112.21 of the Revised Code.

(F) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

(G) "Medicare" means the program established under Title XVIII of the Social Security Act.

(H) "State fiscal year" means the twelve-month period beginning the first day of July of a calendar year and ending the last day of June of the following calendar year.

(I)(1) Except as provided in divisions (I)(2) and (3) of this section, "total facility costs" means the total costs to a hospital for all care provided to all patients, including the direct, indirect, and overhead costs to the hospital of all services, supplies, equipment, and capital related to the care of patients, regardless of whether patients are enrolled in a health insuring corporation.

(2) "Total facility costs" excludes all of the following of a hospital's costs as shown on the cost-reporting data used for purposes of determining the hospital's assessment under section 5112.41 of the Revised Code:

(a) Skilled nursing services provided in distinct-part nursing facility units;

(b) Home health services;

(c) Hospice services;

(d) Ambulance services;

(e) Renting durable medical equipment;

(f) Selling durable medical equipment.

(3) "Total facility costs" excludes any costs excluded from a hospital's total facility costs pursuant to rules, if any, adopted under division (B) of

section 5112.46 of the Revised Code.

Sec. 5112.41. (A) For the purposes specified in section 5112.45 of the Revised Code and subject to section 5112.48 of the Revised Code, there is hereby imposed an assessment on all hospitals each assessment program year. The amount of a hospital's assessment for an assessment program year shall equal, except as provided in division (D) of this section, the percentage specified in division (B) of this section of the hospital's total facility costs for the period of time specified in division (C) of this section. The amount of a hospital's total facility costs shall be derived from cost-reporting data for the hospital submitted to the department of job and family services for purposes of the hospital care assurance program. The cost-reporting data used to determine a hospital's assessment is subject to the same type of adjustments made to the data under the hospital care assurance program.

(B) The percentage specified in this division is the following:

(1) For the first assessment program year beginning after the effective date of this section, one and fifty-two hundredths per cent;

(2) Subject to division (D) of this section, for the second assessment program year after the effective date of this section and each successive assessment program year, one and sixty-one hundredths per cent.

(C) The period of time specified in this division is the hospital's cost reporting period that ends in the state fiscal year that ends in the federal fiscal year that precedes the federal fiscal year that precedes the assessment program year for which the assessment is imposed.

(D) The department of job and family services shall apply to the United States secretary of health and human services for a waiver under 42 U.S.C. 1396b(w)(3)(E) to establish, for the second assessment program year after the effective date of this section and each successive assessment program year, a tiered assessment on hospitals' total facility costs instead of applying the percentage specified in division (B)(2) of this section. If the United States secretary denies the waiver, the department shall apply the percentage specified in division (B)(2) of this section for the second assessment program year after the effective date of this section and each successive assessment program year.

(E) The assessment imposed by this section on a hospital is in addition to the assessment imposed by section 5112.06 of the Revised Code.

Sec. 5112.42. (A) Before or during each assessment program year, the department of job and family services shall mail to each hospital by certified mail, return receipt requested, the preliminary determination of the amount that the hospital is assessed under section 5112.41 of the Revised Code for the assessment program year. Except as provided in division (B) of this

section, the preliminary determination becomes the final determination for the assessment program year fifteen days after the preliminary determination is mailed to the hospital.

(B) A hospital may request that the department reconsider the preliminary determination mailed to the hospital under division (A) of this section by submitting to the department a written request for a reconsideration not later than fourteen days after the hospital's preliminary determination is mailed to the hospital. The request must be accompanied by written materials setting forth the basis for the reconsideration. On receipt of the timely request, the department shall reconsider the preliminary determination and may adjust the preliminary determination on the basis of the written materials accompanying the request. The result of the reconsideration is the final determination of the hospital's assessment under section 5112.41 of the Revised Code for the assessment program year.

(C) The department shall mail to each hospital a written notice of the final determination of its assessment for the assessment program year. A hospital may appeal the final determination to the court of common pleas of Franklin county. While a judicial appeal is pending, the hospital shall pay, in accordance with section 5112.43 of the Revised Code, any amount of its assessment that is not in dispute.

Sec. 5112.43. Unless rules adopted under section 5112.46 of the Revised Code establish a different payment schedule, each hospital shall pay the amount it is assessed under section 5112.41 of the Revised Code in accordance with the following payment schedule:

(A) Twenty-eight per cent of a hospital's assessment is due on the last business day of October of each assessment program year.

(B) Thirty-one per cent of a hospital's assessment is due on the last business day of February of each assessment program year.

(C) Forty-one per cent of a hospital's assessment is due on the last business day of May of each assessment program year.

Sec. 5112.44. The department of job and family services may audit a hospital to ensure that the hospital properly pays the amount it is assessed under section 5112.41 of the Revised Code. The department shall take action to recover from a hospital any amount the audit reveals that the hospital should have paid but did not pay.

Sec. 5112.45. There is hereby created in the state treasury the hospital assessment fund. All installment payments made by hospitals under section 5112.43 of the Revised Code and all recoveries the department of job and family services makes under section 5112.44 of the Revised Code shall be deposited into the fund. All investment earnings of the fund shall be credited

to the fund. The department shall use money in the fund to pay for the costs of the medicaid program, including the program's administrative costs.

Sec. 5112.46. (A) The director of job and family services may adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code as necessary to implement sections 5112.40 to 5112.48 of the Revised Code.

(B) The rules adopted under this section may provide that a hospital's total facility costs for the purpose of the assessment under section 5112.41 of the Revised Code exclude any of the following:

(1) A hospital's costs associated with providing care to recipients of any of the following:

(a) The medicaid program;

(b) The medicare program;

(c) The disability financial assistance program established under Chapter 5115. of the Revised Code;

(d) The program for medically handicapped children established under section 3701.023 of the Revised Code;

(e) Services provided under the maternal and child health services block grant established under Title V of the Social Security Act.

(2) Any other category of hospital costs the director deems appropriate under federal law and regulations governing the medicaid program.

Sec. 5112.47. The director of job and family services shall implement the assessment imposed by section 5112.41 of the Revised Code in a manner that does not cause a reduction in federal financial participation for the medicaid program under 42 U.S.C. 1396b(w).

Sec. 5112.48. If the United States secretary of health and human services determines that the assessment imposed by section 5112.41 of the Revised Code is an impermissible health care-related tax under 42 U.S.C. 1396b(w), the director of job and family services shall take all necessary actions to cease implementation of sections 5112.40 to 5112.47 of the Revised Code and shall promptly refund to each hospital the amount of money in the hospital assessment fund at the time the refund is to be made that the hospital paid under section 5112.43 of the Revised Code, plus any corresponding investment earnings on that amount.

Sec. 5115.20. (A) The department of job and family services shall establish a disability advocacy program and each county department of job and family services shall establish a disability advocacy program unit or join with other county departments of job and family services to establish a joint county disability advocacy program unit. Through the program the department and county departments shall cooperate in efforts to assist

applicants for and recipients of assistance under the disability financial assistance program ~~and the disability medical assistance program~~, who might be eligible for supplemental security income benefits under Title XVI of the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C.A. 1383, as amended, in applying for those benefits.

As part of their disability advocacy programs, the state department and county departments may enter into contracts for the services of persons and government entities that in the judgment of the department or county department have demonstrated expertise in representing persons seeking supplemental security income benefits. Each contract shall require the person or entity with which a department contracts to assess each person referred to it by the department to determine whether the person appears to be eligible for supplemental security income benefits, and, if the person appears to be eligible, assist the person in applying and represent the person in any proceeding of the social security administration, including any appeal or reconsideration of a denial of benefits. The department or county department shall provide to the person or entity with which it contracts all records in its possession relevant to the application for supplemental security income benefits. The department shall require a county department with relevant records to submit them to the person or entity.

(B) Each applicant for or recipient of disability financial assistance ~~or disability medical assistance~~ who, in the judgment of the department or a county department might be eligible for supplemental security benefits, shall, as a condition of eligibility for assistance, apply for such benefits if directed to do so by the department or county department.

(C) With regard to applicants for and recipients of disability financial assistance ~~or disability medical assistance~~, each county department of job and family services shall do all of the following:

(1) Identify applicants and recipients who might be eligible for supplemental security income benefits;

(2) Assist applicants and recipients in securing documentation of disabling conditions or refer them for such assistance to a person or government entity with which the department or county department has contracted under division (A) of this section;

(3) Inform applicants and recipients of available sources of representation, which may include a person or government entity with which the department or county department has contracted under division (A) of this section, and of their right to represent themselves in reconsiderations and appeals of social security administration decisions that deny them supplemental security income benefits. The county department may require

the applicants and recipients, as a condition of eligibility for assistance, to pursue reconsiderations and appeals of social security administration decisions that deny them supplemental security income benefits, and shall assist applicants and recipients as necessary to obtain such benefits or refer them to a person or government entity with which the department or county department has contracted under division (A) of this section.

(4) Require applicants and recipients who, in the judgment of the county department, are or may be aged, blind, or disabled, to apply for medical assistance under Chapter 5111. of the Revised Code, make determinations when appropriate as to eligibility for medical assistance, and refer their applications when necessary to the disability determination unit established in accordance with division (F) of this section for expedited review;

(5) Require each applicant and recipient who in the judgment of the department or the county department might be eligible for supplemental security income benefits, as a condition of eligibility for disability financial assistance ~~or disability medical assistance~~, to execute a written authorization for the secretary of health and human services to withhold benefits due that individual and pay to the director of job and family services or the director's designee an amount sufficient to reimburse the state and county shares of interim assistance furnished to the individual. For the purposes of division (C)(5) of this section, "benefits" and "interim assistance" have the meanings given in Title XVI of the "Social Security Act."

(D) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code for the effective administration of the disability advocacy program. The rules shall include all of the following:

(1) Methods to be used in collecting information from and disseminating it to county departments, including the following:

(a) The number of individuals in the county who are disabled recipients of disability financial assistance ~~or disability medical assistance~~;

(b) The final decision made either by the social security administration or by a court for each application or reconsideration in which an individual was assisted pursuant to this section.

(2) The type and process of training to be provided by the department of job and family services to the employees of the county department of job and family services who perform duties under this section;

(3) Requirements for the written authorization required by division (C)(5) of this section.

(E) The department shall provide basic and continuing training to employees of the county department of job and family services who perform

duties under this section. Training shall include but not be limited to all processes necessary to obtain federal disability benefits, and methods of advocacy.

(F) The department shall establish a disability determination unit and develop guidelines for expediting reviews of applications for medical assistance under Chapter 5111. of the Revised Code for persons who have been referred to the unit under division (C)(4) of this section. The department shall make determinations of eligibility for medical assistance for any such person within the time prescribed by federal regulations.

(G) The department may, under rules the director of job and family services adopts in accordance with section 111.15 of the Revised Code, pay a portion of the federal reimbursement described in division (C)(5) of this section to persons or government entities that assist or represent assistance recipients in reconsiderations and appeals of social security administration decisions denying them supplemental security income benefits.

(H) The director shall conduct investigations to determine whether disability advocacy programs are being administered in compliance with the Revised Code and the rules adopted by the director pursuant to this section.

Sec. 5115.22. (A) If a recipient of disability financial assistance ~~or disability medical assistance~~, or an individual whose income and resources are included in determining the recipient's eligibility for the assistance, becomes possessed of resources or income in excess of the amount allowed to retain eligibility, or if other changes occur that affect the recipient's eligibility or need for assistance, the recipient shall notify the state or county department of job and family services within the time limits specified in rules adopted by the director of job and family services in accordance with section 111.15 of the Revised Code. Failure of a recipient to report possession of excess resources or income or a change affecting eligibility or need within those time limits shall be considered prima-facie evidence of intent to defraud under section 5115.23 of the Revised Code.

(B) As a condition of eligibility for disability financial assistance ~~or disability medical assistance~~, and as a means of preventing or reducing the provision of assistance at public expense, each applicant for or recipient of the assistance shall make reasonable efforts to secure support from persons responsible for the applicant's or recipient's support, and from other sources, including any federal program designed to provide assistance to individuals with disabilities. The state or county department of job and family services may provide assistance to the applicant or recipient in securing other forms of financial assistance.

Sec. 5115.23. As used in this section, "erroneous payments" means

disability financial assistance payments ~~or disability medical assistance payments~~ made to persons who are not entitled to receive them, including payments made as a result of misrepresentation or fraud, and payments made due to an error by the recipient or by the county department of job and family services that made the payment.

The department of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code specifying the circumstances under which action is to be taken under this section to recover erroneous payments. The department, or a county department of job and family services at the request of the department, shall take action to recover erroneous payments in the circumstances specified in the rules. The department or county department may institute a civil action to recover erroneous payments.

Whenever disability financial assistance ~~or disability medical assistance~~ has been furnished to a recipient for whose support another person is responsible, the other person shall, in addition to the liability otherwise imposed, as a consequence of failure to support the recipient, be liable for all assistance furnished the recipient. The value of the assistance so furnished may be recovered in a civil action brought by the county department of job and family services.

Each county department of job and family services shall retain fifty per cent of the erroneous payments it recovers under this section. The department of job and family services shall receive the remaining fifty per cent.

Sec. 5119.16. As used in this section, "free clinic" has the same meaning as in section 2305.2341 of the Revised Code.

(A) The department of mental health ~~is hereby designated to~~ may provide certain goods and services for the department of mental health, the department of mental retardation and developmental disabilities, the department of rehabilitation and correction, the department of youth services, and other state, county, or municipal agencies requesting such goods and services when the department of mental health determines that it is in the public interest, and considers it advisable, to provide these goods and services. The department of mental health also may provide goods and services to agencies operated by the United States government and to public or private nonprofit agencies, other than free clinics, that are funded in whole or in part by the state if the public or private nonprofit agencies are designated for participation in this program by the director of mental health for community mental health agencies, the director of mental retardation and developmental disabilities for community mental retardation and

developmental disabilities agencies, the director of rehabilitation and correction for community rehabilitation and correction agencies, or the director of youth services for community youth services agencies.

Designated community agencies shall receive goods and services through the department of mental health only in those cases where the designating state agency certifies that providing such goods and services to the agency will conserve public resources to the benefit of the public and where the provision of such goods and services is considered feasible by the department of mental health.

(B) The department of mental health may permit free clinics to purchase certain goods and services to the extent the purchases fall within the exemption to the Robinson-Patman Act, 15 U.S.C. 13 et seq., applicable to ~~non-profit~~ nonprofit institutions, in 15 U.S.C. 13c, as amended.

(C) The goods and services ~~to that may~~ that may be provided by the department of mental health under divisions (A) and (B) of this section may include:

(1) Procurement, storage, processing, and distribution of food and professional consultation on food operations;

(2) Procurement, storage, and distribution of medical and laboratory supplies, dental supplies, medical records, forms, optical supplies, and sundries, subject to section 5120.135 of the Revised Code;

(3) Procurement, storage, repackaging, distribution, and dispensing of drugs, the provision of professional pharmacy consultation, and drug information services;

(4) Other goods and services ~~as may be agreed to~~.

(D) The department of mental health ~~shall~~ may provide the goods and services designated in division (C) of this section to its institutions and to state-operated community-based mental health services.

(E) After consultation with and advice from the director of mental retardation and developmental disabilities, the director of rehabilitation and correction, and the director of youth services, the department of mental health ~~shall~~ may provide the goods and services designated in division (C) of this section to the department of mental retardation and developmental disabilities, the department of rehabilitation and correction, and the department of youth services.

(F) The cost of administration of this section shall be determined by the department of mental health and paid by the agencies or free clinics receiving the goods and services to the department for deposit in the state treasury to the credit of the mental health fund, which is hereby created. The fund shall be used to pay the cost of administration of this section to the department.

~~(G) If the goods or services designated in division (C) of this section are not provided in a satisfactory manner by the department of mental health to the agencies described in division (A) of this section, the director of mental retardation and developmental disabilities, the director of rehabilitation and correction, the director of youth services, or the managing officer of a department of mental health institution shall attempt to resolve unsatisfactory service with the director of mental health. If, after such attempt, the provision of goods or services continues to be unsatisfactory, the director or officer shall notify the director of mental health. If within thirty days of such notice the department of mental health does not provide the specified goods and services in a satisfactory manner, the director of mental retardation and developmental disabilities, the director of rehabilitation and correction, the director of youth services, or the managing officer of the department of mental health institution shall notify the director of mental health of the director's or managing officer's intent to cease purchasing goods and services from the department. Following a sixty-day cancellation period from the date of such notice, the department of mental retardation, department of rehabilitation and correction, department of youth services, or the department of mental health institution may obtain the goods and services from a source other than the department of mental health, if the department certifies to the department of administrative services that the requirements of this division have been met.~~

~~(H)~~ Whenever a state agency fails to make a payment for goods and services provided under this section within thirty-one days after the date the payment was due, the office of budget and management may transfer moneys from the state agency to the department of mental health. The amount transferred shall not exceed the amount of overdue payments. Prior to making a transfer under this division, the office of budget and management shall apply any credits the state agency has accumulated in payments for goods and services provided under this section.

~~(H)~~ Purchases of goods and services under this section are not subject to section 307.86 of the Revised Code.

Sec. 5119.61. Any provision in this chapter that refers to a board of alcohol, drug addiction, and mental health services also refers to the community mental health board in an alcohol, drug addiction, and mental health service district that has a community mental health board.

The director of mental health with respect to all facilities and programs established and operated under Chapter 340. of the Revised Code for mentally ill and emotionally disturbed persons, shall do all of the following:

(A) Adopt rules pursuant to Chapter 119. of the Revised Code that may

be necessary to carry out the purposes of Chapter 340. and sections 5119.61 to 5119.63 of the Revised Code.

(1) The rules shall include all of the following:

(a) Rules governing a community mental health agency's services under section 340.091 of the Revised Code to an individual referred to the agency under division (C)(2) of section 173.35 of the Revised Code;

(b) For the purpose of division (A)(16) of section 340.03 of the Revised Code, rules governing the duties of mental health agencies and boards of alcohol, drug addiction, and mental health services under section 3722.18 of the Revised Code regarding referrals of individuals with mental illness or severe mental disability to adult care facilities and effective arrangements for ongoing mental health services for the individuals. The rules shall do at least the following:

(i) Provide for agencies and boards to participate fully in the procedures owners and managers of adult care facilities must follow under division (A)~~(2)~~ of section 3722.18 of the Revised Code;

(ii) Specify the manner in which boards are accountable for ensuring that ongoing mental health services are effectively arranged for individuals with mental illness or severe mental disability who are referred by the board or mental health agency under contract with the board to an adult care facility.

(c) Rules governing a board of alcohol, drug addiction, and mental health services when making a report to the director of health under section 3722.17 of the Revised Code regarding the quality of care and services provided by an adult care facility to a person with mental illness or a severe mental disability.

(2) Rules may be adopted to govern the method of paying a community mental health facility, as defined in section 5111.023 of the Revised Code, for providing services listed in division (B) of that section. Such rules must be consistent with the contract entered into between the departments of job and family services and mental health under section 5111.91 of the Revised Code and include requirements ensuring appropriate service utilization.

(B) Review and evaluate, and, taking into account the findings and recommendations of the board of alcohol, drug addiction, and mental health services of the district served by the program and the requirements and priorities of the state mental health plan, including the needs of residents of the district now residing in state mental institutions, approve and allocate funds to support community programs, and make recommendations for needed improvements to boards of alcohol, drug addiction, and mental health services;

(C) Withhold state and federal funds for any program, in whole or in part, from a board of alcohol, drug addiction, and mental health services in the event of failure of that program to comply with Chapter 340. or section 5119.61, 5119.611, 5119.612, or 5119.62 of the Revised Code or rules of the department of mental health. The director shall identify the areas of noncompliance and the action necessary to achieve compliance. The director shall offer technical assistance to the board to achieve compliance. The director shall give the board a reasonable time within which to comply or to present its position that it is in compliance. Before withholding funds, a hearing shall be conducted to determine if there are continuing violations and that either assistance is rejected or the board is unable to achieve compliance. Subsequent to the hearing process, if it is determined that compliance has not been achieved, the director may allocate all or part of the withheld funds to a public or private agency to provide the services not in compliance until the time that there is compliance. The director shall establish rules pursuant to Chapter 119. of the Revised Code to implement this division.

(D) Withhold state or federal funds from a board of alcohol, drug addiction, and mental health services that denies available service on the basis of religion, race, color, creed, sex, national origin, age, disability as defined in section 4112.01 of the Revised Code, developmental disability, or the inability to pay;

(E) Provide consultative services to community mental health agencies with the knowledge and cooperation of the board of alcohol, drug addiction, and mental health services;

(F) Provide to boards of alcohol, drug addiction, and mental health services state or federal funds, in addition to those allocated under section 5119.62 of the Revised Code, for special programs or projects the director considers necessary but for which local funds are not available;

(G) Establish criteria by which a board of alcohol, drug addiction, and mental health services reviews and evaluates the quality, effectiveness, and efficiency of services provided through its community mental health plan. The criteria shall include requirements ensuring appropriate service utilization. The department shall assess a board's evaluation of services and the compliance of each board with this section, Chapter 340. or section 5119.62 of the Revised Code, and other state or federal law and regulations. The department, in cooperation with the board, periodically shall review and evaluate the quality, effectiveness, and efficiency of services provided through each board. The department shall collect information that is necessary to perform these functions.

(H) Develop and operate a community mental health information system or systems.

Boards of alcohol, drug abuse, and mental health services shall submit information requested by the department in the form and manner prescribed by the department. Information collected by the department shall include, but not be limited to, all of the following:

(1) Information regarding units of services provided in whole or in part under contract with a board, including diagnosis and special needs, demographic information, the number of units of service provided, past treatment, financial status, and service dates in accordance with rules adopted by the department in accordance with Chapter 119. of the Revised Code;

(2) Financial information other than price or price-related data regarding expenditures of boards and community mental health agencies, including units of service provided, budgeted and actual expenses by type, and sources of funds.

Boards shall submit the information specified in division (H)(1) of this section no less frequently than annually for each client, and each time the client's case is opened or closed. The department shall not collect any personal information ~~for the purpose of identifying by name any person who receives a service through a board of alcohol, drug addiction, and mental health services;~~ from the boards except as required or permitted by state or federal law ~~to validate appropriate reimbursement.~~ For the purposes of division (H)(1) of this section, the department shall use an identification system that is consistent with applicable nationally recognized standards for purposes related to payment, health care operations, program and service evaluation, reporting activities, research, system administration, and oversight.

(I) Review each board's community mental health plan submitted pursuant to section 340.03 of the Revised Code and approve or disapprove it in whole or in part. Periodically, in consultation with representatives of boards and after considering the recommendations of the medical director, the director shall issue criteria for determining when a plan is complete, criteria for plan approval or disapproval, and provisions for conditional approval. The factors that the director considers may include, but are not limited to, the following:

(1) The mental health needs of all persons residing within the board's service district, especially severely mentally disabled children, adolescents, and adults;

(2) The demonstrated quality, effectiveness, efficiency, and cultural

relevance of the services provided in each service district, the extent to which any services are duplicative of other available services, and whether the services meet the needs identified above;

(3) The adequacy of the board's accounting for the expenditure of funds.

If the director disapproves all or part of any plan, the director shall provide the board an opportunity to present its position. The director shall inform the board of the reasons for the disapproval and of the criteria that must be met before the plan may be approved. The director shall give the board a reasonable time within which to meet the criteria, and shall offer technical assistance to the board to help it meet the criteria.

If the approval of a plan remains in dispute thirty days prior to the conclusion of the fiscal year in which the board's current plan is scheduled to expire, the board or the director may request that the dispute be submitted to a mutually agreed upon third-party mediator with the cost to be shared by the board and the department. The mediator shall issue to the board and the department recommendations for resolution of the dispute. Prior to the conclusion of the fiscal year in which the current plan is scheduled to expire, the director, taking into consideration the recommendations of the mediator, shall make a final determination and approve or disapprove the plan, in whole or in part.

Sec. 5119.613. For purposes of Chapter 3722. of the Revised Code, the director of mental health shall approve a standardized form to be used in all areas of this state by adult care facilities and boards of alcohol, drug addiction, and mental health services when entering into mental health resident program participation agreements. As part of approving the form, the director shall specify the requirements that adult care facilities must meet in order to be authorized to admit residents who are receiving or are eligible for publicly funded mental health services.

Sec. 5119.621. (A) As used in this section, "administrative function" means a function related to one or more of the following:

(1) Continuous quality improvement;

(2) Utilization review;

(3) Resource development;

(4) Fiscal administration;

(5) General administration;

(6) Any other function related to administration that is required by Chapter 340. of the Revised Code.

(B) Each board of alcohol, drug addiction, and mental health services shall submit an annual report to the department of mental health specifying how the board used state and federal funds allocated to the board, according

to the formula the director of mental health establishes under section 5119.62 of the Revised Code, for administrative functions in the year preceding the report's submission. The director of mental health shall establish the date by which the report must be submitted each year.

Sec. 5120.032. (A) No later than January 1, 1998, the department of rehabilitation and correction ~~shall~~ may develop and implement intensive program prisons for male and female prisoners other than prisoners described in division (B)(2) of this section. The intensive program prisons, if developed and implemented, shall include institutions at which imprisonment of the type described in division (B)(2)(a) of section 5120.031 of the Revised Code is provided and prisons that focus on educational achievement, vocational training, alcohol and other drug abuse treatment, community service and conservation work, and other intensive regimens or combinations of intensive regimens.

(B)(1)(a) Except as provided in division (B)(2) of this section, if one or more intensive program prisons are established under this section, if an offender is sentenced to a term of imprisonment under the custody of the department, if the sentencing court either recommends the prisoner for placement in ~~the~~ an intensive program prison under this section or makes no recommendation on placement of the prisoner, and if the department determines that the prisoner is eligible for placement in an intensive program prison under this section, the department may place the prisoner in an intensive program prison established pursuant to division (A) of this section. If the sentencing court disapproves placement of the prisoner in an intensive program prison, the department shall not place the prisoner in any intensive program prison.

If the sentencing court recommends a prisoner for placement in an intensive program prison and if the department subsequently places the prisoner in the recommended prison, the department shall notify the court of the prisoner's placement in the recommended intensive program prison and shall include with the notice a brief description of the placement.

If the sentencing court recommends placement of a prisoner in an intensive program prison and the department for any reason does not subsequently place the prisoner in the recommended prison, the department shall send a notice to the court indicating why the prisoner was not placed in the recommended prison.

If the sentencing court does not make a recommendation on the placement of a prisoner in an intensive program prison and if the department determines that the prisoner is eligible for placement in a prison of that nature, the department shall screen the prisoner and determine if the prisoner

is suited for the prison. If the prisoner is suited for ~~the~~ an intensive program prison, at least three weeks prior to placing the prisoner in the prison, the department shall notify the sentencing court of the proposed placement of the prisoner in the intensive program prison and shall include with the notice a brief description of the placement. The court shall have ten days from receipt of the notice to disapprove the placement. If the sentencing court disapproves the placement, the department shall not proceed with it. If the sentencing court does not timely disapprove of the placement, the department may proceed with plans for it.

If the department determines that a prisoner is not eligible for placement in an intensive program prison, the department shall not place the prisoner in any intensive program prison.

(b) The department may reduce the stated prison term of a prisoner upon the prisoner's successful completion of a ninety-day period in an intensive program prison. A prisoner whose term has been so reduced shall be required to serve an intermediate, transitional type of detention followed by a release under post-release control sanctions or, in the alternative, shall be placed under post-release control sanctions, as described in division (B)(2)(b)(ii) of section 5120.031 of the Revised Code. In either case, the placement under post-release control sanctions shall be under terms set by the parole board in accordance with section 2967.28 of the Revised Code and shall be subject to the provisions of that section and section 2929.141 of the Revised Code with respect to a violation of any post-release control sanction.

(2) A prisoner who is in any of the following categories is not eligible to participate in an intensive program prison established pursuant to division (A) of this section:

(a) The prisoner is serving a prison term for aggravated murder, murder, or a felony of the first or second degree or a comparable offense under the law in effect prior to July 1, 1996, or the prisoner previously has been imprisoned for aggravated murder, murder, or a felony of the first or second degree or a comparable offense under the law in effect prior to July 1, 1996.

(b) The prisoner is serving a mandatory prison term, as defined in section 2929.01 of the Revised Code.

(c) The prisoner is serving a prison term for a felony of the third, fourth, or fifth degree that either is a sex offense, an offense betraying public trust, or an offense in which the prisoner caused or attempted to cause actual physical harm to a person, the prisoner is serving a prison term for a comparable offense under the law in effect prior to July 1, 1996, or the prisoner previously has been imprisoned for an offense of that type or a

comparable offense under the law in effect prior to July 1, 1996.

(d) The prisoner is serving a mandatory prison term in prison for a third or fourth degree felony OVI offense, as defined in section 2929.01 of the Revised Code, that was imposed pursuant to division (G)(2) of section 2929.13 of the Revised Code.

(C) Upon the implementation of intensive program prisons pursuant to division (A) of this section, the department at all times shall maintain intensive program prisons sufficient in number to reduce the prison terms of at least three hundred fifty prisoners who are eligible for reduction of their stated prison terms as a result of their completion of a regimen in an intensive program prison under this section.

Sec. 5120.033. (A) As used in this section, "third degree felony OVI offense" and "fourth degree felony OVI offense" have the same meanings as in section 2929.01 of the Revised Code.

(B) Within eighteen months after October 17, 1996, the department of rehabilitation and correction ~~shall~~ may develop and implement intensive program prisons for male and female prisoners who are sentenced pursuant to division (G)(2) of section 2929.13 of the Revised Code to a mandatory prison term for a third or fourth degree felony OVI offense. ~~The~~ If one or more intensive program prisons are established under this section, the department ~~shall~~ may contract pursuant to section 9.06 of the Revised Code for the private operation and management of the initial intensive program prison established under this section and may contract pursuant to that section for the private operation and management of any other intensive program prison established under this section. The intensive program prisons, if established under this section, shall include prisons that focus on educational achievement, vocational training, alcohol and other drug abuse treatment, community service and conservation work, and other intensive regimens or combinations of intensive regimens.

(C) Except as provided in division (D) of this section, the department may place a prisoner who is sentenced to a mandatory prison term for a third or fourth degree felony OVI offense in an intensive program prison established pursuant to division (B) of this section if the sentencing judge, upon notification by the department of its intent to place the prisoner in an intensive program prison, does not notify the department that the judge disapproves the placement. If the stated prison term imposed on a prisoner who is so placed is longer than the mandatory prison term that is required to be imposed on the prisoner, the department may reduce the stated prison term upon the prisoner's successful completion of the prisoner's mandatory prison term in an intensive program prison. A prisoner whose term has been

so reduced shall be required to serve an intermediate, transitional type of detention followed by a release under post-release control sanctions or, in the alternative, shall be placed under post-release control sanctions, as described in division (B)(2)(b)(ii) of section 5120.031 of the Revised Code. In either case, the placement under post-release control sanctions shall be under terms set by the parole board in accordance with section 2967.28 of the Revised Code and shall be subject to the provisions of that section and section 2929.141 of the Revised Code with respect to a violation of any post-release control sanction. ~~Upon the establishment of the initial~~ If one or more intensive program prison prisons are established pursuant to division (B) of this section that is and if as described in that division the initial intensive program prison is to be privately operated and managed by a contractor pursuant to a contract ~~the department~~ entered into under section 9.06 of the Revised Code, upon the establishment of that initial intensive program prison the department shall comply with divisions (G)(2)(a) and (b) of section 2929.13 of the Revised Code in placing prisoners in intensive program prisons under this section.

(D) A prisoner who is sentenced to a mandatory prison term for a third or fourth degree felony OVI offense is not eligible to participate in an intensive program prison established under division (B) of this section if any of the following applies regarding the prisoner:

(1) In addition to the mandatory prison term for the third or fourth degree felony OVI offense, the prisoner also is serving a prison term of a type described in division (B)(2)(a), (b), or (c) of section 5120.032 of the Revised Code.

(2) The prisoner previously has been imprisoned for an offense of a type described in division (B)(2)(a) or (c) of section 5120.032 of the Revised Code or a comparable offense under the law in effect prior to July 1, 1996.

(E) Intensive program prisons established under division (B) of this section are not subject to section 5120.032 of the Revised Code.

Sec. 5120.09. Under the supervision and control of the director of rehabilitation and correction, the division of business administration shall do all of the following:

(A) Submit the budgets for the several divisions of the department of rehabilitation and correction, as prepared by the respective chiefs of those divisions, to the director. The director, with the assistance of the chief of the division of business administration, shall compile a departmental budget that contains all proposals submitted by the chiefs of the divisions and shall forward the departmental budget to the governor with comments and recommendations that the director considers necessary.

(B) Maintain accounts and records and compile statistics that the director prescribes;

(C) Under the control of the director, coordinate and make the necessary purchases and requisitions for the department and its divisions, except ~~as provided under~~ when goods and services are provided to the department as described in section 5119.16 of the Revised Code;

(D) Administer within this state federal criminal justice acts that the governor requires the department to administer. In order to improve the criminal justice system of this state, the division of business administration shall apply for, allocate, disburse, and account for grants that are made available pursuant to those federal criminal justice acts and grants that are made available from other federal government sources, state government sources, or private sources. As used in this division, "criminal justice system" and "federal criminal justice acts" have the same meanings as in section 5502.61 of the Revised Code.

(E) Audit the activities of governmental entities, persons as defined in section 1.59 of the Revised Code, and other types of nongovernmental entities that are financed in whole or in part by funds that the department allocates or disburses and that are derived from grants described in division (D) of this section;

(F) Enter into contracts, including contracts with federal, state, or local governmental entities, persons as defined in section 1.59 of the Revised Code, foundations, and other types of nongovernmental entities, that are necessary for the department to carry out its duties and that neither the director nor another section of the Revised Code authorizes another division of the department to enter;

(G) Exercise other powers and perform other duties that the director may assign to the division of business administration.

Sec. 5122.31. (A) All certificates, applications, records, and reports made for the purpose of this chapter and sections 2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised Code, other than court journal entries or court docket entries, and directly or indirectly identifying a patient or former patient or person whose hospitalization has been sought under this chapter, shall be kept confidential and shall not be disclosed by any person except:

(1) If the person identified, or the person's legal guardian, if any, or if the person is a minor, the person's parent or legal guardian, consents, and if the disclosure is in the best interests of the person, as may be determined by the court for judicial records and by the chief clinical officer for medical records;

(2) When disclosure is provided for in this chapter or section 5123.60 of the Revised Code;

(3) That hospitals, boards of alcohol, drug addiction, and mental health services, and community mental health agencies may release necessary medical information to insurers and other third-party payers, including government entities responsible for processing and authorizing payment, to obtain payment for goods and services furnished to the patient;

(4) Pursuant to a court order signed by a judge;

(5) That a patient shall be granted access to the patient's own psychiatric and medical records, unless access specifically is restricted in a patient's treatment plan for clear treatment reasons;

(6) That hospitals and other institutions and facilities within the department of mental health may exchange psychiatric records and other pertinent information with other hospitals, institutions, and facilities of the department, and with community mental health agencies and boards of alcohol, drug addiction, and mental health services with which the department has a current agreement for patient care or services. Records and information that may be released pursuant to this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment in the hospital, summary of treatment needs, and a discharge summary, if any.

(7) That hospitals within the department, other institutions and facilities within the department, and community mental health agencies may exchange psychiatric records and other pertinent information with other providers of treatment and health services if the purpose of the exchange is to facilitate continuity of care for a patient;

(8) That a patient's family member who is involved in the provision, planning, and monitoring of services to the patient may receive medication information, a summary of the patient's diagnosis and prognosis, and a list of the services and personnel available to assist the patient and the patient's family, if the patient's treating physician determines that the disclosure would be in the best interests of the patient. No such disclosure shall be made unless the patient is notified first and receives the information and does not object to the disclosure.

~~(8)~~(9) That community mental health agencies may exchange psychiatric records and certain other information with the board of alcohol, drug addiction, and mental health services and other agencies in order to provide services to a person involuntarily committed to a board. Release of records under this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment,

summary of treatment needs, and discharge summary, if any.

~~(9)~~ (10) That information may be disclosed to the executor or the administrator of an estate of a deceased patient when the information is necessary to administer the estate;

~~(10)~~ (11) That records in the possession of the Ohio historical society may be released to the closest living relative of a deceased patient upon request of that relative;

~~(11)~~ (12) That information may be disclosed to staff members of the appropriate board or to staff members designated by the director of mental health for the purpose of evaluating the quality, effectiveness, and efficiency of services and determining if the services meet minimum standards. Information obtained during such evaluations shall not be retained with the name of any patient.

~~(12)~~ (13) That records pertaining to the patient's diagnosis, course of treatment, treatment needs, and prognosis shall be disclosed and released to the appropriate prosecuting attorney if the patient was committed pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, or to the attorney designated by the board for proceedings pursuant to involuntary commitment under this chapter.

~~(13)~~ (14) That the department of mental health may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with the department of rehabilitation and correction to ensure continuity of care for inmates who are receiving mental health services in an institution of the department of rehabilitation and correction. The department shall not disclose those records unless the inmate is notified, receives the information, and does not object to the disclosure. The release of records under this division is limited to records regarding an inmate's medication history, physical health status and history, summary of course of treatment, summary of treatment needs, and a discharge summary, if any.

~~(14)~~ (15) That a community mental health agency that ceases to operate may transfer to either a community mental health agency that assumes its caseload or to the board of alcohol, drug addiction, and mental health services of the service district in which the patient resided at the time services were most recently provided any treatment records that have not been transferred elsewhere at the patient's request.

(B) Before records are disclosed pursuant to divisions (A)(3), (6), (7), and ~~(8)~~ (9) of this section, the custodian of the records shall attempt to obtain the patient's consent for the disclosure. No person shall reveal the contents of a medical record of a patient except as authorized by law.

(C) The managing officer of a hospital who releases necessary medical

information under division (A)(3) of this section to allow an insurance carrier or other third party payor to comply with section 5121.43 of the Revised Code shall neither be subject to criminal nor civil liability.

Sec. 5123.049. The director of mental retardation and developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code governing the authorization and payment of home and community-based services and medicaid case management services. The rules shall provide for private providers of the services to receive one hundred per cent of the medicaid allowable payment amount and for government providers of the services to receive the federal share of the medicaid allowable payment, less the amount withheld as a fee under section 5123.0412 of the Revised Code ~~and any amount that may be required by rules adopted under section 5123.0413 of the Revised Code to be deposited into the state MR/DD risk fund.~~ The rules shall establish the process by which county boards of mental retardation and developmental disabilities shall certify and provide the nonfederal share of medicaid expenditures that the county board is required by sections 5126.059 and 5126.0510 of the Revised Code to pay. The process shall require a county board to certify that the county board has funding available at one time for two months costs for those expenditures. The process may permit a county board to certify that the county board has funding available at one time for more than two months costs for those expenditures.

Sec. 5123.0412. (A) The department of mental retardation and developmental disabilities shall charge each county board of mental retardation and developmental disabilities an annual fee equal to one and one-half per cent of the total value of all medicaid paid claims for home and community-based services provided during the year to an individual eligible for services from the county board. No county board shall pass the cost of a fee charged to the county board under this section on to another provider of these services.

(B) The fees collected under this section shall be deposited into the ODMR/DD administration and oversight fund and the ODJFS administration and oversight fund, both of which are hereby created in the state treasury. The portion of the fees to be deposited into the ODMR/DD administration and oversight fund and the portion of the fees to be deposited into the ODJFS administration and oversight fund shall be the portion specified in an interagency agreement entered into under division (C) of this section. The department of mental retardation and developmental disabilities shall use the money in the ODMR/DD administration and oversight fund and the department of job and family services shall use the money in the

ODJFS administration and oversight fund for both of the following purposes:

(1) ~~The Medicaid administrative costs, including~~ administrative and oversight costs of medicaid case management services and home and community-based services. The administrative and oversight costs of medicaid case management services and home and community-based services shall include costs for staff, systems, and other resources the departments need and dedicate solely to the following duties associated with the services:

- (a) Eligibility determinations;
- (b) Training;
- (c) Fiscal management;
- (d) Claims processing;
- (e) Quality assurance oversight;
- (f) Other duties the departments identify.

(2) Providing technical support to county boards' local administrative authority under section 5126.055 of the Revised Code for the services.

(C) The departments of mental retardation and developmental disabilities and job and family services shall enter into an interagency agreement to do both of the following:

(1) Specify which portion of the fees collected under this section is to be deposited into the ODMR/DD administration and oversight fund and which portion is to be deposited into the ODJFS administration and oversight fund;

(2) Provide for the departments to coordinate the staff whose costs are paid for with money in the ODMR/DD administration and oversight fund and the ODJFS administration and oversight fund.

(D) The departments shall submit an annual report to the director of budget and management certifying how the departments spent the money in the ODMR/DD administration and oversight fund and the ODJFS administration and oversight fund for the purposes specified in division (B) of this section.

Sec. 5123.0413. ~~(A)~~ The department of mental retardation and developmental disabilities, in consultation with the department of job and family services, office of budget and management, and county boards of mental retardation and developmental disabilities, shall adopt rules in accordance with Chapter 119. of the Revised Code ~~no later than January 1, 2002, establishing a method of paying for extraordinary costs, including extraordinary costs for services to individuals with mental retardation or other developmental disability, and ensure the availability of adequate funds to establish both of the following~~ in the event a county property tax levy for

services for individuals with mental retardation or other developmental disability fails. ~~The rules may provide for using and managing either or both of the following:~~

~~(1) A state MR/DD risk fund, which is hereby created in the state treasury;~~

~~(2) A state insurance against MR/DD risk fund, which is hereby created in the state treasury.~~

~~(B) Beginning January 1, 2002, the department of job and family services may not request approval from the United States secretary of health and human services to increase the number of slots for home and community-based services until the rules required by division (A) of this section are in effect.~~

~~(A) A method of paying for home and community-based services;~~

~~(B) A method of reducing the number of individuals a county board would otherwise be required by section 5126.0512 of the Revised Code to ensure are enrolled in a medicaid waiver component under which home and community-based services are provided.~~

Sec. 5123.0417. (A) ~~Using funds available under section 5112.371 of the Revised Code, the~~ The director of mental retardation and developmental disabilities shall establish one or more programs for individuals under twenty-one years of age who have intensive behavioral needs, including such individuals with a primary diagnosis of autism spectrum disorder. The programs may include one or more medicaid waiver components that the director administers pursuant to section 5111.871 of the Revised Code. The programs may do one or more of the following:

(1) Establish models that incorporate elements common to effective intervention programs and evidence-based practices in services for children with intensive behavioral needs;

(2) Design a template for individualized education plans and individual service plans that provide consistent intervention programs and evidence-based practices for the care and treatment of children with intensive behavioral needs;

(3) Disseminate best practice guidelines for use by families of children with intensive behavioral needs and professionals working with such families;

(4) Develop a transition planning model for effectively mainstreaming school-age children with intensive behavioral needs to their public school district;

(5) Contribute to the field of early and effective identification and intervention programs for children with intensive behavioral needs by

providing financial support for scholarly research and publication of clinical findings.

(B) The director of mental retardation and developmental disabilities shall collaborate with the director of job and family services and consult with the executive director of the Ohio center for autism and low incidence and university-based programs that specialize in services for individuals with developmental disabilities when establishing programs under this section.

Sec. 5123.19. (A) As used in this section and in sections 5123.191, 5123.193, 5123.194, 5123.196, 5123.197, 5123.198, and 5123.20 of the Revised Code:

(1)(a) "Residential facility" means a home or facility in which a mentally retarded or developmentally disabled person resides, except the home of a relative or legal guardian in which a mentally retarded or developmentally disabled person resides, a respite care home certified under section 5126.05 of the Revised Code, a county home or district home operated pursuant to Chapter 5155. of the Revised Code, or a dwelling in which the only mentally retarded or developmentally disabled residents are in an independent living arrangement or are being provided supported living.

(b) "Intermediate care facility for the mentally retarded" means a residential facility that is considered an intermediate care facility for the mentally retarded for the purposes of Chapter 5111. of the Revised Code.

(2) "Political subdivision" means a municipal corporation, county, or township.

(3) "Independent living arrangement" means an arrangement in which a mentally retarded or developmentally disabled person resides in an individualized setting chosen by the person or the person's guardian, which is not dedicated principally to the provision of residential services for mentally retarded or developmentally disabled persons, and for which no financial support is received for rendering such service from any governmental agency by a provider of residential services.

(4) "Licensee" means the person or government agency that has applied for a license to operate a residential facility and to which the license was issued under this section.

(5) "Related party" has the same meaning as in section 5123.16 of the Revised Code except that "provider" as used in the definition of "related party" means a person or government entity that held or applied for a license to operate a residential facility, rather than a person or government entity certified to provide supported living.

(B) Every person or government agency desiring to operate a residential facility shall apply for licensure of the facility to the director of mental retardation and developmental disabilities unless the residential facility is subject to section 3721.02, 3722.04, 5103.03, or 5119.20 of the Revised Code. Notwithstanding Chapter 3721. of the Revised Code, a nursing home that is certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as amended, shall apply for licensure of the portion of the home that is certified as an intermediate care facility for the mentally retarded.

(C) Subject to section 5123.196 of the Revised Code, the director of mental retardation and developmental disabilities shall license the operation of residential facilities. An initial license shall be issued for a period that does not exceed one year, unless the director denies the license under division (D) of this section. A license shall be renewed for a period that does not exceed three years, unless the director refuses to renew the license under division (D) of this section. The director, when issuing or renewing a license, shall specify the period for which the license is being issued or renewed. A license remains valid for the length of the licensing period specified by the director, unless the license is terminated, revoked, or voluntarily surrendered.

(D) If it is determined that an applicant or licensee is not in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, the director may deny issuance of a license, refuse to renew a license, terminate a license, revoke a license, issue an order for the suspension of admissions to a facility, issue an order for the placement of a monitor at a facility, issue an order for the immediate removal of residents, or take any other action the director considers necessary consistent with the director's authority under this chapter regarding residential facilities. In the director's selection and administration of the sanction to be imposed, all of the following apply:

(1) The director may deny, refuse to renew, or revoke a license, if the director determines that the applicant or licensee has demonstrated a pattern of serious noncompliance or that a violation creates a substantial risk to the health and safety of residents of a residential facility.

(2) The director may terminate a license if more than twelve consecutive months have elapsed since the residential facility was last occupied by a resident or a notice required by division (K) of this section is not given.

(3) The director may issue an order for the suspension of admissions to a facility for any violation that may result in sanctions under division (D)(1)

of this section and for any other violation specified in rules adopted under division (H)(2) of this section. If the suspension of admissions is imposed for a violation that may result in sanctions under division (D)(1) of this section, the director may impose the suspension before providing an opportunity for an adjudication under Chapter 119. of the Revised Code. The director shall lift an order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(4) The director may order the placement of a monitor at a residential facility for any violation specified in rules adopted under division (H)(2) of this section. The director shall lift the order when the director determines that the violation that formed the basis for the order has been corrected.

(5) If the director determines that two or more residential facilities owned or operated by the same person or government entity are not being operated in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, and the director's findings are based on the same or a substantially similar action, practice, circumstance, or incident that creates a substantial risk to the health and safety of the residents, the director shall conduct a survey as soon as practicable at each residential facility owned or operated by that person or government entity. The director may take any action authorized by this section with respect to any facility found to be operating in violation of a provision of this chapter that applies to residential facilities or the rules adopted under such a provision.

(6) When the director initiates license revocation proceedings, no opportunity for submitting a plan of correction shall be given. The director shall notify the licensee by letter of the initiation of the proceedings. The letter shall list the deficiencies of the residential facility and inform the licensee that no plan of correction will be accepted. The director shall also send a copy of the letter to the county board of mental retardation and developmental disabilities. The county board shall send a copy of the letter to each of the following:

- (a) Each resident who receives services from the licensee;
- (b) The guardian of each resident who receives services from the licensee if the resident has a guardian;
- (c) The parent or guardian of each resident who receives services from the licensee if the resident is a minor.

(7) Pursuant to rules which shall be adopted in accordance with Chapter 119. of the Revised Code, the director may order the immediate removal of residents from a residential facility whenever conditions at the facility

present an immediate danger of physical or psychological harm to the residents.

(8) In determining whether a residential facility is being operated in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, or whether conditions at a residential facility present an immediate danger of physical or psychological harm to the residents, the director may rely on information obtained by a county board of mental retardation and developmental disabilities or other governmental agencies.

(9) In proceedings initiated to deny, refuse to renew, or revoke licenses, the director may deny, refuse to renew, or revoke a license regardless of whether some or all of the deficiencies that prompted the proceedings have been corrected at the time of the hearing.

(E) The director shall establish a program under which public notification may be made when the director has initiated license revocation proceedings or has issued an order for the suspension of admissions, placement of a monitor, or removal of residents. The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this division. The rules shall establish the procedures by which the public notification will be made and specify the circumstances for which the notification must be made. The rules shall require that public notification be made if the director has taken action against the facility in the eighteen-month period immediately preceding the director's latest action against the facility and the latest action is being taken for the same or a substantially similar violation of a provision of this chapter that applies to residential facilities or the rules adopted under such a provision. The rules shall specify a method for removing or amending the public notification if the director's action is found to have been unjustified or the violation at the residential facility has been corrected.

(F)(1) Except as provided in division (F)(2) of this section, appeals from proceedings initiated to impose a sanction under division (D) of this section shall be conducted in accordance with Chapter 119. of the Revised Code.

(2) Appeals from proceedings initiated to order the suspension of admissions to a facility shall be conducted in accordance with Chapter 119. of the Revised Code, unless the order was issued before providing an opportunity for an adjudication, in which case all of the following apply:

(a) The licensee may request a hearing not later than ten days after receiving the notice specified in section 119.07 of the Revised Code.

(b) If a timely request for a hearing that includes the licensee's current address is made, the hearing shall commence not later than thirty days after

the department receives the request.

(c) After commencing, the hearing shall continue uninterrupted, except for Saturdays, Sundays, and legal holidays, unless other interruptions are agreed to by the licensee and the director.

(d) If the hearing is conducted by a hearing examiner, the hearing examiner shall file a report and recommendations not later than ten days after the last of the following:

(i) The close of the hearing;

(ii) If a transcript of the proceedings is ordered, the hearing examiner receives the transcript;

(iii) If post-hearing briefs are timely filed, the hearing examiner receives the briefs.

(e) A copy of the written report and recommendation of the hearing examiner shall be sent, by certified mail, to the licensee and the licensee's attorney, if applicable, not later than five days after the report is filed.

(f) Not later than five days after the hearing examiner files the report and recommendations, the licensee may file objections to the report and recommendations.

(g) Not later than fifteen days after the hearing examiner files the report and recommendations, the director shall issue an order approving, modifying, or disapproving the report and recommendations.

(h) Notwithstanding the pendency of the hearing, the director shall lift the order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(G) Neither a person or government agency whose application for a license to operate a residential facility is denied nor a related party of the person or government agency may apply for a license to operate a residential facility before the date that is one year after the date of the denial. Neither a licensee whose residential facility license is revoked nor a related party of the licensee may apply for a residential facility license before the date that is five years after the date of the revocation.

(H) In accordance with Chapter 119. of the Revised Code, the director shall adopt and may amend and rescind rules for licensing and regulating the operation of residential facilities, including intermediate care facilities for the mentally retarded. The rules for intermediate care facilities for the mentally retarded may differ from those for other residential facilities. The rules shall establish and specify the following:

(1) Procedures and criteria for issuing and renewing licenses, including procedures and criteria for determining the length of the licensing period that the director must specify for each license when it is issued or renewed;

(2) Procedures and criteria for denying, refusing to renew, terminating, and revoking licenses and for ordering the suspension of admissions to a facility, placement of a monitor at a facility, and the immediate removal of residents from a facility;

(3) Fees for issuing and renewing licenses, which shall be deposited into the program fee fund created under section 5123.033 of the Revised Code;

(4) Procedures for surveying residential facilities;

(5) Requirements for the training of residential facility personnel;

(6) Classifications for the various types of residential facilities;

(7) Certification procedures for licensees and management contractors that the director determines are necessary to ensure that they have the skills and qualifications to properly operate or manage residential facilities;

(8) The maximum number of persons who may be served in a particular type of residential facility;

(9) Uniform procedures for admission of persons to and transfers and discharges of persons from residential facilities;

(10) Other standards for the operation of residential facilities and the services provided at residential facilities;

(11) Procedures for waiving any provision of any rule adopted under this section.

(I) Before issuing a license, the director of the department or the director's designee shall conduct a survey of the residential facility for which application is made. The director or the director's designee shall conduct a survey of each licensed residential facility at least once during the period the license is valid and may conduct additional inspections as needed. A survey includes but is not limited to an on-site examination and evaluation of the residential facility, its personnel, and the services provided there.

In conducting surveys, the director or the director's designee shall be given access to the residential facility; all records, accounts, and any other documents related to the operation of the facility; the licensee; the residents of the facility; and all persons acting on behalf of, under the control of, or in connection with the licensee. The licensee and all persons on behalf of, under the control of, or in connection with the licensee shall cooperate with the director or the director's designee in conducting the survey.

Following each survey, unless the director initiates a license revocation proceeding, the director or the director's designee shall provide the licensee with a report listing any deficiencies, specifying a timetable within which the licensee shall submit a plan of correction describing how the deficiencies will be corrected, and, when appropriate, specifying a timetable within

which the licensee must correct the deficiencies. After a plan of correction is submitted, the director or the director's designee shall approve or disapprove the plan. A copy of the report and any approved plan of correction shall be provided to any person who requests it.

The director shall initiate disciplinary action against any department employee who notifies or causes the notification to any unauthorized person of an unannounced survey of a residential facility by an authorized representative of the department.

(J) In addition to any other information which may be required of applicants for a license pursuant to this section, the director shall require each applicant to provide a copy of an approved plan for a proposed residential facility pursuant to section 5123.042 of the Revised Code. This division does not apply to renewal of a license or to an applicant for an initial or modified license who meets the requirements of section 5123.193 or 5123.197 of the Revised Code.

(K) A licensee shall notify the owner of the building in which the licensee's residential facility is located of any significant change in the identity of the licensee or management contractor before the effective date of the change if the licensee is not the owner of the building.

Pursuant to rules which shall be adopted in accordance with Chapter 119. of the Revised Code, the director may require notification to the department of any significant change in the ownership of a residential facility or in the identity of the licensee or management contractor. If the director determines that a significant change of ownership is proposed, the director shall consider the proposed change to be an application for development by a new operator pursuant to section 5123.042 of the Revised Code and shall advise the applicant within sixty days of the notification that the current license shall continue in effect or a new license will be required pursuant to this section. If the director requires a new license, the director shall permit the facility to continue to operate under the current license until the new license is issued, unless the current license is revoked, refused to be renewed, or terminated in accordance with Chapter 119. of the Revised Code.

(L) A county board of mental retardation and developmental disabilities, the legal rights service, and any interested person may file complaints alleging violations of statute or department rule relating to residential facilities with the department. All complaints shall be in writing and shall state the facts constituting the basis of the allegation. The department shall not reveal the source of any complaint unless the complainant agrees in writing to waive the right to confidentiality or until so ordered by a court of

competent jurisdiction.

The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures for the receipt, referral, investigation, and disposition of complaints filed with the department under this division.

(M) The department shall establish procedures for the notification of interested parties of the transfer or interim care of residents from residential facilities that are closing or are losing their license.

(N) Before issuing a license under this section to a residential facility that will accommodate at any time more than one mentally retarded or developmentally disabled individual, the director shall, by first class mail, notify the following:

(1) If the facility will be located in a municipal corporation, the clerk of the legislative authority of the municipal corporation;

(2) If the facility will be located in unincorporated territory, the clerk of the appropriate board of county commissioners and the fiscal officer of the appropriate board of township trustees.

The director shall not issue the license for ten days after mailing the notice, excluding Saturdays, Sundays, and legal holidays, in order to give the notified local officials time in which to comment on the proposed issuance.

Any legislative authority of a municipal corporation, board of county commissioners, or board of township trustees that receives notice under this division of the proposed issuance of a license for a residential facility may comment on it in writing to the director within ten days after the director mailed the notice, excluding Saturdays, Sundays, and legal holidays. If the director receives written comments from any notified officials within the specified time, the director shall make written findings concerning the comments and the director's decision on the issuance of the license. If the director does not receive written comments from any notified local officials within the specified time, the director shall continue the process for issuance of the license.

(O) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least six but not more than eight persons with mental retardation or a developmental disability as a permitted use in any residential district or zone, including any single-family residential district or zone, of any political subdivision. These residential facilities may be required to comply with area, height, yard, and architectural compatibility requirements that are uniformly imposed upon all single-family residences within the district or zone.

(P) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least nine but not more than sixteen persons with mental retardation or a developmental disability as a permitted use in any multiple-family residential district or zone of any political subdivision, except that a political subdivision that has enacted a zoning ordinance or resolution establishing planned unit development districts may exclude these residential facilities from those districts, and a political subdivision that has enacted a zoning ordinance or resolution may regulate these residential facilities in multiple-family residential districts or zones as a conditionally permitted use or special exception, in either case, under reasonable and specific standards and conditions set out in the zoning ordinance or resolution to:

(1) Require the architectural design and site layout of the residential facility and the location, nature, and height of any walls, screens, and fences to be compatible with adjoining land uses and the residential character of the neighborhood;

(2) Require compliance with yard, parking, and sign regulation;

(3) Limit excessive concentration of these residential facilities.

(Q) This section does not prohibit a political subdivision from applying to residential facilities nondiscriminatory regulations requiring compliance with health, fire, and safety regulations and building standards and regulations.

(R) Divisions (O) and (P) of this section are not applicable to municipal corporations that had in effect on June 15, 1977, an ordinance specifically permitting in residential zones licensed residential facilities by means of permitted uses, conditional uses, or special exception, so long as such ordinance remains in effect without any substantive modification.

(S)(1) The director may issue an interim license to operate a residential facility to an applicant for a license under this section if either of the following is the case:

(a) The director determines that an emergency exists requiring immediate placement of persons in a residential facility, that insufficient licensed beds are available, and that the residential facility is likely to receive a permanent license under this section within thirty days after issuance of the interim license.

(b) The director determines that the issuance of an interim license is necessary to meet a temporary need for a residential facility.

(2) To be eligible to receive an interim license, an applicant must meet the same criteria that must be met to receive a permanent license under this

section, except for any differing procedures and time frames that may apply to issuance of a permanent license.

(3) An interim license shall be valid for thirty days and may be renewed by the director for a period not to exceed one hundred fifty days.

(4) The director shall adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to administer the issuance of interim licenses.

(T) Notwithstanding rules adopted pursuant to this section establishing the maximum number of persons who may be served in a particular type of residential facility, a residential facility shall be permitted to serve the same number of persons being served by the facility on the effective date of the rules or the number of persons for which the facility is authorized pursuant to a current application for a certificate of need with a letter of support from the department of mental retardation and developmental disabilities and which is in the review process prior to April 4, 1986.

(U) The director or the director's designee may enter at any time, for purposes of investigation, any home, facility, or other structure that has been reported to the director or that the director has reasonable cause to believe is being operated as a residential facility without a license issued under this section.

The director may petition the court of common pleas of the county in which an unlicensed residential facility is located for an order enjoining the person or governmental agency operating the facility from continuing to operate without a license. The court may grant the injunction on a showing that the person or governmental agency named in the petition is operating a residential facility without a license. The court may grant the injunction, regardless of whether the residential facility meets the requirements for receiving a license under this section.

Sec. 5123.193. An applicant for a residential facility license under section 5123.19 of the Revised Code is not required to obtain approval of a plan for the proposed residential facility pursuant to section 5123.042 of the Revised Code if all of the following apply:

(A) All of the following apply to the facility for which the residential facility license is sought:

(1) It is licensed as a nursing home under section 3721.02 of the Revised Code on the effective date of this section and the nursing home license authorizes the facility to have fifty nursing home beds.

(2) It was previously certified as an intermediate care facility for the mentally retarded before July 1, 1992.

(3) It is operated as a nonprofit organization exempt from federal

income tax under section 501(c)(3) of the Internal Revenue Code.

(4) Its governing board has passed a resolution to close the facility unless a residential facility license is obtained for the facility.

(B) The license application seeks authorization to operate a residential facility with not more than twenty-five beds on the same site on which the facility is operated under its nursing home license on the effective date of this section.

(C) The applicant applies to the director of health to have the facility certified as an intermediate care facility for the mentally retarded.

(D) The applicant agrees to have the nursing home's licensed capacity reduced to not more than twenty-five nursing home beds effective on the date the director of developmental disabilities issues the residential facility license and agrees to surrender the nursing home license, ending the applicant's right to have any nursing home beds in the facility, effective on the date the director of health certifies the facility as an intermediate care facility for the mentally retarded.

(E) The applicant provides the director of developmental disabilities assurances that the applicant will cooperate with the department of job and family services in having each resident of the facility who needs a greater or lesser level of care than intermediate care facilities for the mentally retarded provide relocated to another facility or residence that is authorized to provide the level of care the resident needs and is willing to accept the resident's placement in the facility or residence.

(F) The applicant submits the application for the residential facility license to the director of developmental disabilities not later than one hundred twenty days after the effective date of this section.

Sec. 5123.197. Neither an applicant for an initial residential facility license under section 5123.19 of the Revised Code nor an applicant for a modification of an existing residential facility license under that section is required to obtain approval of a plan for the proposed new residential facility or modification to the existing residential facility pursuant to section 5123.042 of the Revised Code if all of the following apply:

(A) The new residential facility or modification to the existing residential facility is to serve individuals who have diagnoses or special care needs for which a medicaid reimbursement rate is set pursuant to section 5111.258 of the Revised Code;

(B) The directors of job and family services and developmental disabilities determine that there is a need under the medicaid program for the proposed new residential facility or modification to the existing residential facility and that approving the application for the initial

residential facility license or modification to the existing residential facility license is fiscally prudent for the medicaid program;

(C) The director of budget and management notifies the directors of job and family services and developmental disabilities that the director of budget and management agrees with the directors' determination under division (B) of this section.

Sec. 5126.044. (A) As used in this section, "~~eligible~~;

(1) "Eligible person" has the same meaning as in section 5126.03 of the Revised Code.

(2) "Treatment" means the provision, coordination, or management of services provided to an eligible person.

(3) "Payment" means activities undertaken by a service provider or governmental entity to obtain or provide reimbursement for services to an eligible person.

(B) Except as provided in division ~~(D)~~(C) of this section, no person shall disclose the identity of an individual who requests programs or services under this chapter or release a record or report regarding an eligible person that is maintained by a county board of mental retardation and developmental disabilities or an entity under contract with a county board unless one of the following circumstances exists:

(1) The individual, eligible person, or the individual's guardian, or, if the individual is a minor, the individual's parent or guardian, makes a written request to the county board or entity for or approves in writing disclosure of the individual's identity or release of the record or report regarding the eligible person.

(2) Disclosure of the identity of an individual is needed for approval of a direct services contract under section 5126.032 or 5126.033 of the Revised Code. The county board shall release only the individual's name and the general nature of the services to be provided.

(3) Disclosure of the identity of the individual is needed to ascertain that the county board's waiting lists for programs or services are being maintained in accordance with section 5126.042 of the Revised Code and the rules adopted under that section. The county board shall release only the individual's name, the general nature of the programs or services to be provided the individual, the individual's rank on each waiting list that includes the individual, and any circumstances under which the individual was given priority when placed on a waiting list.

(4) Disclosure of the identity of an individual who is an eligible person is needed for treatment of or payment for services provided to the individual.

~~(C) A board or entity that discloses an individual's identity or releases a record or report regarding an eligible person shall maintain a record of when and to whom the disclosure or release was made.~~

~~(D)~~(1) At the request of an eligible person or the person's guardian or, if the eligible person is a minor, the person's parent or guardian, a county board or entity under contract with a county board shall provide the person who made the request access to records and reports regarding the eligible person. On written request, the county board or entity shall provide copies of the records and reports to the eligible person, guardian, or parent. The county board or entity may charge a reasonable fee to cover the costs of copying. The county board or entity may waive the fee in cases of hardship.

(2) A county board shall provide access to any waiting list or record or report regarding an eligible person maintained by the board to any state agency responsible for monitoring and reviewing programs and services provided or arranged by the county board, any state agency involved in the coordination of services for an eligible person, and any agency under contract with the department of mental retardation and developmental disabilities for the provision of protective service pursuant to section 5123.56 of the Revised Code.

(3) When an eligible person who requests programs or services under this chapter dies, the county board or entity under contract with the county board, shall, on written request, provide to both of the following persons any reports and records in the board or entity's possession concerning the eligible person:

(a) If the report or records are necessary to administer the estate of the person who is the subject of the reports or records, to the executor or administrator of the person's estate;

(b) To the guardian of the person who is the subject of the reports or records or, if the individual had no guardian at the time of death, to a person in the first applicable of the following categories:

- (i) The person's spouse;
- (ii) The person's children;
- (iii) The person's parents;
- (iv) The person's brothers or sisters;
- (v) The person's uncles or aunts;
- (vi) The person's closest relative by blood or adoption;
- (vii) The person's closest relative by marriage.

The county board or entity shall provide the reports and records as required by division ~~(D)~~(C)(3) of this section not later than thirty days after receipt of the request.

~~(E)~~(D) A county board shall notify an eligible person, the person's guardian, or, if the eligible person is a minor, the person's parent or guardian, prior to destroying any record or report regarding the eligible person.

Sec. 5126.05. (A) Subject to the rules established by the director of mental retardation and developmental disabilities pursuant to Chapter 119. of the Revised Code for programs and services offered pursuant to this chapter, and subject to the rules established by the state board of education pursuant to Chapter 119. of the Revised Code for programs and services offered pursuant to Chapter 3323. of the Revised Code, the county board of mental retardation and developmental disabilities shall:

(1) Administer and operate facilities, programs, and services as provided by this chapter and Chapter 3323. of the Revised Code and establish policies for their administration and operation;

(2) Coordinate, monitor, and evaluate existing services and facilities available to individuals with mental retardation and developmental disabilities;

(3) Provide early childhood services, supportive home services, and adult services, according to the plan and priorities developed under section 5126.04 of the Revised Code;

(4) Provide or contract for special education services pursuant to Chapters ~~3306.~~ 3317., and 3323. of the Revised Code and ensure that related services, as defined in section 3323.01 of the Revised Code, are available according to the plan and priorities developed under section 5126.04 of the Revised Code;

(5) Adopt a budget, authorize expenditures for the purposes specified in this chapter and do so in accordance with section 319.16 of the Revised Code, approve attendance of board members and employees at professional meetings and approve expenditures for attendance, and exercise such powers and duties as are prescribed by the director;

(6) Submit annual reports of its work and expenditures, pursuant to sections 3323.09 and 5126.12 of the Revised Code, to the director, the superintendent of public instruction, and the board of county commissioners at the close of the fiscal year and at such other times as may reasonably be requested;

(7) Authorize all positions of employment, establish compensation, including but not limited to salary schedules and fringe benefits for all board employees, approve contracts of employment for management employees that are for a term of more than one year, employ legal counsel under section 309.10 of the Revised Code, and contract for employee benefits;

(8) Provide service and support administration in accordance with section 5126.15 of the Revised Code;

(9) Certify respite care homes pursuant to rules adopted under section 5123.171 of the Revised Code by the director of mental retardation and developmental disabilities.

(B) To the extent that rules adopted under this section apply to the identification and placement of children with disabilities under Chapter 3323. of the Revised Code, they shall be consistent with the standards and procedures established under sections 3323.03 to 3323.05 of the Revised Code.

(C) Any county board may enter into contracts with other such boards and with public or private, nonprofit, or profit-making agencies or organizations of the same or another county, to provide the facilities, programs, and services authorized or required, upon such terms as may be agreeable, and in accordance with this chapter and Chapter 3323. of the Revised Code and rules adopted thereunder and in accordance with sections 307.86 and 5126.071 of the Revised Code.

(D) A county board may combine transportation for children and adults enrolled in programs and services offered under section 5126.12 with transportation for children enrolled in classes funded under section 3317.20 or units approved under section 3317.05 of the Revised Code.

(E) A county board may purchase all necessary insurance policies, may purchase equipment and supplies through the department of administrative services or from other sources, and may enter into agreements with public agencies or nonprofit organizations for cooperative purchasing arrangements.

(F) A county board may receive by gift, grant, devise, or bequest any moneys, lands, or property for the benefit of the purposes for which the board is established and hold, apply, and dispose of the moneys, lands, and property according to the terms of the gift, grant, devise, or bequest. All money received by gift, grant, bequest, or disposition of lands or property received by gift, grant, devise, or bequest shall be deposited in the county treasury to the credit of such board and shall be available for use by the board for purposes determined or stated by the donor or grantor, but may not be used for personal expenses of the board members. Any interest or earnings accruing from such gift, grant, devise, or bequest shall be treated in the same manner and subject to the same provisions as such gift, grant, devise, or bequest.

(G) The board of county commissioners shall levy taxes and make appropriations sufficient to enable the county board of mental retardation

and developmental disabilities to perform its functions and duties, and may utilize any available local, state, and federal funds for such purpose.

Sec. 5126.054. (A) Each county board of mental retardation and developmental disabilities shall, by resolution, develop a three-calendar year plan that includes the following three components:

(1) An assessment component that includes all of the following:

(a) The number of individuals with mental retardation or other developmental disability residing in the county who need the level of care provided by an intermediate care facility for the mentally retarded, may seek home and community-based services, are given priority for the services pursuant to division (D) of section 5126.042 of the Revised Code; the service needs of those individuals; and the projected annualized cost for services;

(b) The source of funds available to the county board to pay the nonfederal share of medicaid expenditures that the county board is required by sections 5126.059 and 5126.0510 of the Revised Code to pay;

(c) Any other applicable information or conditions that the department of mental retardation and developmental disabilities requires as a condition of approving the component under section 5123.046 of the Revised Code.

(2) ~~A~~ preliminary implementation component that specifies the number of individuals to be provided, during the first year that the plan is in effect, home and community-based services pursuant to the priority given to them under divisions (D)(1) and (2) of section 5126.042 of the Revised Code and the types of home and community-based services the individuals are to receive;

(3) A component that provides for the implementation of medicaid case management services and home and community-based services for individuals who begin to receive the services on or after the date the plan is approved under section 5123.046 of the Revised Code. A county board shall include all of the following in the component:

(a) If the department of mental retardation and developmental disabilities or department of job and family services requires, an agreement to pay the nonfederal share of medicaid expenditures that the county board is required by sections 5126.059 and 5126.0510 of the Revised Code to pay;

(b) How the services are to be phased in over the period the plan covers, including how the county board will serve individuals on a waiting list established under division (C) of section 5126.042 who are given priority status under division (D)(1) of that section;

(c) Any agreement or commitment regarding the county board's funding of home and community-based services that the county board has with the

department at the time the county board develops the component;

(d) Assurances adequate to the department that the county board will comply with all of the following requirements:

(i) To provide the types of home and community-based services specified in the preliminary implementation component required by division (A)(2) of this section to at least the number of individuals specified in that component;

(ii) To use any additional funds the county board receives for the services to improve the county board's resource capabilities for supporting such services available in the county at the time the component is developed and to expand the services to accommodate the unmet need for those services in the county;

(iii) To employ or contract with a business manager ~~who is either a new employee who has earned at least a bachelor's degree in business administration or a current employee who has the equivalent experience of a bachelor's degree in business administration~~ or enter into an agreement with another county board of developmental disabilities that employs or contracts with a business manager to have the business manager serve both county boards. If the county board will employ a new employee, the county board shall include in the component a timeline for employing the employee. No superintendent of a county board may serve as the county board's business manager.

(iv) To employ or contract with a medicaid services manager ~~who is either a new employee who has earned at least a bachelor's degree or a current employee who has the equivalent experience of a bachelor's degree~~ or enter into an agreement with another county board of developmental disabilities that employs or contracts with a medicaid services manager to have the medicaid services manager serve both county boards. If the county board will employ a new employee, the county board shall include in the component a timeline for employing the employee. Two or three county boards that have a combined total enrollment in county board services not exceeding one thousand individuals as determined pursuant to certifications made under division (B) of section 5126.12 of the Revised Code may satisfy this requirement by sharing the services of a medicaid services manager or using the services of a medicaid services manager employed by or under contract with a regional council that the county boards establish under section 5126.13 of the Revised Code. No superintendent of a county board may serve as the county board's medicaid services manager.

(e) Programmatic and financial accountability measures and projected outcomes expected from the implementation of the plan;

(f) Any other applicable information or conditions that the department requires as a condition of approving the component under section 5123.046 of the Revised Code.

(B) A county board whose plan developed under division (A) of this section is approved by the department under section 5123.046 of the Revised Code shall update and renew the plan in accordance with a schedule the department shall develop.

Sec. 5126.055. (A) Except as provided in section 5126.056 of the Revised Code, a county board of mental retardation and developmental disabilities has medicaid local administrative authority to, and shall, do all of the following for an individual with mental retardation or other developmental disability who resides in the county that the county board serves and seeks or receives home and community-based services:

(1) Perform assessments and evaluations of the individual. As part of the assessment and evaluation process, the county board shall do all of the following:

(a) Make a recommendation to the department of mental retardation and developmental disabilities on whether the department should approve or deny the individual's application for the services, including on the basis of whether the individual needs the level of care an intermediate care facility for the mentally retarded provides;

(b) If the individual's application is denied because of the county board's recommendation and the individual requests a hearing under section 5101.35 of the Revised Code, present, with the department of mental retardation and developmental disabilities or department of job and family services, whichever denies the application, the reasons for the recommendation and denial at the hearing;

(c) If the individual's application is approved, recommend to the departments of mental retardation and developmental disabilities and job and family services the services that should be included in the individual's individualized service plan and, if either department approves, reduces, denies, or terminates a service included in the individual's individualized service plan under section 5111.871 of the Revised Code because of the county board's recommendation, present, with the department that made the approval, reduction, denial, or termination, the reasons for the recommendation and approval, reduction, denial, or termination at a hearing under section 5101.35 of the Revised Code.

(2) In accordance with the rules adopted under section 5126.046 of the Revised Code, perform the county board's duties under that section regarding assisting the individual's right to choose a qualified and willing

provider of the services and, at a hearing under section 5101.35 of the Revised Code, present evidence of the process for appropriate assistance in choosing providers;

(3) If the county board is certified under section 5123.161 of the Revised Code to provide the services and agrees to provide the services to the individual and the individual chooses the county board to provide the services, furnish, in accordance with the county board's medicaid provider agreement and for the authorized reimbursement rate, the services the individual requires;

(4) Monitor the services provided to the individual and ensure the individual's health, safety, and welfare. The monitoring shall include quality assurance activities. If the county board provides the services, the department of mental retardation and developmental disabilities shall also monitor the services.

(5) Develop, with the individual and the provider of the individual's services, an effective individualized service plan that includes coordination of services, recommend that the departments of mental retardation and developmental disabilities and job and family services approve the plan, and implement the plan unless either department disapproves it; The individualized service plan shall include a summary page, agreed to by the county board, provider, and individual receiving services, that clearly outlines the amount, duration, and scope of services to be provided under the plan.

(6) Have an investigative agent conduct investigations under section 5126.313 of the Revised Code that concern the individual;

(7) Have a service and support administrator perform the duties under division (B)(9) of section 5126.15 of the Revised Code that concern the individual.

(B) A county board shall perform its medicaid local administrative authority under this section in accordance with all of the following:

(1) The county board's plan that the department of mental retardation and developmental disabilities approves under section 5123.046 of the Revised Code;

(2) All applicable federal and state laws;

(3) All applicable policies of the departments of mental retardation and developmental disabilities and job and family services and the United States department of health and human services;

(4) The department of job and family services' supervision under its authority under section 5111.01 of the Revised Code to act as the single state medicaid agency;

(5) The department of mental retardation and developmental disabilities' oversight.

(C) The departments of mental retardation and developmental disabilities and job and family services shall communicate with and provide training to county boards regarding medicaid local administrative authority granted by this section. The communication and training shall include issues regarding audit protocols and other standards established by the United States department of health and human services that the departments determine appropriate for communication and training. County boards shall participate in the training. The departments shall assess the county board's compliance against uniform standards that the departments shall establish.

(D) A county board may not delegate its medicaid local administrative authority granted under this section but may contract with a person or government entity, including a council of governments, for assistance with its medicaid local administrative authority. A county board that enters into such a contract shall notify the director of mental retardation and developmental disabilities. The notice shall include the tasks and responsibilities that the contract gives to the person or government entity. The person or government entity shall comply in full with all requirements to which the county board is subject regarding the person or government entity's tasks and responsibilities under the contract. The county board remains ultimately responsible for the tasks and responsibilities.

(E) A county board that has medicaid local administrative authority under this section shall, through the departments of mental retardation and developmental disabilities and job and family services, reply to, and cooperate in arranging compliance with, a program or fiscal audit or program violation exception that a state or federal audit or review discovers. The department of job and family services shall timely notify the department of mental retardation and developmental disabilities and the county board of any adverse findings. After receiving the notice, the county board, in conjunction with the department of mental retardation and developmental disabilities, shall cooperate fully with the department of job and family services and timely prepare and send to the department a written plan of correction or response to the adverse findings. The county board is liable for any adverse findings that result from an action it takes or fails to take in its implementation of medicaid local administrative authority.

(F) If the department of mental retardation and developmental disabilities or department of job and family services determines that a county board's implementation of its medicaid local administrative authority under this section is deficient, the department that makes the determination

shall require that county board do the following:

(1) If the deficiency affects the health, safety, or welfare of an individual with mental retardation or other developmental disability, correct the deficiency within twenty-four hours;

(2) If the deficiency does not affect the health, safety, or welfare of an individual with mental retardation or other developmental disability, receive technical assistance from the department or submit a plan of correction to the department that is acceptable to the department within sixty days and correct the deficiency within the time required by the plan of correction.

Sec. 5126.0512. (A) As used in this section, "medicaid waiver component" means a medicaid waiver component as defined in section 5111.85 of the Revised Code under which home and community-based services are provided.

(B) Effective July 1, 2007, and except as provided in rules adopted under section 5123.0413 of the Revised Code, each county board of mental retardation and developmental disabilities shall ensure, for each medicaid waiver component, that the number of individuals eligible under section 5126.041 of the Revised Code for services from the county board who are enrolled in a medicaid waiver component is no less than the sum of the following:

(1) The number of individuals eligible for services from the county board who are enrolled in the medicaid waiver component on June 30, 2007;

(2) The number of medicaid waiver component slots the county board requested before July 1, 2007, that were assigned to the county board before that date but in which no individual was enrolled before that date.

(C) An individual enrolled in a medicaid waiver component after March 1, 2007, due to an emergency reserve capacity waiver assignment shall not be counted in determining the number of individuals a county board must ensure under division (B) of this section are enrolled in a medicaid waiver component.

(D) An individual who is enrolled in a medicaid waiver component to comply with the terms of the consent order filed March 5, 2007, in *Martin v. Strickland*, Case No. 89-CV-00362, in the United States district court for the southern district of Ohio, eastern division, shall be excluded in determining whether a county board has complied with division (B) of this section.

(E) A county board shall make as many requests for individuals to be enrolled in a medicaid waiver component as necessary for the county board to comply with division (B) of this section.

Sec. 5126.19. (A) The director of mental retardation and developmental disabilities may grant temporary funding from the community mental

retardation and developmental disabilities trust fund based on allocations to county boards of mental retardation and developmental disabilities. The director may distribute all or part of the funding directly to a county board, the persons who provide the services for which the funding is granted, or persons with mental retardation or developmental disabilities who are to receive those services.

(B) Funding granted under division (A) of this section shall be granted according to the availability of moneys in the fund and priorities established by the director. Funding may be granted for any of the following purposes:

(1) Behavioral or short-term interventions for persons with mental retardation or developmental disabilities that assist them in remaining in the community by preventing institutionalization;

(2) Emergency respite care services, as defined in section 5126.11 of the Revised Code;

(3) Family support services provided under section 5126.11 of the Revised Code;

(4) Supported living, as defined in section 5126.01 of the Revised Code;

(5) Staff training for county board employees, employees of providers of residential services as defined in section 5126.01 of the Revised Code, and other personnel under contract with a county board, to provide the staff with necessary training in serving mentally retarded or developmentally disabled persons in the community;

(6) Short-term provision of early childhood services provided under section 5126.05, adult services provided under sections 5126.05 and 5126.051, and service and support administration provided under section 5126.15 of the Revised Code, when local moneys are insufficient to meet the need for such services due to the successive failure within a two-year period of three or more proposed levies for the services;

(7) Contracts with providers of residential services to maintain persons with mental retardation and developmental disabilities in their programs and avoid institutionalization.

(C) If the trust fund contains more than ten million dollars on the first day of July the director shall use one million dollars for payments under section 5126.18 of the Revised Code, two million dollars for subsidies to county boards for supported living, and one million dollars for subsidies to county boards for early childhood services and adult services provided under section 5126.05 of the Revised Code. Distributions of funds under this division shall be made prior to August 31 of the state fiscal year in which the funds are available. The funds shall be allocated to a county board in an amount equal to the same percentage of the total amount allocated to the

county board the immediately preceding state fiscal year.

~~(D) In addition to making grants under division (A) of this section, the director may use money available in the trust fund for the same purposes that rules adopted under section 5123.0413 of the Revised Code provide for money in the state MR/DD risk fund and the state insurance against MR/DD risk fund, both created under that section, to be used.~~

Sec. 5126.24. (A) As used in this section:

(1) "License" means an educator license issued by the state board of education under section 3319.22 of the Revised Code or a certificate issued by the department of mental retardation and developmental disabilities.

(2) "Teacher" means a person employed by a county board of mental retardation and developmental disabilities in a position that requires a license.

(3) "Nonteaching employee" means a person employed by a county board of mental retardation and developmental disabilities in a position that does not require a license.

(4) "Years of service" includes all service described in division (A) of section 3317.13 of the Revised Code.

(B) Subject to rules established by the director of mental retardation and developmental disabilities pursuant to Chapter 119. of the Revised Code, each county board of mental retardation and developmental disabilities shall annually adopt separate salary schedules for teachers and nonteaching employees.

(C) The teachers' salary schedule shall provide for increments based on training and years of service. The board may establish its own service requirements provided no teacher receives less than the salary the teacher would be paid under section 3317.13 of the Revised Code if the teacher were employed by a school district board of education and provided full credit for a minimum of five years of actual teaching and military experience as defined in division (A) of such section is given to each teacher.

Each teacher who has completed training that would qualify the teacher for a higher salary bracket pursuant to this section shall file by the fifteenth day of September with the fiscal officer of the board, satisfactory evidence of the completion of such additional training. The fiscal officer shall then immediately place the teacher, pursuant to this section, in the proper salary bracket in accordance with training and years of service. No teacher shall be paid less than the salary to which the teacher would be entitled under section 3317.13 of the Revised Code if the teacher were employed by a school district board of education.

The superintendent of each county board, on or before the fifteenth day of October of each year, shall certify to the state board of education the name of each teacher employed, on an annual salary, in each special education program operated pursuant to section 3323.09 of the Revised Code during the first full school week of October. The superintendent further shall certify, for each teacher, the number of years of training completed at a recognized college, the degrees earned from a college recognized by the state board, the type of license held, the number of months employed by the board, the annual salary, and other information that the state board may request.

(D) The nonteaching employees' salary schedule established by the board shall be based on training, experience, and qualifications with initial salaries no less than salaries in effect on July 1, 1985. Each board shall prepare and may amend from time to time, specifications descriptive of duties, responsibilities, requirements, and desirable qualifications of the classifications of employees required to perform the duties specified in the salary schedule. All nonteaching employees shall be notified of the position classification to which they are assigned and the salary for the classification. The compensation of all nonteaching employees working for a particular board shall be uniform for like positions except as compensation would be affected by salary increments based upon length of service.

On the fifteenth day of October of each year the nonteaching employees' salary schedule and list of job classifications and salaries in effect on that date shall be filed by each board with the superintendent of public instruction. If such salary schedule and classification plan is not filed, the superintendent of public instruction shall order the board to file such schedule and list forthwith. If this condition is not corrected within ten days after receipt of the order from the superintendent, no money shall be distributed to the district under Chapter 3306. or 3317. of the Revised Code until the superintendent has satisfactory evidence of the board's full compliance with such order.

Sec. 5139.43. (A) The department of youth services shall operate a felony delinquent care and custody program that shall be operated in accordance with the formula developed pursuant to section 5139.41 of the Revised Code, subject to the conditions specified in this section.

(B)(1) Each juvenile court shall use the moneys disbursed to it by the department of youth services pursuant to division (B) of section 5139.41 of the Revised Code in accordance with the applicable provisions of division (B)(2) of this section and shall transmit the moneys to the county treasurer for deposit in accordance with this division. The county treasurer shall

create in the county treasury a fund that shall be known as the felony delinquent care and custody fund and shall deposit in that fund the moneys disbursed to the juvenile court pursuant to division (B) of section 5139.41 of the Revised Code. The county treasurer also shall deposit into that fund the state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code. The moneys disbursed to the juvenile court pursuant to division (B) of section 5139.41 of the Revised Code and deposited pursuant to this division in the felony delinquent care and custody fund shall not be commingled with any other county funds except state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code; shall not be used for any capital construction projects; upon an order of the juvenile court and subject to appropriation by the board of county commissioners, shall be disbursed to the juvenile court for use in accordance with the applicable provisions of division (B)(2) of this section; shall not revert to the county general fund at the end of any fiscal year; and shall carry over in the felony delinquent care and custody fund from the end of any fiscal year to the next fiscal year. ~~At~~ The maximum balance carry-over at the end of each respective fiscal year, beginning June 30, 2008, the balance in the felony delinquent care and custody fund in any county shall not exceed the total moneys from funds allocated to the county pursuant to sections 5139.34 and 5139.41 of the Revised Code during in the previous fiscal year shall not exceed an amount to be calculated as provided in the formula set forth in this division, unless that county has applied for and been granted an exemption by the director of youth services. Beginning June 30, 2008, the maximum balance carry-over at the end of each respective fiscal year shall be determined by the following formula: for fiscal year 2008, the maximum balance carry-over shall be one hundred per cent of the allocation for fiscal year 2007, to be applied in determining the fiscal year 2009 allocation; for fiscal year 2009, it shall be fifty per cent of the allocation for fiscal year 2008, to be applied in determining the fiscal year 2010 allocation; for fiscal year 2010, it shall be twenty-five per cent of the allocation for fiscal year 2009, to be applied in determining the fiscal year 2011 allocation; and for each fiscal year subsequent to fiscal year 2010, it shall be twenty-five per cent of the allocation for the immediately preceding fiscal year, to be applied in determining the allocation for the next immediate fiscal year. The department shall withhold from future payments to a county an amount equal to any moneys in the felony delinquent care and custody fund of the county that exceed the total ~~moneys allocated pursuant to those sections to the county during the preceding fiscal year~~ maximum balance carry-over that applies for that county for the fiscal year in which the payments are

being made and shall reallocate the withheld amount. The department shall adopt rules for the withholding and reallocation of moneys disbursed under sections 5139.34 and 5139.41 of the Revised Code and for the criteria and process for a county to obtain an exemption from the withholding requirement. The moneys disbursed to the juvenile court pursuant to division (B) of section 5139.41 of the Revised Code and deposited pursuant to this division in the felony delinquent care and custody fund shall be in addition to, and shall not be used to reduce, any usual annual increase in county funding that the juvenile court is eligible to receive or the current level of county funding of the juvenile court and of any programs or services for delinquent children, unruly children, or juvenile traffic offenders.

(2)(a) A county and the juvenile court that serves the county shall use the moneys in its felony delinquent care and custody fund in accordance with rules that the department of youth services adopts pursuant to division (D) of section 5139.04 of the Revised Code and as follows:

(i) The moneys in the fund that represent state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code shall be used to aid in the support of prevention, early intervention, diversion, treatment, and rehabilitation programs that are provided for alleged or adjudicated unruly children or delinquent children or for children who are at risk of becoming unruly children or delinquent children. The county shall not use for capital improvements more than fifteen per cent of the moneys in the fund that represent the applicable annual grant of those state subsidy funds.

(ii) The moneys in the fund that were disbursed to the juvenile court pursuant to division (B) of section 5139.41 of the Revised Code and deposited pursuant to division (B)(1) of this section in the fund shall be used to provide programs and services for the training, treatment, or rehabilitation of felony delinquents that are alternatives to their commitment to the department, including, but not limited to, community residential programs, day treatment centers, services within the home, and electronic monitoring, and shall be used in connection with training, treatment, rehabilitation, early intervention, or other programs or services for any delinquent child, unruly child, or juvenile traffic offender who is under the jurisdiction of the juvenile court.

The fund also may be used for prevention, early intervention, diversion, treatment, and rehabilitation programs that are provided for alleged or adjudicated unruly children, delinquent children, or juvenile traffic offenders or for children who are at risk of becoming unruly children, delinquent children, or juvenile traffic offenders. Consistent with division (B)(1) of this section, a county and the juvenile court of a county shall not

use any of those moneys for capital construction projects.

(iii) Moneys in the fund shall not be used to support programs or services that do not comply with federal juvenile justice and delinquency prevention core requirements or to support programs or services that research has shown to be ineffective.

(iv) The county and the juvenile court that serves the county may use moneys in the fund to provide out-of-home placement of children only in detention centers, community rehabilitation centers, or community corrections facilities approved by the department pursuant to standards adopted by the department, licensed by an authorized state agency, or accredited by the American correctional association or another national organization recognized by the department.

(b) Each juvenile court shall comply with division (B)(3)(d) of this section as implemented by the department. If a juvenile court fails to comply with division (B)(3)(d) of this section, the department shall not be required to make any disbursements in accordance with division (C) or (D) of section 5139.41 or division (C)(2) of section 5139.34 of the Revised Code.

(3) In accordance with rules adopted by the department pursuant to division (D) of section 5139.04 of the Revised Code, each juvenile court and the county served by that juvenile court shall do all of the following that apply:

(a) The juvenile court shall prepare an annual grant agreement and application for funding that satisfies the requirements of this section and section 5139.34 of the Revised Code and that pertains to the use, upon an order of the juvenile court and subject to appropriation by the board of county commissioners, of the moneys in its felony delinquent care and custody fund for specified programs, care, and services as described in division (B)(2)(a) of this section, shall submit that agreement and application to the county family and children first council, the regional family and children first council, or the local intersystem services to children cluster as described in sections 121.37 and 121.38 of the Revised Code, whichever is applicable, and shall file that agreement and application with the department for its approval. The annual grant agreement and application for funding shall include a method of ensuring equal access for minority youth to the programs, care, and services specified in it.

The department may approve an annual grant agreement and application for funding only if the juvenile court involved has complied with the preparation, submission, and filing requirements described in division (B)(3)(a) of this section. If the juvenile court complies with those requirements and the department approves that agreement and application,

the juvenile court and the county served by the juvenile court may expend the state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code only in accordance with division (B)(2)(a) of this section, the rules pertaining to state subsidy funds that the department adopts pursuant to division (D) of section 5139.04 of the Revised Code, and the approved agreement and application.

(b) By the thirty-first day of August of each year, the juvenile court shall file with the department a report that contains all of the statistical and other information for each month of the prior state fiscal year. If the juvenile court fails to file the report required by division (B)(3)(b) of this section by the thirty-first day of August of any year, the department shall not disburse any payment of state subsidy funds to which the county otherwise is entitled pursuant to section 5139.34 of the Revised Code and shall not disburse pursuant to division (B) of section 5139.41 of the Revised Code the applicable allocation until the juvenile court fully complies with division (B)(3)(b) of this section.

(c) If the department requires the juvenile court to prepare monthly statistical reports and to submit the reports on forms provided by the department, the juvenile court shall file those reports with the department on the forms so provided. If the juvenile court fails to prepare and submit those monthly statistical reports within the department's timelines, the department shall not disburse any payment of state subsidy funds to which the county otherwise is entitled pursuant to section 5139.34 of the Revised Code and shall not disburse pursuant to division (B) of section 5139.41 of the Revised Code the applicable allocation until the juvenile court fully complies with division (B)(3)(c) of this section. If the juvenile court fails to prepare and submit those monthly statistical reports within one hundred eighty days of the date the department establishes for their submission, the department shall not disburse any payment of state subsidy funds to which the county otherwise is entitled pursuant to section 5139.34 of the Revised Code and shall not disburse pursuant to division (B) of section 5139.41 of the Revised Code the applicable allocation, and the state subsidy funds and the remainder of the applicable allocation shall revert to the department. If a juvenile court states in a monthly statistical report that the juvenile court adjudicated within a state fiscal year five hundred or more children to be delinquent children for committing acts that would be felonies if committed by adults and if the department determines that the data in the report may be inaccurate, the juvenile court shall have an independent auditor or other qualified entity certify the accuracy of the data on a date determined by the department.

(d) If the department requires the juvenile court and the county to participate in a fiscal monitoring program or another monitoring program that is conducted by the department to ensure compliance by the juvenile court and the county with division (B) of this section, the juvenile court and the county shall participate in the program and fully comply with any guidelines for the performance of audits adopted by the department pursuant to that program and all requests made by the department pursuant to that program for information necessary to reconcile fiscal accounting. If an audit that is performed pursuant to a fiscal monitoring program or another monitoring program described in this division determines that the juvenile court or the county used moneys in the county's felony delinquent care and custody fund for expenses that are not authorized under division (B) of this section, within forty-five days after the department notifies the county of the unauthorized expenditures, the county either shall repay the amount of the unauthorized expenditures from the county general revenue fund to the state's general revenue fund or shall file a written appeal with the department. If an appeal is timely filed, the director of the department shall render a decision on the appeal and shall notify the appellant county or its juvenile court of that decision within forty-five days after the date that the appeal is filed. If the director denies an appeal, the county's fiscal agent shall repay the amount of the unauthorized expenditures from the county general revenue fund to the state's general revenue fund within thirty days after receiving the director's notification of the appeal decision.

(C) The determination of which county a reduction of the care and custody allocation will be charged against for a particular youth shall be made as outlined below for all youths who do not qualify as public safety beds. The determination of which county a reduction of the care and custody allocation will be charged against shall be made as follows until each youth is released:

(1) In the event of a commitment, the reduction shall be charged against the committing county.

(2) In the event of a recommitment, the reduction shall be charged against the original committing county until the expiration of the minimum period of institutionalization under the original order of commitment or until the date on which the youth is admitted to the department of youth services pursuant to the order of recommitment, whichever is later. Reductions of the allocation shall be charged against the county that recommitted the youth after the minimum expiration date of the original commitment.

(3) In the event of a revocation of a release on parole, the reduction shall be charged against the county that revokes the youth's parole.

(D) A juvenile court is not precluded by its allocation amount for the care and custody of felony delinquents from committing a felony delinquent to the department of youth services for care and custody in an institution or a community corrections facility when the juvenile court determines that the commitment is appropriate.

Sec. 5153.163. (A) As used in this section, "adoptive parent" means, as the context requires, a prospective adoptive parent or an adoptive parent.

(B)(1) Before a child's adoption is finalized, a public children services agency ~~shall~~ may enter into an agreement with the child's adoptive parent under which the agency ~~shall, to the extent state funds are available, may~~ make state adoption maintenance subsidy payments as needed on behalf of the child when all of the following apply:

(a) The child is a child with special needs.

(b) The child was placed in the adoptive home by a public children services agency or a private child placing agency and may legally be adopted.

(c) The adoptive parent has the capability of providing the permanent family relationships needed by the child.

(d) The needs of the child are beyond the economic resources of the adoptive parent.

(e) Acceptance of the child as a member of the adoptive parent's family would not be in the child's best interest without payments on the child's behalf under this section.

(f) The gross income of the adoptive parent's family does not exceed one hundred twenty per cent of the median income of a family of the same size, including the child, as most recently determined for this state by the secretary of health and human services under Title XX of the "Social Security Act," 88 Stat. 2337, 42 U.S.C.A. 1397, as amended.

(g) The child is not eligible for adoption assistance payments under Title IV-E of the "Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as amended.

(2) State adoption maintenance subsidy payment agreements must be made by either the public children services agency that has permanent custody of the child or the public children services agency of the county in which the private child placing agency that has permanent custody of the child is located.

(3) State adoption maintenance subsidy payments shall be made in accordance with the agreement between the public children services agency and the adoptive parent and are subject to an annual redetermination of need.

(4) Payments under this division may begin either before or after issuance of the final adoption decree, except that payments made before issuance of the final adoption decree may be made only while the child is living in the adoptive parent's home. Preadoption payments may be made for not more than twelve months, unless the final adoption decree is not issued within that time because of a delay in court proceedings. Payments that begin before issuance of the final adoption decree may continue after its issuance.

(C)(1) If, after the child's adoption is finalized, a public children services agency considers a child residing in the county served by the agency to be in need of public care or protective services, the agency may, to the extent state funds are ~~appropriated~~ available for this purpose, enter into an agreement with the child's adoptive parent under which the agency ~~shall~~ may make post adoption special services subsidy payments on behalf of the child as needed when both of the following apply:

(a) The child has a physical or developmental handicap or mental or emotional condition that either:

(i) Existed before the adoption petition was filed; or

(ii) Developed after the adoption petition was filed and can be directly attributed to factors in the child's preadoption background, medical history, or biological family's background or medical history.

(b) The agency determines the expenses necessitated by the child's handicap or condition are beyond the adoptive parent's economic resources.

(2) Services for which a public children services agency may make post adoption special services subsidy payments on behalf of a child under this division shall include medical, surgical, psychiatric, psychological, and counseling services, including residential treatment.

(3) The department of job and family services shall establish clinical standards to evaluate a child's physical or developmental handicap or mental or emotional condition and assess the child's need for services.

(4) The total dollar value of post adoption special services subsidy payments made on a child's behalf shall not exceed ten thousand dollars in any fiscal year, unless the department determines that extraordinary circumstances exist that necessitate further funding of services for the child. Under such extraordinary circumstances, the value of the payments made on the child's behalf shall not exceed fifteen thousand dollars in any fiscal year.

(5) The adoptive parent or parents of a child who receives post adoption special services subsidy payments shall pay at least five per cent of the total cost of all services provided to the child; except that a public children services agency may waive this requirement if the gross annual income of

the child's adoptive family is not more than two hundred per cent of the federal poverty guideline.

(6) A public children services agency may use other sources of revenue to make post adoption special services subsidy payments, in addition to any state funds appropriated for that purpose.

(D) No payment shall be made under division (B) or (C) of this section on behalf of any person eighteen years of age or older beyond the end of the school year during which the person attains the age of eighteen or on behalf of a mentally or physically handicapped person twenty-one years of age or older.

(E) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code that are needed to implement this section. The rules shall establish all of the following:

(1) The application process for all forms of assistance provided under this section;

(2) The method to determine the amount of assistance payable under division (B) of this section;

(3) The definition of "child with special needs" for this section;

(4) The process whereby a child's continuing need for services provided under division (B) of this section is annually redetermined;

(5) The method of determining the amount, duration, and scope of services provided to a child under division (C) of this section;

(6) Any other rule, requirement, or procedure the department considers appropriate for the implementation of this section.

(F) The state adoption special services subsidy program ceases to exist on July 1, 2004, except that, subject to the findings of the annual redetermination process established under division (E) of this section and the child's individual need for services, a public children services agency may continue to provide state adoption special services subsidy payments on behalf of a child for whom payments were being made prior to July 1, 2004.

(G) No public children services agency shall, pursuant to either section 2151.353 or 5103.15 of the Revised Code, place or maintain a child with special needs who is in the permanent custody of an institution or association certified by the department of job and family services under section 5103.03 of the Revised Code in a setting other than with a person seeking to adopt the child, unless the agency has determined and redetermined at intervals of not more than six months the impossibility of adoption by a person listed pursuant to division (B), (C), or (D) of section 5103.154 of the Revised Code who wishes to adopt children, and is approved by an agency so empowered under Chapter 5103. of the Revised

Code, or by a person who wishes to adopt a child with special needs as defined in rules adopted under this section, and who is approved by an agency so empowered under Chapter 5103. of the Revised Code, including the impossibility of entering into a payment agreement with such a person. The agency so maintaining such a child shall report its reasons for doing so to the department of job and family services.

The department may take any action permitted under section 5101.24 of the Revised Code for an agency's failure to determine, redetermine, and report on a child's status.

Sec. 5155.38. As used in this section, "long-term care bed" has the same meaning as in section 3702.51 of the Revised Code.

The operator of each county home and each county nursing home shall, not later than November 1, 2009, certify to the director of health the number of long-term care beds that were in operation in the home on July 1, 1993. The certification shall be accompanied by any documentation requested by the director.

Sec. 5501.04. The following divisions are hereby established in the department of transportation:

- (A) The division of business services;
- (B) The division of engineering policy;
- (C) The division of finance;
- (D) The division of human resources;
- (E) The division of information technology;
- (F) The division of multi-modal planning and programs;
- (G) The division of project management;
- (H) The division of equal opportunity.

The director of transportation shall distribute the duties, powers, and functions of the department among the divisions of the department.

Each division shall be headed by a deputy director, whose title shall be designated by the director, and shall include those other officers and employees as may be necessary to carry out the work of the division. The director shall appoint the deputy director of each division, who shall be in the unclassified civil service of the state and shall serve at the pleasure of the director. The director shall supervise the work of each division and shall be responsible for the determination of general policies in the performance of the duties, powers, and functions of the department and of each division. The director shall have complete executive charge of the department, shall be responsible for the organization, direction, and supervision of the work of the department and the performance of the duties, powers, and functions assigned to each division, and may establish necessary administrative units

therein. The deputy director of each division, with the approval of the director and subject to Chapter 124. of the Revised Code, shall appoint the necessary employees of the division and may remove such employees for cause.

The division of equal opportunity shall ensure that minority groups and all groups protected by state and federal civil rights laws are afforded equal opportunity to be recruited, trained, and work in the employment of or on projects of the department of transportation, and to participate in contracts awarded by the department. The director of transportation each year shall report to the governor and the general assembly on the division's activities and accomplishments.

Sec. 5502.01. (A) The department of public safety shall administer and enforce the laws relating to the registration, licensing, sale, and operation of motor vehicles and the laws pertaining to the licensing of drivers of motor vehicles.

The department shall compile, analyze, and publish statistics relative to motor vehicle accidents and the causes of them, prepare and conduct educational programs for the purpose of promoting safety in the operation of motor vehicles on the highways, and conduct research and studies for the purpose of promoting safety on the highways of this state.

(B) The department shall administer the laws and rules relative to trauma and emergency medical services specified in Chapter 4765. of the Revised Code.

(C) The department shall administer and enforce the laws contained in Chapters 4301. and 4303. of the Revised Code and enforce the rules and orders of the liquor control commission pertaining to retail liquor permit holders.

(D) The department shall administer the laws governing the state emergency management agency and shall enforce all additional duties and responsibilities as prescribed in the Revised Code related to emergency management services.

(E) The department shall conduct investigations pursuant to Chapter 5101. of the Revised Code in support of the duty of the department of job and family services to administer ~~food stamp programs~~ the supplemental nutrition assistance program throughout this state. The department of public safety shall conduct investigations necessary to protect the state's property rights and interests in the ~~food stamp~~ supplemental nutrition assistance program.

(F) The department of public safety shall enforce compliance with orders and rules of the public utilities commission and applicable laws in

accordance with Chapters 4919., 4921., and 4923. of the Revised Code regarding commercial motor vehicle transportation safety, economic, and hazardous materials requirements.

(G) Notwithstanding Chapter 4117. of the Revised Code, the department of public safety may establish requirements for its enforcement personnel, including its enforcement agents described in section 5502.14 of the Revised Code, that include standards of conduct, work rules and procedures, and criteria for eligibility as law enforcement personnel.

(H) The department shall administer, maintain, and operate the Ohio criminal justice network. The Ohio criminal justice network shall be a computer network that supports state and local criminal justice activities. The network shall be an electronic repository for various data, which may include arrest warrants, notices of persons wanted by law enforcement agencies, criminal records, prison inmate records, stolen vehicle records, vehicle operator's licenses, and vehicle registrations and titles.

(I) The department shall coordinate all homeland security activities of all state agencies and shall be a liaison between state agencies and local entities for those activities and related purposes.

(J) Beginning July 1, 2004, the department shall administer and enforce the laws relative to private investigators and security service providers specified in Chapter 4749. of the Revised Code.

(K) The department shall administer criminal justice services in accordance with sections 5502.61 to 5502.66 of the Revised Code.

Sec. 5502.12. (A) The accident reports submitted pursuant to section 5502.11 of the Revised Code shall be for the use of the director of public safety for purposes of statistical, safety, and other studies. The law enforcement agency that submitted a report shall furnish a copy of such report and associated documents to any person claiming an interest arising out of a motor vehicle accident, or to the person's attorney, upon the payment of a nonrefundable fee ~~that shall not exceed~~ of four dollars or the amount approved by the board of county commissioners of the county in which the law enforcement agency is located as provided in division (B) of this section. With respect to accidents investigated by the state highway patrol, the director of public safety shall furnish to such person all related reports and statements upon the payment of a nonrefundable fee of four dollars. The cost of photographs or any other electronic format shall be a four-dollar fee in addition to the nonrefundable four-dollar fee for the accident report, whether the report was submitted by the state highway patrol or another law enforcement agency. A law enforcement agency may charge a fee that is in excess of four dollars for photographs and other

electronic formats if such a fee is approved by a board of county commissioners of the county in which the law enforcement agency is located as provided in division (B) of this section.

Such state highway patrol reports, statements, and photographs, in the discretion of the director of public safety, may be withheld until all criminal prosecution has been concluded; the director of public safety may require proof, satisfactory to the director, of the right of any applicant to be furnished such documents.

(B) If, after the effective date of this amendment, the state highway patrol is authorized to charge a nonrefundable fee in excess of four dollars for an accident report relating to an accident investigated by the state highway patrol and all related reports and statements or a fee in excess of four dollars for photographs or other electronic formats related to an accident report, a law enforcement agency described in section 5502.11 of the Revised Code shall be authorized to charge that same fee for an accident report relating to an accident investigated by that law enforcement agency and all related reports and statements or for photographs or other electronic formats related to an accident report investigated by that law enforcement agency upon approval of the board of county commissioners of the county in which that law enforcement agency is located.

Sec. 5502.14. (A) As used in this section, "felony" has the same meaning as in section 109.511 of the Revised Code.

(B)(1) Any person who is employed by the department of public safety and designated by the director of public safety to enforce Title XLIII of the Revised Code, the rules adopted under it, and the laws and rules regulating the use of ~~food stamps~~ supplemental nutrition assistance program benefits shall be known as an enforcement agent. The employment by the department of public safety and the designation by the director of public safety of a person as an enforcement agent shall be subject to division (D) of this section. An enforcement agent has the authority vested in peace officers pursuant to section 2935.03 of the Revised Code to keep the peace, to enforce all applicable laws and rules on any retail liquor permit premises, or on any other premises of public or private property, where a violation of Title XLIII of the Revised Code or any rule adopted under it is occurring, and to enforce all laws and rules governing the use of ~~food stamp coupons~~ supplemental nutrition assistance program benefits, women, infants, and children's coupons, electronically transferred benefits, or any other access device that is used alone or in conjunction with another access device to obtain payments, allotments, benefits, money, goods, or other things of value, or that can be used to initiate a transfer of funds, pursuant to the ~~food~~

~~stamp~~ supplemental nutrition assistance program established under the "Food ~~Stamp~~ and Nutrition Act of 1977," 91 Stat. 958, 2008 (7 U.S.C.A. 2011, ~~as amended~~, et seq.) or any supplemental food program administered by any department of this state pursuant to the "Child Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C.A. 1786. Enforcement agents, in enforcing compliance with the laws and rules described in this division, may keep the peace and make arrests for violations of those laws and rules.

(2) In addition to the authority conferred by division (B)(1) of this section, an enforcement agent also may execute search warrants and seize and take into custody any contraband, as defined in section 2901.01 of the Revised Code, or any property that is otherwise necessary for evidentiary purposes related to any violations of the laws or rules described in division (B)(1) of this section. An enforcement agent may enter public or private premises where activity alleged to violate the laws or rules described in division (B)(1) of this section is occurring.

(3) Enforcement agents who are on, immediately adjacent to, or across from retail liquor permit premises and who are performing investigative duties relating to that premises, enforcement agents who are on premises that are not liquor permit premises but on which a violation of Title XLIII of the Revised Code or any rule adopted under it allegedly is occurring, and enforcement agents who view a suspected violation of Title XLIII of the Revised Code, of a rule adopted under it, or of another law or rule described in division (B)(1) of this section have the authority to enforce the laws and rules described in division (B)(1) of this section, authority to enforce any section in Title XXIX of the Revised Code or any other section of the Revised Code listed in section 5502.13 of the Revised Code if they witness a violation of the section under any of the circumstances described in this division, and authority to make arrests for violations of the laws and rules described in division (B)(1) of this section and violations of any of those sections.

(4) The jurisdiction of an enforcement agent under division (B) of this section shall be concurrent with that of the peace officers of the county, township, or municipal corporation in which the violation occurs.

(C) Enforcement agents of the department of public safety who are engaged in the enforcement of the laws and rules described in division (B)(1) of this section may carry concealed weapons when conducting undercover investigations pursuant to their authority as law enforcement officers and while acting within the scope of their authority pursuant to this chapter.

(D)(1) The department of public safety shall not employ, and the

director of public safety shall not designate, a person as an enforcement agent on a permanent basis, on a temporary basis, for a probationary term, or on other than a permanent basis if the person previously has been convicted of or has pleaded guilty to a felony.

(2)(a) The department of public safety shall terminate the employment of a person who is designated as an enforcement agent and who does either of the following:

(i) Pleads guilty to a felony;

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated plea agreement as provided in division (D) of section 2929.43 of the Revised Code in which the enforcement agent agrees to surrender the certificate awarded to that agent under section 109.77 of the Revised Code.

(b) The department shall suspend the employment of a person who is designated as an enforcement agent if the person is convicted, after trial, of a felony. If the enforcement agent files an appeal from that conviction and the conviction is upheld by the highest court to which the appeal is taken or if no timely appeal is filed, the department shall terminate the employment of that agent. If the enforcement agent files an appeal that results in that agent's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against the agent, the department shall reinstate the agent. An enforcement agent who is reinstated under division (D)(2)(b) of this section shall not receive any back pay unless the conviction of that agent of the felony was reversed on appeal, or the felony charge was dismissed, because the court found insufficient evidence to convict the agent of the felony.

(3) Division (D) of this section does not apply regarding an offense that was committed prior to January 1, 1997.

(4) The suspension or termination of the employment of a person designated as an enforcement agent under division (D)(2) of this section shall be in accordance with Chapter 119. of the Revised Code.

Sec. 5502.15. Any funding provided or made available by the United States or by any agency designated and authorized by the United States government for the purposes of enforcing compliance with ~~food-stamp~~ supplemental nutrition assistance program laws shall be expended by the department of public safety for those purposes.

Sec. 5505.15. (A)(1) A member of the state highway patrol retirement system shall contribute ten per cent of the member's annual salary to the state highway patrol retirement fund. The amount shall be deducted by the employer from the employee's salary for each payroll period.

(2) The total contributions arising from deductions made prior to

January 1, 1966, from the salaries of members in the employ of the state highway patrol and standing to the credit of their individual accounts in the retirement fund shall be transferred and credited to their respective individual accounts in the employees' savings fund.

(B) The state shall annually pay into the employer accumulation fund, in monthly or less frequent installments as the state highway patrol retirement board requires, ~~an amount that shall be a certain percentage of the total salaries paid contributing members and shall be known as the "employer contribution."~~ The employer contribution shall be an amount equal to twenty-six and one-half per cent of the total salaries paid contributing members. If a member severs connection with the patrol or is dismissed, the employer contribution shall remain in the retirement system.

The rate percentage of the employer contribution shall be certified by the board to the director of budget and management and shall not be lower than nine per cent of the total salaries paid contributing members and shall not exceed three times the rate percentage being deducted from the annual salaries of contributing members. The board shall prepare and submit to the director, on or before the first day of November of each even-numbered year, an estimate of the amounts necessary to pay the state's obligations accruing during the biennium beginning the first day of July of the following year. Such amounts shall be included in the budget and allocated as certified by the board.

Sec. 5505.152. (A) As used in this section, "entry age normal actuarial cost method" means an actuarial cost method under which the actuarial present value of the projected benefits of each individual included in the valuation is allocated on a level basis over the earnings or service of the individual between the entry age and the assumed exit age, with the portion of the actuarial present value that is allocated to the valuation year to be the normal cost and the portion of the actuarial present value not provided for at the valuation date by the actuarial present value of future normal costs to be the actuarial accrued liability. Under this method, the actuarial gains or losses are reflected as they occur in a decrease or increase in the unfunded actuarial accrued liability.

(B) The Ohio retirement study council shall annually review the adequacy of the contribution rates provided under divisions (A) and (B) of section 5505.15 of the Revised Code and the contribution rates recommended in a report by the actuary of the state highway patrol retirement system for the forthcoming year.

The actuarial calculations used by the actuary shall be based on the entry age normal actuarial cost method, and the adequacy of the contribution

rates shall be reported on the basis of that method. The Ohio retirement study council shall make recommendations to the general assembly that it finds necessary for the proper financing of the benefits of the state highway patrol retirement system.

Sec. 5525.26. Except as provided in federal law, if a project for the construction, reconstruction, or other improvement to a road or highway is administered by the department of transportation or any local public authority authorized under division (C) of section 5501.03 of the Revised Code, if the project is located in a municipal corporation with a population of at least four hundred thousand that is in a county with a population of at least one million two hundred thousand, and if the project is funded with at least one hundred thousand dollars from a political subdivision, then a contractor for the project shall comply with regulations or ordinances of the political subdivision that are in effect before July 1, 2009, and that specifically relate to the employment of residents and local businesses of the political subdivision in the performance of the work of the project, and such ordinances or regulations shall be included by reference unambiguously in the contract between the department of transportation or public authority and the contractor for the project.

Sec. 5537.051. (A)(1) In any county that as of January 1, 2009, had closed one or more roads as a result of grade separation failure at intersections of a turnpike project with a county or township road, the Ohio turnpike commission is responsible for the major maintenance and repair and replacement of such failed grade separations. The governmental entity with jurisdiction over the county or township road is responsible for routine maintenance of such failed grade separations.

(2) This section does not apply to any grade separation at intersections of a turnpike project with a county or township road except as described in division (A)(1) of this section.

(B) As used in this section:

(1) "Major maintenance and repair and replacement" relates to all elements constructed as part of or required for a grade separation, including box culverts, bridges, pile, foundations, substructures, abutments, piers, superstructures, approach slabs, slopes, approaches, embankments, railing, guardrails, drainage facilities including headwalls, and underdrains, inlets, catch basins and grates, fences, and appurtenances. Major maintenance and repair includes the painting and the repair of deteriorated or damaged elements to restore the structural integrity of any grade separation including embankments.

(2) "Routine maintenance" includes, without limitation, clearing debris,

sweeping, snow and ice removal, wearing surface improvements, marking for traffic control, minor and emergency repairs to railing and appurtenances, and emergency patching.

Sec. 5701.11. The effective date to which this section refers is the effective date of this section as amended by ~~Sub. H.B. 458~~ 1 of the ~~127th~~ 128th general assembly.

(A)(1) Except as provided under division (A)(2) or (B) of this section, any reference in Title LVII of the Revised Code to the Internal Revenue Code, to the Internal Revenue Code "as amended," to other laws of the United States, or to other laws of the United States, "as amended," means the Internal Revenue Code or other laws of the United States as they exist on the effective date.

(2) This section does not apply to any reference in Title LVII of the Revised Code to the Internal Revenue Code as of a date certain specifying the day, month, and year, or to other laws of the United States as of a date certain specifying the day, month, and year.

(B)(1) For purposes of applying section 5733.04, 5745.01, or 5747.01 of the Revised Code to a taxpayer's taxable year ending after December ~~21,~~ 30, ~~2007~~ 2008, and before the effective date, a taxpayer may irrevocably elect to incorporate the provisions of the Internal Revenue Code or other laws of the United States that are in effect for federal income tax purposes for that taxable year if those provisions differ from the provisions that, under division (A) of this section, would otherwise apply. The filing by the taxpayer for that taxable year of a report or return that incorporates the provisions of the Internal Revenue Code or other laws of the United States applicable for federal income tax purposes for that taxable year, and that does not include any adjustments to reverse the effects of any differences between those provisions and the provisions that would otherwise apply, constitutes the making of an irrevocable election under this division for that taxable year.

(2) Elections under prior versions of division (B)(1) of this section remain in effect for the taxable years to which they apply.

Sec. 5703.21. (A) Except as provided in divisions (B) and (C) of this section, no agent of the department of taxation, except in the agent's report to the department or when called on to testify in any court or proceeding, shall divulge any information acquired by the agent as to the transactions, property, or business of any person while acting or claiming to act under orders of the department. Whoever violates this provision shall thereafter be disqualified from acting as an officer or employee or in any other capacity under appointment or employment of the department.

(B)(1) For purposes of an audit pursuant to section 117.15 of the Revised Code, or an audit of the department pursuant to Chapter 117. of the Revised Code, or an audit, pursuant to that chapter, the objective of which is to express an opinion on a financial report or statement prepared or issued pursuant to division (A)(7) or (9) of section 126.21 of the Revised Code, the officers and employees of the auditor of state charged with conducting the audit shall have access to and the right to examine any state tax returns and state tax return information in the possession of the department to the extent that the access and examination are necessary for purposes of the audit. Any information acquired as the result of that access and examination shall not be divulged for any purpose other than as required for the audit or unless the officers and employees are required to testify in a court or proceeding under compulsion of legal process. Whoever violates this provision shall thereafter be disqualified from acting as an officer or employee or in any other capacity under appointment or employment of the auditor of state.

(2) For purposes of an internal audit pursuant to section 126.45 of the Revised Code, the officers and employees of the office of internal auditing in the office of budget and management charged with conducting the internal audit shall have access to and the right to examine any state tax returns and state tax return information in the possession of the department to the extent that the access and examination are necessary for purposes of the internal audit. Any information acquired as the result of that access and examination shall not be divulged for any purpose other than as required for the internal audit or unless the officers and employees are required to testify in a court or proceeding under compulsion of legal process. Whoever violates this provision shall thereafter be disqualified from acting as an officer or employee or in any other capacity under appointment or employment of the office of internal auditing.

(3) As provided by section 6103(d)(2) of the Internal Revenue Code, any federal tax returns or federal tax information that the department has acquired from the internal revenue service, through federal and state statutory authority, may be disclosed to the auditor of state or the office of internal auditing solely for purposes of an audit of the department.

(4) For purposes of Chapter 3739. of the Revised Code, an agent of the department of taxation may share information with the division of state fire marshal that the agent finds during the course of an investigation.

(C) Division (A) of this section does not prohibit any of the following:

(1) Divulging information contained in applications, complaints, and related documents filed with the department under section 5715.27 of the Revised Code or in applications filed with the department under section

5715.39 of the Revised Code;

(2) Providing information to the office of child support within the department of job and family services pursuant to section 3125.43 of the Revised Code;

(3) Disclosing to the board of motor vehicle collision repair registration any information in the possession of the department that is necessary for the board to verify the existence of an applicant's valid vendor's license and current state tax identification number under section 4775.07 of the Revised Code;

(4) Providing information to the administrator of workers' compensation pursuant to sections 4123.271 and 4123.591 of the Revised Code;

(5) Providing to the attorney general information the department obtains under division (J) of section 1346.01 of the Revised Code;

(6) Permitting properly authorized officers, employees, or agents of a municipal corporation from inspecting reports or information pursuant to rules adopted under section 5745.16 of the Revised Code;

(7) Providing information regarding the name, account number, or business address of a holder of a vendor's license issued pursuant to section 5739.17 of the Revised Code, a holder of a direct payment permit issued pursuant to section 5739.031 of the Revised Code, or a seller having a use tax account maintained pursuant to section 5741.17 of the Revised Code, or information regarding the active or inactive status of a vendor's license, direct payment permit, or seller's use tax account;

(8) Releasing invoices or invoice information furnished under section 4301.433 of the Revised Code pursuant to that section;

(9) Providing to a county auditor notices or documents concerning or affecting the taxable value of property in the county auditor's county. Unless authorized by law to disclose documents so provided, the county auditor shall not disclose such documents;

(10) Providing to a county auditor sales or use tax return or audit information under section 333.06 of the Revised Code;

(11) Subject to section 4301.441 of the Revised Code, disclosing to the appropriate state agency information in the possession of the department of taxation that is necessary to verify a permit holder's gallonage or noncompliance with taxes levied under Chapter 4301. or 4305. of the Revised Code;

(12) Disclosing to the department of natural resources information in the possession of the department that is necessary to verify the taxpayer's compliance with division (A)(1), (8), or (9) of section 5749.02 of the Revised Code;

(13) Disclosing to the department of job and family services, industrial commission, and bureau of workers' compensation information in the possession of the department of taxation solely for the purpose of identifying employers that misclassify employees as independent contractors or that fail to properly report and pay employer tax liabilities. The department of taxation shall disclose only such information that is necessary to verify employer compliance with law administered by those agencies.

Sec. 5703.37. ~~Whenever (A)(1) Except as provided in division (B) of this section, whenever~~ service of a notice or order is required in the manner provided in this section, a ~~certified~~ copy of the ~~order or notice or order~~ shall be served upon the person affected thereby either by personal service or by certified mail. ~~Within the time specified in an order of the department of taxation, every person upon whom it is served, if required by the order, shall notify the department, by personal service, certified mail, or a delivery service authorized under section 5703.056 of the Revised Code, whether the terms of the order are accepted and will be obeyed~~ that notifies the tax commissioner of the date of delivery.

(2) With the permission of the person affected by the notice or order, the commissioner may enter into a written agreement to deliver a notice or order by alternative means as provided in this section, including, but not limited to, delivery by secure electronic mail. Delivery by such means satisfies the requirements for delivery under this section.

(B)(1)(a) If certified mail is returned because of an undeliverable address, the commissioner shall first utilize reasonable means to ascertain a new last known address, including the use of a change of address service offered by the United States postal service. If, after using reasonable means, the commissioner is unable to ascertain a new last known address, the assessment is final for purposes of section 131.02 of the Revised Code sixty days after the notice or order sent by certified mail is first returned to the commissioner, and the commissioner shall certify the notice or order, if applicable, to the attorney general for collection under section 131.02 of the Revised Code.

(b) Notwithstanding certification to the attorney general under division (B)(1)(a) of this section, once the commissioner or attorney general, or the designee of either, makes an initial contact with the person to whom the notice or order is directed, the person may protest an assessment by filing a petition for reassessment within sixty days after the initial contact. The certification of an assessment under division (B)(1)(a) of this section is prima-facie evidence that delivery is complete and that the notice or order is served.

(2) If mailing of a notice or order by certified mail is returned for some cause other than an undeliverable address, the tax commissioner shall resend the notice or order by ordinary mail. The notice or order shall show the date the commissioner sends the notice or order and include the following statement:

"This notice or order is deemed to be served on the addressee under applicable law ten days from the date this notice or order was mailed by the commissioner as shown on the notice or order, and all periods within which an appeal may be filed apply from and after that date."

Unless the mailing is returned because of an undeliverable address, the mailing of that information is prima-facie evidence that delivery of the notice or order was completed ten days after the commissioner sent the notice or order by ordinary mail and that the notice or order was served.

If the ordinary mail is subsequently returned because of an undeliverable address, the commissioner shall proceed under division (B)(1)(a) of this section. A person may challenge the presumption of delivery and service under this division in accordance with division (C) of this section.

(C)(1) A person disputing the presumption of delivery and service under division (B) of this section bears the burden of proving by a preponderance of the evidence that the address to which the notice or order was sent was not an address with which the person was associated at the time the commissioner originally mailed the notice or order by certified mail. For the purposes of this section, a person is associated with an address at the time the commissioner originally mailed the notice or order if, at that time, the person was residing, receiving legal documents, or conducting business at the address; or if, before that time, the person had conducted business at the address and, when the notice or order was mailed, the person's agent or the person's affiliate was conducting business at the address. For the purposes of this section, a person's affiliate is any other person that, at the time the notice or order was mailed, owned or controlled at least twenty per cent, as determined by voting rights, of the addressee's business.

(2) If the person elects to protest an assessment certified to the attorney general for collection, the person must do so within sixty days after the attorney general's initial contact with the person. The attorney general may enter into a compromise with the person under sections 131.02 and 5703.06 of the Revised Code if the person does not file a petition for reassessment with the tax commissioner.

(D) Nothing in this section prohibits the tax commissioner or the commissioner's designee from delivering a notice or order by personal

service.

(E) Collection actions taken pursuant to section 131.02 of the Revised Code upon any assessment being challenged under division (B)(1)(b) of this section shall be stayed upon the pendency of an appeal under this section. If a petition for reassessment is filed pursuant to this section on a claim that has been certified to the attorney general for collection, the claim shall be uncertified.

(F) As used in this section:

(1) "Last known address" means the address the department has at the time the document is originally sent by certified mail, or any address the department can ascertain using reasonable means such as the use of a change of address service offered by the United States postal service.

(2) "Undeliverable address" means an address to which the United States postal service is not able to deliver a notice or order, except when the reason for nondelivery is because the addressee fails to acknowledge or accept the notice or order.

Sec. 5703.80. There is hereby created in the state treasury the property tax administration fund. All money to the credit of the fund shall be used to defray the costs incurred by the department of taxation in administering the taxation of property and the equalization of real property valuation.

Each fiscal year between the first and fifteenth days of July, the tax commissioner shall compute the following amounts for the property in each taxing district in each county, and certify to the director of budget and management the sum of those amounts for all taxing districts in all counties:

(A) For fiscal year ~~2006~~ 2010, ~~thirty-three~~ forty-two hundredths of one per cent of the total amount by which taxes charged against real property on the general tax list of real and public utility property were reduced under section 319.302 of the Revised Code for the preceding tax year;

(B) For fiscal year ~~2007~~ 2011 and thereafter, ~~thirty-five~~ forty-eight hundredths of one per cent of the total amount by which taxes charged against real property on the general tax list of real and public utility property were reduced under section 319.302 of the Revised Code for the preceding tax year;

(C) For fiscal year ~~2006~~ 2010, ~~one-half~~ eight-tenths of one per cent of the total amount of taxes charged and payable against public utility personal property on the general tax list of real and public utility property for the preceding tax year and of the total amount of taxes charged and payable against tangible personal property on the general tax list of personal property of the preceding tax year and for which returns were filed with the tax commissioner under section 5711.13 of the Revised Code;

(D) For fiscal year ~~2007~~ 2011 and thereafter, ~~fifty-six hundredths~~ nine hundred fifty-one thousandths of one per cent of the total amount of taxes charged and payable against public utility personal property on the general tax list of real and public utility property for the preceding tax year and of the total amount of taxes charged and payable against tangible personal property on the general tax list of personal property of the preceding tax year and for which returns were filed with the tax commissioner under section 5711.13 of the Revised Code;

~~(E) For fiscal year 2008, six-tenths of one per cent of the total amount of taxes charged and payable against public utility personal property on the general tax list of real and public utility property for the preceding tax year and of the total amount of taxes charged and payable against tangible personal property on the general tax list of personal property of the preceding tax year and for which returns were filed with the tax commissioner under section 5711.13 of the Revised Code;~~

~~(F) For fiscal year 2009 and thereafter, seven hundred twenty-five one-thousandths of one per cent of the total amount of taxes charged and payable against public utility personal property on the general tax list of real and public utility property for the preceding tax year and of the total amount of taxes charged and payable against tangible personal property on the general tax list of personal property of the preceding tax year and for which returns were filed with the tax commissioner under section 5711.13 of the Revised Code.~~

After receiving the tax commissioner's certification, the director of budget and management shall transfer from the general revenue fund to the property tax administration fund one-fourth of the amount certified on or before each of the following days: the first days of August, November, February, and May.

On or before the thirtieth day of June of the fiscal year, the tax commissioner shall certify to the director of budget and management the sum of the amounts by which the amounts computed for a taxing district under this section exceeded the distributions to the taxing district under division (F) of section 321.24 of the Revised Code, and the director shall transfer that sum from the property tax administration fund to the general revenue fund.

Sec. 5705.01. As used in this chapter:

(A) "Subdivision" means any county; municipal corporation; township; township police district; township fire district; joint fire district; joint ambulance district; joint emergency medical services district; fire and ambulance district; joint recreation district; township waste disposal district;

township road district; community college district; technical college district; detention facility district; a district organized under section 2151.65 of the Revised Code; a combined district organized under sections 2152.41 and 2151.65 of the Revised Code; a joint-county alcohol, drug addiction, and mental health service district; a drainage improvement district created under section 6131.52 of the Revised Code; a union cemetery district; a county school financing district; ~~or~~ a city, local, exempted village, cooperative education, or joint vocational school district; or a regional student education district created under section 3313.83 of the Revised Code.

(B) "Municipal corporation" means all municipal corporations, including those that have adopted a charter under Article XVIII, Ohio Constitution.

(C) "Taxing authority" or "bond issuing authority" means, in the case of any county, the board of county commissioners; in the case of a municipal corporation, the council or other legislative authority of the municipal corporation; in the case of a city, local, exempted village, cooperative education, or joint vocational school district, the board of education; in the case of a community college district, the board of trustees of the district; in the case of a technical college district, the board of trustees of the district; in the case of a detention facility district, a district organized under section 2151.65 of the Revised Code, or a combined district organized under sections 2152.41 and 2151.65 of the Revised Code, the joint board of county commissioners of the district; in the case of a township, the board of township trustees; in the case of a joint fire district, the board of fire district trustees; in the case of a joint recreation district, the joint recreation district board of trustees; in the case of a joint-county alcohol, drug addiction, and mental health service district, the district's board of alcohol, drug addiction, and mental health services; in the case of a joint ambulance district or a fire and ambulance district, the board of trustees of the district; in the case of a union cemetery district, the legislative authority of the municipal corporation and the board of township trustees, acting jointly as described in section 759.341 of the Revised Code; in the case of a drainage improvement district, the board of county commissioners of the county in which the drainage district is located; in the case of a joint emergency medical services district, the joint board of county commissioners of all counties in which all or any part of the district lies; and in the case of a township police district, a township fire district, a township road district, or a township waste disposal district, the board of township trustees of the township in which the district is located. "Taxing authority" also means the educational service center governing board that serves as the taxing authority of a county school

financing district as provided in section 3311.50 of the Revised Code, and the board of directors of a regional student education district created under section 3313.83 of the Revised Code.

(D) "Fiscal officer" in the case of a county, means the county auditor; in the case of a municipal corporation, the city auditor or village clerk, or an officer who, by virtue of the charter, has the duties and functions of the city auditor or village clerk, except that in the case of a municipal university the board of directors of which have assumed, in the manner provided by law, the custody and control of the funds of the university, the chief accounting officer of the university shall perform, with respect to the funds, the duties vested in the fiscal officer of the subdivision by sections 5705.41 and 5705.44 of the Revised Code; in the case of a school district, the treasurer of the board of education; in the case of a county school financing district, the treasurer of the educational service center governing board that serves as the taxing authority; in the case of a township, the township fiscal officer; in the case of a joint fire district, the clerk of the board of fire district trustees; in the case of a joint ambulance district, the clerk of the board of trustees of the district; in the case of a joint emergency medical services district, the person appointed as fiscal officer pursuant to division (D) of section 307.053 of the Revised Code; in the case of a fire and ambulance district, the person appointed as fiscal officer pursuant to division (B) of section 505.375 of the Revised Code; in the case of a joint recreation district, the person designated pursuant to section 755.15 of the Revised Code; in the case of a union cemetery district, the clerk of the municipal corporation designated in section 759.34 of the Revised Code; in the case of a children's home district, educational service center, general health district, joint-county alcohol, drug addiction, and mental health service district, county library district, detention facility district, district organized under section 2151.65 of the Revised Code, a combined district organized under sections 2152.41 and 2151.65 of the Revised Code, or a metropolitan park district for which no treasurer has been appointed pursuant to section 1545.07 of the Revised Code, the county auditor of the county designated by law to act as the auditor of the district; in the case of a metropolitan park district which has appointed a treasurer pursuant to section 1545.07 of the Revised Code, that treasurer; in the case of a drainage improvement district, the auditor of the county in which the drainage improvement district is located; in the case of a regional student education district, the fiscal officer appointed pursuant to section 3313.83 of the Revised Code; and in all other cases, the officer responsible for keeping the appropriation accounts and drawing warrants for the expenditure of the moneys of the district or taxing unit.

(E) "Permanent improvement" or "improvement" means any property, asset, or improvement with an estimated life or usefulness of five years or more, including land and interests therein, and reconstructions, enlargements, and extensions thereof having an estimated life or usefulness of five years or more.

(F) "Current operating expenses" and "current expenses" mean the lawful expenditures of a subdivision, except those for permanent improvements, and except payments for interest, sinking fund, and retirement of bonds, notes, and certificates of indebtedness of the subdivision.

(G) "Debt charges" means interest, sinking fund, and retirement charges on bonds, notes, or certificates of indebtedness.

(H) "Taxing unit" means any subdivision or other governmental district having authority to levy taxes on the property in the district or issue bonds that constitute a charge against the property of the district, including conservancy districts, metropolitan park districts, sanitary districts, road districts, and other districts.

(I) "District authority" means any board of directors, trustees, commissioners, or other officers controlling a district institution or activity that derives its income or funds from two or more subdivisions, such as the educational service center, the trustees of district children's homes, the district board of health, a joint-county alcohol, drug addiction, and mental health service district's board of alcohol, drug addiction, and mental health services, detention facility districts, a joint recreation district board of trustees, districts organized under section 2151.65 of the Revised Code, combined districts organized under sections 2152.41 and 2151.65 of the Revised Code, and other such boards.

(J) "Tax list" and "tax duplicate" mean the general tax lists and duplicates prescribed by sections 319.28 and 319.29 of the Revised Code.

(K) "Property" as applied to a tax levy means taxable property listed on general tax lists and duplicates.

(L) "School library district" means a school district in which a free public library has been established that is under the control and management of a board of library trustees as provided in section 3375.15 of the Revised Code.

Sec. 5705.211. (A) As used in this section:

(1) "Adjusted charge-off increase" for a tax year means two ~~and three-tenths~~ per cent of the cumulative carryover property value increase. If the cumulative carryover property value increase is computed on the basis of a school district's recognized valuation for a fiscal year before fiscal year

2014, the adjusted charge-off increase shall be adjusted to account for the greater charge-off rates prescribed for such fiscal years under sections 3317.022 and 3306.13 of the Revised Code.

(2) "Cumulative carryover property value increase" means the sum of the increases in carryover value certified under division (B)(2) of section 3317.015 of the Revised Code and included in a school district's total taxable value in the computation of recognized valuation under division (B) of that section for all fiscal years from the fiscal year that ends in the first tax year a levy under this section is extended on the tax list of real and public utility property until and including the fiscal year that ends in the current tax year.

(3) "Taxes charged and payable" means the taxes charged and payable from a tax levy extended on the real and public utility property tax list and the general list of personal property before any reduction under section 319.302, 323.152, or 323.158 of the Revised Code.

(B) The board of education of a city, local, or exempted village school district may adopt a resolution proposing the levy of a tax in excess of the ten-mill limitation for the purpose of paying the current operating expenses of the district. If the resolution is approved as provided in division (D) of this section, the tax may be levied at such a rate each tax year that the total taxes charged and payable from the levy equals the adjusted charge-off increase for the tax year or equals a lesser amount as prescribed under division (C) of this section. The tax may be levied for a continuing period of time or for a specific number of years, but not fewer than five years, as provided in the resolution. The tax may not be placed on the tax list for a tax year beginning before the first day of January following adoption of the resolution. A board of education may not adopt a resolution under this section proposing to levy a tax under this section concurrently with any other tax levied by the board under this section.

(C) After the first year a tax is levied under this section, the rate of the tax in any year shall not exceed the rate, estimated by the county auditor, that would cause the sums levied from the tax against carryover property to exceed one hundred four per cent of the sums levied from the tax against carryover property in the preceding year. A board of education imposing a tax under this section may specify in the resolution imposing the tax that the percentage shall be less than one hundred four per cent, but the percentage shall not be less than one hundred per cent. At any time after a resolution adopted under this section is approved by a majority of electors as provided in division (D) of this section, the board of education, by resolution, may decrease the percentage specified in the resolution levying the tax.

(D) A resolution adopted under this section shall state that the purpose of the tax is to pay current operating expenses of the district, and shall specify the first year in which the tax is to be levied, the number of years the tax will be levied or that it will be levied for a continuing period of time, and the election at which the question of the tax is to appear on the ballot, which shall be a general or special election consistent with the requirements of section 3501.01 of the Revised Code. If the board of education specifies a percentage less than one hundred four per cent pursuant to division (C) of this section, the percentage shall be specified in the resolution.

Upon adoption of the resolution, the board of education may certify a copy of the resolution to the proper county board of elections. The copy of the resolution shall be certified to the board of elections not later than seventy-five days before the day of the election at which the question of the tax is to appear on the ballot. Upon receiving a timely certified copy of such a resolution, the board of elections shall make the necessary arrangements for the submission of the question to the electors of the school district, and the election shall be conducted, canvassed, and certified in the same manner as regular elections in the school district for the election of members of the board of education. Notice of the election shall be published in one or more newspapers of general circulation in the school district once per week for four consecutive weeks. The notice shall state that the purpose of the tax is for the current operating expenses of the school district, the first year the tax is to be levied, the number of years the tax is to be levied or that it is to be levied for a continuing period of time, that the tax is to be levied each year in an amount estimated to offset decreases in state base cost funding caused by appreciation in real estate values, and that the estimated additional tax in any year shall not exceed the previous year's by more than four per cent, or a lesser percentage specified in the resolution levying the tax, except for increases caused by the addition of new taxable property.

The question shall be submitted as a separate proposition but may be printed on the same ballot with any other proposition submitted at the same election other than the election of officers.

The form of the ballot shall be substantially as follows:

"An additional tax for the benefit of (name of school district) for the purpose of paying the current operating expenses of the district, for (number of years or for continuing period of time), at a rate sufficient to offset any reduction in basic state funding caused by appreciation in real estate values? This levy will permit variable annual growth in revenue up to (amount specified by school district) per cent for the duration of the levy.

	For the tax levy	"
	Against the tax levy	

If a majority of the electors of the school district voting on the question vote in favor of the question, the board of elections shall certify the results of the election to the board of education and to the tax commissioner immediately after the canvass.

(E) When preparing any estimate of the contemplated receipts from a tax levied pursuant to this section for the purposes of sections 5705.28 to 5705.40 of the Revised Code, and in preparing to certify the tax under section 5705.34 of the Revised Code, a board of education authorized to levy such a tax shall use information supplied by the department of education to determine the adjusted charge-off increase for the tax year for which that certification is made. If the board levied a tax under this section in the preceding tax year, the sum to be certified for collection from the tax shall not exceed the sum that would exceed the limitation imposed under division (C) of this section. At the request of the board of education or the treasurer of the school district, the county auditor shall assist the board of education in determining the rate or sum that may be levied under this section.

The board of education shall certify the sum authorized to be levied to the county auditor, and, for the purpose of the county auditor determining the rate at which the tax is to be levied in the tax year, the sum so certified shall be the sum to be raised by the tax unless the sum exceeds the limitation imposed by division (C) of this section. A tax levied pursuant to this section shall not be levied at a rate in excess of the rate estimated by the county auditor to produce the sum certified by the board of education before the reductions under sections 319.302, 323.152, and 323.158 of the Revised Code. Notwithstanding section 5705.34 of the Revised Code, a board of education authorized to levy a tax under this section shall certify the tax to the county auditor before the first day of October of the tax year in which the tax is to be levied, or at a later date as approved by the tax commissioner.

Sec. 5705.214. Not more than three elections during any calendar year shall include the questions by a school district of tax levies proposed under any one or any combination of the following sections: sections 5705.194, 5705.199, 5705.21, 5705.212, 5705.213, 5705.217, ~~and~~ 5705.218, and 5705.219 of the Revised Code.

Sec. 5705.219. (A) As used in this section:

(1) "Eligible school district" means a city, local, or exempted village school district in which the taxes charged and payable for current expenses on residential/agricultural real property in the tax year preceding the year in which the levy authorized by this section will be submitted for elector approval or rejection are greater than two per cent of the taxable value of the residential/agricultural real property.

(2) "Residential/agricultural real property" and "nonresidential/agricultural real property" means the property classified as such under section 5713.041 of the Revised Code.

(3) "Effective tax rate" and "taxes charged and payable" have the same meanings as in division (B) of section 319.301 of the Revised Code.

(B) On or after January 1, 2010, but before January 1, 2015, the board of education of an eligible school district, by a vote of two-thirds of all its members, may adopt a resolution proposing to convert existing levies imposed for the purpose of current expenses into a levy raising a specified amount of tax money by repealing all or a portion of one or more of those existing levies and imposing a levy in excess of the ten-mill limitation that will raise a specified amount of money for current expenses of the district.

The board of education shall certify a copy of the resolution to the tax commissioner not later than ninety days before the election upon which the repeal and levy authorized by this section will be proposed to the electors. Within ten days after receiving the copy of the resolution, the tax commissioner shall determine each of the following and certify the determinations to the board of education:

(1) The dollar amount to be raised by the proposed levy, which shall be the product of:

(a) The difference between the aggregate effective tax rate for residential/agricultural real property for the tax year preceding the year in which the repeal and levy will be proposed to the electors and twenty mills per dollar of taxable value;

(b) The total taxable value of all property on the tax list of real and public utility property for the tax year preceding the year in which the repeal and levy will be proposed to the electors.

(2) The estimated tax rate of the proposed levy.

(3) The existing levies and any portion of an existing levy to be repealed upon approval of the question. Levies shall be repealed in reverse chronological order from most recently imposed to least recently imposed until the sum of the effective tax rates repealed for residential/agricultural real property is equal to the difference calculated in division (B)(1)(a) of this section.

(4) The sum of the following:

(a) The total taxable value of nonresidential/agricultural real property for the tax year preceding the year in which the repeal and levy will be proposed to the electors multiplied by the difference between (i) the aggregate effective tax rate for nonresidential/agricultural real property for the existing levies and any portion of an existing levy to be repealed and (ii) the amount determined under division (B)(1)(a) of this section, but not less than zero;

(b) The total taxable value of public utility tangible personal property for the tax year preceding the year in which the repeal and levy will be proposed to the electors multiplied by the difference between (i) the aggregate voted tax rate for the existing levies and any portion of an existing levy to be repealed and (ii) the amount determined under division (B)(1)(a) of this section, but not less than zero.

(C) Upon receipt of the certification from the tax commissioner under division (B) of this section, a majority of the members of the board of education may adopt a resolution proposing the repeal of the existing levies as identified in the certification and the imposition of a levy in excess of the ten-mill limitation that will raise annually the amount certified by the commissioner. If the board determines that the tax should be for an amount less than that certified by the commissioner, the board may request that the commissioner redetermine the rate under division (B)(2) of this section on the basis of the lesser amount the levy is to raise as specified by the board. The amount certified under division (B)(4) and the levies to be repealed as certified under division (B)(3) of this section shall not be redetermined. Within ten days after receiving a timely request specifying the lesser amount to be raised by the levy, the commissioner shall redetermine the rate and recertify it to the board as otherwise provided in division (B) of this section. Only one such request may be made by the board of education of an eligible school district.

The resolution shall state the first calendar year in which the levy will be due; the existing levies and any portion of an existing levy that will be repealed, as certified by the commissioner; the term of the levy expressed in years, which may be any number not exceeding ten, or that it will be levied for a continuing period of time; and the date of the election, which shall be the date of a primary or general election.

Immediately upon its passage, the resolution shall go into effect and shall be certified by the board of education to the county auditor of the proper county. The county auditor and the board of education shall proceed as required under section 5705.195 of the Revised Code. No publication of

the resolution is necessary other than that provided for in the notice of election. Section 5705.196 of the Revised Code shall govern the matters concerning the election. The submission of a question to the electors under this section is subject to the limitation on the number of election dates established by section 5705.214 of the Revised Code.

(D) The form of the ballot to be used at the election provided for in this section shall be as follows:

"Shall the existing levy of . . . (insert the voted millage rate of the levy to be repealed), currently being charged against residential and agricultural property by the . . . (insert the name of school district) at a rate of . . . (insert the residential/agricultural real property effective tax rate of the levy being repealed) for the purpose of . . . (insert the purpose of the existing levy) be repealed, and shall a levy be imposed by the . . . (insert the name of school district) in excess of the ten-mill limitation for the necessary requirements of the school district in the sum of . . . (insert the annual amount the levy is to produce), estimated by the tax commissioner to require . . . (insert the number of mills) mills for each one dollar of valuation, which amounts to . . . (insert the rate expressed in dollars and cents) for each one hundred dollars of valuation for the initial year of the tax, for a period of . . . (insert the number of years the levy is to be imposed, or that it will be levied for a continuing period of time), commencing in . . . (insert the first year the tax is to be levied), first due in calendar year . . . (insert the first calendar year in which the tax shall be due)?"

	<u>FOR THE REPEAL AND TAX</u>	"
	<u>AGAINST THE REPEAL AND TAX</u>	

If the question submitted is a proposal to repeal all or a portion of more than one existing levy, the form of the ballot shall be modified by substituting the statement "shall the existing levy of" with "shall existing levies of" and inserting the aggregate voted and aggregate effective tax rates to be repealed.

(E) If a majority of the electors voting on the question submitted in an election vote in favor of the repeal and levy, the result shall be certified immediately after the canvass by the board of elections to the board of education. The board of education may make the levy necessary to raise the amount specified in the resolution for the purpose stated in the resolution and shall certify it to the county auditor, who shall extend it on the current

year tax lists for collection. After the first year, the levy shall be included in the annual tax budget that is certified to the county budget commission.

(F) A levy imposed under this section for a continuing period of time may be decreased or repealed pursuant to section 5705.261 of the Revised Code. If a levy imposed under this section is decreased, the amount calculated under division (B)(4) of this section and paid under section 5705.2110 of the Revised Code shall be decreased by the same proportion as the levy is decreased. If the levy is repealed, no further payments shall be made to the district under that section.

(G) At any time, the board of education, by a vote of two-thirds of all of its members, may adopt a resolution to renew a tax levied under this section. The resolution shall provide for levying the tax and specifically all of the following:

(1) That the tax shall be called, and designated on the ballot as, a renewal levy;

(2) The amount of the renewal tax, which shall be no more than the amount of tax previously collected;

(3) The number of years, not to exceed ten, that the renewal tax will be levied, or that it will be levied for a continuing period of time;

(4) That the purpose of the renewal tax is for current expenses.

The board shall certify a copy of the resolution to the board of elections not later than seventy-five days before the date of the election at which the question is to be submitted, which shall be the date of a primary or general election.

(H) The form of the ballot to be used at the election on the question of renewing a levy under this section shall be as follows:

"Shall a tax levy renewing an existing levy of . . . (insert the annual dollar amount the levy is to produce each year), estimated to require . . . (insert the number of mills) mills for each one dollar of valuation be imposed by the . . . (insert the name of school district) for the purpose of current expenses for a period of . . . (insert the number of years the levy is to be imposed, or that it will be levied for a continuing period of time), commencing in . . . (insert the first year the tax is to be levied), first due in calendar year . . . (insert the first calendar year in which the tax shall be due)?"

	<u>FOR THE RENEWAL OF THE TAX LEVY</u>	"
	<u>AGAINST THE RENEWAL OF THE TAX</u>	

LEVY

If the levy submitted is to be for less than the amount of money previously collected, the form of the ballot shall be modified to add "and reducing" after "renewing" and to add before "estimated to require" the statement "be approved at a tax rate necessary to produce . . . (insert the lower annual dollar amount the levy is to produce each year)."

Sec. 5705.2110. (A) For purposes of this section:

(1) "Carryover property" has the same meaning as in section 319.301 of the Revised Code.

(2) "Residential/agricultural real property" has the same meaning as in section 5705.219 of the Revised Code.

(B) For each city, local, or exempted village school district in which the tax authorized by section 5705.219 of the Revised Code has been approved by electors in the preceding year, the tax commissioner, not later than the twenty-eighth day of February, shall certify to the department of education the amount determined in division (B)(4) of section 5705.219 of the Revised Code. Not later than the twenty-eighth day of February of each year thereafter for twelve years, the commissioner shall certify an amount equal to the difference between the amount certified in the preceding year under this division and the product of ten mills per dollar multiplied by the excess, if any, of the value of carryover property for residential/agricultural real property for the preceding tax year over the value of carryover property for residential/agricultural real property in the second preceding tax year. If the amount to be certified in any year is zero, in the commissioner's certification the commissioner shall state that no further certifications shall be forthcoming.

(C) Not later than the last day of April and of October beginning in the first year in which a certification under division (B) of this section is received, the department of education shall pay to the school district for which the certification is made one-half of the amount most recently certified by the tax commissioner.

Sec. 5705.2111. (A) If the board of directors of a regional student education district created under section 3313.83 of the Revised Code desires to levy a tax in excess of the ten-mill limitation throughout the district for the purpose of funding the services to be provided by the district to students enrolled in the school districts of which the district is composed and their immediate family members, the board shall propose the levy to each of the boards of education of those school districts. The proposal shall specify the rate or amount of the tax, the number of years the tax will be levied or that it

will be levied for a continuing period of time, and that the aggregate rate of the tax shall not exceed three mills per dollar of taxable value in the regional student education district.

(B)(1) If a majority of the boards of education of the school districts of which the regional student education district is composed approves the proposal for the tax levy, the board of directors of the regional student education district may adopt a resolution approved by a majority of the board's full membership declaring the necessity of levying the proposed tax in excess of the ten-mill limitation throughout the district for the purpose of funding the services to be provided by the district to students enrolled in the school districts of which the district is composed and their immediate family members. The resolution shall provide for the question of the tax to be submitted to the electors of the district at a general, primary, or special election on a day to be specified in the resolution that is consistent with the requirements of section 3501.01 of the Revised Code and that occurs at least seventy-five days after the resolution is certified to the board of elections. The resolution shall specify the rate or amount of the tax and the number of years the tax will be levied or that the tax will be levied for a continuing period of time. The aggregate rate of tax levied by a regional student education district under this section at any time shall not exceed three mills per dollar of taxable value in the district. A tax levied under this section may be renewed, subject to section 5705.25 of the Revised Code, or replaced as provided in section 5705.192 of the Revised Code.

(2) The resolution shall take effect immediately upon passage, and no publication of the resolution is necessary other than that provided in the notice of election. The resolution shall be certified and submitted in the manner provided under section 5705.25 of the Revised Code, and that section governs the arrangements governing submission of the question and other matters concerning the election.

Sec. 5705.25. (A) A copy of any resolution adopted as provided in section 5705.19 or 5705.2111 of the Revised Code shall be certified by the taxing authority to the board of elections of the proper county not less than seventy-five days before the general election in any year, and the board shall submit the proposal to the electors of the subdivision at the succeeding November election. Except as otherwise provided in this division, a resolution to renew an existing levy, regardless of the section of the Revised Code under which the tax was imposed, shall not be placed on the ballot unless the question is submitted at the general election held during the last year the tax to be renewed or replaced may be extended on the real and public utility property tax list and duplicate, or at any election held in the

ensuing year. The limitation of the foregoing sentence does not apply to a resolution to renew and increase or to renew part of an existing levy that was imposed under section 5705.191 of the Revised Code to supplement the general fund for the purpose of making appropriations for one or more of the following purposes: for public assistance, human or social services, relief, welfare, hospitalization, health, and support of general hospitals. The limitation of the second preceding sentence also does not apply to a resolution that proposes to renew two or more existing levies imposed under section 5705.21 of the Revised Code, in which case the question shall be submitted on the date of the general or primary election held during the last year at least one of the levies to be renewed may be extended on the real and public utility property tax list and duplicate, or at any election held during the ensuing year. For purposes of this section, a levy shall be considered to be an "existing levy" through the year following the last year it can be placed on that tax list and duplicate.

The board shall make the necessary arrangements for the submission of such questions to the electors of such subdivision, and the election shall be conducted, canvassed, and certified in the same manner as regular elections in such subdivision for the election of county officers. Notice of the election shall be published in a newspaper of general circulation in the subdivision once a week for two consecutive weeks prior to the election, and, if the board of elections operates and maintains a web site, the board of elections shall post notice of the election on its web site for thirty days prior to the election. The notice shall state the purpose, the proposed increase in rate expressed in dollars and cents for each one hundred dollars of valuation as well as in mills for each one dollar of valuation, the number of years during which the increase will be in effect, the first month and year in which the tax will be levied, and the time and place of the election.

(B) The form of the ballots cast at an election held pursuant to division (A) of this section shall be as follows:

"An additional tax for the benefit of (name of subdivision or public library) for the purpose of (purpose stated in the resolution) at a rate not exceeding mills for each one dollar of valuation, which amounts to (rate expressed in dollars and cents) for each one hundred dollars of valuation, for (life of indebtedness or number of years the levy is to run).

	For the Tax Levy
	Against the Tax Levy

"

(C) If the levy is to be in effect for a continuing period of time, the notice of election and the form of ballot shall so state instead of setting forth a specified number of years for the levy.

If the tax is to be placed on the current tax list, the form of the ballot shall be modified by adding, after the statement of the number of years the levy is to run, the phrase ", commencing in (first year the tax is to be levied), first due in calendar year (first calendar year in which the tax shall be due)."

If the levy submitted is a proposal to renew, increase, or decrease an existing levy, the form of the ballot specified in division (B) of this section may be changed by substituting for the words "An additional" at the beginning of the form, the words "A renewal of a" in case of a proposal to renew an existing levy in the same amount; the words "A renewal of mills and an increase of mills to constitute a" in the case of an increase; or the words "A renewal of part of an existing levy, being a reduction of mills, to constitute a" in the case of a decrease in the proposed levy.

If the levy submitted is a proposal to renew two or more existing levies imposed under section 5705.21 of the Revised Code, the form of the ballot specified in division (B) of this section shall be modified by substituting for the words "an additional tax" the words "a renewal of(insert the number of levies to be renewed) existing taxes."

The question covered by such resolution shall be submitted as a separate proposition but may be printed on the same ballot with any other proposition submitted at the same election, other than the election of officers. More than one such question may be submitted at the same election.

(D) A levy voted in excess of the ten-mill limitation under this section shall be certified to the tax commissioner. In the first year of the levy, it shall be extended on the tax lists after the February settlement succeeding the election. If the additional tax is to be placed upon the tax list of the current year, as specified in the resolution providing for its submission, the result of the election shall be certified immediately after the canvass by the board of elections to the taxing authority, who shall make the necessary levy and certify it to the county auditor, who shall extend it on the tax lists for collection. After the first year, the tax levy shall be included in the annual tax budget that is certified to the county budget commission.

Sec. 5705.29. This section does not apply to a subdivision or taxing unit for which the county budget commission has waived the requirement to adopt a tax budget pursuant to section 5705.281 of the Revised Code. The tax budget shall present the following information in such detail as is prescribed by the auditor of state:

(A)(1) A statement of the necessary current operating expenses for the ensuing fiscal year for each department and division of the subdivision, classified as to personal services and other expenses, and the fund from which such expenditures are to be made. Except in the case of a school district, this estimate may include a contingent expense not designated for any particular purpose, and not to exceed three per cent of the total amount of appropriations for current expenses. In the case of a school district, this estimate may include a contingent expense not designated for any particular purpose and not to exceed thirteen per cent of the total amount of appropriations for current expenses.

(2) A statement of the expenditures for the ensuing fiscal year necessary for permanent improvements, exclusive of any expense to be paid from bond issues, classified as to the improvements contemplated by the subdivision and the fund from which such expenditures are to be made;

(3) The amounts required for the payment of final judgments;

(4) A statement of expenditures for the ensuing fiscal year necessary for any purpose for which a special levy is authorized, and the fund from which such expenditures are to be made;

(5) Comparative statements, so far as possible, in parallel columns of corresponding items of expenditures for the current fiscal year and the two preceding fiscal years.

(B)(1) An estimate of receipts from other sources than the general property tax during the ensuing fiscal year, which shall include an estimate of unencumbered balances at the end of the current fiscal year, and the funds to which such estimated receipts are credited;

(2) The amount each fund requires from the general property tax, which shall be the difference between the contemplated expenditure from the fund and the estimated receipts, as provided in this section. The section of the Revised Code under which the tax is authorized shall be set forth.

(3) Comparative statements, so far as possible, in parallel columns of taxes and other revenues for the current fiscal year and the two preceding fiscal years.

(C)(1) The amount required for debt charges;

(2) The estimated receipts from sources other than the tax levy for payment of such debt charges, including the proceeds of refunding bonds to be issued to refund bonds maturing in the next succeeding fiscal year;

(3) The net amount for which a tax levy shall be made, classified as to bonds authorized and issued prior to January 1, 1922, and those authorized and issued subsequent to such date, and as to what portion of the levy will be within and what in excess of the ten-mill limitation.

(D) An estimate of amounts from taxes authorized to be levied in excess of the ten-mill limitation on the tax rate, and the fund to which such amounts will be credited, together with the sections of the Revised Code under which each such tax is exempted from all limitations on the tax rate.

(E)(1) A board of education may include in its budget for the fiscal year in which a levy proposed under section 5705.194, 5705.199, 5705.21, ~~or 5705.213, or 5705.219~~, or the original levy under section 5705.212 of the Revised Code is first extended on the tax list and duplicate an estimate of expenditures to be known as a voluntary contingency reserve balance, which shall not be greater than twenty-five per cent of the total amount of the levy estimated to be available for appropriation in such year.

(2) A board of education may include in its budget for the fiscal year following the year in which a levy proposed under section 5705.194, 5705.199, 5705.21, ~~or 5705.213, or 5705.219~~, or the original levy under section 5705.212 of the Revised Code is first extended on the tax list and duplicate an estimate of expenditures to be known as a voluntary contingency reserve balance, which shall not be greater than twenty per cent of the amount of the levy estimated to be available for appropriation in such year.

(3) Except as provided in division (E)(4) of this section, the full amount of any reserve balance the board includes in its budget shall be retained by the county auditor and county treasurer out of the first semiannual settlement of taxes until the beginning of the next succeeding fiscal year, and thereupon, with the depository interest apportioned thereto, it shall be turned over to the board of education, to be used for the purposes of such fiscal year.

(4) A board of education, by a two-thirds vote of all members of the board, may appropriate any amount withheld as a voluntary contingency reserve balance during the fiscal year for any lawful purpose, provided that prior to such appropriation the board of education has authorized the expenditure of all amounts appropriated for contingencies under section 5705.40 of the Revised Code. Upon request by the board of education, the county auditor shall draw a warrant on the district's account in the county treasury payable to the district in the amount requested.

(F)(1) A board of education may include a spending reserve in its budget for fiscal years ending on or before June 30, 2002. The spending reserve shall consist of an estimate of expenditures not to exceed the district's spending reserve balance. A district's spending reserve balance is the amount by which the designated percentage of the district's estimated personal property taxes to be settled during the calendar year in which the

fiscal year ends exceeds the estimated amount of personal property taxes to be so settled and received by the district during that fiscal year. Moneys from a spending reserve shall be appropriated in accordance with section 133.301 of the Revised Code.

(2) For the purposes of computing a school district's spending reserve balance for a fiscal year, the designated percentage shall be as follows:

Fiscal year ending in:	Designated percentage
1998	50%
1999	40%
2000	30%
2001	20%
2002	10%

(G) Except as otherwise provided in this division, the county budget commission shall not reduce the taxing authority of a subdivision as a result of the creation of a reserve balance account. Except as otherwise provided in this division, the county budget commission shall not consider the amount in a reserve balance account of a township, county, or municipal corporation as an unencumbered balance or as revenue for the purposes of division (E)(3) or (4) of section 5747.51 of the Revised Code. The county budget commission may require documentation of the reasonableness of the reserve balance held in any reserve balance account. The commission shall consider any amount in a reserve balance account that it determines to be unreasonable as unencumbered and as revenue for the purposes of section 5747.51 of the Revised Code and may take such amounts into consideration when determining whether to reduce the taxing authority of a subdivision.

Sec. 5705.341. Any person required to pay taxes on real, public utility, or tangible personal property in any taxing district or other political subdivision of this state may appeal to the board of tax appeals from the action of the county budget commission of any county which relates to the fixing of uniform rates of taxation and the rate necessary to be levied by each taxing authority within its subdivision or taxing unit and which action has been certified by the county budget commission to the taxing authority of any political subdivision or other taxing district within the county.

Such appeal shall be in writing and shall set forth the tax rate complained of and the reason that such a tax rate is not necessary to produce the revenue needed by the taxing district or political subdivision for the ensuing fiscal year as those needs are set out in the tax budget of said taxing unit or, if adoption of a tax budget was waived under section 5705.281 of the Revised Code, as set out in such other information the district or subdivision was required to provide under that section, or that the action of

the budget commission appealed from does not otherwise comply with sections 5705.01 to 5705.47 of the Revised Code. The notice of appeal shall be filed with the board of tax appeals, and a true copy thereof shall be filed with the tax commissioner, the county auditor, and with the fiscal officer of each taxing district or political subdivision authorized to levy the tax complained of, and such notice of appeal and copies thereof must be filed within thirty days after the budget commission has certified its action as provided by section 5705.34 of the Revised Code. Such notice of appeal and the copies thereof may be filed either in person or by certified mail. If filed by certified mail, the date of the United States postmark placed on the sender's receipt by the postal employee to whom the notice of appeal is presented shall be treated as the date of filing.

Prior to filing the appeal provided by this section, the appellant shall deposit with the county auditor of the county or, in the event the appeal concerns joint taxing districts in two or more counties, with the county auditor of the county with the greatest valuation of taxable property the sum of five hundred dollars to cover the costs of the proceeding. The county auditor shall forthwith issue a pay-in order and pay such money into the county treasury to the credit of the general fund. The appellant shall produce the receipt of the county treasurer for such deposit and shall file such receipt with the notice of appeal.

The board of tax appeals shall forthwith consider the matter presented on appeal from the action of the county budget commission and may modify any action of the commission with reference to the fixing of tax rates, to the end that no tax rate shall be levied above that necessary to produce the revenue needed by the taxing district or political subdivision for the ensuing fiscal year and to the end that the action of the budget commission appealed from shall otherwise be in conformity with sections 5705.01 to 5705.47 of the Revised Code. The findings of the board of tax appeals shall be substituted for the findings of the budget commission and shall be ~~certified~~ sent to the county auditor and the taxing authority of the taxing district or political subdivision affected as the action of such budget commission under sections 5705.01 to 5705.47 of the Revised Code and to the tax commissioner. At the request of an appellant, the findings of the board of tax appeals shall be sent by certified mail at the appellant's expense.

The board of tax appeals shall promptly prepare a cost bill listing the expenses incurred by the board in conducting any hearing on the appeal and certify the cost bill to the county auditor of the county receiving the deposit for costs, who shall forthwith draw a warrant on the general fund of the county in favor of the person or persons named in the bill of costs certified

by the board of tax appeals.

In the event the appellant prevails, the board of tax appeals promptly shall direct the county auditor to refund the deposit to the appellant and the costs shall be taxed to the taxing district or political subdivision involved in the appeal. The county auditor shall withhold from any funds then or thereafter in the auditor's possession belonging to the taxing district or political subdivision named in the order of the board of tax appeals and shall reimburse the general fund of the county.

If the appellant fails, the costs shall be deducted from the deposit provided for in this section and any balance which remains shall be refunded promptly to the appellant by warrant of the county auditor drawn on the general fund of the county.

Nothing in this section or any section of the Revised Code shall permit or require the levying of any rate of taxation, whether within the ten-mill limitation or whether the levy has been approved by the electors of the taxing district, the political subdivision, or the charter of a municipal corporation in excess of such ten-mill limitation, unless such rate of taxation for the ensuing fiscal year is clearly required by a budget of the taxing district or political subdivision properly and lawfully adopted under this chapter, or by other information that must be provided under section 5705.281 of the Revised Code if a tax budget was waived.

In the event more than one appeal is filed involving the same taxing district or political subdivision, all such appeals may be consolidated by the board of tax appeals and heard at the same time.

Nothing herein contained shall be construed to bar or prohibit the tax commissioner from initiating an investigation or hearing on the commissioner's own motion.

The tax commissioner shall adopt and issue such orders, rules, and instructions, not inconsistent with law, as the commissioner deems necessary, as to the exercise of the powers and the discharge of the duties of any particular county budget commission, county auditor, or other officer which relate to the budget, the assessment of property, or the levy and collection of taxes. The commissioner shall cause the orders and instructions issued by the commissioner to be obeyed.

Sec. 5705.37. The taxing authority of any subdivision, or the board of trustees of any public library, nonprofit corporation, or library association maintaining a free public library that has adopted and certified rules under section 5705.28 of the Revised Code, that is dissatisfied with any action of the county budget commission may, through its fiscal officer, appeal to the board of tax appeals within thirty days after the receipt by the subdivision of

the official certificate or notice of the commission's action. In like manner, but through its clerk, any park district may appeal to the board of tax appeals. An appeal under this section shall be taken by the filing of a notice of appeal, either in person or by certified mail, express mail, or authorized delivery service as provided in section 5703.056 of the Revised Code, with the board and with the commission. If notice of appeal is filed by certified mail, express mail, or authorized delivery service, date of the United States postmark placed on the sender's receipt by the postal service or the date of receipt recorded by the authorized delivery service shall be treated as the date of filing. Upon receipt of the notice of appeal, the commission, by certified mail, shall notify all persons who were parties to the proceeding before the commission of the filing of the notice of appeal and shall file proof of notice with the board of tax appeals. The secretary of the commission shall forthwith certify to the board a transcript of the full and accurate record of all proceedings before the commission, together with all evidence presented in the proceedings or considered by the commission, pertaining to the action from which the appeal is taken. The secretary of the commission also shall certify to the board any additional information that the board may request.

The board of tax appeals, in a de novo proceeding, shall forthwith consider the matter presented to the commission, and may modify any action of the commission with reference to the budget, the estimate of revenues and balances, the allocation of the public library fund, or the fixing of tax rates. The finding of the board of tax appeals shall be substituted for the findings of the commission, and shall be ~~certified~~ sent to the tax commissioner, the county auditor, and the taxing authority of the subdivision affected, or to the board of public library trustees affected, as the action of the commission under sections 5705.01 to 5705.47 of the Revised Code. At the request of the taxing authority, board of trustees, or park district that appealed an action of the county budget commission under this section, the findings of the board of tax appeals shall be sent by certified mail at the requestor's expense.

This section does not give the board of tax appeals any authority to place any tax levy authorized by law within the ten-mill limitation outside of that limitation, or to reduce any levy below any minimum fixed by law.

Sec. 5709.62. (A) In any municipal corporation that is defined by the United States office of management and budget as a principal city of a metropolitan statistical area, the legislative authority of the municipal corporation may designate one or more areas within its municipal corporation as proposed enterprise zones. Upon designating an area, the

legislative authority shall petition the director of development for certification of the area as having the characteristics set forth in division (A)(1) of section 5709.61 of the Revised Code as amended by Substitute Senate Bill No. 19 of the 120th general assembly. Except as otherwise provided in division (E) of this section, on and after July 1, 1994, legislative authorities shall not enter into agreements under this section unless the legislative authority has petitioned the director and the director has certified the zone under this section as amended by that act; however, all agreements entered into under this section as it existed prior to July 1, 1994, and the incentives granted under those agreements shall remain in effect for the period agreed to under those agreements. Within sixty days after receiving such a petition, the director shall determine whether the area has the characteristics set forth in division (A)(1) of section 5709.61 of the Revised Code, and shall forward the findings to the legislative authority of the municipal corporation. If the director certifies the area as having those characteristics, and thereby certifies it as a zone, the legislative authority may enter into an agreement with an enterprise under division (C) of this section.

(B) Any enterprise that wishes to enter into an agreement with a municipal corporation under division (C) of this section shall submit a proposal to the legislative authority of the municipal corporation on a form prescribed by the director of development, together with the application fee established under section 5709.68 of the Revised Code. The form shall require the following information:

(1) An estimate of the number of new employees whom the enterprise intends to hire, or of the number of employees whom the enterprise intends to retain, within the zone at a facility that is a project site, and an estimate of the amount of payroll of the enterprise attributable to these employees;

(2) An estimate of the amount to be invested by the enterprise to establish, expand, renovate, or occupy a facility, including investment in new buildings, additions or improvements to existing buildings, machinery, equipment, furniture, fixtures, and inventory;

(3) A listing of the enterprise's current investment, if any, in a facility as of the date of the proposal's submission.

The enterprise shall review and update the listings required under this division to reflect material changes, and any agreement entered into under division (C) of this section shall set forth final estimates and listings as of the time the agreement is entered into. The legislative authority may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and

to collect the information required to be reported under section 5709.68 of the Revised Code.

(C) Upon receipt and investigation of a proposal under division (B) of this section, if the legislative authority finds that the enterprise submitting the proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and improve the economic climate of the municipal corporation, the legislative authority, on or before October 15, ~~2009~~ 2010, may do one of the following:

(1) Enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the following incentives:

(a) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to seventy-five per cent, of the assessed value of tangible personal property first used in business at the project site as a result of the agreement. If an exemption for inventory is specifically granted in the agreement pursuant to this division, the exemption applies to inventory required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except that, in the instance of an expansion or other situations in which an enterprise was in business at the facility prior to the establishment of the zone, the inventory that is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into.

(b) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to seventy-five per cent, of the increase in the assessed valuation of real property constituting the project site subsequent to formal approval of the agreement by the legislative authority;

(c) Provision for a specified number of years, not to exceed fifteen, of any optional services or assistance that the municipal corporation is authorized to provide with regard to the project site.

(2) Enter into an agreement under which the enterprise agrees to remediate an environmentally contaminated facility, to spend an amount equal to at least two hundred fifty per cent of the true value in money of the real property of the facility prior to remediation as determined for the purposes of property taxation to establish, expand, renovate, or occupy the remediated facility, and to hire new employees or preserve employment opportunities for existing employees at the remediated facility, in return for one or more of the following incentives:

(a) Exemption for a specified number of years, not to exceed fifteen, of

a specified portion, not to exceed fifty per cent, of the assessed valuation of the real property of the facility prior to remediation;

(b) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, not to exceed one hundred per cent, of the increase in the assessed valuation of the real property of the facility during or after remediation;

(c) The incentive under division (C)(1)(a) of this section, except that the percentage of the assessed value of such property exempted from taxation shall not exceed one hundred per cent;

(d) The incentive under division (C)(1)(c) of this section.

(3) Enter into an agreement with an enterprise that plans to purchase and operate a large manufacturing facility that has ceased operation or announced its intention to cease operation, in return for exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to one hundred per cent, of the assessed value of tangible personal property used in business at the project site as a result of the agreement, or of the assessed valuation of real property constituting the project site, or both.

(D)(1) Notwithstanding divisions (C)(1)(a) and (b) of this section, the portion of the assessed value of tangible personal property or of the increase in the assessed valuation of real property exempted from taxation under those divisions may exceed seventy-five per cent in any year for which that portion is exempted if the average percentage exempted for all years in which the agreement is in effect does not exceed sixty per cent, or if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a percentage in excess of seventy-five per cent.

(2) Notwithstanding any provision of the Revised Code to the contrary, the exemptions described in divisions (C)(1)(a), (b), and (c), (C)(2)(a), (b), and (c), and (C)(3) of this section may be for up to fifteen years if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a number of years in excess of ten.

(3) For the purpose of obtaining the approval of a city, local, or exempted village school district under division (D)(1) or (2) of this section, the legislative authority shall deliver to the board of education a notice not later than forty-five days prior to approving the agreement, excluding Saturdays, Sundays, and legal holidays as defined in section 1.14 of the Revised Code. The notice shall state the percentage to be exempted, an estimate of the true value of the property to be exempted, and the number of years the property is to be exempted. The board of education, by resolution

adopted by a majority of the board, shall approve or disapprove the agreement and certify a copy of the resolution to the legislative authority not later than fourteen days prior to the date stipulated by the legislative authority as the date upon which approval of the agreement is to be formally considered by the legislative authority. The board of education may include in the resolution conditions under which the board would approve the agreement, including the execution of an agreement to compensate the school district under division (B) of section 5709.82 of the Revised Code. The legislative authority may approve the agreement at any time after the board of education certifies its resolution approving the agreement to the legislative authority, or, if the board approves the agreement conditionally, at any time after the conditions are agreed to by the board and the legislative authority.

If a board of education has adopted a resolution waiving its right to approve agreements and the resolution remains in effect, approval of an agreement by the board is not required under this division. If a board of education has adopted a resolution allowing a legislative authority to deliver the notice required under this division fewer than forty-five business days prior to the legislative authority's approval of the agreement, the legislative authority shall deliver the notice to the board not later than the number of days prior to such approval as prescribed by the board in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board shall certify a copy of the resolution to the legislative authority. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the legislative authority.

(4) The legislative authority shall comply with section 5709.83 of the Revised Code unless the board of education has adopted a resolution under that section waiving its right to receive such notice.

(E) This division applies to zones certified by the director of development under this section prior to July 22, 1994.

On or before October 15, ~~2009~~ 2010, the legislative authority that designated a zone to which this division applies may enter into an agreement with an enterprise if the legislative authority finds that the enterprise satisfies one of the criteria described in divisions (E)(1) to (5) of this section:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location

in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

The agreement shall require the enterprise to agree to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the incentives described in division (C) of this section.

(F) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement is entered into under this section, if the legislative authority revokes its designation of a zone, or if the director of development revokes a zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(G) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the legislative authority and shall be used by the legislative authority exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority may waive or reduce the amount of the fee charged against an enterprise, but such a waiver or reduction does not affect the obligations of the legislative authority or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code.

(H) When an agreement is entered into pursuant to this section, the

legislative authority authorizing the agreement shall forward a copy of the agreement to the director of development and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be foregone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development along with the copy of the agreement forwarded under this division.

(I) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed, or annual report required to be filed under section 5727.08 of the Revised Code, while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(J) Enterprises may agree to give preference to residents of the zone within which the agreement applies relative to residents of this state who do not reside in the zone when hiring new employees under the agreement.

(K) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

(L) The tax commissioner's authority in determining the accuracy of any exemption granted by an agreement entered into under this section is limited to divisions (C)(1)(a) and (b), (C)(2)(a), (b), and (c), (C)(3), (D), and (I) of this section and divisions (B)(1) to (10) of section 5709.631 of the Revised Code and, as authorized by law, to enforcing any modification to, or revocation of, that agreement by the legislative authority of a municipal corporation or the director of development.

Sec. 5709.63. (A) With the consent of the legislative authority of each affected municipal corporation or of a board of township trustees, a board of county commissioners may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in one or more municipal corporations or in unincorporated areas of the county as proposed enterprise zones. A board of county commissioners may designate no more than one area within a township, or within adjacent townships, as a proposed

enterprise zone. The board shall petition the director of development for certification of the area as having the characteristics set forth in division (A)(1) or (2) of section 5709.61 of the Revised Code as amended by Substitute Senate Bill No. 19 of the 120th general assembly. Except as otherwise provided in division (D) of this section, on and after July 1, 1994, boards of county commissioners shall not enter into agreements under this section unless the board has petitioned the director and the director has certified the zone under this section as amended by that act; however, all agreements entered into under this section as it existed prior to July 1, 1994, and the incentives granted under those agreements shall remain in effect for the period agreed to under those agreements. The director shall make the determination in the manner provided under section 5709.62 of the Revised Code.

Any enterprise wishing to enter into an agreement with the board under division (B) or (D) of this section shall submit a proposal to the board on the form and accompanied by the application fee prescribed under division (B) of section 5709.62 of the Revised Code. The enterprise shall review and update the estimates and listings required by the form in the manner required under that division. The board may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(B) If the board of county commissioners finds that an enterprise submitting a proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and to improve the economic climate of the municipal corporation or municipal corporations or the unincorporated areas in which the zone is located and to which the proposal applies, the board, on or before October 15, ~~2009~~ 2010, and with the consent of the legislative authority of each affected municipal corporation or of the board of township trustees may do either of the following:

(1) Enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for the following incentives:

(a) When the facility is located in a municipal corporation, the board may enter into an agreement for one or more of the incentives provided in division (C) of section 5709.62 of the Revised Code, subject to division (D) of that section;

(b) When the facility is located in an unincorporated area, the board may

enter into an agreement for one or more of the following incentives:

(i) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to sixty per cent, of the assessed value of tangible personal property first used in business at a project site as a result of the agreement. If an exemption for inventory is specifically granted in the agreement pursuant to this division, the exemption applies to inventory required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except, in the instance of an expansion or other situations in which an enterprise was in business at the facility prior to the establishment of the zone, the inventory that is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into.

(ii) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to sixty per cent, of the increase in the assessed valuation of real property constituting the project site subsequent to formal approval of the agreement by the board;

(iii) Provision for a specified number of years, not to exceed fifteen, of any optional services or assistance the board is authorized to provide with regard to the project site;

(iv) The incentive described in division (C)(2) of section 5709.62 of the Revised Code.

(2) Enter into an agreement with an enterprise that plans to purchase and operate a large manufacturing facility that has ceased operation or has announced its intention to cease operation, in return for exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to one hundred per cent, of tangible personal property used in business at the project site as a result of the agreement, or of real property constituting the project site, or both.

(C)(1)(a) Notwithstanding divisions (B)(1)(b)(i) and (ii) of this section, the portion of the assessed value of tangible personal property or of the increase in the assessed valuation of real property exempted from taxation under those divisions may exceed sixty per cent in any year for which that portion is exempted if the average percentage exempted for all years in which the agreement is in effect does not exceed fifty per cent, or if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a percentage in excess of sixty per cent.

(b) Notwithstanding any provision of the Revised Code to the contrary, the exemptions described in divisions (B)(1)(b)(i), (ii), (iii), and (iv) and

(B)(2) of this section may be for up to fifteen years if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a number of years in excess of ten.

(c) For the purpose of obtaining the approval of a city, local, or exempted village school district under division (C)(1)(a) or (b) of this section, the board of county commissioners shall deliver to the board of education a notice not later than forty-five days prior to approving the agreement, excluding Saturdays, Sundays, and legal holidays as defined in section 1.14 of the Revised Code. The notice shall state the percentage to be exempted, an estimate of the true value of the property to be exempted, and the number of years the property is to be exempted. The board of education, by resolution adopted by a majority of the board, shall approve or disapprove the agreement and certify a copy of the resolution to the board of county commissioners not later than fourteen days prior to the date stipulated by the board of county commissioners as the date upon which approval of the agreement is to be formally considered by the board of county commissioners. The board of education may include in the resolution conditions under which the board would approve the agreement, including the execution of an agreement to compensate the school district under division (B) of section 5709.82 of the Revised Code. The board of county commissioners may approve the agreement at any time after the board of education certifies its resolution approving the agreement to the board of county commissioners, or, if the board of education approves the agreement conditionally, at any time after the conditions are agreed to by the board of education and the board of county commissioners.

If a board of education has adopted a resolution waiving its right to approve agreements and the resolution remains in effect, approval of an agreement by the board of education is not required under division (C) of this section. If a board of education has adopted a resolution allowing a board of county commissioners to deliver the notice required under this division fewer than forty-five business days prior to approval of the agreement by the board of county commissioners, the board of county commissioners shall deliver the notice to the board of education not later than the number of days prior to such approval as prescribed by the board of education in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board of education shall certify a copy of the resolution to the board of county commissioners. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the board of county

commissioners.

(2) The board of county commissioners shall comply with section 5709.83 of the Revised Code unless the board of education has adopted a resolution under that section waiving its right to receive such notice.

(D) This division applies to zones certified by the director of development under this section prior to July 22, 1994.

On or before October 15, ~~2009~~ 2010, and with the consent of the legislative authority of each affected municipal corporation or board of township trustees of each affected township, the board of county commissioners that designated a zone to which this division applies may enter into an agreement with an enterprise if the board finds that the enterprise satisfies one of the criteria described in divisions (D)(1) to (5) of this section:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

The agreement shall require the enterprise to agree to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the incentives described in division (B) of this section.

(E) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement under this section is entered into, if the board of county commissioners revokes its designation of a zone, or if the director of development revokes a zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(F) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee

equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the board of county commissioners once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the board and shall be used by the board exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The board may waive or reduce the amount of the fee charged against an enterprise, but such waiver or reduction does not affect the obligations of the board or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code, respectively.

(G) With the approval of the legislative authority of a municipal corporation or the board of township trustees of a township in which a zone is designated under division (A) of this section, the board of county commissioners may delegate to that legislative authority or board any powers and duties of the board of county commissioners to negotiate and administer agreements with regard to that zone under this section.

(H) When an agreement is entered into pursuant to this section, the board of county commissioners authorizing the agreement or the legislative authority or board of township trustees that negotiates and administers the agreement shall forward a copy of the agreement to the director of development and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be foregone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development along with the copy of the agreement forwarded under this division.

(I) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed, or annual report that is required to be filed under section 5727.08 of the Revised Code, while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(J) Enterprises may agree to give preference to residents of the zone

within which the agreement applies relative to residents of this state who do not reside in the zone when hiring new employees under the agreement.

(K) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

(L) The tax commissioner's authority in determining the accuracy of any exemption granted by an agreement entered into under this section is limited to divisions (B)(1)(b)(i) and (ii), (B)(2), (C), and (I) of this section, division (B)(1)(b)(iv) of this section as it pertains to divisions (C)(2)(a), (b), and (c) of section 5709.62 of the Revised Code, and divisions (B)(1) to (10) of section 5709.631 of the Revised Code and, as authorized by law, to enforcing any modification to, or revocation of, that agreement by the board of county commissioners or the director of development or, if the board's powers and duties are delegated under division (G) of this section, by the legislative authority of a municipal corporation or board of township trustees.

Sec. 5709.632. (A)(1) The legislative authority of a municipal corporation defined by the United States office of management and budget as a principal city of a metropolitan statistical area may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in the municipal corporation as a proposed enterprise zone.

(2) With the consent of the legislative authority of each affected municipal corporation or of a board of township trustees, a board of county commissioners may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in one or more municipal corporations or in unincorporated areas of the county as proposed urban jobs and enterprise zones, except that a board of county commissioners may designate no more than one area within a township, or within adjacent townships, as a proposed urban jobs and enterprise zone.

(3) The legislative authority or board of county commissioners may petition the director of development for certification of the area as having the characteristics set forth in division (A)(3) of section 5709.61 of the Revised Code. Within sixty days after receiving such a petition, the director shall determine whether the area has the characteristics set forth in that division and forward the findings to the legislative authority or board of county commissioners. If the director certifies the area as having those

characteristics and thereby certifies it as a zone, the legislative authority or board may enter into agreements with enterprises under division (B) of this section. Any enterprise wishing to enter into an agreement with a legislative authority or board of county commissioners under this section and satisfying one of the criteria described in divisions (B)(1) to (5) of this section shall submit a proposal to the legislative authority or board on the form prescribed under division (B) of section 5709.62 of the Revised Code and shall review and update the estimates and listings required by the form in the manner required under that division. The legislative authority or board may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(B) Prior to entering into an agreement with an enterprise, the legislative authority or board of county commissioners shall determine whether the enterprise submitting the proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and to improve the economic climate of the municipal corporation or municipal corporations or the unincorporated areas in which the zone is located and to which the proposal applies, and whether the enterprise satisfies one of the following criteria:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

(C) If the legislative authority or board determines that the enterprise is so qualified and satisfies one of the criteria described in divisions (B)(1) to (5) of this section, the legislative authority or board may, after complying with section 5709.83 of the Revised Code and on or before October 15,

~~2009~~ 2010, and, in the case of a board of commissioners, with the consent of the legislative authority of each affected municipal corporation or of the board of township trustees, enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for the following incentives:

(1) When the facility is located in a municipal corporation, a legislative authority or board of commissioners may enter into an agreement for one or more of the incentives provided in division (C) of section 5709.62 of the Revised Code, subject to division (D) of that section;

(2) When the facility is located in an unincorporated area, a board of commissioners may enter into an agreement for one or more of the incentives provided in divisions (B)(1)(b), (B)(2), and (B)(3) of section 5709.63 of the Revised Code, subject to division (C) of that section.

(D) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement under this section is entered into, if the legislative authority or board of county commissioners revokes its designation of the zone, or if the director of development revokes the zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(E) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority or board of commissioners once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the legislative authority or board and shall be used by the legislative authority or board exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority or board may waive or reduce the amount of the fee charged against an enterprise, but such waiver or reduction does not affect the obligations of the legislative authority or board or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code, respectively.

(F) With the approval of the legislative authority of a municipal corporation or the board of township trustees of a township in which a zone is designated under division (A)(2) of this section, the board of county commissioners may delegate to that legislative authority or board any powers and duties of the board to negotiate and administer agreements with regard to that zone under this section.

(G) When an agreement is entered into pursuant to this section, the legislative authority or board of commissioners authorizing the agreement shall forward a copy of the agreement to the director of development and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be foregone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development along with the copy of the agreement forwarded under this division.

(H) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(I) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

Sec. 5711.33. (A)(1) When a county treasurer receives a certificate from a county auditor pursuant to division (A) of section 5711.32 of the Revised Code charging the treasurer with the collection of an amount of taxes due as the result of a deficiency assessment, the treasurer shall immediately prepare and mail a tax bill to the taxpayer owing such tax. The tax bill shall contain the name of the taxpayer; the taxable value, tax rate, and taxes charged for each year being assessed; the total amount of taxes due; the final date payment may be made without additional penalty; and any other information the treasurer considers pertinent or necessary. Taxes due and payable as a result of a deficiency assessment, less any amount specifically excepted from collection under division (B) of section 5711.32 of the Revised Code,

shall be paid with interest thereon as prescribed by section 5719.041 of the Revised Code on or before the sixtieth day following the date of issuance of the certificate by the county auditor. The balance of taxes found due and payable after a final determination by the tax commissioner or a final judgment of the board of tax appeals or any court to which such final judgment may be appealed shall be paid with interest thereon as prescribed by section 5719.041 of the Revised Code on or before the sixtieth day following the date of certification by the auditor to the treasurer pursuant to division (C) of section 5711.32 of the Revised Code of such final determination or judgment. Such final dates for payment shall be determined and exhibited on the tax bill by the treasurer.

(2) If, on or before the sixtieth day following the date of a certification of a deficiency assessment under division (A) of section 5711.32 of the Revised Code or of a certification of a final determination or judgment under division (C) of section 5711.32 of the Revised Code, the taxpayer pays the full amount of taxes and interest due at the time of the receipt of certification with respect to that assessment, determination, or judgment, no interest shall accrue or be charged with respect to that assessment, determination, or judgment for the period that begins on the first day of the month in which the certification is made and that ends on the last day of the month preceding the month in which such sixtieth day occurs.

(B) When the taxes charged, as mentioned in division (A) of this section, are not paid within the time prescribed by such division, a penalty of ten per cent of the amount due and unpaid and interest for the period described in division (A)(2) of this section shall accrue at the time the treasurer closes the treasurer's office for business on the last day so prescribed, but if the taxes are paid within ten days subsequent to the last day prescribed, the treasurer shall waive the collection of and the auditor shall remit one-half of the penalty. The treasurer shall not thereafter accept less than the full amount of taxes and penalty except as otherwise authorized by law. Such penalty shall be distributed in the same manner and at the same time as the tax upon which it has accrued. The whole amount collected shall be included in the next succeeding settlement of appropriate taxes.

(C) When the taxes charged, as mentioned in division (A) of this section, remain unpaid after the final date for payment prescribed by such division, such charges shall be deemed to be delinquent taxes. The county auditor shall cause such charges, including the penalty that has accrued pursuant to this section, to be added to the delinquent tax duplicate in accordance with section 5719.04 of the Revised Code.

(D) The county auditor, upon consultation with the county treasurer,

shall remit a penalty imposed under division (B) of this section or division ~~(C)~~(D) of section 5719.03 of the Revised Code for the late payment of taxes when:

(1) The taxpayer could not make timely payment of the tax because of the negligence or error of the county auditor or county treasurer in the performance of a statutory duty relating to the levy or collection of such tax.

(2) In cases other than those described in division (D)(1) of this section, the taxpayer failed to receive a tax bill or a correct tax bill, and the taxpayer made a good faith effort to obtain such bill within thirty days after the last day for payment of the tax.

(3) The tax was not timely paid because of the death or serious injury of the taxpayer, or the taxpayer's confinement in a hospital within sixty days preceding the last day for payment of the tax if, in any case, the tax was subsequently paid within sixty days after the last day for payment of such tax.

(4) The taxpayer demonstrates that the full payment was properly deposited in the mail in sufficient time for the envelope to be postmarked by the United States postal service on or before the last day for payment of such tax. A private meter postmark on an envelope is not a valid postmark for purposes of establishing the date of payment of such tax.

(5) In cases other than those described in divisions (D)(1) to (4) of this section, the taxpayer's failure to make timely payment of the tax is due to reasonable cause and not willful neglect.

(E) The taxpayer, upon application within sixty days after the mailing of the county auditor's decision, may request the tax commissioner to review the denial of the remission of a penalty by the county auditor. The application may be filed in person or by certified mail. If the application is filed by certified mail, the date of the United States postmark placed on the sender's receipt by the postal service shall be treated as the date of filing. The commissioner shall consider the application, determine whether the penalty should be remitted, and certify the determination to the taxpayer and to the county treasurer and county auditor, who shall correct the tax list and duplicate accordingly. The commissioner may issue orders and instructions for the uniform implementation of this section by all county auditors and county treasurers, and such orders and instructions shall be followed by such officers.

Sec. 5715.02. The county treasurer, county auditor, and ~~the president of~~ a member of the board of county commissioners selected by the board of county commissioners shall constitute the county board of revision, or they may provide for one or more hearing boards when they deem the creation of

such to be necessary to the expeditious hearing of valuation complaints. Each such official may, appoint one qualified employee from ~~his~~ the official's office to serve in ~~his~~ the official's place and stead on each such board for the purpose of hearing complaints as to the value of real property only, each such hearing board has the same authority to hear and decide complaints and sign the journal as the board of revision, and shall proceed in the manner provided for the board of revision by sections 5715.08 to 5715.20, ~~inclusive~~, of the Revised Code. Any decision by a hearing board shall be the decision of the board of revision.

A majority of a county board of revision or hearing board shall constitute a quorum to hear and determine any complaint, and any vacancy shall not impair the right of the remaining members of such board, whether elected officials or appointees, to exercise all the powers thereof so long as a majority remains.

Each member of a county board of revision or hearing board may administer oaths.

Sec. 5715.251. The county auditor may appeal to the board of tax appeals any determination of change in the abstract of real property of a taxing district in ~~his~~ the auditor's county that is made by the tax commissioner under section 5715.24 of the Revised Code. The appeal shall be taken within thirty days after receipt of the statement by the county auditor of the commissioner's determination by the filing by the county auditor of a notice of appeal with the board and the commissioner. Such notice of appeal shall set forth the determination of the commissioner appealed from and the errors therein complained of. Proof of the filing of such notice with the commissioner shall be filed with the board. The board shall have exclusive jurisdiction of the appeal.

In all such appeals the commissioner shall be made appellee. Unless waived, notice of the appeal shall be served upon the commissioner by certified mail. The prosecuting attorney shall represent the county auditor in such an appeal.

The commissioner, upon written demand filed by the county auditor, shall within thirty days after the filing of such demand file with the board a certified transcript of the record of the commissioner's proceedings pertaining to the determination complained of and the evidence ~~he~~ the commissioner considered in making such determination.

If upon hearing and consideration of such record and evidence the board decides that the determination appealed from is reasonable and lawful, it shall affirm the same, but if the board decides that such determination is unreasonable or unlawful, the board shall reverse and vacate the

determination or modify it and enter final order in accordance with such modification.

The secretary of the board shall ~~certify~~ send the order of the board to the county auditor and to the commissioner, and they shall take such action in connection therewith as is required to give effect to the order of the board. At the request of the county auditor, the board of tax appeal's order shall be sent by certified mail at the county auditor's expense.

Sec. 5715.26. (A)(1) Upon receiving the statement required by section 5715.25 of the Revised Code, the county auditor shall forthwith add to or deduct from each tract, lot, or parcel of real property or class of real property the required percentage or amount of the valuation thereof, adding or deducting any sum less than five dollars so that the value of any separate tract, lot, or parcel of real property shall be ten dollars or some multiple thereof.

(2) ~~When he has made~~ After making the additions or deductions required by this section, the auditor shall transmit to the tax commissioner the appropriate adjusted abstract of the real property of each taxing district in ~~his~~ the auditor's county in which an adjustment was required.

(3) If the commissioner increases or decreases the aggregate value of the real property or any class thereof in any county or taxing district thereof and does not receive within ninety days thereafter an adjusted abstract conforming to its statement for such county or taxing district therein, ~~he~~ the commissioner shall withhold from such county or taxing district therein fifty per cent of its share in the distribution of state revenues to local governments pursuant to sections 5747.50 to 5747.55 of the Revised Code and shall direct the department of education to withhold therefrom fifty per cent of state revenues to school districts pursuant to ~~Chapter~~ Chapters 3306. and 3317. of the Revised Code. The commissioner shall withhold the distribution of such funds until such county auditor has complied with this division, and the department shall withhold the distribution of such funds until the commissioner has notified the department that such county auditor has complied with this division.

(B)(1) If the commissioner's determination is appealed under section 5715.251 of the Revised Code, the county auditor, treasurer, and all other officers shall forthwith proceed with the levy and collection of the current year's taxes in the manner prescribed by law. The taxes shall be determined and collected as if the commissioner had determined under section 5715.24 of the Revised Code that the real property and the various classes thereof in the county as shown in the auditor's abstract were assessed for taxation and the true and agricultural use values were recorded on the agricultural land

tax list as required by law.

(2) If as a result of the appeal to the board it is finally determined either that all real property and the various classes thereof have not been assessed as required by law or that the values set forth in the agricultural land tax list do not correctly reflect the true and agricultural use values of the lands contained therein, the county auditor shall forthwith add to or deduct from each tract, lot, or parcel of real property or class of real property the required percentage or amount of the valuation in accordance with the order of the board or judgment of the court to which the board's order was appealed, and the taxes on each tract, lot, or parcel and the percentages required by section 319.301 of the Revised Code shall be recomputed using the valuation as finally determined. The order or judgment making the final determination shall prescribe the time and manner for collecting, crediting, or refunding the resultant increases or decreases in taxes.

Sec. 5717.03. (A) A decision of the board of tax appeals on an appeal filed with it pursuant to section 5717.01, 5717.011, or 5717.02 of the Revised Code shall be entered of record on the journal together with the date when the order is filed with the secretary for journalization.

(B) In case of an appeal from a decision of a county board of revision, the board of tax appeals shall determine the taxable value of the property whose valuation or assessment by the county board of revision is complained of, or in the event the complaint and appeal is against a discriminatory valuation, shall determine a valuation which shall correct such discrimination, and shall determine the liability of the property for taxation, if that question is in issue, and the board of tax ~~appeals's~~ appeals' decision and the date when it was filed with the secretary for journalization shall be ~~certified~~ sent by the board ~~by certified mail~~ to all persons who were parties to the appeal before the board, to the person in whose name the property is listed, or sought to be listed, if such person is not a party to the appeal, to the county auditor of the county in which the property involved in the appeal is located, and to the tax commissioner.

In correcting a discriminatory valuation, the board of tax appeals shall increase or decrease the value of the property whose valuation or assessment by the county board of revision is complained of by a per cent or amount which will cause such property to be listed and valued for taxation by an equal and uniform rule.

(C) In the case of an appeal from a review, redetermination, or correction of a tax assessment, valuation, determination, finding, computation, or order of the tax commissioner, the order of the board of tax appeals and the date of the entry thereof upon its journal shall be ~~certified~~

sent by the board ~~by certified mail~~ to all persons who were parties to the appeal before the board, the person in whose name the property is listed or sought to be listed, if the decision determines the valuation or liability of property for taxation and if such person is not a party to the appeal, the taxpayer or other person to whom notice of the tax assessment, valuation, determination, finding, computation, or order, or correction or redetermination thereof, by the tax commissioner was by law required to be given, the director of budget and management, if the revenues affected by such decision would accrue primarily to the state treasury, and the county auditors of the counties to the undivided general tax funds of which the revenues affected by such decision would primarily accrue.

(D) In the case of an appeal from a municipal board of appeal created under section 718.11 of the Revised Code, the order of the board of tax appeals and the date of the entry thereof upon the board's journal shall be ~~certified~~ sent by the board ~~by certified mail~~ to all persons who were parties to the appeal before the board.

(E) In the case of all other appeals or applications filed with and determined by the board, the board's order and the date when the order was filed by the secretary for journalization shall be ~~certified~~ sent by the board ~~by certified mail~~ to the person who is a party to such appeal or application, to such persons as the law requires, and to such other persons as the board deems proper.

(F) The orders of the board may affirm, reverse, vacate, modify, or remand the tax assessments, valuations, determinations, findings, computations, or orders complained of in the appeals determined by the board, and the board's decision shall become final and conclusive for the current year unless reversed, vacated, or modified as provided in section 5717.04 of the Revised Code. When an order of the board becomes final the tax commissioner and all officers to whom such decision has been ~~certified~~ sent shall make the changes in their tax lists or other records which the decision requires.

(G) If the board finds that issues not raised on the appeal are important to a determination of a controversy, the board may remand the cause for an administrative determination and the issuance of a new tax assessment, valuation, determination, finding, computation, or order, unless the parties stipulate to the determination of such other issues without remand. An order remanding the cause is a final order. If the order relates to any issue other than a municipal income tax matter appealed under sections 718.11 and 5717.011 of the Revised Code, the order may be appealed to the court of appeals in Franklin county. If the order relates to a municipal income tax

matter appealed under sections 718.11 and 5717.011 of the Revised Code, the order may be appealed to the court of appeals for the county in which the municipal corporation in which the dispute arose is primarily situated.

(H) At the request of any person that filed an appeal subject to this section, the decision or order of the board of tax appeals issued pursuant to division (B), (C), (D), or (E) of this section shall be sent by certified mail at the requestor's expense.

Sec. 5717.04. The proceeding to obtain a reversal, vacation, or modification of a decision of the board of tax appeals shall be by appeal to the supreme court or the court of appeals for the county in which the property taxed is situate or in which the taxpayer resides. If the taxpayer is a corporation, then the proceeding to obtain such reversal, vacation, or modification shall be by appeal to the supreme court or to the court of appeals for the county in which the property taxed is situate, or the county of residence of the agent for service of process, tax notices, or demands, or the county in which the corporation has its principal place of business. In all other instances, the proceeding to obtain such reversal, vacation, or modification shall be by appeal to the court of appeals for Franklin county.

Appeals from decisions of the board determining appeals from decisions of county boards of revision may be instituted by any of the persons who were parties to the appeal before the board of tax appeals, by the person in whose name the property involved in the appeal is listed or sought to be listed, if such person was not a party to the appeal before the board of tax appeals, or by the county auditor of the county in which the property involved in the appeal is located.

Appeals from decisions of the board of tax appeals determining appeals from final determinations by the tax commissioner of any preliminary, amended, or final tax assessments, reassessments, valuations, determinations, findings, computations, or orders made by the commissioner may be instituted by any of the persons who were parties to the appeal or application before the board, by the person in whose name the property is listed or sought to be listed, if the decision appealed from determines the valuation or liability of property for taxation and if any such person was not a party to the appeal or application before the board, by the taxpayer or any other person to whom the decision of the board appealed from was by law required to be ~~certified sent~~, by the director of budget and management; if the revenue affected by the decision of the board appealed from would accrue primarily to the state treasury, by the county auditor of the county to the undivided general tax funds of which the revenues affected by the decision of the board appealed from would primarily accrue, or by the tax

commissioner.

Appeals from decisions of the board upon all other appeals or applications filed with and determined by the board may be instituted by any of the persons who were parties to such appeal or application before the board, by any persons to whom the decision of the board appealed from was by law required to be ~~certified sent~~, or by any other person to whom the board ~~certified sent~~ the decision appealed from, as authorized by section 5717.03 of the Revised Code.

Such appeals shall be taken within thirty days after the date of the entry of the decision of the board on the journal of its proceedings, as provided by such section, by the filing by appellant of a notice of appeal with the court to which the appeal is taken and the board. If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within ten days of the date on which the first notice of appeal was filed or within the time otherwise prescribed in this section, whichever is later. A notice of appeal shall set forth the decision of the board appealed from and the errors therein complained of. Proof of the filing of such notice with the board shall be filed with the court to which the appeal is being taken. The court in which notice of appeal is first filed shall have exclusive jurisdiction of the appeal.

In all such appeals the tax commissioner or all persons to whom the decision of the board appealed from is required by such section to be ~~certified sent~~, other than the appellant, shall be made appellees. Unless waived, notice of the appeal shall be served upon all appellees by certified mail. The prosecuting attorney shall represent the county auditor in any such appeal in which the auditor is a party.

The board, upon written demand filed by an appellant, shall within thirty days after the filing of such demand file with the court to which the appeal is being taken a certified transcript of the record of the proceedings of the board pertaining to the decision complained of and the evidence considered by the board in making such decision.

If upon hearing and consideration of such record and evidence the court decides that the decision of the board appealed from is reasonable and lawful it shall affirm the same, but if the court decides that such decision of the board is unreasonable or unlawful, the court shall reverse and vacate the decision or modify it and enter final judgment in accordance with such modification.

The clerk of the court shall certify the judgment of the court to the board, which shall certify such judgment to such public officials or take such other action in connection therewith as is required to give effect to the decision. The "taxpayer" includes any person required to return any property

for taxation.

Any party to the appeal shall have the right to appeal from the judgment of the court of appeals on questions of law, as in other cases.

Sec. 5721.01. (A) As used in this chapter:

(1) "Delinquent lands" means all lands upon which delinquent taxes, as defined in section 323.01 of the Revised Code, remain unpaid at the time a settlement is made between the county treasurer and auditor pursuant to division (C) of section 321.24 of the Revised Code.

(2) "Delinquent vacant lands" means all lands that have been delinquent lands for at least one year and that are unimproved by any dwelling.

(3) "County land reutilization corporation" means a county land reutilization corporation organized under Chapter 1724. of the Revised Code.

(B) As used in sections 5719.04, 5721.03, and 5721.31 of the Revised Code and in any other sections of the Revised Code to which those sections are applicable, a newspaper or newspaper of general circulation shall be a publication bearing a title or name, regularly issued as frequently as once a week ~~for a definite price or consideration paid for by not less than fifty per cent of those to whom distribution is made, having a second class mailing privilege,~~ being not less than four pages, published continuously during the immediately preceding one-year period, and circulated generally in the political subdivision in which it is published. Such publication shall be of a type to which the general public resorts for passing events of a political, religious, commercial, and social nature, current happenings, announcements, miscellaneous reading matter, advertisements, and other notices, that has at least twenty-five per cent editorial, nonadvertising content, exclusive of inserts, measured relative to total publication space, and an audited circulation to at least fifty per cent of the households in the newspaper's retail trade zone as defined by the audit.

Sec. 5721.32. (A) The sale of tax certificates by public auction may be conducted at any time after completion of the advertising of the sale under section 5721.31 of the Revised Code, on the date and at the time and place designated in the advertisements, and may be continued from time to time as the county treasurer directs. The county treasurer may offer the tax certificates for sale in blocks of tax certificates, consisting of any number of tax certificates as determined by the county treasurer.

(B)(1) The sale of tax certificates under this section shall be conducted at a public auction by the county treasurer or a designee of the county treasurer.

(2) No person shall be permitted to bid without completing a bidder

registration form, in the form prescribed by the tax commissioner, and without filing the form with the county treasurer prior to the start of the auction, together with remittance of a registration fee, in cash, of five hundred dollars. The bidder registration form shall include a tax identification number of the registrant. The registration fee is refundable at the end of bidding on the day of the auction, unless the registrant is the winning bidder for one or more tax certificates or one or more blocks of tax certificates, in which case the fee may be applied toward the deposit required by this section.

(3) The county treasurer may require a person who wishes to bid on one or more parcels to submit a letter from a financial institution stating that the bidder has sufficient funds available to pay the purchase price of the parcels and a written authorization for the treasurer to verify such information with the financial institution. The county treasurer may require submission of the letter and authorization sufficiently in advance of the auction to allow for verification. No person who fails to submit the required letter and authorization, or whose financial institution fails to provide the requested verification, shall be permitted to bid.

(C) At the public auction, the county treasurer or the treasurer's designee or agent shall begin the bidding at eighteen per cent per year simple interest, and accept lower bids in even increments of one-fourth of one per cent to the rate of zero per cent. The county treasurer, designee, or agent shall award the tax certificate to the person bidding the lowest certificate rate of interest. The county treasurer shall decide which person is the winning bidder in the event of a tie for the lowest bid offered, or if a person contests the lowest bid offered. The county treasurer's decision is not appealable.

(D)(1) The winning bidder shall pay the county treasurer a cash deposit of at least ten per cent of the certificate purchase price not later than the close of business on the day of the sale. The winning bidder shall pay the balance and the fee required under division (H) of this section not later than five business days after the day on which the certificate is sold. Except as provided under division (D)(2) of this section, if the winning bidder fails to pay the balance and fee within the prescribed time, the bidder forfeits the deposit, and the county treasurer shall retain the tax certificate and may attempt to sell it at any auction conducted at a later date.

(2) At the request of a winning bidder, the county treasurer may release the bidder from the bidder's tax certificate purchase obligation. The county treasurer may retain all or any portion of the deposit of a bidder granted a release. After granting a release under this division, the county treasurer may award the tax certificate to the person that submitted the second lowest

bid at the auction.

(3) The county treasurer shall deposit the deposit forfeited or retained under divisions (D)(1) or (2) of this section in the county treasury to the credit of the tax certificate administration fund.

(E) Upon receipt of the full payment of the certificate purchase price from the purchaser, the county treasurer shall issue the tax certificate and record the tax certificate sale by entering into a tax certificate register the certificate purchase price, the certificate rate of interest, the date the certificate was sold, the name and address of the certificate holder, and any other information the county treasurer considers necessary. The county treasurer may keep the tax certificate register in a hard-copy format or in an electronic format. The name and address of the certificate holder may be, upon receipt of instructions from the purchaser, that of the secured party of the actual purchaser, or an agent or custodian for the purchaser or secured party. The county treasurer also shall transfer the tax certificate to the certificate holder. The county treasurer shall apportion the part of the proceeds from the sale representing taxes, penalties, and interest among the several taxing districts in the same proportion that the amount of taxes levied by each district against the certificate parcel in the preceding tax year bears to the taxes levied by all such districts against the certificate parcel in the preceding tax year, and credit the part of the proceeds representing assessments and other charges to the items of assessments and charges in the order in which those items became due. Upon issuing a tax certificate, the delinquent taxes that make up the certificate purchase price are transferred, and the superior lien of the state and its taxing districts for those delinquent taxes is conveyed intact to the certificate holder.

(F) If a tax certificate is offered for sale under this section but is not sold, the county treasurer may strike the corresponding certificate parcel from the list of parcels selected for tax certificate sales. The lien for taxes, assessments, charges, penalties, and interest against a parcel stricken from the list thereafter may be foreclosed in the manner prescribed by section 323.25, sections 323.65 to 323.79, or section 5721.14 or 5721.18 of the Revised Code unless, prior to the institution of such proceedings against the parcel, the county treasurer restores the parcel to the list of parcels selected for tax certificate sales.

(G) A certificate holder shall not be liable for damages arising from a violation of sections 3737.87 to 3737.891 or Chapter 3704., 3734., 3745., 3746., 3750., 3751., 3752., 6109., or 6111. of the Revised Code, or a rule adopted or order, permit, license, variance, or plan approval issued under any of those chapters, that is or was committed by another person in

connection with the parcel for which the tax certificate is held.

(H) When selling a tax certificate under this section, the county treasurer shall charge a fee to the purchaser of the certificate. The county treasurer shall set the fee at a reasonable amount that covers the treasurer's costs of administering the sale of the tax certificate. The county treasurer shall deposit the fee in the county treasury to the credit of the tax certificate administration fund.

(I) After selling a tax certificate under this section, the county treasurer shall send written notice by certified mail to the owner of the certificate parcel at the owner's last known tax-mailing address. The notice shall inform the owner that the tax certificate was sold, shall describe the owner's options to redeem the parcel, including entering into a redemption payment plan under division (C)(1) of section 5721.38 of the Revised Code, and shall name the certificate holder and its secured party, if any. However, the county treasurer is not required to send a notice under this division if the treasurer previously has attempted to send a notice to the owner of the parcel at the owner's last known tax-mailing address, and the postal service has returned the notice as undeliverable.

(J) A tax certificate shall not be sold to the owner of the certificate parcel. ~~A tax certificate shall not be sold to a county land reutilization corporation after two years following the filing of its articles of incorporation by the secretary of state.~~

Sec. 5721.33. (A) A county treasurer may, in the treasurer's discretion, negotiate the sale or transfer of any number of tax certificates with one or more persons, including a county land reutilization corporation. ~~No tax certificate shall be sold or transferred to a county land reutilization corporation after two years following the filing of its articles of incorporation by the secretary of state.~~ Terms that may be negotiated include, without limitation, any of the following:

(1) A premium to be added to or discount to be subtracted from the certificate purchase price for the tax certificates;

(2) Different time frames under which the certificate holder may initiate a foreclosure action than are otherwise allowed under sections 5721.30 to 5721.43 of the Revised Code, not to exceed six years after the date the tax certificate was sold or transferred;

(3) The amount to be paid in private attorney's fees related to tax certificate foreclosures, subject to section 5721.371 of the Revised Code;

(4) Any other terms of the sale or transfer that the county treasurer, in the treasurer's discretion, determines appropriate or necessary for the sale or transfer.

(B) The sale or transfer of tax certificates under this section shall be governed by the criteria established by the county treasurer pursuant to division (E) of this section.

(C) The county treasurer may execute a tax certificate sale/purchase agreement and other necessary agreements with a designated purchaser or purchasers to complete a negotiated sale or transfer of tax certificates.

(D) The tax certificate may be sold at a premium to or discount from the certificate purchase price. The county treasurer may establish as one of the terms of the negotiated sale the portion of the certificate purchase price, plus any applicable premium or less any applicable discount, that the purchaser or purchasers shall pay in cash on the date the tax certificates are sold and the portion, if any, of the certificate purchase price, plus any applicable premium or less any applicable discount, that the purchaser or purchasers shall pay in noncash consideration and the nature of that consideration.

The county treasurer shall sell such tax certificates at a certificate purchase price, plus any applicable premium and less any applicable discount, and at a certificate rate of interest that, in the treasurer's determination, are in the best interests of the county.

(E)(1) The county treasurer shall adopt rules governing the eligibility of persons to purchase tax certificates or to otherwise participate in a negotiated sale under this section. The rules may provide for precertification of such persons, including a requirement for disclosure of income, assets, and any other financial information the county treasurer determines appropriate. The rules also may prohibit any person that is delinquent in the payment of any tax to the county or to the state, or that is in default in or on any other obligation to the county or to the state, from purchasing a tax certificate or otherwise participating in a negotiated sale of tax certificates under this section. The rules may also authorize the purchase of certificates by a county land reutilization corporation, and authorize the county treasurer to receive notes in lieu of cash, with such notes being payable to the treasurer upon the receipt or enforcement of such taxes, assessments, charges, costs, penalties, and interest, and as otherwise further agreed between the corporation and the treasurer. ~~A county land reutilization corporation may not purchase any such certificate after two years following the filing of its articles of incorporation by the secretary of state.~~ The eligibility information required shall include the tax identification number of the purchaser and may include the tax identification number of the participant. The county treasurer, upon request, shall provide a copy of the rules adopted under this section.

(2) Any person that intends to purchase a tax certificate in a negotiated

sale shall submit an affidavit to the county treasurer that establishes compliance with the applicable eligibility criteria and includes any other information required by the treasurer. Any person that fails to submit such an affidavit is ineligible to purchase a tax certificate. Any person that knowingly submits a false or misleading affidavit shall forfeit any tax certificate or certificates purchased by the person at a sale for which the affidavit was submitted, shall be liable for payment of the full certificate purchase price, plus any applicable premium and less any applicable discount, of the tax certificate or certificates, and shall be disqualified from participating in any tax certificate sale conducted in the county during the next five years.

(3) A tax certificate shall not be sold to the owner of the certificate parcel or to any corporation, partnership, or association in which such owner has an interest. No person that purchases a tax certificate in a negotiated sale shall assign or transfer the tax certificate to the owner of the certificate parcel or to any corporation, partnership, or association in which the owner has an interest. Any person that knowingly or negligently transfers or assigns a tax certificate to the owner of the certificate parcel or to any corporation, partnership, or association in which such owner has an interest shall be liable for payment of the full certificate purchase price, plus any applicable premium and less any applicable discount, and shall not be entitled to a refund of any amount paid. Such tax certificate shall be deemed void and the tax lien sold under the tax certificate shall revert to the county as if no sale of the tax certificate had occurred.

(F) The purchaser in a negotiated sale under this section shall deliver the certificate purchase price or other consideration, plus any applicable premium and less any applicable discount and including any noncash consideration, to the county treasurer not later than the close of business on the date the tax certificates are delivered to the purchaser. The certificate purchase price, less any applicable discount, or portion of the price, that is paid in cash shall be deposited in the county's general fund to the credit of the account to which ad valorem real property taxes are credited and further credited as provided in division (G) of this section. Any applicable premium that is paid shall be, at the discretion of the county treasurer, apportioned to and deposited in any authorized county fund. The purchaser also shall pay on the date the tax certificates are delivered to the purchaser the fee, if any, negotiated under division (J) of this section. If the purchaser fails to pay the certificate purchase price, plus any applicable premium and less any applicable discount, and any such fee, within the time periods required by this section, the county treasurer shall retain the tax certificate and may

attempt to sell it at any auction or negotiated sale conducted at a later date.

(G) Upon receipt of the full payment from the purchaser of the certificate purchase price or other agreed-upon consideration, plus any applicable premium and less any applicable discount, and the negotiated fee, if any, the county treasurer, or a qualified trustee whom the treasurer has engaged for such purpose, shall issue the tax certificate and record the tax certificate sale by entering into a tax certificate register the certificate purchase price, any premium paid or discount taken, the certificate rate of interest, the date the certificates were sold, the name and address of the certificate holder or, in the case of issuance of the tax certificates in a book-entry system, the name and address of the nominee, and any other information the county treasurer considers necessary. The county treasurer may keep the tax certificate register in a hard-copy format or an electronic format. The name and address of the certificate holder or nominee may be, upon receipt of instructions from the purchaser, that of the secured party of the actual purchaser, or an agent or custodian for the purchaser or secured party. The county treasurer also shall transfer the tax certificates to the certificate holder. The county treasurer shall apportion the part of the cash proceeds from the sale representing taxes, penalties, and interest among the several taxing districts in the same proportion that the amount of taxes levied by each district against the certificate parcels in the preceding tax year bears to the taxes levied by all such districts against the certificate parcels in the preceding tax year, and credit the part of the proceeds representing assessments and other charges to the items of assessments and charges in the order in which those items became due. If the cash proceeds from the sale are not sufficient to fully satisfy the items of taxes, assessments, penalties, interest, and charges on the certificate parcels against which tax certificates were sold, the county treasurer shall credit the cash proceeds to such items pro rata based upon the proportion that each item of taxes, assessments, penalties, interest, and charges bears to the aggregate of all such items, or by any other method that the county treasurer, in the treasurer's sole discretion, determines is equitable. Upon issuing the tax certificates, the delinquent taxes that make up the certificate purchase price are transferred, and the superior lien of the state and its taxing districts for those delinquent taxes is conveyed intact to the certificate holder or holders.

(H) If a tax certificate is offered for sale under this section but is not sold, the county treasurer may strike the corresponding certificate parcel from the list of parcels selected for tax certificate sales. The lien for taxes, assessments, charges, penalties, and interest against a parcel stricken from the list thereafter may be foreclosed in the manner prescribed by section

323.25, 5721.14, or 5721.18 of the Revised Code unless, prior to the institution of such proceedings against the parcel, the county treasurer restores the parcel to the list of parcels selected for tax certificate sales.

(I) Neither a certificate holder nor its secured party, if any, shall be liable for damages arising from a violation of sections 3737.87 to 3737.891 or Chapter 3704., 3734., 3745., 3746., 3750., 3751., 3752., 6109., or 6111. of the Revised Code, or a rule adopted or order, permit, license, variance, or plan approval issued under any of those chapters, that is or was committed by another person in connection with the parcel for which the tax certificate is held.

(J) When selling or transferring a tax certificate under this section, the county treasurer may negotiate with the purchaser of the certificate for fees paid by the purchaser to the county treasurer to reimburse the treasurer for any part or all of the treasurer's costs of preparing for and administering the sale of the tax certificate and any fees set forth by the county treasurer in the tax certificate sale/purchase agreement. Such fees, if any, shall be added to the certificate purchase price and shall be paid by the purchaser on the date of delivery of the tax certificate. The county treasurer shall deposit the fees in the county treasury to the credit of the tax certificate administration fund.

(K) After selling tax certificates under this section, the county treasurer shall send written notice by certified mail to the last known tax-mailing address of the owner of the certificate parcel. The notice shall inform the owner that a tax certificate with respect to such owner's parcel was sold or transferred and shall describe the owner's options to redeem the parcel, including entering into a redemption payment plan under division (C)(2) of section 5721.38 of the Revised Code. However, the county treasurer is not required to send a notice under this division if the treasurer previously has attempted to send a notice to the owner of the parcel at the owner's last known tax-mailing address and the postal service has returned the notice as undeliverable.

Sec. 5722.02. (A) Any municipal corporation, county, or township may elect to adopt and implement the procedures set forth in sections 5722.02 to 5722.15 of the Revised Code to facilitate the effective reutilization of nonproductive land situated within its boundaries. Such election shall be made by ordinance in the case of a municipal corporation, and by resolution in the case of a county or township. The ordinance or resolution shall state that the existence of nonproductive land within its boundaries is such as to necessitate the implementation of a land reutilization program to foster either the return of such nonproductive land to tax revenue generating status or the devotion thereof to public use.

(B) Any county adopting a resolution under division (A) of this section may direct in the resolution that a county land reutilization corporation be organized under Chapter 1724. of the Revised Code to act on behalf of and cooperate with the county in exercising the powers and performing the duties of the county under this chapter. The powers extended to a county land reutilization corporation shall not be construed as a limitation on the powers granted to a county land reutilization corporation under Chapter 1724. of the Revised Code, but shall be construed as additional powers; ~~except that a county land reutilization corporation may not acquire any interest in real property under this chapter after two years following the filing of its articles of incorporation by the secretary of state.~~

(C) An electing subdivision shall promptly deliver certified copies of such ordinance or resolution to the auditor, treasurer, and the prosecutor of each county in which the electing subdivision is situated. On and after the effective date of such ordinance or resolution, the foreclosure, sale, management, and disposition of all nonproductive land situated within the electing subdivision's boundaries shall be governed by the procedures set forth in sections 5722.02 to 5722.15 of the Revised Code, and, in the case of a county land reutilization corporation, as authorized under Chapter 1724. of the Revised Code. When a county adopts a resolution organizing a county land reutilization corporation pursuant to this chapter, the county shall deliver a copy of the resolution to the county auditor, county treasurer, and county prosecuting attorney.

(D) A county, a county land reutilization corporation, and a municipal corporation or township may enter into an agreement to implement the procedures in sections 5722.02 to 5722.15 of the Revised Code within the boundaries of the municipal corporation or township if the county and the township or municipal corporation are electing subdivisions and the county has, by resolution, designated a county land reutilization corporation to act on its behalf under this chapter.

Any property acquired by a county land reutilization corporation in a transaction other than the tax foreclosure procedures in Chapter 323., 5721., or 5723. of the Revised Code shall be subject to a priority right of acquisition by a municipal corporation or township in which the property is located for a period of thirty days after the county land reutilization corporation first records the deed evidencing acquisition of such property with the county recorder. A municipal corporation or township claiming a priority right of acquisition shall file, and the county recorder shall record, an instrument evidencing such right within the thirty-day period. The instrument shall include the name and address of the applicable municipal

corporation or township, the parcel or other identifying number and an affirmative statement by the municipal corporation or township that it intends to acquire the property. If the municipal corporation or township records such an instrument within the thirty-day period, then the priority right of acquisition shall be effective for a period of ninety days after the instrument is recorded. If the municipal corporation or township does not record the instrument expressing its intent to acquire the property or, if having timely recorded such instrument does not thereafter acquire and record a deed within the ninety-day period following the recording of its intent to acquire the property, then the county land reutilization corporation may dispose of such property free and clear of any claim or interest of such municipal corporation or township. If a municipal corporation or township does not record an instrument of intent to acquire property within the thirty-day period, or if a municipal corporation or township, after timely recording an instrument of intent to acquire a parcel, does not thereafter acquire the parcel within ninety days and record a deed thereto with the county recorder, the municipal corporation or township has no statutory, legal, or equitable claim or estate in property acquired by the county land reutilization corporation. This section shall not be construed to constitute an exception to free and clear title to the property held by a county land reutilization corporation or any of its subsequent transferees, or to preclude a county land reutilization corporation and any municipal corporation or township from entering into an agreement that disposes of property on terms to which they may thereafter mutually agree.

Sec. 5722.04. (A) Upon receipt of an ordinance or resolution adopted pursuant to section 5722.02 of the Revised Code, the county auditor shall deliver to the electing subdivision a list of all delinquent lands within an electing subdivision's boundaries that have been forfeited to the state pursuant to section 5723.01 of the Revised Code and thereafter shall notify the electing subdivision of any additions to or deletions from such list.

The electing subdivision shall select from such lists the forfeited lands that constitute nonproductive lands that the subdivision wishes to acquire, and shall notify the county auditor of its selection prior to the advertisement and sale of such lands. Notwithstanding the sales price provisions of division (A)(1) of section 5723.06 of the Revised Code, the selected nonproductive lands shall be advertised for sale and be sold to the highest bidder for an amount at least sufficient to pay the amount determined under division (A)(2) of section 5721.16 of the Revised Code. All nonproductive lands forfeited to the state and selected by an electing subdivision, when advertised for sale pursuant to the relevant procedures set forth in Chapter

5723. of the Revised Code, shall be advertised separately from the advertisement applicable to other forfeited lands. The advertisement relating to the selected nonproductive lands also shall include a statement that the lands have been selected by the electing subdivision as nonproductive lands that it wishes to acquire and that, if at the forfeiture sale no bid for the sum of the taxes, assessments, charges, penalties, interest, and costs due on the parcel as determined under division (A)(1)(a) of section 5723.06 of the Revised Code is received, the lands shall be sold to the electing subdivision.

(B) If any nonproductive land that has been forfeited to the state and selected by an electing subdivision is advertised and offered for sale by the auditor pursuant to Chapter 5723. of the Revised Code, but no minimum bid is received, the electing subdivision shall be deemed to have submitted the winning bid, and the land is deemed sold to the electing subdivision for no consideration other than the fee charged under division (C) of this section. If both a county and a township in that county have adopted a resolution pursuant to section 5722.02 of the Revised Code and both subdivisions select the same parcel or parcels of land, the electing subdivision deemed to have submitted the winning bid under this division shall be determined pursuant to division (D) of section 5722.03 of the Revised Code.

The auditor shall announce the bid at the sale and shall declare the selected nonproductive land to be sold to the electing subdivision. The auditor shall deliver to the electing subdivision a certificate of sale.

(C) On the returning of the certificate of sale to the auditor, the auditor shall execute and file for recording a deed conveying title to the selected nonproductive land and, once the deed has been recorded, deliver it to the electing subdivision. Thereupon, all previous title is extinguished, and the title in the electing subdivision is incontestable and free and clear from all liens and encumbrances, except taxes and special assessments that are not due at the time of the sale and any easements and covenants of record running with the land and created prior to the time at which the taxes or assessments, for the nonpayment of which the nonproductive land was forfeited, became due and payable. At the time of the sale, the auditor shall collect and the electing subdivision shall pay the fee required by law for transferring and recording of deeds.

Upon delivery of a deed conveying any nonproductive land to an electing subdivision, the county auditor shall charge all costs incurred in any proceeding instituted under section 5721.14 or 5721.18 of the Revised Code or incurred as a result of the forfeiture and sale of the nonproductive land to the taxing districts, including the electing subdivision, in direct proportion to their interest in the taxes, assessments, charges, interest, and penalties on the

nonproductive land due and payable at the time the land was sold at the forfeiture sale. The interest of each taxing district in the taxes, assessments, charges, penalties, and interest on the nonproductive land shall bear the same proportion to the amount of those taxes, assessments, charges, penalties, and interest that the amount of taxes levied by each district against the nonproductive land in the preceding tax year bears to the taxes levied by all such districts against the nonproductive land in the preceding tax year. For the purposes of this division, a county land reutilization corporation shall be deemed to have the proportionate interest as the county designating or organizing such corporation in the taxes, assessments, charges, penalties, and interest on the nonproductive land in the county. In making a semiannual apportionment of funds, the auditor shall retain at the next apportionment the amount charged to each such taxing district, except for a county land reutilization corporation acting on behalf of a county, the auditor shall invoice the corporation the amount charged to it.

(D) Where no political subdivision has requested to purchase a parcel of land at a foreclosure sale, any lands otherwise forfeited to the state for want of a bid at the foreclosure sale may, upon the request of a county land reutilization corporation, be transferred directly to the corporation without appraisal or public bidding; ~~except that no interest in real property may be transferred to a county land reutilization corporation under this section after two years following the filing of its articles of incorporation by the secretary of state.~~

Sec. 5722.21. (A) As used in this section:

(1) "Eligible delinquent land" means delinquent land or delinquent vacant land, as defined in section 5721.01 of the Revised Code, included in a delinquent tax list or delinquent vacant land tax list that has been certified delinquent within the meaning of section 5721.03 of the Revised Code, excluding any certificate parcel as defined in section 5721.30 of the Revised Code.

(2) "Delinquent taxes" means the cumulative amount of unpaid taxes, assessments, recoupment charges, penalties, and interest charged against eligible delinquent land that became delinquent before transfer of title to a county, municipal corporation, township, or county land reutilization corporation under this section.

(3) "Foreclosure costs" means the sum of all costs or other charges of publication, service of notice, prosecution, or other proceedings against the land under sections 323.25 to 323.28, 323.65 to 323.79, or Chapter 5721. of the Revised Code as may pertain to delinquent land or be fairly apportioned to it by the county treasurer.

(4) "Tax foreclosure sale" means a sale of delinquent land pursuant to foreclosure proceedings under sections 323.25 to 323.28, 323.65 to 323.79, or section 5721.14 or 5721.18 of the Revised Code.

(5) "Taxing authority" means the legislative authority of any taxing unit, as defined in section 5705.01 of the Revised Code, in which is located a parcel of eligible delinquent land acquired or to be acquired by a county, municipal corporation, township, or county land reutilization corporation in which a declaration under division (B) of this section is in effect.

(B) The legislative authority of a municipal corporation may declare by ordinance, or a board of county commissioners, a board of township trustees, or the board of directors of a county land reutilization corporation may declare by resolution, that it is in the public interest for the county, municipal corporation, township, or county land reutilization corporation to acquire tax-delinquent real property within the county, municipal corporation, or township for the public purpose of redeveloping the property or otherwise rendering it suitable for productive, tax-paying use. In any county, municipal corporation, or township in which such a declaration is in effect, the county, municipal corporation, township, or county land reutilization corporation may purchase or otherwise acquire title to eligible delinquent land, other than by appropriation, and the title shall pass free and clear of the lien for delinquent taxes as provided in division (D) of this section. The authority granted by this section is supplemental to the authority granted under sections 5722.01 to 5722.15 of the Revised Code. ~~A county land reutilization corporation may not acquire an interest in real property under this section after two years following the filing of its articles of incorporation by the secretary of state.~~

(C) With respect to any parcel of eligible delinquent land purchased or acquired by a county, municipal corporation, township, or county land reutilization corporation in which a declaration is in effect under this section, the county, municipal corporation, or township may obtain the consent of each taxing authority for release of any claim on the delinquent taxes and associated costs attaching to that property at the time of conveyance to the county, municipal corporation, or township. Consent shall be obtained in writing, and shall be certified by the taxing authority granting consent or by the fiscal officer or other person authorized by the taxing authority to provide such consent. Consent may be obtained before or after title to the eligible delinquent land is transferred to the county, municipal corporation, or township. A county that has organized and designated a county land reutilization corporation for purposes of this chapter is not required to obtain such consent. Upon conveyance to a county land

reutilization corporation, the consent shall be deemed to have been given to the extent that the corporation requires consent.

The taxing authority of a taxing unit and a county, municipal corporation, or township in which a declaration is in effect under this section may enter into an agreement whereby the taxing authority consents in advance to release of the taxing authority's claim on delinquent taxes and associated costs with respect to all or a specified number of parcels of eligible delinquent land that may be purchased or acquired by the county, municipal corporation, or township for the purposes of this section. The agreement shall provide for any terms and conditions on the release of such claim as are mutually agreeable to the taxing authority and county, municipal corporation, or township, including any notice to be provided by the county, municipal corporation, or township to the taxing authority of the purchase or acquisition of eligible delinquent land situated in the taxing unit; any option vesting in the taxing authority to revoke its release with respect to any parcel of eligible delinquent land before the release becomes effective; and the manner in which notice of such revocation shall be effected. Nothing in this section or in such an agreement shall be construed to bar a taxing authority from revoking its advance consent with respect to any parcels of eligible delinquent land purchased or acquired by the county, municipal corporation, or township before the county, municipal corporation, or township enters into a purchase or other agreement for acquisition of the parcels.

A county that has organized and designated a county land reutilization corporation is not required to enter into such an agreement with a taxing authority.

(D) The lien for the delinquent taxes and associated costs for which all of the taxing authorities have consented to release their claims under this section is hereby extinguished, and the transfer of title to such delinquent land to the county, municipal corporation, or township shall be transferred free and clear of the lien for such taxes and costs. If a taxing authority does not consent to the release of its claim on delinquent taxes and associated costs, the entire amount of the lien for such taxes and costs shall continue as otherwise provided by law until paid or otherwise discharged according to law. If a county land reutilization corporation acquires title to eligible delinquent land under this section, the lien for delinquent taxes and costs with respect to land acquired by the corporation shall be extinguished simultaneously with the transfer of title to the corporation, notwithstanding that the taxing authorities have not consented to release their claims under this section.

(E) All eligible delinquent land acquired by a county, municipal corporation, township, or county land reutilization corporation under this section is real property held for a public purpose and is exempted from taxation until the county, municipal corporation, township, or county land reutilization corporation sells or otherwise disposes of property.

(F) If a county, municipal corporation, township, or county land reutilization corporation sells or otherwise disposes of delinquent land it purchased or acquired and for which all or a portion of a taxing authority's claim for delinquent taxes was released under this section, whether by consent of the taxing authority or pursuant to division (D) of this section, the net proceeds from such sale or disposition shall be used for such redevelopment purposes the board of county commissioners, the legislative authority of the municipal corporation, the board of township trustees, or the board of directors of the county land reutilization corporation considers necessary or appropriate.

Sec. 5723.04. (A) The county auditor shall maintain a list of forfeited lands and shall offer such lands for sale annually, or more frequently if the auditor determines that more frequent sales are necessary.

(B) Notwithstanding division (A) of this section, upon the request of a county land reutilization corporation organized under Chapter 1724. of the Revised Code, the county auditor shall promptly transfer to such corporation, by auditor's deed, the fee simple title to a parcel on the list of forfeited lands, which shall pass to such corporation free and clear of all taxes, assessments, charges, penalties, interest, and costs. Any subordinate liens shall be deemed fully and forever satisfied and discharged. Upon such request, the land is deemed sold by the state for no consideration. The county land reutilization corporation shall file the deed for recording. ~~A county land reutilization corporation may not acquire an interest in a parcel under this section after two years following the filing of its articles of incorporation by the secretary of state.~~

Sec. 5725.18. (A) An annual franchise tax on the privilege of being an insurance company is hereby levied on each domestic insurance company. In the month of May, annually, the treasurer of state shall charge for collection from each domestic insurance company a franchise tax in the amount computed in accordance with the following, as applicable:

(1) With respect to a domestic insurance company that is a health insuring corporation, one per cent of all premium rate payments received, exclusive of payments received under the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, ~~or~~ and exclusive of payments received pursuant

to the medical assistance program established under Chapter 5111. of the Revised Code for the period ending September 30, 2009, as reflected in its annual report for the preceding calendar year;

(2) With respect to a domestic insurance company that is not a health insuring corporation, one and four-tenths per cent of the gross amount of premiums received from policies covering risks within this state, exclusive of premiums received under the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, ~~or and exclusive of payments received~~ pursuant to the medical assistance program established under Chapter 5111. of the Revised Code for the period ending September 30, 2009, as reflected in its annual statement for the preceding calendar year, and, if the company operates a health insuring corporation as a line of business, one per cent of all premium rate payments received from that line of business, exclusive of payments received under the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, ~~or pursuant to the medical assistance program established under Chapter 5111. of the Revised Code~~, as reflected in its annual statement for the preceding calendar year.

Domestic insurance companies, including health insuring corporations, receiving payments pursuant to the medical assistance program established under Chapter 5111. of the Revised Code during the period beginning October 1, 2009, and ending December 31, 2009, shall file with the 2009 annual statement to the superintendent a schedule that reflects those payments received pursuant to the medical assistance program for that period. The payments reflected in the schedule, plus all other taxable premiums, are subject to the annual franchise tax due to be paid in 2010.

(B) The gross amount of premium rate payments or premiums used to compute the applicable tax in accordance with division (A) of this section is subject to the deductions prescribed by section 5729.03 of the Revised Code for foreign insurance companies. The objects of such tax are those declared in section 5725.24 of the Revised Code, to which only such tax shall be applied.

(C) In no case shall such tax be less than two hundred fifty dollars.

Sec. 5725.33. (A) Except as otherwise provided in this section, terms used in this section have the same meaning as section 45D of the Internal Revenue Code, any related proposed, temporary or final regulations promulgated under the Internal Revenue Code, any rules or guidance of the internal revenue service or the United States department of the treasury, and any related rules or guidance issued by the community development

financial institutions fund of the United States department of the treasury, as such law, regulations, rules, and guidance exist on the effective date of the enactment of this section by H.B. 1 of the 128th general assembly.

As used in this section:

(1) "Adjusted purchase price" means the amount paid for qualified equity investments multiplied by the qualified low-income community investments made by the issuer in projects located in this state as a percentage of the total amount of qualified low-income community investments made by the issuer in projects located in all states on the credit allowance date during the applicable tax year, subject to divisions (B)(1) and (2) of this section.

(2) "Applicable percentage" means zero per cent for each of the first two credit allowance dates, seven per cent for the third credit allowance date, and eight per cent for the four following credit allowance dates.

(3) "Credit allowance date" means the date, on or after January 1, 2010, a qualified equity investment is made and each of the six anniversary dates thereafter. For qualified equity investments made after the effective date of this section but before January 1, 2010, the initial credit allowance date is January 1, 2010, and each of the six anniversary dates thereafter is on the first day of January of each year.

(4) "Qualified active low-income community business" excludes any business that derives or projects to derive fifteen per cent or more of annual revenue from the rental or sale of real property, except any business that is a special purpose entity principally owned by a principal user of that property formed solely for the purpose of renting, either directly or indirectly, or selling real property back to such principal user if such principal user does not derive fifteen per cent or more of its gross annual revenue from the rental or sale of real property.

(5) "Qualified community development entity" includes only entities:

(a) That have entered into an allocation agreement with the community development financial institutions fund of the United States department of the treasury with respect to credits authorized by section 45D of the Internal Revenue Code;

(b) Whose service area includes any portion of this state; and

(c) That will designate an equity investment in such entities as a qualified equity investment for purposes of both section 45D of the Internal Revenue Code and this section.

(6) "Qualified equity investment" is limited to an equity investment in a qualified community development entity that:

(a) Is acquired after the effective date of the enactment of this section at

its original issuance solely in exchange for cash:

(b) Has at least eighty-five per cent of its cash purchase price used by the qualified community development entity to make qualified low-income community investments, provided that in the seventh year after a qualified equity investment is made, only seventy-five per cent of such cash purchase price must be used by the qualified community development entity to make qualified low-income community investments; and

(c) Is designated by the issuer as a qualified equity investment.

"Qualified equity investment" includes any equity investment that would, but for division (A)(6)(a) of this section, be a qualified equity investment in the hands of the taxpayer if such investment was a qualified equity investment in the hands of a prior holder.

(B) There is hereby allowed a nonrefundable credit against the tax imposed by section 5725.18 of the Revised Code for an insurance company holding a qualified equity investment on the credit allowance date occurring in the calendar year for which the tax is due. The credit shall equal the applicable percentage of the adjusted purchase price of qualified low-income community investments, subject to divisions (B)(1) and (2) of this section:

(1) For the purpose of calculating the amount of qualified low-income community investments held by a qualified community development entity, an investment shall be considered held by a qualified community development entity even if the investment has been sold or repaid, provided that, at any time before the seventh anniversary of the issuance of the qualified equity investment, the qualified community development entity reinvests an amount equal to the capital returned to or received or recovered by the qualified community development entity from the original investment, exclusive of any profits realized and costs incurred in the sale or repayment, in another qualified low-income community investment within twelve months of the receipt of such capital. If the qualified low-income community investment is sold or repaid after the sixth anniversary of the issuance of the qualified equity investment, the qualified low-income community investment shall be considered held by the qualified community development entity through the seventh anniversary of the qualified equity investment's issuance.

(2) The qualified low-income community investment made in this state shall equal the sum of the qualified low-income community investments in each qualified active low-income community business in this state, not to exceed two million five hundred sixty-four thousand dollars, in which the qualified community development entity invests, including such investments

in any such businesses in this state related to that qualified active low-income community business through majority ownership or control.

The credit shall be claimed in the order prescribed by section 5725.98 of the Revised Code. If the amount of the credit exceeds the amount of tax otherwise due after deducting all other credits in that order, the excess may be carried forward and applied to the tax due for not more than four ensuing years.

By claiming a tax credit under this section, an insurance company waives its rights under section 5725.222 of the Revised Code with respect to the time limitation for the assessment of taxes as it relates to credits claimed that later become subject to recapture under division (E) of this section.

(C) The amount of qualified equity investments on the basis of which credits may be claimed under this section and sections 5729.16 and 5733.58 of the Revised Code shall not exceed the amount, estimated by the director of development, that would cause the total amount of credits allowed each fiscal year to exceed ten million dollars, computed without regard to the potential for taxpayers to carry tax credits forward to later years.

(D) If any amount of the federal tax credit allowed for a qualified equity investment for which a credit was received under this section is recaptured under section 45D of the Internal Revenue Code, or if the director of development determines that an investment for which a tax credit is claimed under this section is not a qualified equity investment or that the proceeds of an investment for which a tax credit is claimed under this section are used to make qualified low-income community investments other than in a qualified active low-income community business, all or a portion of the credit received on account of that investment shall be paid by the insurance company that received the credit to the superintendent of insurance. The amount to be recovered shall be determined by the director of development pursuant to rules adopted under division (E) of this section. The director shall certify any amount due under this division to the superintendent of insurance, and the superintendent shall notify the treasurer of state of the amount due. Upon notification, the treasurer shall invoice the insurance company for the amount due. The amount due is payable not later than thirty days after the date the treasurer invoices the insurance company. The amount due shall be considered to be tax due under section 5725.18 of the Revised Code, and may be collected by assessment without regard to the time limitations imposed under section 5725.222 of the Revised Code for the assessment of taxes by the superintendent. All amounts collected under this division shall be credited as revenue from the tax levied under section 5725.18 of the Revised Code.

(E) The tax credits authorized under this section and sections 5729.16 and 5733.58 of the Revised Code shall be administered by the department of development. The director of development, in consultation with the tax commissioner and the superintendent of insurance, pursuant to Chapter 119. of the Revised Code, shall adopt rules for the administration of this section and sections 5729.16 and 5733.58 of the Revised Code. The rules shall provide for determining the recovery of credits under division (D) of this section, division (D) of section 5729.16, and section 5733.58 of the Revised Code, including prorating the amount of the credit to be recovered on any reasonable basis, the manner in which credits may be allocated among claimants, and the amount of any application or other fees to be charged in connection with a recovery.

(F) There is hereby created in the state treasury the new markets tax credit operating fund. The director of development is authorized to charge reasonable application and other fees in connection with the administration of tax credits authorized by this section and sections 5729.16 and 5733.58 of the Revised Code. Any such fees collected shall be credited to the fund. The director of development shall use money in the fund to pay expenses related to the administration of tax credits authorized under sections 5725.33, 5729.16, and 5733.58 of the Revised Code.

Sec. 5725.98. (A) To provide a uniform procedure for calculating the amount of tax imposed by section 5725.18 of the Revised Code that is due under this chapter, a taxpayer shall claim any credits and offsets against tax liability to which it is entitled in the following order:

(1) The credit for an insurance company or insurance company group under section 5729.031 of the Revised Code.

(2) The credit for eligible employee training costs under section 5725.31 of the Revised Code.

(3) The credit for purchasers of qualified low-income community investments under section 5725.33 of the Revised Code;

(4) The job retention credit under section 122.171 of the Revised Code;

(5) The offset of assessments by the Ohio life and health insurance guaranty association permitted by section 3956.20 of the Revised Code.

~~(4)(6)~~ The refundable credit for Ohio job creation under section 5725.32 of the Revised Code.

~~(5)(7)~~ The refundable credit under section ~~5729.08~~ 5725.19 of the Revised Code for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code.

(B) For any credit except the credits enumerated in divisions (A)~~(4)(6)~~ and ~~(5)(7)~~ of this section, the amount of the credit for a taxable year shall

not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.

Sec. 5727.81. (A) For the purpose of raising revenue for public education and state and local government operations, an excise tax is hereby levied and imposed on an electric distribution company for all electricity distributed by such company at the following rates per kilowatt hour of electricity distributed in a thirty-day period by the company through a meter of an end user in this state:

KILOWATT HOURS DISTRIBUTED TO AN END USER	RATE PER KILOWATT HOUR
For the first 2,000	\$.00465
For the next 2,001 to 15,000	\$.00419
For 15,001 and above	\$.00363

If no meter is used to measure the kilowatt hours of electricity distributed by the company, the rates shall apply to the estimated kilowatt hours of electricity distributed to an unmetered location in this state.

The electric distribution company shall base the monthly tax on the kilowatt hours of electricity distributed to an end user through the meter of the end user that is not measured for a thirty-day period by dividing the days in the measurement period into the total kilowatt hours measured during the measurement period to obtain a daily average usage. The tax shall be determined by obtaining the sum of divisions (A)(1), (2), and (3) of this section and multiplying that amount by the number of days in the measurement period:

(1) Multiplying \$0.00465 per kilowatt hour for the first sixty-seven kilowatt hours distributed using a daily average;

(2) Multiplying \$0.00419 for the next sixty-eight to five hundred kilowatt hours distributed using a daily average;

(3) Multiplying \$0.00363 for the remaining kilowatt hours distributed using a daily average.

Except as provided in division (C) of this section, the electric distribution company shall pay the tax to the tax commissioner in accordance with section 5727.82 of the Revised Code, unless required to remit each tax payment by electronic funds transfer to the treasurer of state in accordance with section 5727.83 of the Revised Code.

Only the distribution of electricity through a meter of an end user in this state shall be used by the electric distribution company to compute the

amount or estimated amount of tax due. In the event a meter is not actually read for a measurement period, the estimated kilowatt hours distributed by an electric distribution company to bill for its distribution charges shall be used.

(B) Except as provided in division (C) of this section, each electric distribution company shall pay the tax imposed by this section in all of the following circumstances:

(1) The electricity is distributed by the company through a meter of an end user in this state;

(2) The company is distributing electricity through a meter located in another state, but the electricity is consumed in this state in the manner prescribed by the tax commissioner;

(3) The company is distributing electricity in this state without the use of a meter, but the electricity is consumed in this state as estimated and in the manner prescribed by the tax commissioner.

(C)(1) As used in division (C) of this section:

(a) "Total price of electricity" means the aggregate value in money of anything paid or transferred, or promised to be paid or transferred, to obtain electricity or electric service, including but not limited to the value paid or promised to be paid for the transmission or distribution of electricity and for transition costs as described in Chapter 4928. of the Revised Code.

(b) "Package" means the provision or the acquisition, at a combined price, of electricity with other services or products, or any combination thereof, such as natural gas or other fuels; energy management products, software, and services; machinery and equipment acquisition; and financing agreements.

(c) "Single location" means a facility located on contiguous property separated only by a roadway, railway, or waterway.

(2) Division (C) of this section applies to any commercial or industrial purchaser's receipt of electricity through a meter of an end user in this state or through more than one meter at a single location in this state in a quantity that exceeds forty-five million kilowatt hours of electricity over the course of the preceding calendar year, or any commercial or industrial purchaser that will consume more than forty-five million kilowatt hours of electricity over the course of the succeeding twelve months as estimated by the tax commissioner. The tax commissioner shall make such an estimate upon the written request by an applicant for registration as a self-assessing purchaser under this division. ~~Such~~ For the meter reading period including July 1, 2008, through the meter reading period including December 31, 2010, such a purchaser may elect to self-assess the excise tax imposed by this section at

the rate of \$.00075 per kilowatt hour on the first five hundred four million kilowatt hours distributed to that meter or location during the registration year, and a percentage of the total price of all electricity distributed to that meter or location equal to ~~four per cent through the meter reading period that includes June 30, 2008, and three and one-half per cent beginning for the meter reading period including July 1, 2008, and thereafter.~~ A For the meter reading period including January 1, 2011, and thereafter, such a purchaser may elect to self-assess the excise tax imposed by this section at the rate of \$.00257 per kilowatt hour for the first five hundred million kilowatt hours, and \$.001832 per kilowatt hour for each kilowatt hour in excess of five hundred million kilowatt hours, distributed to that meter or location during the registration year.

A qualified end user that receives electricity through a meter of an end user in this state or through more than one meter at a single location in this state and that consumes, over the course of the previous calendar year, more than forty-five million kilowatt hours in other than its qualifying manufacturing process, may elect to self-assess the tax as allowed by this division with respect to the electricity used in other than its qualifying manufacturing process.

Payment of the tax shall be made directly to the tax commissioner in accordance with divisions (A)(4) and (5) of section 5727.82 of the Revised Code, or the treasurer of state in accordance with section 5727.83 of the Revised Code. If the electric distribution company serving the self-assessing purchaser is a municipal electric utility and the purchaser is within the municipal corporation's corporate limits, payment shall be made to such municipal corporation's general fund and reports shall be filed in accordance with divisions (A)(4) and (5) of section 5727.82 of the Revised Code, except that "municipal corporation" shall be substituted for "treasurer of state" and "tax commissioner." A self-assessing purchaser that pays the excise tax as provided in this division shall not be required to pay the tax to the electric distribution company from which its electricity is distributed. If a self-assessing purchaser's receipt of electricity is not subject to the tax as measured under this division, the tax on the receipt of such electricity shall be measured and paid as provided in division (A) of this section.

(3) In the case of the acquisition of a package, unless the elements of the package are separately stated isolating the total price of electricity from the price of the remaining elements of the package, the tax imposed under this section applies to the entire price of the package. If the elements of the package are separately stated, the tax imposed under this section applies to the total price of the electricity.

(4) Any electric supplier that sells electricity as part of a package shall separately state to the purchaser the total price of the electricity and, upon request by the tax commissioner, the total price of each of the other elements of the package.

(5) The tax commissioner may adopt rules relating to the computation of the total price of electricity with respect to self-assessing purchasers, which may include rules to establish the total price of electricity purchased as part of a package.

(6) An annual application for registration as a self-assessing purchaser shall be made for each qualifying meter or location on a form prescribed by the tax commissioner. The registration year begins on the first day of May and ends on the following thirtieth day of April. Persons may apply after the first day of May for the remainder of the registration year. In the case of an applicant applying on the basis of an estimated consumption of forty-five million kilowatt hours over the course of the succeeding twelve months, the applicant shall provide such information as the tax commissioner considers to be necessary to estimate such consumption. At the time of making the application and by the first day of May of each year, a self-assessing purchaser shall pay a fee of five hundred dollars to the tax commissioner, or to the treasurer of state as provided in section 5727.83 of the Revised Code, for each qualifying meter or location. The tax commissioner shall immediately pay to the treasurer of state all amounts that the tax commissioner receives under this section. The treasurer of state shall deposit such amounts into the kilowatt hour excise tax administration fund, which is hereby created in the state treasury. Money in the fund shall be used to defray the tax commissioner's cost in administering the tax owed under section 5727.81 of the Revised Code by self-assessing purchasers. After the application is approved by the tax commissioner, the registration shall remain in effect for the current registration year, or until canceled by the registrant upon written notification to the commissioner of the election to pay the tax in accordance with division (A) of this section, or until canceled by the tax commissioner for not paying the tax or fee under division (C) of this section or for not meeting the qualifications in division (C)(2) of this section. The tax commissioner shall give written notice to the electric distribution company from which electricity is delivered to a self-assessing purchaser of the purchaser's self-assessing status, and the electric distribution company is relieved of the obligation to pay the tax imposed by division (A) of this section for electricity distributed to that self-assessing purchaser until it is notified by the tax commissioner that the self-assessing purchaser's registration is canceled. Within fifteen days of notification of the

canceled registration, the electric distribution company shall be responsible for payment of the tax imposed by division (A) of this section on electricity distributed to a purchaser that is no longer registered as a self-assessing purchaser. A self-assessing purchaser with a canceled registration must file a report and remit the tax imposed by division (A) of this section on all electricity it receives for any measurement period prior to the tax being reported and paid by the electric distribution company. A self-assessing purchaser whose registration is canceled by the tax commissioner is not eligible to register as a self-assessing purchaser for two years after the registration is canceled.

(7) If the tax commissioner cancels the self-assessing registration of a purchaser registered on the basis of its estimated consumption because the purchaser does not consume at least forty-five million kilowatt hours of electricity over the course of the twelve-month period for which the estimate was made, the tax commissioner shall assess and collect from the purchaser the difference between (a) the amount of tax that would have been payable under division (A) of this section on the electricity distributed to the purchaser during that period and (b) the amount of tax paid by the purchaser on such electricity pursuant to division (C)(2)(~~a~~) of this section. The assessment shall be paid within sixty days after the tax commissioner issues it, regardless of whether the purchaser files a petition for reassessment under section 5727.89 of the Revised Code covering that period. If the purchaser does not pay the assessment within the time prescribed, the amount assessed is subject to the additional charge and the interest prescribed by divisions (B) and (C) of section 5727.82 of the Revised Code, and is subject to assessment under section 5727.89 of the Revised Code. If the purchaser is a qualified end user, division (C)(7) of this section applies only to electricity it consumes in other than its qualifying manufacturing process.

(D) The tax imposed by this section does not apply to the distribution of any kilowatt hours of electricity to the federal government, to an end user located at a federal facility that uses electricity for the enrichment of uranium, to a qualified regeneration meter, or to an end user for any day the end user is a qualified end user. The exemption under this division for a qualified end user only applies to the manufacturing location where the qualified end user uses more than three million kilowatt hours per day in a qualifying manufacturing process.

Sec. 5727.811. (A) For the purpose of raising revenue for public education and state and local government operations, an excise tax is hereby levied on every natural gas distribution company for all natural gas volumes billed by, or on behalf of, the company beginning with the measurement

period that includes July 1, 2001. Except as provided in divisions (C) or (D) of this section, the tax shall be levied at the following rates per MCF of natural gas distributed by the company through a meter of an end user in this state:

MCF DISTRIBUTED TO AN END USER	RATE PER MCF
For the first 100 MCF per month	\$.1593
For the next 101 to 2000 MCF per month	\$.0877
For 2001 and above MCF per month	\$.0411

If no meter is used to measure the MCF of natural gas distributed by the company, the rates shall apply to the estimated MCF of natural gas distributed to an unmetered location in this state.

(B) A natural gas distribution company shall base the tax on the MCF of natural gas distributed to an end user through the meter of the end user in this state that is estimated to be consumed by the end user as reflected on the end user's customer statement from the natural gas distribution company. Until January 1, 2003, the natural gas distribution company shall pay the tax levied by this section to the treasurer of state in accordance with section 5727.82 of the Revised Code. Beginning January 1, 2003, the natural gas distribution company shall pay the tax levied by this section to the tax commissioner in accordance with section 5727.82 of the Revised Code unless required to remit payment to the treasurer of state in accordance with section 5727.83 of the Revised Code.

(C) A natural gas distribution company with ~~fifty~~ seventy thousand customers or less may elect to apply the rates specified in division (A) of this section to the aggregate of the natural gas distributed by the company through the meter of all its customers in this state, and upon such election, this method shall be used to determine the amount of tax to be paid by such company.

(D) A natural gas distribution company shall pay the tax imposed by this section at the rate of \$.02 per MCF of natural gas distributed by the company through the meter of a flex customer. The natural gas distribution company correspondingly shall reduce the per MCF rate that it charges the flex customer for natural gas distribution services by \$.02 per MCF of natural gas distributed to the flex customer.

(E) Except as provided in division (F) of this section, each natural gas distribution company shall pay the tax imposed by this section in all of the following circumstances:

(1) The natural gas is distributed by the company through a meter of an end user in this state;

(2) The natural gas distribution company is distributing natural gas through a meter located in another state, but the natural gas is consumed in this state in the manner prescribed by the tax commissioner;

(3) The natural gas distribution company is distributing natural gas in this state without the use of a meter, but the natural gas is consumed in this state as estimated and in the manner prescribed by the tax commissioner.

(F) The tax levied by this section does not apply to the distribution of natural gas to the federal government, or natural gas produced by an end user in this state that is consumed by that end user or its affiliates and is not distributed through the facilities of a natural gas company.

Sec. 5727.84. (A) As used in this section and sections 5727.85, 5727.86, and 5727.87 of the Revised Code:

(1) "School district" means a city, local, or exempted village school district.

(2) "Joint vocational school district" means a joint vocational school district created under section 3311.16 of the Revised Code, and includes a cooperative education school district created under section 3311.52 or 3311.521 of the Revised Code and a county school financing district created under section 3311.50 of the Revised Code.

(3) "Local taxing unit" means a subdivision or taxing unit, as defined in section 5705.01 of the Revised Code, a park district created under Chapter 1545. of the Revised Code, or a township park district established under section 511.23 of the Revised Code, but excludes school districts and joint vocational school districts.

(4) "State education aid," for a school district, means the following:

(a) For fiscal years prior to fiscal year 2010, the sum of state aid amounts computed for the district under divisions (A), (C)(1), (C)(4), (D), (E), and (F) of section 3317.022; divisions (B), (C), and (D) of section 3317.023; divisions (G), (L), and (N) of section 3317.024; and sections 3317.029, 3317.0216, 3317.0217, 3317.04, 3317.05, 3317.052, and 3317.053 of the Revised Code; and the adjustments required by: division (C) of section 3310.08; division (C)(2) of section 3310.41; division (C) of section 3314.08; division (D)(2) of section 3314.091; division (D) of section 3314.13; divisions (E), (K), (L), (M), and (N) of section 3317.023; division (C) of section 3317.20; and sections 3313.979 and 3313.981 of the Revised Code. However, when calculating state education aid for a school district for fiscal years 2008 and 2009, include the amount computed for the district under Section 269.20.80 of H.B. 119 of the 127th general assembly, as subsequently amended, instead of division (D) of section 3317.022 of the Revised Code; and include amounts calculated under Section 269.30.80 of

this act, as subsequently amended; ~~and account for adjustments under division (C)(2) of section 3310.41 of the Revised Code.~~

(b) For fiscal year 2010 and for each fiscal year thereafter, the sum of the amounts computed for the district under sections 3306.052, 3306.12, 3306.13, 3306.19, 3306.191, and 3306.192; division (G) of section 3317.024; sections 3317.05, 3317.052, and 3317.053 of the Revised Code; and the adjustments required by division (C) of section 3310.08; division (C)(2) of section 3310.41; division (C) of section 3314.08; division (D)(2) of section 3314.091; division (D) of section 3314.13; divisions (E), (K), (L), (M), and (N) of section 3317.023; division (C) of section 3317.20; and sections 3313.979 and 3313.981 of the Revised Code.

(5) "State education aid," for a joint vocational school district, means the following:

(a) For fiscal years prior to fiscal year 2010, the sum of the state aid amounts computed for the district under division (N) of section 3317.024 and section 3317.16 of the Revised Code. However, when calculating state education aid for a joint vocational school district for fiscal years 2008 and 2009, include the amount computed for the district under Section 269.30.90 of H.B. 119 of the 127th general assembly, as subsequently amended.

(b) For fiscal years 2010 and 2011, the amount computed for the district in accordance with the section of this act entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS".

(6) "State education aid offset" means the amount determined for each school district or joint vocational school district under division (A)(1) of section 5727.85 of the Revised Code.

(7) "Recognized valuation" has the same meaning as in section 3317.02 of the Revised Code.

(8) "Electric company tax value loss" means the amount determined under division (D) of this section.

(9) "Natural gas company tax value loss" means the amount determined under division (E) of this section.

(10) "Tax value loss" means the sum of the electric company tax value loss and the natural gas company tax value loss.

(11) "Fixed-rate levy" means any tax levied on property other than a fixed-sum levy.

(12) "Fixed-rate levy loss" means the amount determined under division (G) of this section.

(13) "Fixed-sum levy" means a tax levied on property at whatever rate is required to produce a specified amount of tax money or levied in excess of the ten-mill limitation to pay debt charges, and includes school district

emergency levies imposed pursuant to section 5705.194 of the Revised Code.

(14) "Fixed-sum levy loss" means the amount determined under division (H) of this section.

(15) "Consumer price index" means the consumer price index (all items, all urban consumers) prepared by the bureau of labor statistics of the United States department of labor.

(B) The kilowatt-hour tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed by section 5727.81 of the Revised Code. All money in the kilowatt-hour tax receipts fund shall be credited as follows:

(1) Sixty-three per cent shall be credited to the general revenue fund.

(2) Twenty-five and four-tenths per cent shall be credited to the school district property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5727.85 of the Revised Code.

(3) Eleven and six-tenths per cent shall be credited to the local government property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5727.86 of the Revised Code.

(C) The natural gas tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed by section 5727.811 of the Revised Code. All money in the fund shall be credited as follows:

(1) Sixty-eight and seven-tenths per cent shall be credited to the school district property tax replacement fund for the purpose of making the payments described in section 5727.85 of the Revised Code.

(2) Thirty-one and three-tenths per cent shall be credited to the local government property tax replacement fund for the purpose of making the payments described in section 5727.86 of the Revised Code.

(D) Not later than January 1, 2002, the tax commissioner shall determine for each taxing district its electric company tax value loss, which is the sum of the applicable amounts described in divisions (D)(1) to (4) of this section:

(1) The difference obtained by subtracting the amount described in division (D)(1)(b) from the amount described in division (D)(1)(a) of this section.

(a) The value of electric company and rural electric company tangible personal property as assessed by the tax commissioner for tax year 1998 on a preliminary assessment, or an amended preliminary assessment if issued

prior to March 1, 1999, and as apportioned to the taxing district for tax year 1998;

(b) The value of electric company and rural electric company tangible personal property as assessed by the tax commissioner for tax year 1998 had the property been apportioned to the taxing district for tax year 2001, and assessed at the rates in effect for tax year 2001.

(2) The difference obtained by subtracting the amount described in division (D)(2)(b) from the amount described in division (D)(2)(a) of this section.

(a) The three-year average for tax years 1996, 1997, and 1998 of the assessed value from nuclear fuel materials and assemblies assessed against a person under Chapter 5711. of the Revised Code from the leasing of them to an electric company for those respective tax years, as reflected in the preliminary assessments;

(b) The three-year average assessed value from nuclear fuel materials and assemblies assessed under division (D)(2)(a) of this section for tax years 1996, 1997, and 1998, as reflected in the preliminary assessments, using an assessment rate of twenty-five per cent.

(3) In the case of a taxing district having a nuclear power plant within its territory, any amount, resulting in an electric company tax value loss, obtained by subtracting the amount described in division (D)(1) of this section from the difference obtained by subtracting the amount described in division (D)(3)(b) of this section from the amount described in division (D)(3)(a) of this section.

(a) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2000 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2001, and as apportioned to the taxing district for tax year 2000;

(b) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2001 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2002, and as apportioned to the taxing district for tax year 2001.

(4) In the case of a taxing district having a nuclear power plant within its territory, the difference obtained by subtracting the amount described in division (D)(4)(b) of this section from the amount described in division (D)(4)(a) of this section, provided that such difference is greater than ten per cent of the amount described in division (D)(4)(a) of this section.

(a) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2005 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2006, and as

apportioned to the taxing district for tax year 2005;

(b) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2006 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2007, and as apportioned to the taxing district for tax year 2006.

(E) Not later than January 1, 2002, the tax commissioner shall determine for each taxing district its natural gas company tax value loss, which is the sum of the amounts described in divisions (E)(1) and (2) of this section:

(1) The difference obtained by subtracting the amount described in division (E)(1)(b) from the amount described in division (E)(1)(a) of this section.

(a) The value of all natural gas company tangible personal property, other than property described in division (E)(2) of this section, as assessed by the tax commissioner for tax year 1999 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2000, and apportioned to the taxing district for tax year 1999;

(b) The value of all natural gas company tangible personal property, other than property described in division (E)(2) of this section, as assessed by the tax commissioner for tax year 1999 had the property been apportioned to the taxing district for tax year 2001, and assessed at the rates in effect for tax year 2001.

(2) The difference in the value of current gas obtained by subtracting the amount described in division (E)(2)(b) from the amount described in division (E)(2)(a) of this section.

(a) The three-year average assessed value of current gas as assessed by the tax commissioner for tax years 1997, 1998, and 1999 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2001, and as apportioned in the taxing district for those respective years;

(b) The three-year average assessed value from current gas under division (E)(2)(a) of this section for tax years 1997, 1998, and 1999, as reflected in the preliminary assessment, using an assessment rate of twenty-five per cent.

(F) The tax commissioner may request that natural gas companies, electric companies, and rural electric companies file a report to help determine the tax value loss under divisions (D) and (E) of this section. The report shall be filed within thirty days of the commissioner's request. A company that fails to file the report or does not timely file the report is subject to the penalty in section 5727.60 of the Revised Code.

(G) Not later than January 1, 2002, the tax commissioner shall determine for each school district, joint vocational school district, and local

taxing unit its fixed-rate levy loss, which is the sum of its electric company tax value loss multiplied by the tax rate in effect in tax year 1998 for fixed-rate levies and its natural gas company tax value loss multiplied by the tax rate in effect in tax year 1999 for fixed-rate levies.

(H) Not later than January 1, 2002, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its fixed-sum levy loss, which is the amount obtained by subtracting the amount described in division (H)(2) of this section from the amount described in division (H)(1) of this section:

(1) The sum of the electric company tax value loss multiplied by the tax rate in effect in tax year 1998, and the natural gas company tax value loss multiplied by the tax rate in effect in tax year 1999, for fixed-sum levies for all taxing districts within each school district, joint vocational school district, and local taxing unit. For the years 2002 through 2006, this computation shall include school district emergency levies that existed in 1998 in the case of the electric company tax value loss, and 1999 in the case of the natural gas company tax value loss, and all other fixed-sum levies that existed in 1998 in the case of the electric company tax value loss and 1999 in the case of the natural gas company tax value loss and continue to be charged in the tax year preceding the distribution year. For the years 2007 through 2016 in the case of school district emergency levies, and for all years after 2006 in the case of all other fixed-sum levies, this computation shall exclude all fixed-sum levies that existed in 1998 in the case of the electric company tax value loss and 1999 in the case of the natural gas company tax value loss, but are no longer in effect in the tax year preceding the distribution year. For the purposes of this section, an emergency levy that existed in 1998 in the case of the electric company tax value loss, and 1999 in the case of the natural gas company tax value loss, continues to exist in a year beginning on or after January 1, 2007, but before January 1, 2017, if, in that year, the board of education levies a school district emergency levy for an annual sum at least equal to the annual sum levied by the board in tax year 1998 or 1999, respectively, less the amount of the payment certified under this division for 2002.

(2) The total taxable value in tax year 1999 less the tax value loss in each school district, joint vocational school district, and local taxing unit multiplied by one-fourth of one mill.

If the amount computed under division (H) of this section for any school district, joint vocational school district, or local taxing unit is greater than zero, that amount shall equal the fixed-sum levy loss reimbursed pursuant to division (E) of section 5727.85 of the Revised Code or division (A)(2) of

section 5727.86 of the Revised Code, and the one-fourth of one mill that is subtracted under division (H)(2) of this section shall be apportioned among all contributing fixed-sum levies in the proportion of each levy to the sum of all fixed-sum levies within each school district, joint vocational school district, or local taxing unit.

(I) Notwithstanding divisions (D), (E), (G), and (H) of this section, in computing the tax value loss, fixed-rate levy loss, and fixed-sum levy loss, the tax commissioner shall use the greater of the 1998 tax rate or the 1999 tax rate in the case of levy losses associated with the electric company tax value loss, but the 1999 tax rate shall not include for this purpose any tax levy approved by the voters after June 30, 1999, and the tax commissioner shall use the greater of the 1999 or the 2000 tax rate in the case of levy losses associated with the natural gas company tax value loss.

(J) Not later than January 1, 2002, the tax commissioner shall certify to the department of education the tax value loss determined under divisions (D) and (E) of this section for each taxing district, the fixed-rate levy loss calculated under division (G) of this section, and the fixed-sum levy loss calculated under division (H) of this section. The calculations under divisions (G) and (H) of this section shall separately display the levy loss for each levy eligible for reimbursement.

(K) Not later than September 1, 2001, the tax commissioner shall certify the amount of the fixed-sum levy loss to the county auditor of each county in which a school district with a fixed-sum levy loss has territory.

Sec. 5728.12. Any non-resident of this state who accepts the privilege extended by the laws of this state to non-residents of operating a commercial car or commercial tractor, which is subject to the tax levied in section 5728.06 of the Revised Code, or of having the same operated within this state, and any resident of this state who operates a commercial car or commercial tractor, which is subject to the tax levied in section 5728.06 of the Revised Code, or has the same operated within this state and subsequently becomes a non-resident or conceals ~~his~~ the person's whereabouts, makes the secretary of state of the state of Ohio ~~his~~ the person's agent for the service of process or notice in any assessment, action or proceeding instituted in this state against such person out of the failure to pay the taxes imposed ~~upon him~~ by the provisions of section 5728.06 of the Revised Code.

~~Such process or notice shall be served, by the officer to whom the same is directed or by the tax commissioner, or by the sheriff of Franklin county, who may be deputized for such purpose by the officer to whom the service is directed, upon the secretary of state by leaving at the office of the~~

~~secretary of state, at least fifteen days before the return day of such process or notice, a true and attested copy thereof, and by sending to the defendant by registered or certified mail, postage prepaid, a like and true attested copy, with an endorsement thereon of the service upon said secretary of state, addressed to such defendant at his last known address. The registered or certified mail return receipt of such defendant shall be attached to and made a part of the return of such service of process as provided under section 5703.37 of the Revised Code.~~

Sec. 5729.03. (A) If the superintendent of insurance finds the annual statement required by section 5729.02 of the Revised Code to be correct, the superintendent shall compute the following amount, as applicable, of the balance of such gross amount, after deducting such return premiums and considerations received for reinsurance, and charge such amount to such company as a tax upon the business done by it in this state for the period covered by such annual statement:

(1) If the company is a health insuring corporation, one per cent of the balance of premium rate payments received, exclusive of payments received under the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, ~~or~~ and exclusive of payments received pursuant to the medical assistance program established under Chapter 5111. of the Revised Code for the period ending September 30, 2009, as reflected in its annual report;

(2) If the company is not a health insuring corporation, one and four-tenths per cent of the balance of premiums received, exclusive of premiums received under the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, ~~or~~ and exclusive of payments received pursuant to the medical assistance program established under Chapter 5111. of the Revised Code for the period ending September 30, 2009, as reflected in its annual statement, and, if the company operates a health insuring corporation as a line of business, one per cent of the balance of premium rate payments received from that line of business, exclusive of payments received under the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, ~~or~~ and exclusive of payments received pursuant to the medical assistance program established under Chapter 5111. of the Revised Code for the period ending September 30, 2009, as reflected in its annual statement.

Each foreign insurance company, including health insuring corporations, receiving payments pursuant to the medical assistance program established under Chapter 5111. of the Revised Code during the

period beginning October 1, 2009, and ending December 31, 2009, shall file with the 2009 annual statement to the superintendent a schedule that reflects those payments received pursuant to the medical assistance program for that period. The payments reflected in the schedule, plus all other taxable premiums, are subject to the annual franchise tax due to be paid in 2010.

(B) Any insurance policies that were not issued in violation of Title XXXIX of the Revised Code and that were issued prior to April 15, 1967, by a life insurance company organized and operated without profit to any private shareholder or individual, exclusively for the purpose of aiding educational or scientific institutions organized and operated without profit to any private shareholder or individual, are not subject to the tax imposed by this section. All taxes collected pursuant to this section shall be credited to the general revenue fund.

(C) In no case shall the tax imposed under this section be less than two hundred fifty dollars.

Sec. 5729.16. (A) Terms used in this section have the same meaning as in section 5725.33 of the Revised Code.

(B) There is hereby allowed a nonrefundable credit against the tax imposed by section 5729.03 of the Revised Code for a foreign insurance company holding a qualified equity investment on the credit allowance date occurring in the calendar year for which the tax is due. The credit shall be computed in the same manner prescribed for the computation of credits allowed under section 5725.33 of the Revised Code.

The credit shall be claimed in the order prescribed by section 5729.98 of the Revised Code. If the amount of the credit exceeds the amount of tax otherwise due after deducting all other credits in that order, the excess may be carried forward and applied to the tax due for not more than four ensuing years.

By claiming a tax credit under this section, an insurance company waives its rights under section 5729.102 of the Revised Code with respect to the time limitation for the assessment of taxes as it relates to credits claimed that later become subject to recapture under division (D) of this section.

(C) The total amount of qualified equity investments on the basis of which credits may be claimed under this section, section 5725.33, and section 5733.58 of the Revised Code is subject to the limitation of division (C) of section 5725.33 of the Revised Code.

(D) If any amount of the federal tax credit allowed for a qualified equity investment for which a credit was received under this section is recaptured under section 45D of the Internal Revenue Code, or if the director of development determines that an investment for which a tax credit is claimed

under this section is not a qualified equity investment or that the proceeds of an investment for which a tax credit is claimed under this section are used to make qualified low-income community investments other than in a qualified active low-income community business, all or a portion of the credit received on account of that investment shall be paid by the insurance company that received the credit to the superintendent of insurance. The amount to be recovered shall be determined by the director of development pursuant to rules adopted under section 5725.33 of the Revised Code. The director shall certify any amount due under this division to the superintendent of insurance, and the superintendent shall notify the treasurer of state of the amount due. Upon notification, the treasurer shall invoice the insurance company for the amount due. The amount due is payable not later than thirty days after the date the treasurer invoices the insurance company. The amount due shall be considered to be tax due under section 5729.03 of the Revised Code, and may be collected by assessment without regard to the time limitations imposed under section 5729.102 of the Revised Code for the assessment of taxes by the superintendent. All amounts collected under this division shall be credited as revenue from the tax levied under section 5729.03 of the Revised Code.

Sec. 5729.98. (A) To provide a uniform procedure for calculating the amount of tax due under this chapter, a taxpayer shall claim any credits and offsets against tax liability to which it is entitled in the following order:

(1) The credit for an insurance company or insurance company group under section 5729.031 of the Revised Code.

(2) The credit for eligible employee training costs under section 5729.07 of the Revised Code.

(3) The credit for purchases of qualified low-income community investments under section 5729.16 of the Revised Code;

(4) The job retention credit under section 122.171 of the Revised Code.

(5) The offset of assessments by the Ohio life and health insurance guaranty association against tax liability permitted by section 3956.20 of the Revised Code.

~~(4)(6)~~ The refundable credit for Ohio job creation under section 5729.032 of the Revised Code.

~~(5)(7)~~ The refundable credit under section 5729.08 of the Revised Code for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code.

(B) For any credit except the credits enumerated in divisions (A)~~(4)(6)~~ and ~~(5)(7)~~ of this section, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in

the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.

Sec. 5733.01. (A) The tax provided by this chapter for domestic corporations shall be the amount charged against each corporation organized for profit under the laws of this state and each nonprofit corporation organized pursuant to Chapter 1729. of the Revised Code, except as provided in sections 5733.09 and 5733.10 of the Revised Code, for the privilege of exercising its franchise during the calendar year in which that amount is payable, and the tax provided by this chapter for foreign corporations shall be the amount charged against each corporation organized for profit and each nonprofit corporation organized or operating in the same or similar manner as nonprofit corporations organized under Chapter 1729. of the Revised Code, under the laws of any state or country other than this state, except as provided in sections 5733.09 and 5733.10 of the Revised Code, for the privilege of doing business in this state, owning or using a part or all of its capital or property in this state, holding a certificate of compliance with the laws of this state authorizing it to do business in this state, or otherwise having nexus in or with this state under the Constitution of the United States, during the calendar year in which that amount is payable.

(B) A corporation is subject to the tax imposed by section 5733.06 of the Revised Code for each calendar year that it is so organized, doing business, owning or using a part or all of its capital or property, holding a certificate of compliance, or otherwise having nexus in or with this state under the Constitution of the United States, on the first day of January of that calendar year.

(C) Any corporation subject to this chapter that is not subject to the federal income tax shall file its returns and compute its tax liability as required by this chapter in the same manner as if that corporation were subject to the federal income tax.

(D) For purposes of this chapter, a federally chartered financial institution shall be deemed to be organized under the laws of the state within which its principal office is located.

(E) For purposes of this chapter, any person, as defined in section 5701.01 of the Revised Code, shall be treated as a corporation if the person is classified for federal income tax purposes as an association taxable as a corporation, and an equity interest in the person shall be treated as capital stock of the person.

(F) For the purposes of this chapter, "disregarded entity" has the same meaning as in division (D) of section 5745.01 of the Revised Code.

(1) A person's interest in a disregarded entity, whether held directly or indirectly, shall be treated as the person's ownership of the assets and liabilities of the disregarded entity, and the income, including gain or loss, shall be included in the person's net income under this chapter.

(2) Any sale, exchange, or other disposition of the person's interest in the disregarded entity, whether held directly or indirectly, shall be treated as a sale, exchange, or other disposition of the person's share of the disregarded entity's underlying assets or liabilities, and the gain or loss from such sale, exchange, or disposition shall be included in the person's net income under this chapter.

(3) The disregarded entity's payroll, property, and sales factors shall be included in the person's factors.

(G) The tax a corporation is required to pay under this chapter shall be as follows:

(1)(a) For financial institutions, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or the difference between all taxes charged the financial institution under this chapter, without regard to division (G)(2) of this section, less any credits allowable against such tax.

(b) A corporation satisfying the description in division (E)(5), (6), (7), (8), or (10) of section 5751.01 of the Revised Code that is not a financial institution, insurance company, or dealer in intangibles is subject to the taxes imposed under this chapter as a corporation and not subject to tax as a financial institution, and shall pay the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or the difference between all the taxes charged under this chapter, without regard to division (G)(2) of this section, less any credits allowable against such tax.

(2) For all corporations other than those persons described in division (G)(1)(a) or (b) of this section, the amount under division (G)(2)(a) of this section applicable to the tax year specified less the amount under division (G)(2)(b) of this section:

(a)(i) For tax year 2005, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or the difference between all taxes charged the corporation under this chapter and any credits allowable against such tax;

(ii) For tax year 2006, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or four-fifths of the difference between all taxes charged the corporation under this chapter

and any credits allowable against such tax, except the qualifying pass-through entity tax credit described in division (A)~~(29)~~(30) and the refundable credits described in divisions (A)~~(30)~~(31) to ~~(34)~~(35) of section 5733.98 of the Revised Code;

(iii) For tax year 2007, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or three-fifths of the difference between all taxes charged the corporation under this chapter and any credits allowable against such tax, except the qualifying pass-through entity tax credit described in division (A)~~(29)~~(30) and the refundable credits described in divisions (A)~~(30)~~(31) to ~~(34)~~(35) of section 5733.98 of the Revised Code;

(iv) For tax year 2008, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or two-fifths of the difference between all taxes charged the corporation under this chapter and any credits allowable against such tax, except the qualifying pass-through entity tax credit described in division (A)~~(29)~~(30) and the refundable credits described in divisions (A)~~(30)~~(31) to ~~(34)~~(35) of section 5733.98 of the Revised Code;

(v) For tax year 2009, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or one-fifth of the difference between all taxes charged the corporation under this chapter and any credits allowable against such tax, except the qualifying pass-through entity tax credit described in division (A)~~(29)~~(30) and the refundable credits described in divisions (A)~~(30)~~, (31), (32), ~~and (33)~~, and (34) of section 5733.98 of the Revised Code;

(vi) For tax year 2010 and each tax year thereafter, no tax.

(b) A corporation shall subtract from the amount calculated under division (G)(2)(a)(ii), (iii), (iv), or (v) of this section any qualifying pass-through entity tax credit described in division (A)~~(29)~~(30) and any refundable credits described in divisions (A)~~(30)~~(31) to ~~(34)~~(35) of section 5733.98 of the Revised Code to which the corporation is entitled. Any unused qualifying pass-through entity tax credit is not refundable.

(c) For the purposes of computing the amount of a credit that may be carried forward to a subsequent tax year under division (G)(2) of this section, a credit is utilized against the tax for a tax year to the extent the credit applies against the tax for that tax year, even if the difference is then multiplied by the applicable fraction under division (G)(2)(a) of this section.

(3) Nothing in division (G) of this section eliminates or reduces the tax imposed by section 5733.41 of the Revised Code on a qualifying pass-through entity.

Sec. 5733.04. As used in this chapter:

(A) "Issued and outstanding shares of stock" applies to nonprofit corporations, as provided in section 5733.01 of the Revised Code, and includes, but is not limited to, membership certificates and other instruments evidencing ownership of an interest in such nonprofit corporations, and with respect to a financial institution that does not have capital stock, "issued and outstanding shares of stock" includes, but is not limited to, ownership interests of depositors in the capital employed in such an institution.

(B) "Taxpayer" means a corporation subject to the tax imposed by section 5733.06 of the Revised Code.

(C) "Resident" means a corporation organized under the laws of this state.

(D) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(E) "Taxable year" means the period prescribed by division (A) of section 5733.031 of the Revised Code upon the net income of which the value of the taxpayer's issued and outstanding shares of stock is determined under division (B) of section 5733.05 of the Revised Code or the period prescribed by division (A) of section 5733.031 of the Revised Code that immediately precedes the date as of which the total value of the corporation is determined under division (A) or (C) of section 5733.05 of the Revised Code.

(F) "Tax year" means the calendar year in and for which the tax imposed by section 5733.06 of the Revised Code is required to be paid.

(G) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(H) "Federal income tax" means the income tax imposed by the Internal Revenue Code.

(I) Except as provided in section 5733.058 of the Revised Code, "net income" means the taxpayer's taxable income before operating loss deduction and special deductions, as required to be reported for the taxpayer's taxable year under the Internal Revenue Code, subject to the following adjustments:

(1)(a) Deduct any net operating loss incurred in any taxable years ending in 1971 or thereafter, but exclusive of any net operating loss incurred in taxable years ending prior to January 1, 1971. This deduction shall not be allowed in any tax year commencing before December 31, 1973, but shall be carried over and allowed in tax years commencing after December 31, 1973, until fully utilized in the next succeeding taxable year or years in which the taxpayer has net income, but in no case for more than the

designated carryover period as described in division (I)(1)(b) of this section. The amount of such net operating loss, as determined under the allocation and apportionment provisions of section 5733.051 and division (B) of section 5733.05 of the Revised Code for the year in which the net operating loss occurs, shall be deducted from net income, as determined under the allocation and apportionment provisions of section 5733.051 and division (B) of section 5733.05 of the Revised Code, to the extent necessary to reduce net income to zero with the remaining unused portion of the deduction, if any, carried forward to the remaining years of the designated carryover period as described in division (I)(1)(b) of this section, or until fully utilized, whichever occurs first.

(b) For losses incurred in taxable years ending on or before December 31, 1981, the designated carryover period shall be the five consecutive taxable years after the taxable year in which the net operating loss occurred. For losses incurred in taxable years ending on or after January 1, 1982, and beginning before August 6, 1997, the designated carryover period shall be the fifteen consecutive taxable years after the taxable year in which the net operating loss occurs. For losses incurred in taxable years beginning on or after August 6, 1997, the designated carryover period shall be the twenty consecutive taxable years after the taxable year in which the net operating loss occurs.

(c) The tax commissioner may require a taxpayer to furnish any information necessary to support a claim for deduction under division (I)(1)(a) of this section and no deduction shall be allowed unless the information is furnished.

(2) Deduct any amount included in net income by application of section 78 or 951 of the Internal Revenue Code, amounts received for royalties, technical or other services derived from sources outside the United States, and dividends received from a subsidiary, associate, or affiliated corporation that neither transacts any substantial portion of its business nor regularly maintains any substantial portion of its assets within the United States. For purposes of determining net foreign source income deductible under division (I)(2) of this section, the amount of gross income from all such sources other than dividend income and income derived by application of section 78 or 951 of the Internal Revenue Code shall be reduced by:

(a) The amount of any reimbursed expenses for personal services performed by employees of the taxpayer for the subsidiary, associate, or affiliated corporation;

(b) Ten per cent of the amount of royalty income and technical assistance fees;

(c) Fifteen per cent of the amount of all other income.

The amounts described in divisions (I)(2)(a) to (c) of this section are deemed to be the expenses attributable to the production of deductible foreign source income unless the taxpayer shows, by clear and convincing evidence, less actual expenses, or the tax commissioner shows, by clear and convincing evidence, more actual expenses.

(3) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of a capital asset, or an asset described in section 1231 of the Internal Revenue Code, to the extent that such loss or gain occurred prior to the first taxable year on which the tax provided for in section 5733.06 of the Revised Code is computed on the corporation's net income. For purposes of division (I)(3) of this section, the amount of the prior loss or gain shall be measured by the difference between the original cost or other basis of the asset and the fair market value as of the beginning of the first taxable year on which the tax provided for in section 5733.06 of the Revised Code is computed on the corporation's net income. At the option of the taxpayer, the amount of the prior loss or gain may be a percentage of the gain or loss, which percentage shall be determined by multiplying the gain or loss by a fraction, the numerator of which is the number of months from the acquisition of the asset to the beginning of the first taxable year on which the fee provided in section 5733.06 of the Revised Code is computed on the corporation's net income, and the denominator of which is the number of months from the acquisition of the asset to the sale, exchange, or other disposition of the asset. The adjustments described in this division do not apply to any gain or loss where the gain or loss is recognized by a qualifying taxpayer, as defined in section 5733.0510 of the Revised Code, with respect to a qualifying taxable event, as defined in that section.

(4) Deduct the dividend received deduction provided by section 243 of the Internal Revenue Code.

(5) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent included in federal taxable income. As used in divisions (I)(5) and (6) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.

(6) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of public obligations to the extent included in federal taxable income.

(7) To the extent not otherwise allowed, deduct any dividends or distributions received by a taxpayer from a public utility, excluding an electric company and a combined company, and, for tax years 2005 and

thereafter, a telephone company, if the taxpayer owns at least eighty per cent of the issued and outstanding common stock of the public utility. As used in division (I)(7) of this section, "public utility" means a public utility as defined in Chapter 5727. of the Revised Code, whether or not the public utility is doing business in the state.

(8) To the extent not otherwise allowed, deduct any dividends received by a taxpayer from an insurance company, if the taxpayer owns at least eighty per cent of the issued and outstanding common stock of the insurance company. As used in division (I)(8) of this section, "insurance company" means an insurance company that is taxable under Chapter 5725. or 5729. of the Revised Code.

(9) Deduct expenditures for modifying existing buildings or structures to meet American national standards institute standard A-117.1-1961 (R-1971), as amended; provided, that no deduction shall be allowed to the extent that such deduction is not permitted under federal law or under rules of the tax commissioner. Those deductions as are allowed may be taken over a period of five years. The tax commissioner shall adopt rules under Chapter 119. of the Revised Code establishing reasonable limitations on the extent that expenditures for modifying existing buildings or structures are attributable to the purpose of making the buildings or structures accessible to and usable by physically handicapped persons.

(10) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal taxable income before operating loss deduction and special deductions for the taxable year, had the targeted jobs credit allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.

(11) Deduct net interest income on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent the laws of the United States prohibit inclusion of the net interest for purposes of determining the value of the taxpayer's issued and outstanding shares of stock under division (B) of section 5733.05 of the Revised Code. As used in division (I)(11) of this section, "net interest" means interest net of any expenses taken on the federal income tax return that would not have been allowed under section 265 of the Internal Revenue Code if the interest were exempt from federal income tax.

(12)(a) Except as set forth in division (I)(12)(d) of this section, to the extent not included in computing the taxpayer's federal taxable income before operating loss deduction and special deductions, add gains and

deduct losses from direct or indirect sales, exchanges, or other dispositions, made by a related entity who is not a taxpayer, of the taxpayer's indirect, beneficial, or constructive investment in the stock or debt of another entity, unless the gain or loss has been included in computing the federal taxable income before operating loss deduction and special deductions of another taxpayer with a more closely related investment in the stock or debt of the other entity. The amount of gain added or loss deducted shall not exceed the product obtained by multiplying such gain or loss by the taxpayer's proportionate share, directly, indirectly, beneficially, or constructively, of the outstanding stock of the related entity immediately prior to the direct or indirect sale, exchange, or other disposition.

(b) Except as set forth in division (I)(12)(e) of this section, to the extent not included in computing the taxpayer's federal taxable income before operating loss deduction and special deductions, add gains and deduct losses from direct or indirect sales, exchanges, or other dispositions made by a related entity who is not a taxpayer, of intangible property other than stock, securities, and debt, if such property was owned, or used in whole or in part, at any time prior to or at the time of the sale, exchange, or disposition by either the taxpayer or by a related entity that was a taxpayer at any time during the related entity's ownership or use of such property, unless the gain or loss has been included in computing the federal taxable income before operating loss deduction and special deductions of another taxpayer with a more closely related ownership or use of such intangible property. The amount of gain added or loss deducted shall not exceed the product obtained by multiplying such gain or loss by the taxpayer's proportionate share, directly, indirectly, beneficially, or constructively, of the outstanding stock of the related entity immediately prior to the direct or indirect sale, exchange, or other disposition.

(c) As used in division (I)(12) of this section, "related entity" means those entities described in divisions (I)(12)(c)(i) to (iii) of this section:

(i) An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own, directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

(ii) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, and corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

(iii) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (I)(12)(c)(iv) of this section, if the taxpayer owns, directly, indirectly, beneficially, or constructively, at least fifty per cent of the value of the corporation's outstanding stock.

(iv) The attribution rules of section 318 of the Internal Revenue Code apply for purposes of determining whether the ownership requirements in divisions (I)(12)(c)(i) to (iii) of this section have been met.

(d) For purposes of the adjustments required by division (I)(12)(a) of this section, the term "investment in the stock or debt of another entity" means only those investments where the taxpayer and the taxpayer's related entities directly, indirectly, beneficially, or constructively own, in the aggregate, at any time during the twenty-four month period commencing one year prior to the direct or indirect sale, exchange, or other disposition of such investment at least fifty per cent or more of the value of either the outstanding stock or such debt of such other entity.

(e) For purposes of the adjustments required by division (I)(12)(b) of this section, the term "related entity" excludes all of the following:

(i) Foreign corporations as defined in section 7701 of the Internal Revenue Code;

(ii) Foreign partnerships as defined in section 7701 of the Internal Revenue Code;

(iii) Corporations, partnerships, estates, and trusts created or organized in or under the laws of the Commonwealth of Puerto Rico or any possession of the United States;

(iv) Foreign estates and foreign trusts as defined in section 7701 of the Internal Revenue Code.

The exclusions described in divisions (I)(12)(e)(i) to (iv) of this section do not apply if the corporation, partnership, estate, or trust is described in any one of divisions (C)(1) to (5) of section 5733.042 of the Revised Code.

(f) Nothing in division (I)(12) of this section shall require or permit a taxpayer to add any gains or deduct any losses described in divisions (I)(12)(f)(i) and (ii) of this section:

(i) Gains or losses recognized for federal income tax purposes by an individual, estate, or trust without regard to the attribution rules described in division (I)(12)(c) of this section;

(ii) A related entity's gains or losses described in division (I)(12)(b) of this section if the taxpayer's ownership of or use of such intangible property was limited to a period not exceeding nine months and was attributable to a transaction or a series of transactions executed in accordance with the

election or elections made by the taxpayer or a related entity pursuant to section 338 of the Internal Revenue Code.

(13) Any adjustment required by section 5733.042 of the Revised Code.

(14) Add any amount claimed as a credit under section 5733.0611 of the Revised Code to the extent that such amount satisfies either of the following:

(a) It was deducted or excluded from the computation of the corporation's taxable income before operating loss deduction and special deductions as required to be reported for the corporation's taxable year under the Internal Revenue Code;

(b) It resulted in a reduction of the corporation's taxable income before operating loss deduction and special deductions as required to be reported for any of the corporation's taxable years under the Internal Revenue Code.

(15) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (I)(15) of this section.

(16) Any adjustment required by section 5733.0510 or 5733.0511 of the Revised Code.

(17)(a)(i) Add five-sixths of the amount of depreciation expense allowed under subsection (k) of section 168 of the Internal Revenue Code, including a person's proportionate or distributive share of the amount of depreciation expense allowed by that subsection to any pass-through entity in which the person has direct or indirect ownership.

(ii) Add five-sixths of the amount of qualifying section 179 depreciation expense, including a person's proportionate or distributive share of the amount of qualifying section 179 depreciation expense allowed to any pass-through entity in which the person has a direct or indirect ownership. For the purposes of this division, "qualifying section 179 depreciation expense" means the difference between (I) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code, and (II) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code as that section existed on December 31, 2002.

The tax commissioner, under procedures established by the commissioner, may waive the add-backs related to a pass-through entity if the person owns, directly or indirectly, less than five per cent of the

pass-through entity.

(b) Nothing in division (I)(17) of this section shall be construed to adjust or modify the adjusted basis of any asset.

(c) To the extent the add-back is attributable to property generating income or loss allocable under section 5733.051 of the Revised Code, the add-back shall be allocated to the same location as the income or loss generated by that property. Otherwise, the add-back shall be apportioned, subject to division (B)(2)(d) of section 5733.05 of the Revised Code.

(18)(a) If a person is required to make the add-back under division (I)(17)(a) of this section for a tax year, the person shall deduct one-fifth of the amount added back for each of the succeeding five tax years.

(b) If the amount deducted under division (I)(18)(a) of this section is attributable to an add-back allocated under division (I)(17)(c) of this section, the amount deducted shall be allocated to the same location. Otherwise, the amount shall be apportioned using the apportionment factors for the taxable year in which the deduction is taken, subject to division (B)(2)(d) of section 5733.05 of the Revised Code.

(J) Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

(K) "Financial institution" has the meaning given by section 5725.01 of the Revised Code but does not include a production credit association as described in 85 Stat. 597, 12 U.S.C.A. 2091.

(L)(1) A "qualifying holding company" is any corporation satisfying all of the following requirements:

(a) Subject to divisions (L)(2) and (3) of this section, the net book value of the corporation's intangible assets is greater than or equal to ninety per cent of the net book value of all of its assets and at least fifty per cent of the net book value of all of its assets represents direct or indirect investments in the equity of, loans and advances to, and accounts receivable due from related members;

(b) At least ninety per cent of the corporation's gross income for the taxable year is attributable to the following:

(i) The maintenance, management, ownership, acquisition, use, and disposition of its intangible property, its aircraft the use of which is not subject to regulation under 14 C.F.R. part 121 or part 135, and any real property described in division (L)(2)(c) of this section;

(ii) The collection and distribution of income from such property.

(c) The corporation is not a financial institution on the last day of the taxable year ending prior to the first day of the tax year;

(d) The corporation's related members make a good faith and reasonable effort to make timely and fully the adjustments required by division ~~(C)(2)(D)~~ of section 5733.05 of the Revised Code and to pay timely and fully all uncontested taxes, interest, penalties, and other fees and charges imposed under this chapter;

(e) Subject to division (L)(4) of this section, the corporation elects to be treated as a qualifying holding company for the tax year.

A corporation otherwise satisfying divisions (L)(1)(a) to (e) of this section that does not elect to be a qualifying holding company is not a qualifying holding company for the purposes of this chapter.

(2)(a)(i) For purposes of making the ninety per cent computation under division (L)(1)(a) of this section, the net book value of the corporation's assets shall not include the net book value of aircraft or real property described in division (L)(1)(b)(i) of this section.

(ii) For purposes of making the fifty per cent computation under division (L)(1)(a) of this section, the net book value of assets shall include the net book value of aircraft or real property described in division (L)(1)(b)(i) of this section.

(b)(i) As used in division (L) of this section, "intangible asset" includes, but is not limited to, the corporation's direct interest in each pass-through entity only if at all times during the corporation's taxable year ending prior to the first day of the tax year the corporation's and the corporation's related members' combined direct and indirect interests in the capital or profits of such pass-through entity do not exceed fifty per cent. If the corporation's interest in the pass-through entity is an intangible asset for that taxable year, then the distributive share of any income from the pass-through entity shall be income from an intangible asset for that taxable year.

(ii) If a corporation's and the corporation's related members' combined direct and indirect interests in the capital or profits of a pass-through entity exceed fifty per cent at any time during the corporation's taxable year ending prior to the first day of the tax year, "intangible asset" does not include the corporation's direct interest in the pass-through entity, and the corporation shall include in its assets its proportionate share of the assets of any such pass-through entity and shall include in its gross income its distributive share of the gross income of such pass-through entity in the same form as was earned by the pass-through entity.

(iii) A pass-through entity's direct or indirect proportionate share of any other pass-through entity's assets shall be included for the purpose of

computing the corporation's proportionate share of the pass-through entity's assets under division (L)(2)(b)(ii) of this section, and such pass-through entity's distributive share of any other pass-through entity's gross income shall be included for purposes of computing the corporation's distributive share of the pass-through entity's gross income under division (L)(2)(b)(ii) of this section.

(c) For the purposes of divisions (L)(1)(b)(i), (1)(b)(ii), (2)(a)(i), and (2)(a)(ii) of this section, real property is described in division (L)(2)(c) of this section only if all of the following conditions are present at all times during the taxable year ending prior to the first day of the tax year:

(i) The real property serves as the headquarters of the corporation's trade or business, or is the place from which the corporation's trade or business is principally managed or directed;

(ii) Not more than ten per cent of the value of the real property and not more than ten per cent of the square footage of the building or buildings that are part of the real property is used, made available, or occupied for the purpose of providing, acquiring, transferring, selling, or disposing of tangible property or services in the normal course of business to persons other than related members, the corporation's employees and their families, and such related members' employees and their families.

(d) As used in division (L) of this section, "related member" has the same meaning as in division (A)(6) of section 5733.042 of the Revised Code without regard to division (B) of that section.

(3) The percentages described in division (L)(1)(a) of this section shall be equal to the quarterly average of those percentages as calculated during the corporation's taxable year ending prior to the first day of the tax year.

(4) With respect to the election described in division (L)(1)(e) of this section:

(a) The election need not accompany a timely filed report;

(b) The election need not accompany the report; rather, the election may accompany a subsequently filed but timely application for refund and timely amended report, or a subsequently filed but timely petition for reassessment;

(c) The election is not irrevocable;

(d) The election applies only to the tax year specified by the corporation;

(e) The corporation's related members comply with division (L)(1)(d) of this section.

Nothing in division (L)(4) of this section shall be construed to extend any statute of limitations set forth in this chapter.

(M) "Qualifying controlled group" means two or more corporations that

satisfy the ownership and control requirements of division (A) of section 5733.052 of the Revised Code.

(N) "Limited liability company" means any limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state.

(O) "Pass-through entity" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year under that code, or a partnership, limited liability company, or any other person, other than an individual, trust, or estate, if the partnership, limited liability company, or other person is not classified for federal income tax purposes as an association taxed as a corporation.

(P) "Electric company," "combined company," and "telephone company" have the same meanings as in section 5727.01 of the Revised Code.

(Q) "Business income" means income arising from transactions, activities, and sources in the regular course of a trade or business and includes income from real property, tangible personal property, and intangible personal property if the acquisition, rental, management, and disposition of the property constitute integral parts of the regular course of a trade or business operation. "Business income" includes income, including gain or loss, from a partial or complete liquidation of a business, including, but not limited to, gain or loss from the sale or other disposition of goodwill.

(R) "Nonbusiness income" means all income other than business income.

Sec. 5733.47. (A) As used in this section, "certificate owner" has the same meaning as in section 149.311 of the Revised Code.

(B) There is allowed a refundable credit against the tax imposed under section 5733.06 of the Revised Code for a taxpayer that is a certificate owner of a rehabilitation tax credit certificate issued under section 149.311 of the Revised Code. The credit shall equal twenty-five per cent of the dollar amount indicated on the certificate, but shall not exceed five million dollars. The credit shall be claimed for the tax year specified in the certificate and in the order required under section 5733.98 of the Revised Code. For purposes of making tax payments under this chapter, taxes equal to the amount of the refundable credit shall be considered to be paid to the state on the first day of the tax year.

(C) A taxpayer claiming a credit under this section shall retain the rehabilitation tax credit certificate for four years following the end of the tax year to which the credit was applied, and shall make the certificate available for inspection by the tax commissioner upon the request of the tax

commissioner during that period.

(D) If, pursuant to division (G) of section 5733.01 of the Revised Code, a taxpayer no longer pays a tax under this chapter, the taxpayer may nonetheless file an annual report under section 5733.02 of the Revised Code and claim the refundable credit authorized by this section. Nothing in this division allows a taxpayer to claim the credit under this section more than once.

(E) Nothing in this section limits or disallows pass-through treatment of the credit if the certificate owner is a pass-through entity. If the certificate owner is a pass-through entity, the amount of the credit allowed for the entity shall not exceed five million dollars, and the credit may be allocated among the entity's equity owners in proportion to their ownership interests or in such proportions or amounts as the equity owners mutually agree.

Sec. 5733.58. (A) Terms used in this section have the same meaning as in section 5725.33 of the Revised Code.

(B) There is hereby allowed a nonrefundable credit against the tax imposed by section 5733.06 of the Revised Code for a financial institution holding a qualified equity investment on the credit allowance date occurring in the calendar year immediately preceding the tax year for which the tax is due. The credit shall be computed in the same manner prescribed for the computation of credits allowed under section 5725.33 of the Revised Code.

By claiming a tax credit under this section, a financial institution waives its rights under section 5733.11 of the Revised Code with respect to the time limitation for the assessment of taxes as it relates to credits claimed that later become subject to recapture under division (D) of this section.

The credit shall be claimed in the order prescribed by section 5733.98 of the Revised Code. If the amount of the credit exceeds the amount of tax otherwise due after deducting all other credits in that order, the excess may be carried forward and applied to the tax due for not more than four ensuing tax years.

(C) The total amount of qualified equity investments on the basis of which credits may be claimed under this section and sections 5725.33 and 5729.16 of the Revised Code is subject to the limitation of division (C) of section 5725.33 of the Revised Code.

(D) If any amount of the federal tax credit allowed for a qualified equity investment for which a credit was received under this section is recaptured under section 45D of the Internal Revenue Code, or if the director of development determines that an investment for which a tax credit is claimed under this section is not a qualified equity investment or that the proceeds of an investment for which a tax credit is claimed under this section are used to

make qualified low-income community investments other than in a qualified active low-income community business, all or a portion of the credit received on account of that investment shall be paid by the financial institution that received the credit to the tax commissioner. The amount to be recovered shall be determined by the director of development pursuant to rules adopted under section 5725.33 of the Revised Code. The director shall certify any amount due under this division to the tax commissioner, and the commissioner shall notify the financial institution of the amount due. The amount due is payable not later than thirty days after the day the commissioner issues the notice. The amount due shall be considered to be tax due under section 5733.06 of the Revised Code, and may be collected by assessment without regard to the limitations imposed under section 5733.11 of the Revised Code for the assessment of taxes by the commissioner. All amounts collected under this division shall be credited as revenue from the tax levied under section 5733.06 of the Revised Code.

Sec. 5733.59. (A) Any term used in this section has the same meaning as in section 122.85 of the Revised Code.

(B) There is allowed a credit against the tax imposed by section 5733.06 of the Revised Code for any corporation that is the certificate owner of a tax credit certificate issued under section 122.85 of the Revised Code. The credit shall be claimed for the taxable year in which the certificate is issued by the director of development. The credit amount equals the amount stated in the certificate. The credit shall be claimed in the order required under section 5733.98 of the Revised Code. If the credit amount exceeds the tax otherwise due under section 5733.06 of the Revised Code after deducting all other credits in that order, the excess shall be refunded.

(C) If, pursuant to division (G) of section 5733.01 of the Revised Code, the corporation is not required to pay tax under this chapter, the corporation may file an annual report under section 5733.02 of the Revised Code and claim the credit authorized by this section. Nothing in this section allows a corporation to claim more than one credit per tax credit-eligible production.

Sec. 5733.98. (A) To provide a uniform procedure for calculating the amount of tax imposed by section 5733.06 of the Revised Code that is due under this chapter, a taxpayer shall claim any credits to which it is entitled in the following order, except as otherwise provided in section 5733.058 of the Revised Code:

(1) For tax year 2005, the credit for taxes paid by a qualifying pass-through entity allowed under section 5733.0611 of the Revised Code;

(2) The credit allowed for financial institutions under section 5733.45 of the Revised Code;

(3) The credit for qualifying affiliated groups under section 5733.068 of the Revised Code;

(4) The subsidiary corporation credit under section 5733.067 of the Revised Code;

(5) The savings and loan assessment credit under section 5733.063 of the Revised Code;

(6) The credit for recycling and litter prevention donations under section 5733.064 of the Revised Code;

(7) The credit for employers that enter into agreements with child day-care centers under section 5733.36 of the Revised Code;

(8) The credit for employers that reimburse employee child care expenses under section 5733.38 of the Revised Code;

(9) The credit for maintaining railroad active grade crossing warning devices under section 5733.43 of the Revised Code;

(10) The credit for purchases of lights and reflectors under section 5733.44 of the Revised Code;

(11) The job retention credit under division (B) of section 5733.0610 of the Revised Code;

(12) The credit for tax years 2008 and 2009 for selling alternative fuel under section 5733.48 of the Revised Code;

(13) The second credit for purchases of new manufacturing machinery and equipment under section 5733.33 of the Revised Code;

(14) The job training credit under section 5733.42 of the Revised Code;

(15) The credit for qualified research expenses under section 5733.351 of the Revised Code;

(16) The enterprise zone credit under section 5709.66 of the Revised Code;

(17) The credit for the eligible costs associated with a voluntary action under section 5733.34 of the Revised Code;

(18) The credit for employers that establish on-site child day-care centers under section 5733.37 of the Revised Code;

(19) The ethanol plant investment credit under section 5733.46 of the Revised Code;

(20) The credit for purchases of qualifying grape production property under section 5733.32 of the Revised Code;

(21) The export sales credit under section 5733.069 of the Revised Code;

(22) The credit for research and development and technology transfer investors under section 5733.35 of the Revised Code;

(23) The enterprise zone credits under section 5709.65 of the Revised

Code;

(24) The credit for using Ohio coal under section 5733.39 of the Revised Code;

(25) The credit for purchases of qualified low-income community investments under section 5733.58 of the Revised Code;

~~(26)~~ (27) The credit for small telephone companies under section 5733.57 of the Revised Code;

~~(26)~~(27) The credit for eligible nonrecurring 9-1-1 charges under section 5733.55 of the Revised Code;

~~(27)~~(28) For tax year 2005, the credit for providing programs to aid the communicatively impaired under division (A) of section 5733.56 of the Revised Code;

~~(28)~~(29) The research and development credit under section 5733.352 of the Revised Code;

~~(29)~~(30) For tax years 2006 and subsequent tax years, the credit for taxes paid by a qualifying pass-through entity allowed under section 5733.0611 of the Revised Code;

~~(30)~~(31) The refundable credit for rehabilitating a historic building under section 5733.47 of the Revised Code;

~~(31)~~(32) The refundable jobs creation credit under division (A) of section 5733.0610 of the Revised Code;

~~(32)~~(33) The refundable credit for tax withheld under division (B)(2) of section 5747.062 of the Revised Code;

~~(33)~~(34) The refundable credit under section 5733.49 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;

~~(34)~~(35) For tax years 2006, 2007, and 2008, the refundable credit allowable under division (B) of section 5733.56 of the Revised Code;

(36) The refundable motion picture production credit under section 5733.59 of the Revised Code.

(B) For any credit except the credits enumerated in divisions (A)~~(30)~~(31) to ~~(34)~~(36) of this section, the amount of the credit for a tax year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit.

Sec. 5735.142. (A)(1) Any person who uses any motor fuel, on which the tax imposed by sections 5735.05, 5735.25, and 5735.29 of the Revised Code has been paid, for the purpose of operating a transit bus shall be reimbursed in the amount of ~~the~~ such tax paid on motor fuel used by public

transportation systems providing transit or paratransit service on a regular and continuing basis within the state;

(2) A city, exempted village, joint vocational, or local school district or educational service center that purchases any motor fuel for school district or service center operations, on which any tax imposed by section 5735.29 of the Revised Code that became effective on or after July 1, 2003, has been paid, may, if an application is filed under this section, be reimbursed in the amount of all but two cents per gallon of the total tax imposed by such section and paid on motor fuel.

(3) A county board of mental retardation and developmental disabilities that, on or after July 1, 2005, purchases any motor fuel for county board operations, on which any tax imposed by section 5735.29 of the Revised Code has been paid may, if an application is filed under this section, be reimbursed in the amount of all but two cents per gallon of the total tax imposed by such section and paid on motor fuel purchased on or after July 1, 2005.

(B) Such person, school district, educational service center, or county board shall file with the tax commissioner an application for refund within one year from the date of purchase, stating the quantity of fuel used for operating transit buses used by local transit systems in furnishing scheduled common carrier, public passenger land transportation service along regular routes primarily in one or more municipal corporations or for operating vehicles used for school district, service center, or county board operations. However, no claim shall be made for the tax on fewer than one hundred gallons of motor fuel. A school district, educational service center, or county board shall not apply for a refund for any tax paid on motor fuel that is sold by the district, service center, or county board. The application shall be accompanied by the statement described in section 5735.15 of the Revised Code showing the purchase, together with evidence of payment thereof.

(C) After consideration of the application and statement, the commissioner shall determine the amount of refund to which the applicant is entitled. If the amount is not less than that claimed, the commissioner shall certify the amount to the director of budget and management and treasurer of state for payment from the tax refund fund created by section 5703.052 of the Revised Code. If the amount is less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.

The commissioner may require that the application be supported by the affidavit of the claimant. No refund shall be authorized or ordered for any single claim for the tax on fewer than one hundred gallons of motor fuel. No refund shall be authorized or ordered on motor fuel that is sold by a school

district, educational service center, or county board.

(D) The refund authorized by this section or section 5703.70 of the Revised Code shall be reduced by the cents per gallon amount of any qualified fuel credit received under section 5735.145 of the Revised Code, as determined by the commissioner, for each gallon of qualified fuel included in the total gallonage of motor fuel upon which the refund is computed.

(E) The right to receive any refund under this section or section 5703.70 of the Revised Code is not assignable. The payment of this refund shall not be made to any person or entity other than the person or entity originally entitled thereto who used the motor fuel upon which the claim for refund is based, except that the refund when allowed and certified, as provided in this section, may be paid to the executor, the administrator, the receiver, the trustee in bankruptcy, or the assignee in insolvency proceedings of the person.

Sec. 5739.01. As used in this chapter:

(A) "Person" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations, the state and its political subdivisions, and combinations of individuals of any form.

(B) "Sale" and "selling" include all of the following transactions for a consideration in any manner, whether absolutely or conditionally, whether for a price or rental, in money or by exchange, and by any means whatsoever:

(1) All transactions by which title or possession, or both, of tangible personal property, is or is to be transferred, or a license to use or consume tangible personal property is or is to be granted;

(2) All transactions by which lodging by a hotel is or is to be furnished to transient guests;

(3) All transactions by which:

(a) An item of tangible personal property is or is to be repaired, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code;

(b) An item of tangible personal property is or is to be installed, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code or property that is or is to be incorporated into and will become a part of a production, transmission, transportation, or distribution system for the delivery of a public utility service;

(c) The service of washing, cleaning, waxing, polishing, or painting a

motor vehicle is or is to be furnished;

(d) Until August 1, 2003, industrial laundry cleaning services are or are to be provided and, on and after August 1, 2003, laundry and dry cleaning services are or are to be provided;

(e) Automatic data processing, computer services, or electronic information services are or are to be provided for use in business when the true object of the transaction is the receipt by the consumer of automatic data processing, computer services, or electronic information services rather than the receipt of personal or professional services to which automatic data processing, computer services, or electronic information services are incidental or supplemental. Notwithstanding any other provision of this chapter, such transactions that occur between members of an affiliated group are not sales. An "affiliated group" means two or more persons related in such a way that one person owns or controls the business operation of another member of the group. In the case of corporations with stock, one corporation owns or controls another if it owns more than fifty per cent of the other corporation's common stock with voting rights.

(f) Telecommunications service, including prepaid calling service, prepaid wireless calling service, or ancillary service, is or is to be provided, but not including coin-operated telephone service;

(g) Landscaping and lawn care service is or is to be provided;

(h) Private investigation and security service is or is to be provided;

(i) Information services or tangible personal property is provided or ordered by means of a nine hundred telephone call;

(j) Building maintenance and janitorial service is or is to be provided;

(k) Employment service is or is to be provided;

(l) Employment placement service is or is to be provided;

(m) Exterminating service is or is to be provided;

(n) Physical fitness facility service is or is to be provided;

(o) Recreation and sports club service is or is to be provided;

(p) On and after August 1, 2003, satellite broadcasting service is or is to be provided;

(q) On and after August 1, 2003, personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by or on the order of a licensed physician or licensed chiropractor, or the cutting, coloring, or styling of an individual's hair.

(r) On and after August 1, 2003, the transportation of persons by motor

vehicle or aircraft is or is to be provided, when the transportation is entirely within this state, except for transportation provided by an ambulance service, by a transit bus, as defined in section 5735.01 of the Revised Code, and transportation provided by a citizen of the United States holding a certificate of public convenience and necessity issued under 49 U.S.C. 41102;

(s) On and after August 1, 2003, motor vehicle towing service is or is to be provided. As used in this division, "motor vehicle towing service" means the towing or conveyance of a wrecked, disabled, or illegally parked motor vehicle.

(t) On and after August 1, 2003, snow removal service is or is to be provided. As used in this division, "snow removal service" means the removal of snow by any mechanized means, but does not include the providing of such service by a person that has less than five thousand dollars in sales of such service during the calendar year.

(u) Electronic publishing service is or is to be provided to a consumer for use in business, except that such transactions occurring between members of an affiliated group, as defined in division (B)(3)(e) of this section, are not sales.

(4) All transactions by which printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter are or are to be furnished or transferred;

(5) The production or fabrication of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production of fabrication work; and include the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. Except as provided in section 5739.03 of the Revised Code, a construction contract pursuant to which tangible personal property is or is to be incorporated into a structure or improvement on and becoming a part of real property is not a sale of such tangible personal property. The construction contractor is the consumer of such tangible personal property, provided that the sale and installation of carpeting, the sale and installation of agricultural land tile, the sale and erection or installation of portable grain bins, or the provision of landscaping and lawn care service and the transfer of property as part of such service is never a construction contract.

As used in division (B)(5) of this section:

(a) "Agricultural land tile" means fired clay or concrete tile, or flexible

or rigid perforated plastic pipe or tubing, incorporated or to be incorporated into a subsurface drainage system appurtenant to land used or to be used directly in production by farming, agriculture, horticulture, or floriculture. The term does not include such materials when they are or are to be incorporated into a drainage system appurtenant to a building or structure even if the building or structure is used or to be used in such production.

(b) "Portable grain bin" means a structure that is used or to be used by a person engaged in farming or agriculture to shelter the person's grain and that is designed to be disassembled without significant damage to its component parts.

(6) All transactions in which all of the shares of stock of a closely held corporation are transferred, if the corporation is not engaging in business and its entire assets consist of boats, planes, motor vehicles, or other tangible personal property operated primarily for the use and enjoyment of the shareholders;

(7) All transactions in which a warranty, maintenance or service contract, or similar agreement by which the vendor of the warranty, contract, or agreement agrees to repair or maintain the tangible personal property of the consumer is or is to be provided;

(8) The transfer of copyrighted motion picture films used solely for advertising purposes, except that the transfer of such films for exhibition purposes is not a sale;

(9) On and after August 1, 2003, all transactions by which tangible personal property is or is to be stored, except such property that the consumer of the storage holds for sale in the regular course of business;

(10) All transactions in which "guaranteed auto protection" is provided whereby a person promises to pay to the consumer the difference between the amount the consumer receives from motor vehicle insurance and the amount the consumer owes to a person holding title to or a lien on the consumer's motor vehicle in the event the consumer's motor vehicle suffers a total loss under the terms of the motor vehicle insurance policy or is stolen and not recovered, if the protection and its price are included in the purchase or lease agreement;

(11)(a) Except as provided in division (B)(11)(b) of this section, on and after October 1, 2009, all transactions by which health care services are paid for, reimbursed, provided, delivered, arranged for, or otherwise made available by a medicaid health insuring corporation pursuant to the corporation's contract with the state.

(b) If the centers for medicare and medicaid services of the United States department of health and human services determines that the taxation

of transactions described in division (B)(11)(a) of this section constitutes an impermissible health care-related tax under section 1903(w) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as amended, and regulations adopted thereunder, the director of job and family services shall notify the tax commissioner of that determination. Beginning with the first day of the month following that notification, the transactions described in division (B)(11)(a) of this section are not sales for the purposes of this chapter or Chapter 5741. of the Revised Code. The tax commissioner shall order that the collection of taxes under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code shall cease for transactions occurring on or after that date.

Except as provided in this section, "sale" and "selling" do not include transfers of interest in leased property where the original lessee and the terms of the original lease agreement remain unchanged, or professional, insurance, or personal service transactions that involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made.

(C) "Vendor" means the person providing the service or by whom the transfer effected or license given by a sale is or is to be made or given and, for sales described in division (B)(3)(i) of this section, the telecommunications service vendor that provides the nine hundred telephone service; if two or more persons are engaged in business at the same place of business under a single trade name in which all collections on account of sales by each are made, such persons shall constitute a single vendor.

Physicians, dentists, hospitals, and veterinarians who are engaged in selling tangible personal property as received from others, such as eyeglasses, mouthwashes, dentifrices, or similar articles, are vendors. Veterinarians who are engaged in transferring to others for a consideration drugs, the dispensing of which does not require an order of a licensed veterinarian or physician under federal law, are vendors.

(D)(1) "Consumer" means the person for whom the service is provided, to whom the transfer effected or license given by a sale is or is to be made or given, to whom the service described in division (B)(3)(f) or (i) of this section is charged, or to whom the admission is granted.

(2) Physicians, dentists, hospitals, and blood banks operated by nonprofit institutions and persons licensed to practice veterinary medicine, surgery, and dentistry are consumers of all tangible personal property and services purchased by them in connection with the practice of medicine, dentistry, the rendition of hospital or blood bank service, or the practice of veterinary medicine, surgery, and dentistry. In addition to being consumers

of drugs administered by them or by their assistants according to their direction, veterinarians also are consumers of drugs that under federal law may be dispensed only by or upon the order of a licensed veterinarian or physician, when transferred by them to others for a consideration to provide treatment to animals as directed by the veterinarian.

(3) A person who performs a facility management, or similar service contract for a contractee is a consumer of all tangible personal property and services purchased for use in connection with the performance of such contract, regardless of whether title to any such property vests in the contractee. The purchase of such property and services is not subject to the exception for resale under division (E)(1) of this section.

(4)(a) In the case of a person who purchases printed matter for the purpose of distributing it or having it distributed to the public or to a designated segment of the public, free of charge, that person is the consumer of that printed matter, and the purchase of that printed matter for that purpose is a sale.

(b) In the case of a person who produces, rather than purchases, printed matter for the purpose of distributing it or having it distributed to the public or to a designated segment of the public, free of charge, that person is the consumer of all tangible personal property and services purchased for use or consumption in the production of that printed matter. That person is not entitled to claim exemption under division (B)(42)(f) of section 5739.02 of the Revised Code for any material incorporated into the printed matter or any equipment, supplies, or services primarily used to produce the printed matter.

(c) The distribution of printed matter to the public or to a designated segment of the public, free of charge, is not a sale to the members of the public to whom the printed matter is distributed or to any persons who purchase space in the printed matter for advertising or other purposes.

(5) A person who makes sales of any of the services listed in division (B)(3) of this section is the consumer of any tangible personal property used in performing the service. The purchase of that property is not subject to the resale exception under division (E)(1) of this section.

(6) A person who engages in highway transportation for hire is the consumer of all packaging materials purchased by that person and used in performing the service, except for packaging materials sold by such person in a transaction separate from the service.

(7) In the case of a transaction for health care services under division (B)(11) of this section, a medicaid health insuring corporation is the consumer of such services. The purchase of such services by a medicaid

health insuring corporation is not subject to the exception for resale under division (E)(1) of this section or to the exemptions provided under divisions (B)(12), (18), (19), and (22) of section 5739.02 of the Revised Code.

(E) "Retail sale" and "sales at retail" include all sales, except those in which the purpose of the consumer is to resell the thing transferred or benefit of the service provided, by a person engaging in business, in the form in which the same is, or is to be, received by the person.

(F) "Business" includes any activity engaged in by any person with the object of gain, benefit, or advantage, either direct or indirect. "Business" does not include the activity of a person in managing and investing the person's own funds.

(G) "Engaging in business" means commencing, conducting, or continuing in business, and liquidating a business when the liquidator thereof holds itself out to the public as conducting such business. Making a casual sale is not engaging in business.

(H)(1)(a) "Price," except as provided in divisions (H)(2) ~~and~~, (3), ~~and~~ (4) of this section, means the total amount of consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:

(i) The vendor's cost of the property sold;

(ii) The cost of materials used, labor or service costs, interest, losses, all costs of transportation to the vendor, all taxes imposed on the vendor, including the tax imposed under Chapter 5751. of the Revised Code, and any other expense of the vendor;

(iii) Charges by the vendor for any services necessary to complete the sale;

(iv) On and after August 1, 2003, delivery charges. As used in this division, "delivery charges" means charges by the vendor for preparation and delivery to a location designated by the consumer of tangible personal property or a service, including transportation, shipping, postage, handling, crating, and packing.

(v) Installation charges;

(vi) Credit for any trade-in.

(b) "Price" includes consideration received by the vendor from a third party, if the vendor actually receives the consideration from a party other than the consumer, and the consideration is directly related to a price reduction or discount on the sale; the vendor has an obligation to pass the price reduction or discount through to the consumer; the amount of the consideration attributable to the sale is fixed and determinable by the vendor

at the time of the sale of the item to the consumer; and one of the following criteria is met:

(i) The consumer presents a coupon, certificate, or other document to the vendor to claim a price reduction or discount where the coupon, certificate, or document is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any vendor to whom the coupon, certificate, or document is presented;

(ii) The consumer identifies the consumer's self to the seller as a member of a group or organization entitled to a price reduction or discount. A preferred customer card that is available to any patron does not constitute membership in such a group or organization.

(iii) The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the consumer, or on a coupon, certificate, or other document presented by the consumer.

(c) "Price" does not include any of the following:

(i) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a vendor and taken by a consumer on a sale;

(ii) Interest, financing, and carrying charges from credit extended on the sale of tangible personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(iii) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the consumer. For the purpose of this division, the tax imposed under Chapter 5751. of the Revised Code is not a tax directly on the consumer, even if the tax or a portion thereof is separately stated.

(iv) Notwithstanding divisions (H)(1)(b)(i) to (iii) of this section, any discount allowed by an automobile manufacturer to its employee, or to the employee of a supplier, on the purchase of a new motor vehicle from a new motor vehicle dealer in this state.

(2) In the case of a sale of any new motor vehicle by a new motor vehicle dealer, as defined in section 4517.01 of the Revised Code, in which another motor vehicle is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by the credit afforded the consumer by the dealer for the motor vehicle received in trade.

(3) In the case of a sale of any watercraft or outboard motor by a watercraft dealer licensed in accordance with section 1547.543 of the Revised Code, in which another watercraft, watercraft and trailer, or

outboard motor is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by the credit afforded the consumer by the dealer for the watercraft, watercraft and trailer, or outboard motor received in trade. As used in this division, "watercraft" includes an outdrive unit attached to the watercraft.

(4) In the case of transactions for health care services under division (B)(11) of this section, "price" means the amount of managed care premiums received each month by a medicaid health insuring corporation.

(I) "Receipts" means the total amount of the prices of the sales of vendors, provided that cash discounts allowed and taken on sales at the time they are consummated are not included, minus any amount deducted as a bad debt pursuant to section 5739.121 of the Revised Code. "Receipts" does not include the sale price of property returned or services rejected by consumers when the full sale price and tax are refunded either in cash or by credit.

(J) "Place of business" means any location at which a person engages in business.

(K) "Premises" includes any real property or portion thereof upon which any person engages in selling tangible personal property at retail or making retail sales and also includes any real property or portion thereof designated for, or devoted to, use in conjunction with the business engaged in by such person.

(L) "Casual sale" means a sale of an item of tangible personal property that was obtained by the person making the sale, through purchase or otherwise, for the person's own use and was previously subject to any state's taxing jurisdiction on its sale or use, and includes such items acquired for the seller's use that are sold by an auctioneer employed directly by the person for such purpose, provided the location of such sales is not the auctioneer's permanent place of business. As used in this division, "permanent place of business" includes any location where such auctioneer has conducted more than two auctions during the year.

(M) "Hotel" means every establishment kept, used, maintained, advertised, or held out to the public to be a place where sleeping accommodations are offered to guests, in which five or more rooms are used for the accommodation of such guests, whether the rooms are in one or several structures, except as otherwise provided in division (G) of section 5739.09 of the Revised Code.

(N) "Transient guests" means persons occupying a room or rooms for sleeping accommodations for less than thirty consecutive days.

(O) "Making retail sales" means the effecting of transactions wherein

one party is obligated to pay the price and the other party is obligated to provide a service or to transfer title to or possession of the item sold. "Making retail sales" does not include the preliminary acts of promoting or soliciting the retail sales, other than the distribution of printed matter which displays or describes and prices the item offered for sale, nor does it include delivery of a predetermined quantity of tangible personal property or transportation of property or personnel to or from a place where a service is performed, regardless of whether the vendor is a delivery vendor.

(P) "Used directly in the rendition of a public utility service" means that property that is to be incorporated into and will become a part of the consumer's production, transmission, transportation, or distribution system and that retains its classification as tangible personal property after such incorporation; fuel or power used in the production, transmission, transportation, or distribution system; and tangible personal property used in the repair and maintenance of the production, transmission, transportation, or distribution system, including only such motor vehicles as are specially designed and equipped for such use. Tangible personal property and services used primarily in providing highway transportation for hire are not used directly in the rendition of a public utility service. In this definition, "public utility" includes a citizen of the United States holding, and required to hold, a certificate of public convenience and necessity issued under 49 U.S.C. 41102.

(Q) "Refining" means removing or separating a desirable product from raw or contaminated materials by distillation or physical, mechanical, or chemical processes.

(R) "Assembly" and "assembling" mean attaching or fitting together parts to form a product, but do not include packaging a product.

(S) "Manufacturing operation" means a process in which materials are changed, converted, or transformed into a different state or form from which they previously existed and includes refining materials, assembling parts, and preparing raw materials and parts by mixing, measuring, blending, or otherwise committing such materials or parts to the manufacturing process. "Manufacturing operation" does not include packaging.

(T) "Fiscal officer" means, with respect to a regional transit authority, the secretary-treasurer thereof, and with respect to a county that is a transit authority, the fiscal officer of the county transit board if one is appointed pursuant to section 306.03 of the Revised Code or the county auditor if the board of county commissioners operates the county transit system.

(U) "Transit authority" means a regional transit authority created pursuant to section 306.31 of the Revised Code or a county in which a

county transit system is created pursuant to section 306.01 of the Revised Code. For the purposes of this chapter, a transit authority must extend to at least the entire area of a single county. A transit authority that includes territory in more than one county must include all the area of the most populous county that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(V) "Legislative authority" means, with respect to a regional transit authority, the board of trustees thereof, and with respect to a county that is a transit authority, the board of county commissioners.

(W) "Territory of the transit authority" means all of the area included within the territorial boundaries of a transit authority as they from time to time exist. Such territorial boundaries must at all times include all the area of a single county or all the area of the most populous county that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(X) "Providing a service" means providing or furnishing anything described in division (B)(3) of this section for consideration.

(Y)(1)(a) "Automatic data processing" means processing of others' data, including keypunching or similar data entry services together with verification thereof, or providing access to computer equipment for the purpose of processing data.

(b) "Computer services" means providing services consisting of specifying computer hardware configurations and evaluating technical processing characteristics, computer programming, and training of computer programmers and operators, provided in conjunction with and to support the sale, lease, or operation of taxable computer equipment or systems.

(c) "Electronic information services" means providing access to computer equipment by means of telecommunications equipment for the purpose of either of the following:

(i) Examining or acquiring data stored in or accessible to the computer equipment;

(ii) Placing data into the computer equipment to be retrieved by designated recipients with access to the computer equipment.

For transactions occurring on or after the effective date of the amendment of this section by H.B. 157 of the 127th general assembly, December 21, 2007, "electronic information services" does not include electronic publishing as defined in division (LLL) of this section.

(d) "Automatic data processing, computer services, or electronic information services" shall not include personal or professional services.

(2) As used in divisions (B)(3)(e) and (Y)(1) of this section, "personal and professional services" means all services other than automatic data processing, computer services, or electronic information services, including but not limited to:

(a) Accounting and legal services such as advice on tax matters, asset management, budgetary matters, quality control, information security, and auditing and any other situation where the service provider receives data or information and studies, alters, analyzes, interprets, or adjusts such material;

(b) Analyzing business policies and procedures;

(c) Identifying management information needs;

(d) Feasibility studies, including economic and technical analysis of existing or potential computer hardware or software needs and alternatives;

(e) Designing policies, procedures, and custom software for collecting business information, and determining how data should be summarized, sequenced, formatted, processed, controlled, and reported so that it will be meaningful to management;

(f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;

(g) Testing of business procedures;

(h) Training personnel in business procedure applications;

(i) Providing credit information to users of such information by a consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or as hereafter amended, including but not limited to gathering, organizing, analyzing, recording, and furnishing such information by any oral, written, graphic, or electronic medium;

(j) Providing debt collection services by any oral, written, graphic, or electronic means.

The services listed in divisions (Y)(2)(a) to (j) of this section are not automatic data processing or computer services.

(Z) "Highway transportation for hire" means the transportation of personal property belonging to others for consideration by any of the following:

(1) The holder of a permit or certificate issued by this state or the United States authorizing the holder to engage in transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare;

(2) A person who engages in the transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare but who could not have engaged

in such transportation on December 11, 1985, unless the person was the holder of a permit or certificate of the types described in division (Z)(1) of this section;

(3) A person who leases a motor vehicle to and operates it for a person described by division (Z)(1) or (2) of this section.

(AA)(1) "Telecommunications service" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. "Telecommunications service" includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether the service is referred to as voice-over internet protocol service or is classified by the federal communications commission as enhanced or value-added. "Telecommunications service" does not include any of the following:

(a) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a consumer where the consumer's primary purpose for the underlying transaction is the processed data or information;

(b) Installation or maintenance of wiring or equipment on a customer's premises;

(c) Tangible personal property;

(d) Advertising, including directory advertising;

(e) Billing and collection services provided to third parties;

(f) Internet access service;

(g) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services include, but are not limited to, cable service, as defined in 47 U.S.C. 522(6), and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3;

(h) Ancillary service;

(i) Digital products delivered electronically, including software, music, video, reading materials, or ring tones.

(2) "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications service, including conference bridging service, detailed telecommunications billing service, directory assistance, vertical service, and voice mail service. As used in this division:

(a) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call, including providing a telephone number. "Conference bridging service" does not include telecommunications services used to reach the conference bridge.

(b) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(c) "Directory assistance" means an ancillary service of providing telephone number or address information.

(d) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and manage multiple calls and call connections, including conference bridging service.

(e) "Voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. "Voice mail service" does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.

(3) "900 service" means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service, and which is typically marketed under the name "900" service and any subsequent numbers designated by the federal communications commission. "900 service" does not include the charge for collection services provided by the seller of the telecommunications service to the subscriber, or services or products sold by the subscriber to the subscriber's customer.

(4) "Prepaid calling service" means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units of dollars of which the number declines with use in a known amount.

(5) "Prepaid wireless calling service" means a telecommunications service that provides the right to utilize mobile telecommunications service as well as other non-telecommunications services, including the download of digital products delivered electronically, and content and ancillary services, that must be paid for in advance and that is sold in predetermined units of dollars of which the number declines with use in a known amount.

(6) "Value-added non-voice data service" means a telecommunications service in which computer processing applications are used to act on the

form, content, code, or protocol of the information or data primarily for a purpose other than transmission, conveyance, or routing.

(7) "Coin-operated telephone service" means a telecommunications service paid for by inserting money into a telephone accepting direct deposits of money to operate.

(8) "Customer" has the same meaning as in section 5739.034 of the Revised Code.

(BB) "Laundry and dry cleaning services" means removing soil or dirt from towels, linens, articles of clothing, or other fabric items that belong to others and supplying towels, linens, articles of clothing, or other fabric items. "Laundry and dry cleaning services" does not include the provision of self-service facilities for use by consumers to remove soil or dirt from towels, linens, articles of clothing, or other fabric items.

(CC) "Magazines distributed as controlled circulation publications" means magazines containing at least twenty-four pages, at least twenty-five per cent editorial content, issued at regular intervals four or more times a year, and circulated without charge to the recipient, provided that such magazines are not owned or controlled by individuals or business concerns which conduct such publications as an auxiliary to, and essentially for the advancement of the main business or calling of, those who own or control them.

(DD) "Landscaping and lawn care service" means the services of planting, seeding, sodding, removing, cutting, trimming, pruning, mulching, aerating, applying chemicals, watering, fertilizing, and providing similar services to establish, promote, or control the growth of trees, shrubs, flowers, grass, ground cover, and other flora, or otherwise maintaining a lawn or landscape grown or maintained by the owner for ornamentation or other nonagricultural purpose. However, "landscaping and lawn care service" does not include the providing of such services by a person who has less than five thousand dollars in sales of such services during the calendar year.

(EE) "Private investigation and security service" means the performance of any activity for which the provider of such service is required to be licensed pursuant to Chapter 4749. of the Revised Code, or would be required to be so licensed in performing such services in this state, and also includes the services of conducting polygraph examinations and of monitoring or overseeing the activities on or in, or the condition of, the consumer's home, business, or other facility by means of electronic or similar monitoring devices. "Private investigation and security service" does not include special duty services provided by off-duty police officers,

deputy sheriffs, and other peace officers regularly employed by the state or a political subdivision.

(FF) "Information services" means providing conversation, giving consultation or advice, playing or making a voice or other recording, making or keeping a record of the number of callers, and any other service provided to a consumer by means of a nine hundred telephone call, except when the nine hundred telephone call is the means by which the consumer makes a contribution to a recognized charity.

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

(HH) "Qualified research and development equipment" means capitalized tangible personal property, and leased personal property that would be capitalized if purchased, used by a person primarily to perform research and development. Tangible personal property primarily used in testing, as defined in division (A)(4) of section 5739.011 of the Revised Code, or used for recording or storing test results, is not qualified research and development equipment unless such property is primarily used by the consumer in testing the product, equipment, or manufacturing process being created, designed, or formulated by the consumer in the research and development activity or in recording or storing such test results.

(II) "Building maintenance and janitorial service" means cleaning the interior or exterior of a building and any tangible personal property located therein or thereon, including any services incidental to such cleaning for which no separate charge is made. However, "building maintenance and janitorial service" does not include the providing of such service by a person who has less than five thousand dollars in sales of such service during the calendar year.

(JJ) "Employment service" means providing or supplying personnel, on a temporary or long-term basis, to perform work or labor under the supervision or control of another, when the personnel so provided or supplied receive their wages, salary, or other compensation from the provider or supplier of the employment service or from a third party that provided or supplied the personnel to the provider or supplier. "Employment service" does not include:

(1) Acting as a contractor or subcontractor, where the personnel performing the work are not under the direct control of the purchaser.

(2) Medical and health care services.

(3) Supplying personnel to a purchaser pursuant to a contract of at least one year between the service provider and the purchaser that specifies that each employee covered under the contract is assigned to the purchaser on a permanent basis.

(4) Transactions between members of an affiliated group, as defined in division (B)(3)(e) of this section.

(5) Transactions where the personnel so provided or supplied by a provider or supplier to a purchaser of an employment service are then provided or supplied by that purchaser to a third party as an employment service, except "employment service" does include the transaction between that purchaser and the third party.

(KK) "Employment placement service" means locating or finding employment for a person or finding or locating an employee to fill an available position.

(LL) "Exterminating service" means eradicating or attempting to eradicate vermin infestations from a building or structure, or the area surrounding a building or structure, and includes activities to inspect, detect, or prevent vermin infestation of a building or structure.

(MM) "Physical fitness facility service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a physical fitness facility such as an athletic club, health spa, or gymnasium, which entitles the member to use the facility for physical exercise.

(NN) "Recreation and sports club service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a recreation and sports club, which entitles the member to use the facilities of the organization. "Recreation and sports club" means an organization that has ownership of, or controls or leases on a continuing, long-term basis, the facilities used by its members and includes an aviation club, gun or shooting club, yacht club, card club, swimming club, tennis club, golf club, country club, riding club, amateur sports club, or similar organization.

(OO) "Livestock" means farm animals commonly raised for food or food production, and includes but is not limited to cattle, sheep, goats, swine, and poultry. "Livestock" does not include invertebrates, fish, amphibians, reptiles, horses, domestic pets, animals for use in laboratories or for exhibition, or other animals not commonly raised for food or food

production.

(PP) "Livestock structure" means a building or structure used exclusively for the housing, raising, feeding, or sheltering of livestock, and includes feed storage or handling structures and structures for livestock waste handling.

(QQ) "Horticulture" means the growing, cultivation, and production of flowers, fruits, herbs, vegetables, sod, mushrooms, and nursery stock. As used in this division, "nursery stock" has the same meaning as in section 927.51 of the Revised Code.

(RR) "Horticulture structure" means a building or structure used exclusively for the commercial growing, raising, or overwintering of horticultural products, and includes the area used for stocking, storing, and packing horticultural products when done in conjunction with the production of those products.

(SS) "Newspaper" means an unbound publication bearing a title or name that is regularly published, at least as frequently as biweekly, and distributed from a fixed place of business to the public in a specific geographic area, and that contains a substantial amount of news matter of international, national, or local events of interest to the general public.

(TT) "Professional racing team" means a person that employs at least twenty full-time employees for the purpose of conducting a motor vehicle racing business for profit. The person must conduct the business with the purpose of racing one or more motor racing vehicles in at least ten competitive professional racing events each year that comprise all or part of a motor racing series sanctioned by one or more motor racing sanctioning organizations. A "motor racing vehicle" means a vehicle for which the chassis, engine, and parts are designed exclusively for motor racing, and does not include a stock or production model vehicle that may be modified for use in racing. For the purposes of this division:

(1) A "competitive professional racing event" is a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations, at which aggregate cash prizes in excess of eight hundred thousand dollars are awarded to the competitors.

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

(UU)(1) "Lease" or "rental" means any transfer of the possession or control of tangible personal property for a fixed or indefinite term, for consideration. "Lease" or "rental" includes future options to purchase or

extend, and agreements described in 26 U.S.C. 7701(h)(1) covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon the sale or disposition of the property. "Lease" or "rental" does not include:

(a) A transfer of possession or control of tangible personal property under a security agreement or a deferred payment plan that requires the transfer of title upon completion of the required payments;

(b) A transfer of possession or control of tangible personal property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of one hundred dollars or one per cent of the total required payments;

(c) Providing tangible personal property along with an operator for a fixed or indefinite period of time, if the operator is necessary for the property to perform as designed. For purposes of this division, the operator must do more than maintain, inspect, or set-up the tangible personal property.

(2) "Lease" and "rental," as defined in division (UU) of this section, shall not apply to leases or rentals that exist before June 26, 2003.

(3) "Lease" and "rental" have the same meaning as in division (UU)(1) of this section regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, Title XIII of the Revised Code, or other federal, state, or local laws.

(VV) "Mobile telecommunications service" has the same meaning as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and, on and after August 1, 2003, includes related fees and ancillary services, including universal service fees, detailed billing service, directory assistance, service initiation, voice mail service, and vertical services, such as caller ID and three-way calling.

(WW) "Certified service provider" has the same meaning as in section 5740.01 of the Revised Code.

(XX) "Satellite broadcasting service" means the distribution or broadcasting of programming or services by satellite directly to the subscriber's receiving equipment without the use of ground receiving or distribution equipment, except the subscriber's receiving equipment or equipment used in the uplink process to the satellite, and includes all service and rental charges, premium channels or other special services, installation and repair service charges, and any other charges having any connection

with the provision of the satellite broadcasting service.

(YY) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. For purposes of this chapter and Chapter 5741. of the Revised Code, "tangible personal property" includes motor vehicles, electricity, water, gas, steam, and prewritten computer software.

(ZZ) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the consumer or at the direction of the consumer when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the consumer to the direct mail vendor for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address.

(AAA) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.

(BBB) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

(CCC) "Delivered electronically" means delivery of computer software from the seller to the purchaser by means other than tangible storage media.

(DDD) "Prewritten computer software" means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. "Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. If a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten computer software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software; provided, however, that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for the modification or enhancement, the modification or enhancement shall not constitute

prewritten computer software.

(EEE)(1) "Food" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food" does not include alcoholic beverages, dietary supplements, soft drinks, or tobacco.

(2) As used in division (EEE)(1) of this section:

(a) "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one per cent or more of alcohol by volume.

(b) "Dietary supplements" means any product, other than tobacco, that is intended to supplement the diet and that is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or, if not intended for ingestion in such a form, is not represented as conventional food for use as a sole item of a meal or of the diet; that is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label, as required by 21 C.F.R. 101.36; and that contains one or more of the following dietary ingredients:

(i) A vitamin;

(ii) A mineral;

(iii) An herb or other botanical;

(iv) An amino acid;

(v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake;

(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions (EEE)(2)(b)(i) to (v) of this section.

(c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or that contains greater than fifty per cent vegetable or fruit juice by volume.

(d) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

(FFF) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food, dietary supplements, or alcoholic beverages that is recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, and supplements to them; is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or is intended to affect the structure or any function of the body.

(GGG) "Prescription" means an order, formula, or recipe issued in any

form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state to issue a prescription.

(HHH) "Durable medical equipment" means equipment, including repair and replacement parts for such equipment, that can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury, and is not worn in or on the body. "Durable medical equipment" does not include mobility enhancing equipment.

(III) "Mobility enhancing equipment" means equipment, including repair and replacement parts for such equipment, that is primarily and customarily used to provide or increase the ability to move from one place to another and is appropriate for use either in a home or a motor vehicle, that is not generally used by persons with normal mobility, and that does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer. "Mobility enhancing equipment" does not include durable medical equipment.

(JJJ) "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for the device, worn on or in the human body to artificially replace a missing portion of the body, prevent or correct physical deformity or malfunction, or support a weak or deformed portion of the body. As used in this division, "prosthetic device" does not include corrective eyeglasses, contact lenses, or dental prosthesis.

(KKK)(1) "Fractional aircraft ownership program" means a program in which persons within an affiliated group sell and manage fractional ownership program aircraft, provided that at least one hundred airworthy aircraft are operated in the program and the program meets all of the following criteria:

(a) Management services are provided by at least one program manager within an affiliated group on behalf of the fractional owners.

(b) Each program aircraft is owned or possessed by at least one fractional owner.

(c) Each fractional owner owns or possesses at least a one-sixteenth interest in at least one fixed-wing program aircraft.

(d) A dry-lease aircraft interchange arrangement is in effect among all of the fractional owners.

(e) Multi-year program agreements are in effect regarding the fractional ownership, management services, and dry-lease aircraft interchange arrangement aspects of the program.

(2) As used in division (KKK)(1) of this section:

(a) "Affiliated group" has the same meaning as in division (B)(3)(e) of this section.

(b) "Fractional owner" means a person that owns or possesses at least a one-sixteenth interest in a program aircraft and has entered into the agreements described in division (KKK)(1)(e) of this section.

(c) "Fractional ownership program aircraft" or "program aircraft" means a turbojet aircraft that is owned or possessed by a fractional owner and that has been included in a dry-lease aircraft interchange arrangement and agreement under divisions (KKK)(1)(d) and (e) of this section, or an aircraft a program manager owns or possesses primarily for use in a fractional aircraft ownership program.

(d) "Management services" means administrative and aviation support services furnished under a fractional aircraft ownership program in accordance with a management services agreement under division (KKK)(1)(e) of this section, and offered by the program manager to the fractional owners, including, at a minimum, the establishment and implementation of safety guidelines; the coordination of the scheduling of the program aircraft and crews; program aircraft maintenance; program aircraft insurance; crew training for crews employed, furnished, or contracted by the program manager or the fractional owner; the satisfaction of record-keeping requirements; and the development and use of an operations manual and a maintenance manual for the fractional aircraft ownership program.

(e) "Program manager" means the person that offers management services to fractional owners pursuant to a management services agreement under division (KKK)(1)(e) of this section.

(LLL) "Electronic publishing" means providing access to one or more of the following primarily for business customers, including the federal government or a state government or a political subdivision thereof, to conduct research: news; business, financial, legal, consumer, or credit materials; editorials, columns, reader commentary, or features; photos or images; archival or research material; legal notices, identity verification, or public records; scientific, educational, instructional, technical, professional, trade, or other literary materials; or other similar information which has been gathered and made available by the provider to the consumer in an electronic format. Providing electronic publishing includes the functions necessary for the acquisition, formatting, editing, storage, and dissemination of data or information that is the subject of a sale.

(MMM) "Medicaid health insuring corporation" means a health insuring corporation that holds a certificate of authority under Chapter 1751. of the

Revised Code and is under contract with the department of job and family services pursuant to section 5111.17 of the Revised Code.

(NNN) "Managed care premium" means any premium, capitation, or other payment a medicaid health insuring corporation receives for providing or arranging for the provision of health care services to its members or enrollees residing in this state.

Sec. 5739.02. For the purpose of providing revenue with which to meet the needs of the state, for the use of the general revenue fund of the state, for the purpose of securing a thorough and efficient system of common schools throughout the state, for the purpose of affording revenues, in addition to those from general property taxes, permitted under constitutional limitations, and from other sources, for the support of local governmental functions, and for the purpose of reimbursing the state for the expense of administering this chapter, an excise tax is hereby levied on each retail sale made in this state.

(A)(1) The tax shall be collected as provided in section 5739.025 of the Revised Code. The rate of the tax shall be five and one-half per cent. The tax applies and is collectible when the sale is made, regardless of the time when the price is paid or delivered.

(2) In the case of the lease or rental, with a fixed term of more than thirty days or an indefinite term with a minimum period of more than thirty days, of any motor vehicles designed by the manufacturer to carry a load of not more than one ton, watercraft, outboard motor, or aircraft, or of any tangible personal property, other than motor vehicles designed by the manufacturer to carry a load of more than one ton, to be used by the lessee or renter primarily for business purposes, the tax shall be collected by the vendor at the time the lease or rental is consummated and shall be calculated by the vendor on the basis of the total amount to be paid by the lessee or renter under the lease agreement. If the total amount of the consideration for the lease or rental includes amounts that are not calculated at the time the lease or rental is executed, the tax shall be calculated and collected by the vendor at the time such amounts are billed to the lessee or renter. In the case of an open-end lease or rental, the tax shall be calculated by the vendor on the basis of the total amount to be paid during the initial fixed term of the lease or rental, and for each subsequent renewal period as it comes due. As used in this division, "motor vehicle" has the same meaning as in section 4501.01 of the Revised Code, and "watercraft" includes an outdrive unit attached to the watercraft.

A lease with a renewal clause and a termination penalty or similar provision that applies if the renewal clause is not exercised is presumed to

be a sham transaction. In such a case, the tax shall be calculated and paid on the basis of the entire length of the lease period, including any renewal periods, until the termination penalty or similar provision no longer applies. The taxpayer shall bear the burden, by a preponderance of the evidence, that the transaction or series of transactions is not a sham transaction.

(3) Except as provided in division (A)(2) of this section, in the case of a sale, the price of which consists in whole or in part of the lease or rental of tangible personal property, the tax shall be measured by the installments of that lease or rental.

(4) In the case of a sale of a physical fitness facility service or recreation and sports club service, the price of which consists in whole or in part of a membership for the receipt of the benefit of the service, the tax applicable to the sale shall be measured by the installments thereof.

(B) The tax does not apply to the following:

(1) Sales to the state or any of its political subdivisions, or to any other state or its political subdivisions if the laws of that state exempt from taxation sales made to this state and its political subdivisions;

(2) Sales of food for human consumption off the premises where sold;

(3) Sales of food sold to students only in a cafeteria, dormitory, fraternity, or sorority maintained in a private, public, or parochial school, college, or university;

(4) Sales of newspapers and of magazine subscriptions and sales or transfers of magazines distributed as controlled circulation publications;

(5) The furnishing, preparing, or serving of meals without charge by an employer to an employee provided the employer records the meals as part compensation for services performed or work done;

(6) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under division (A) of section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a refund of motor fuel tax pursuant to division (A) of section 5735.14 of the Revised Code and shall cause the amount deducted to be paid into the general revenue fund of this state;

(7) Sales of natural gas by a natural gas company, of water by a water-works company, or of steam by a heating company, if in each case the thing sold is delivered to consumers through pipes or conduits, and all sales of communications services by a telegraph company, all terms as defined in section 5727.01 of the Revised Code, and sales of electricity delivered

through wires;

(8) Casual sales by a person, or auctioneer employed directly by the person to conduct such sales, except as to such sales of motor vehicles, watercraft or outboard motors required to be titled under section 1548.06 of the Revised Code, watercraft documented with the United States coast guard, snowmobiles, and all-purpose vehicles as defined in section 4519.01 of the Revised Code;

(9)(a) Sales of services or tangible personal property, other than motor vehicles, mobile homes, and manufactured homes, by churches, organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, or nonprofit organizations operated exclusively for charitable purposes as defined in division (B)(12) of this section, provided that the number of days on which such tangible personal property or services, other than items never subject to the tax, are sold does not exceed six in any calendar year, except as otherwise provided in division (B)(9)(b) of this section. If the number of days on which such sales are made exceeds six in any calendar year, the church or organization shall be considered to be engaged in business and all subsequent sales by it shall be subject to the tax. In counting the number of days, all sales by groups within a church or within an organization shall be considered to be sales of that church or organization.

(b) The limitation on the number of days on which tax-exempt sales may be made by a church or organization under division (B)(9)(a) of this section does not apply to sales made by student clubs and other groups of students of a primary or secondary school, or a parent-teacher association, booster group, or similar organization that raises money to support or fund curricular or extracurricular activities of a primary or secondary school.

(c) Divisions (B)(9)(a) and (b) of this section do not apply to sales by a noncommercial educational radio or television broadcasting station.

(10) Sales not within the taxing power of this state under the Constitution of the United States;

(11) Except for transactions that are sales under division (B)(3)(r) of section 5739.01 of the Revised Code, the transportation of persons or property, unless the transportation is by a private investigation and security service;

(12) Sales of tangible personal property or services to churches, to organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, and to any other nonprofit organizations operated exclusively for charitable purposes in this state, no part of the net income of which inures to the benefit of any private shareholder or individual, and no

substantial part of the activities of which consists of carrying on propaganda or otherwise attempting to influence legislation; sales to offices administering one or more homes for the aged or one or more hospital facilities exempt under section 140.08 of the Revised Code; and sales to organizations described in division (D) of section 5709.12 of the Revised Code.

"Charitable purposes" means the relief of poverty; the improvement of health through the alleviation of illness, disease, or injury; the operation of an organization exclusively for the provision of professional, laundry, printing, and purchasing services to hospitals or charitable institutions; the operation of a home for the aged, as defined in section 5701.13 of the Revised Code; the operation of a radio or television broadcasting station that is licensed by the federal communications commission as a noncommercial educational radio or television station; the operation of a nonprofit animal adoption service or a county humane society; the promotion of education by an institution of learning that maintains a faculty of qualified instructors, teaches regular continuous courses of study, and confers a recognized diploma upon completion of a specific curriculum; the operation of a parent-teacher association, booster group, or similar organization primarily engaged in the promotion and support of the curricular or extracurricular activities of a primary or secondary school; the operation of a community or area center in which presentations in music, dramatics, the arts, and related fields are made in order to foster public interest and education therein; the production of performances in music, dramatics, and the arts; or the promotion of education by an organization engaged in carrying on research in, or the dissemination of, scientific and technological knowledge and information primarily for the public.

Nothing in this division shall be deemed to exempt sales to any organization for use in the operation or carrying on of a trade or business, or sales to a home for the aged for use in the operation of independent living facilities as defined in division (A) of section 5709.12 of the Revised Code.

(13) Building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to real property under a construction contract with this state or a political subdivision of this state, or with the United States government or any of its agencies; building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to real property that are accepted for ownership by this state or any of its political subdivisions, or by the United States government or any of its agencies at the time of completion of the structures or improvements;

building and construction materials sold to construction contractors for incorporation into a horticulture structure or livestock structure for a person engaged in the business of horticulture or producing livestock; building materials and services sold to a construction contractor for incorporation into a house of public worship or religious education, or a building used exclusively for charitable purposes under a construction contract with an organization whose purpose is as described in division (B)(12) of this section; building materials and services sold to a construction contractor for incorporation into a building under a construction contract with an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 when the building is to be used exclusively for the organization's exempt purposes; building and construction materials sold for incorporation into the original construction of a sports facility under section 307.696 of the Revised Code; and building and construction materials and services sold to a construction contractor for incorporation into real property outside this state if such materials and services, when sold to a construction contractor in the state in which the real property is located for incorporation into real property in that state, would be exempt from a tax on sales levied by that state;

(14) Sales of ships or vessels or rail rolling stock used or to be used principally in interstate or foreign commerce, and repairs, alterations, fuel, and lubricants for such ships or vessels or rail rolling stock;

(15) Sales to persons primarily engaged in any of the activities mentioned in division (B)(42)(a) or (g) of this section, to persons engaged in making retail sales, or to persons who purchase for sale from a manufacturer tangible personal property that was produced by the manufacturer in accordance with specific designs provided by the purchaser, of packages, including material, labels, and parts for packages, and of machinery, equipment, and material for use primarily in packaging tangible personal property produced for sale, including any machinery, equipment, and supplies used to make labels or packages, to prepare packages or products for labeling, or to label packages or products, by or on the order of the person doing the packaging, or sold at retail. "Packages" includes bags, baskets, cartons, crates, boxes, cans, bottles, bindings, wrappings, and other similar devices and containers, but does not include motor vehicles or bulk tanks, trailers, or similar devices attached to motor vehicles. "Packaging" means placing in a package. Division (B)(15) of this section does not apply to persons engaged in highway transportation for hire.

(16) Sales of food to persons using ~~food stamp~~ supplemental nutrition assistance program benefits to purchase the food. As used in this division,

"food" has the same meaning as in the ~~"Food Stamp Act of 1977," 91 Stat. 958, 7 U.S.C. 2012, as amended,~~ and federal regulations adopted pursuant to ~~that act~~ the Food and Nutrition Act of 2008.

(17) Sales to persons engaged in farming, agriculture, horticulture, or floriculture, of tangible personal property for use or consumption directly in the production by farming, agriculture, horticulture, or floriculture of other tangible personal property for use or consumption directly in the production of tangible personal property for sale by farming, agriculture, horticulture, or floriculture; or material and parts for incorporation into any such tangible personal property for use or consumption in production; and of tangible personal property for such use or consumption in the conditioning or holding of products produced by and for such use, consumption, or sale by persons engaged in farming, agriculture, horticulture, or floriculture, except where such property is incorporated into real property;

(18) Sales of drugs for a human being that may be dispensed only pursuant to a prescription; insulin as recognized in the official United States pharmacopoeia; urine and blood testing materials when used by diabetics or persons with hypoglycemia to test for glucose or acetone; hypodermic syringes and needles when used by diabetics for insulin injections; epoetin alfa when purchased for use in the treatment of persons with medical disease; hospital beds when purchased by hospitals, nursing homes, or other medical facilities; and medical oxygen and medical oxygen-dispensing equipment when purchased by hospitals, nursing homes, or other medical facilities;

(19) Sales of prosthetic devices, durable medical equipment for home use, or mobility enhancing equipment, when made pursuant to a prescription and when such devices or equipment are for use by a human being.

(20) Sales of emergency and fire protection vehicles and equipment to nonprofit organizations for use solely in providing fire protection and emergency services, including trauma care and emergency medical services, for political subdivisions of the state;

(21) Sales of tangible personal property manufactured in this state, if sold by the manufacturer in this state to a retailer for use in the retail business of the retailer outside of this state and if possession is taken from the manufacturer by the purchaser within this state for the sole purpose of immediately removing the same from this state in a vehicle owned by the purchaser;

(22) Sales of services provided by the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities, or by governmental entities of the state or any of its political subdivisions,

agencies, instrumentalities, institutions, or authorities;

(23) Sales of motor vehicles to nonresidents of this state under the circumstances described in division (B) of section 5739.029 of the Revised Code;

(24) Sales to persons engaged in the preparation of eggs for sale of tangible personal property used or consumed directly in such preparation, including such tangible personal property used for cleaning, sanitizing, preserving, grading, sorting, and classifying by size; packages, including material and parts for packages, and machinery, equipment, and material for use in packaging eggs for sale; and handling and transportation equipment and parts therefor, except motor vehicles licensed to operate on public highways, used in intraplant or interplant transfers or shipment of eggs in the process of preparation for sale, when the plant or plants within or between which such transfers or shipments occur are operated by the same person. "Packages" includes containers, cases, baskets, flats, fillers, filler flats, cartons, closure materials, labels, and labeling materials, and "packaging" means placing therein.

(25)(a) Sales of water to a consumer for residential use, except the sale of bottled water, distilled water, mineral water, carbonated water, or ice;

(b) Sales of water by a nonprofit corporation engaged exclusively in the treatment, distribution, and sale of water to consumers, if such water is delivered to consumers through pipes or tubing.

(26) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code;

(27) Sales to persons licensed to conduct a food service operation pursuant to section 3717.43 of the Revised Code, of tangible personal property primarily used directly for the following:

(a) To prepare food for human consumption for sale;

(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;

(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.

(28) Sales of animals by nonprofit animal adoption services or county humane societies;

(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;

(30) Sales and installation of agricultural land tile, as defined in division

(B)(5)(a) of section 5739.01 of the Revised Code;

(31) Sales and erection or installation of portable grain bins, as defined in division (B)(5)(b) of section 5739.01 of the Revised Code;

(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire, except for packages and packaging used for the transportation of tangible personal property;

(33) Sales to the state headquarters of any veterans' organization in this state that is either incorporated and issued a charter by the congress of the United States or is recognized by the United States veterans administration, for use by the headquarters;

(34) Sales to a telecommunications service vendor, mobile telecommunications service vendor, or satellite broadcasting service vendor of tangible personal property and services used directly and primarily in transmitting, receiving, switching, or recording any interactive, one- or two-way electromagnetic communications, including voice, image, data, and information, through the use of any medium, including, but not limited to, poles, wires, cables, switching equipment, computers, and record storage devices and media, and component parts for the tangible personal property. The exemption provided in this division shall be in lieu of all other exemptions under division (B)(42)(a) of this section to which the vendor may otherwise be entitled, based upon the use of the thing purchased in providing the telecommunications, mobile telecommunications, or satellite broadcasting service.

(35)(a) Sales where the purpose of the consumer is to use or consume the things transferred in making retail sales and consisting of newspaper inserts, catalogues, coupons, flyers, gift certificates, or other advertising material that prices and describes tangible personal property offered for retail sale.

(b) Sales to direct marketing vendors of preliminary materials such as photographs, artwork, and typesetting that will be used in printing advertising material; of printed matter that offers free merchandise or chances to win sweepstake prizes and that is mailed to potential customers with advertising material described in division (B)(35)(a) of this section; and of equipment such as telephones, computers, facsimile machines, and similar tangible personal property primarily used to accept orders for direct marketing retail sales.

(c) Sales of automatic food vending machines that preserve food with a shelf life of forty-five days or less by refrigeration and dispense it to the

consumer.

For purposes of division (B)(35) of this section, "direct marketing" means the method of selling where consumers order tangible personal property by United States mail, delivery service, or telecommunication and the vendor delivers or ships the tangible personal property sold to the consumer from a warehouse, catalogue distribution center, or similar fulfillment facility by means of the United States mail, delivery service, or common carrier.

(36) Sales to a person engaged in the business of horticulture or producing livestock of materials to be incorporated into a horticulture structure or livestock structure;

(37) Sales of personal computers, computer monitors, computer keyboards, modems, and other peripheral computer equipment to an individual who is licensed or certified to teach in an elementary or a secondary school in this state for use by that individual in preparation for teaching elementary or secondary school students;

(38) Sales to a professional racing team of any of the following:

(a) Motor racing vehicles;

(b) Repair services for motor racing vehicles;

(c) Items of property that are attached to or incorporated in motor racing vehicles, including engines, chassis, and all other components of the vehicles, and all spare, replacement, and rebuilt parts or components of the vehicles; except not including tires, consumable fluids, paint, and accessories consisting of instrumentation sensors and related items added to the vehicle to collect and transmit data by means of telemetry and other forms of communication.

(39) Sales of used manufactured homes and used mobile homes, as defined in section 5739.0210 of the Revised Code, made on or after January 1, 2000;

(40) Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily in generating, transmitting, or distributing electricity for use by others, including property that is or is to be incorporated into and will become a part of the consumer's production, transmission, or distribution system and that retains its classification as tangible personal property after incorporation; fuel or power used in the production, transmission, or distribution of electricity; and tangible personal property and services used in the repair and maintenance of the production, transmission, or distribution system, including only those motor vehicles as are specially designed and equipped for such use. The exemption provided in this division shall be in lieu of all other exemptions

in division (B)(42)(a) of this section to which a provider of electricity may otherwise be entitled based on the use of the tangible personal property or service purchased in generating, transmitting, or distributing electricity.

(41) Sales to a person providing services under division (B)(3)(r) of section 5739.01 of the Revised Code of tangible personal property and services used directly and primarily in providing taxable services under that section.

(42) Sales where the purpose of the purchaser is to do any of the following:

(a) To incorporate the thing transferred as a material or a part into tangible personal property to be produced for sale by manufacturing, assembling, processing, or refining; or to use or consume the thing transferred directly in producing tangible personal property for sale by mining, including, without limitation, the extraction from the earth of all substances that are classed geologically as minerals, production of crude oil and natural gas, farming, agriculture, horticulture, or floriculture, or directly in the rendition of a public utility service, except that the sales tax levied by this section shall be collected upon all meals, drinks, and food for human consumption sold when transporting persons. Persons engaged in rendering farming, agricultural, horticultural, or floricultural services, and services in the exploration for, and production of, crude oil and natural gas, for others are deemed engaged directly in farming, agriculture, horticulture, and floriculture, or exploration for, and production of, crude oil and natural gas. This paragraph does not exempt from "retail sale" or "sales at retail" the sale of tangible personal property that is to be incorporated into a structure or improvement to real property.

(b) To hold the thing transferred as security for the performance of an obligation of the vendor;

(c) To resell, hold, use, or consume the thing transferred as evidence of a contract of insurance;

(d) To use or consume the thing directly in commercial fishing;

(e) To incorporate the thing transferred as a material or a part into, or to use or consume the thing transferred directly in the production of, magazines distributed as controlled circulation publications;

(f) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter;

(g) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible

personal property for sale;

(h) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as described in division (B)(7) of section 5739.01 of the Revised Code, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would not be subject to the tax imposed by this section;

(i) To use the thing transferred as qualified research and development equipment;

(j) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility, to retail stores of an affiliated group of which that person is a member, or by means of direct marketing. This division does not apply to motor vehicles registered for operation on the public highways. As used in this division, "affiliated group" has the same meaning as in division (B)(3)(e) of section 5739.01 of the Revised Code and "direct marketing" has the same meaning as in division (B)(35) of this section.

(k) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part of the price of the tangible personal property sold or by a vendor of a warranty, maintenance or service contract, or similar agreement the provision of which is defined as a sale under division (B)(7) of section 5739.01 of the Revised Code;

(l) To use or consume the thing transferred in the production of a newspaper for distribution to the public;

(m) To use tangible personal property to perform a service listed in division (B)(3) of section 5739.01 of the Revised Code, if the property is or is to be permanently transferred to the consumer of the service as an integral part of the performance of the service;

(n) To use or consume the thing transferred in acquiring, formatting, editing, storing, and disseminating data or information by electronic publishing.

As used in division (B)(42) of this section, "thing" includes all transactions included in divisions (B)(3)(a), (b), and (e) of section 5739.01 of the Revised Code.

(43) Sales conducted through a coin operated device that activates vacuum equipment or equipment that dispenses water, whether or not in combination with soap or other cleaning agents or wax, to the consumer for

the consumer's use on the premises in washing, cleaning, or waxing a motor vehicle, provided no other personal property or personal service is provided as part of the transaction.

(44) Sales of replacement and modification parts for engines, airframes, instruments, and interiors in, and paint for, aircraft used primarily in a fractional aircraft ownership program, and sales of services for the repair, modification, and maintenance of such aircraft, and machinery, equipment, and supplies primarily used to provide those services.

(45) Sales of telecommunications service that is used directly and primarily to perform the functions of a call center. As used in this division, "call center" means any physical location where telephone calls are placed or received in high volume for the purpose of making sales, marketing, customer service, technical support, or other specialized business activity, and that employs at least fifty individuals that engage in call center activities on a full-time basis, or sufficient individuals to fill fifty full-time equivalent positions.

(46) Sales by a telecommunications service vendor of 900 service to a subscriber. This division does not apply to information services, as defined in division (FF) of section 5739.01 of the Revised Code.

(47) Sales of value-added non-voice data service. This division does not apply to any similar service that is not otherwise a telecommunications service.

(48)(a) Sales of machinery, equipment, and software to a qualified direct selling entity for use in a warehouse or distribution center primarily for storing, transporting, or otherwise handling inventory that is held for sale to independent salespersons who operate as direct sellers and that is held primarily for distribution outside this state;

(b) As used in division (B)(48)(a) of this section:

(i) "Direct seller" means a person selling consumer products to individuals for personal or household use and not from a fixed retail location, including selling such product at in-home product demonstrations, parties, and other one-on-one selling.

(ii) "Qualified direct selling entity" means an entity selling to direct sellers at the time the entity enters into a tax credit agreement with the tax credit authority pursuant to section 122.17 of the Revised Code, provided that the agreement was entered into on or after January 1, 2007. Neither contingencies relevant to the granting of, nor later developments with respect to, the tax credit shall impair the status of the qualified direct selling entity under division (B)(48) of this section after execution of the tax credit agreement by the tax credit authority.

(c) Division (B)(48) of this section is limited to machinery, equipment, and software first stored, used, or consumed in this state within the period commencing June 24, 2008, and ending on the date that is five years after that date.

(49) Sales of materials, parts, equipment, or engines used in the repair or maintenance of aircraft or avionics systems of such aircraft, and sales of repair, remodeling, replacement, or maintenance services in this state performed on aircraft or on an aircraft's avionics, engine, or component materials or parts. As used in division (B)(49) of this section, "aircraft" means aircraft of more than six thousand pounds maximum certified takeoff weight or used exclusively in general aviation.

(50) Sales of full flight simulators that are used for pilot or flight-crew training, sales of repair or replacement parts or components, and sales of repair or maintenance services for such full flight simulators. "Full flight simulator" means a replica of a specific type, or make, model, and series of aircraft cockpit. It includes the assemblage of equipment and computer programs necessary to represent aircraft operations in ground and flight conditions, a visual system providing an out-of-the-cockpit view, and a system that provides cues at least equivalent to those of a three-degree-of-freedom motion system, and has the full range of capabilities of the systems installed in the device as described in appendices A and B of part 60 of chapter 1 of title 14 of the Code of Federal Regulations.

(C) For the purpose of the proper administration of this chapter, and to prevent the evasion of the tax, it is presumed that all sales made in this state are subject to the tax until the contrary is established.

(D) The levy of this tax on retail sales of recreation and sports club service shall not prevent a municipal corporation from levying any tax on recreation and sports club dues or on any income generated by recreation and sports club dues.

(E) The tax collected by the vendor from the consumer under this chapter is not part of the price, but is a tax collection for the benefit of the state, and of counties levying an additional sales tax pursuant to section 5739.021 or 5739.026 of the Revised Code and of transit authorities levying an additional sales tax pursuant to section 5739.023 of the Revised Code. Except for the discount authorized under section 5739.12 of the Revised Code and the effects of any rounding pursuant to section 5703.055 of the Revised Code, no person other than the state or such a county or transit authority shall derive any benefit from the collection or payment of the tax levied by this section or section 5739.021, 5739.023, or 5739.026 of the

Revised Code.

Sec. 5739.03. (A) Except as provided in section 5739.05 or section 5739.051 of the Revised Code, the tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code shall be paid by the consumer to the vendor, and each vendor shall collect from the consumer, as a trustee for the state of Ohio, the full and exact amount of the tax payable on each taxable sale, in the manner and at the times provided as follows:

(1) If the price is, at or prior to the provision of the service or the delivery of possession of the thing sold to the consumer, paid in currency passed from hand to hand by the consumer or the consumer's agent to the vendor or the vendor's agent, the vendor or the vendor's agent shall collect the tax with and at the same time as the price;

(2) If the price is otherwise paid or to be paid, the vendor or the vendor's agent shall, at or prior to the provision of the service or the delivery of possession of the thing sold to the consumer, charge the tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code to the account of the consumer, which amount shall be collected by the vendor from the consumer in addition to the price. Such sale shall be reported on and the amount of the tax applicable thereto shall be remitted with the return for the period in which the sale is made, and the amount of the tax shall become a legal charge in favor of the vendor and against the consumer.

(B)(1)(a) If any sale is claimed to be exempt under division (E) of section 5739.01 of the Revised Code or under section 5739.02 of the Revised Code, with the exception of divisions (B)(1) to (11) or (28) of section 5739.02 of the Revised Code, the consumer must provide to the vendor, and the vendor must obtain from the consumer, a certificate specifying the reason that the sale is not legally subject to the tax. The certificate shall be in such form, and shall be provided either in a hard copy form or electronic form, as the tax commissioner prescribes.

(b) A vendor that obtains a fully completed exemption certificate from a consumer is relieved of liability for collecting and remitting tax on any sale covered by that certificate. If it is determined the exemption was improperly claimed, the consumer shall be liable for any tax due on that sale under section 5739.02, 5739.021, 5739.023, or 5739.026 or Chapter 5741. of the Revised Code. Relief under this division from liability does not apply to any of the following:

- (i) A vendor that fraudulently fails to collect tax;
- (ii) A vendor that solicits consumers to participate in the unlawful claim

of an exemption;

(iii) A vendor that accepts an exemption certificate from a consumer that claims an exemption based on who purchases or who sells property or a service, when the subject of the transaction sought to be covered by the exemption certificate is actually received by the consumer at a location operated by the vendor in this state, and this state has posted to its web site an exemption certificate form that clearly and affirmatively indicates that the claimed exemption is not available in this state;

(iv) A vendor that accepts an exemption certificate from a consumer who claims a multiple points of use exemption under division (D) of section 5739.033 of the Revised Code, if the item purchased is tangible personal property, other than prewritten computer software.

(2) The vendor shall maintain records, including exemption certificates, of all sales on which a consumer has claimed an exemption, and provide them to the tax commissioner on request.

(3) The tax commissioner may establish an identification system whereby the commissioner issues an identification number to a consumer that is exempt from payment of the tax. The consumer must present the number to the vendor, if any sale is claimed to be exempt as provided in this section.

(4) If no certificate is provided or obtained within ninety days after the date on which such sale is consummated, it shall be presumed that the tax applies. Failure to have so provided or obtained a certificate shall not preclude a vendor, within one hundred twenty days after the tax commissioner gives written notice of intent to levy an assessment, from either establishing that the sale is not subject to the tax, or obtaining, in good faith, a fully completed exemption certificate.

(5) Certificates need not be obtained nor provided where the identity of the consumer is such that the transaction is never subject to the tax imposed or where the item of tangible personal property sold or the service provided is never subject to the tax imposed, regardless of use, or when the sale is in interstate commerce.

(6) If a transaction is claimed to be exempt under division (B)(13) of section 5739.02 of the Revised Code, the contractor shall obtain certification of the claimed exemption from the contractee. This certification shall be in addition to an exemption certificate provided by the contractor to the vendor. A contractee that provides a certification under this division shall be deemed to be the consumer of all items purchased by the contractor under the claim of exemption, if it is subsequently determined that the exemption is not properly claimed. The certification shall be in such form as the tax

commissioner prescribes.

(C) As used in this division, "contractee" means a person who seeks to enter or enters into a contract or agreement with a contractor or vendor for the construction of real property or for the sale and installation onto real property of tangible personal property.

Any contractor or vendor may request from any contractee a certification of what portion of the property to be transferred under such contract or agreement is to be incorporated into the realty and what portion will retain its status as tangible personal property after installation is completed. The contractor or vendor shall request the certification by certified mail delivered to the contractee, return receipt requested. Upon receipt of such request and prior to entering into the contract or agreement, the contractee shall provide to the contractor or vendor a certification sufficiently detailed to enable the contractor or vendor to ascertain the resulting classification of all materials purchased or fabricated by the contractor or vendor and transferred to the contractee. This requirement applies to a contractee regardless of whether the contractee holds a direct payment permit under section 5739.031 of the Revised Code or provides to the contractor or vendor an exemption certificate as provided under this section.

For the purposes of the taxes levied by this chapter and Chapter 5741. of the Revised Code, the contractor or vendor may in good faith rely on the contractee's certification. Notwithstanding division (B) of section 5739.01 of the Revised Code, if the tax commissioner determines that certain property certified by the contractee as tangible personal property pursuant to this division is, in fact, real property, the contractee shall be considered to be the consumer of all materials so incorporated into that real property and shall be liable for the applicable tax, and the contractor or vendor shall be excused from any liability on those materials.

If a contractee fails to provide such certification upon the request of the contractor or vendor, the contractor or vendor shall comply with the provisions of this chapter and Chapter 5741. of the Revised Code without the certification. If the tax commissioner determines that such compliance has been performed in good faith and that certain property treated as tangible personal property by the contractor or vendor is, in fact, real property, the contractee shall be considered to be the consumer of all materials so incorporated into that real property and shall be liable for the applicable tax, and the construction contractor or vendor shall be excused from any liability on those materials.

This division does not apply to any contract or agreement where the tax

commissioner determines as a fact that a certification under this division was made solely on the decision or advice of the contractor or vendor.

(D) Notwithstanding division (B) of section 5739.01 of the Revised Code, whenever the total rate of tax imposed under this chapter is increased after the date after a construction contract is entered into, the contractee shall reimburse the construction contractor for any additional tax paid on tangible property consumed or services received pursuant to the contract.

(E) A vendor who files a petition for reassessment contesting the assessment of tax on sales for which the vendor obtained no valid exemption certificates and for which the vendor failed to establish that the sales were properly not subject to the tax during the one-hundred-twenty-day period allowed under division (B) of this section, may present to the tax commissioner additional evidence to prove that the sales were properly subject to a claim of exception or exemption. The vendor shall file such evidence within ninety days of the receipt by the vendor of the notice of assessment, except that, upon application and for reasonable cause, the period for submitting such evidence shall be extended thirty days.

The commissioner shall consider such additional evidence in reaching the final determination on the assessment and petition for reassessment.

(F) Whenever a vendor refunds the price, minus any separately stated delivery charge, of an item of tangible personal property on which the tax imposed under this chapter has been paid, the vendor shall also refund the amount of tax paid, minus the amount of tax attributable to the delivery charge.

Sec. 5739.033. (A) Except as provided in division (B) of this section, divisions (C) to (I) of this section apply to sales made on and after January 1, 2008. Any vendor previously required to comply with divisions (C) to (I) of this section and any vendor that irrevocably elects to comply with divisions (C) to (I) of this section for all of the vendor's sales and places of business in this state shall continue to source its sales under those divisions.

The amount of tax due pursuant to sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code is the sum of the taxes imposed pursuant to those sections at the sourcing location of the sale as determined under this section or, if applicable, under division (C) of section 5739.031 or section 5739.034 of the Revised Code, or at the situs of the sale as determined under section 5739.035 of the Revised Code. This section applies only to a vendor's or seller's obligation to collect and remit sales taxes under section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code or use taxes under section 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code. Division (A) of this section does not apply in

determining the jurisdiction for which sellers are required to collect the use tax under section 5741.05 of the Revised Code. This section does not affect the obligation of a consumer to remit use taxes on the storage, use, or other consumption of tangible personal property or on the benefit realized of any service provided, to the jurisdiction of that storage, use, or consumption, or benefit realized.

(B)(1) As used in this division:

(a) "Delivery sale" means the taxable sale of tangible personal property or a service that is received by a consumer, or a donee designated by the consumer, in a taxing jurisdiction that is not the taxing jurisdiction in which the vendor has a fixed place of business.

(b) "Agreement" has the same meaning as in section 5740.01 of the Revised Code.

(c) "Governing board" has the same meaning as in section 5740.02 of the Revised Code.

(2) If the tax commissioner does not make the certification under section 5740.10 of the Revised Code, a vendor that is not required by division (A) of this section to situs sales under divisions (C) to (I) of this section on the date of the commissioner's certification may continue after that date to situs its sales under section 5739.035 of the Revised Code unless it is required, under division (B)(5) of this section, to situs its sales under divisions (C) to (I) of this section.

(3) Except as otherwise provided in divisions (B)(4) and (5) of this section, a vendor with total delivery sales within this state in prior calendar years, beginning with calendar year 2007, of less than five hundred thousand dollars may situs its sales under section 5739.035 of the Revised Code.

(4) Once a vendor has total delivery sales in this state of five hundred thousand dollars or more for a prior calendar year, the vendor shall source its sales under divisions (C) to (I) of this section and shall continue to source its sales under those divisions regardless of the amount of the vendor's total delivery sales in future years.

(5) A vendor permitted under division (B)(3) of this section to situs its sales under section 5739.035 of the Revised Code that fails to provide, absent a clerical error, the notices required under division (I)(1) of section 5739.035 of the Revised Code shall situs all subsequent sales as required under divisions (C) to (I) of this section.

(C) Except for sales, other than leases, of titled motor vehicles, titled watercraft, or titled outboard motors as provided in section 5741.05 of the Revised Code, or as otherwise provided in this section and section 5739.034 of the Revised Code, all sales shall be sourced as follows:

(1) If the consumer or a donee designated by the consumer receives tangible personal property or a service at a vendor's place of business, the sale shall be sourced to that place of business.

(2) When the tangible personal property or service is not received at a vendor's place of business, the sale shall be sourced to the location known to the vendor where the consumer or the donee designated by the consumer receives the tangible personal property or service, including the location indicated by instructions for delivery to the consumer or the consumer's donee.

(3) If divisions (C)(1) and (2) of this section do not apply, the sale shall be sourced to the location indicated by an address for the consumer that is available from the vendor's business records that are maintained in the ordinary course of the vendor's business, when use of that address does not constitute bad faith.

(4) If divisions (C)(1), (2), and (3) of this section do not apply, the sale shall be sourced to the location indicated by an address for the consumer obtained during the consummation of the sale, including the address associated with the consumer's payment instrument, if no other address is available, when use of that address does not constitute bad faith.

(5) If divisions (C)(1), (2), (3), and (4) of this section do not apply, including in the circumstance where the vendor is without sufficient information to apply any of those divisions, the sale shall be sourced to the address from which tangible personal property was shipped, or from which the service was provided, disregarding any location that merely provided the electronic transfer of the property sold or service provided.

(6) As used in division (C) of this section, "receive" means taking possession of tangible personal property or making first use of a service. "Receive" does not include possession by a shipping company on behalf of a consumer.

(D)(1)(a) Notwithstanding divisions (C)(1) to (5) of this section, a business consumer that is not a holder of a direct payment permit granted under section 5739.031 of the Revised Code, that purchases a digital good, computer software, except computer software received in person by a business consumer at a vendor's place of business, or a service, and that knows at the time of purchase that such digital good, software, or service will be concurrently available for use in more than one taxing jurisdiction shall deliver to the vendor in conjunction with its purchase an exemption certificate claiming multiple points of use, or shall meet the requirements of division (D)(2) of this section. On receipt of the exemption certificate claiming multiple points of use, the vendor is relieved of its obligation to

collect, pay, or remit the tax due, and the business consumer must pay the tax directly to the state.

(b) A business consumer that delivers the exemption certificate claiming multiple points of use to a vendor may use any reasonable, consistent, and uniform method of apportioning the tax due on the digital good, computer software, or service that is supported by the consumer's business records as they existed at the time of the sale. The business consumer shall report and pay the appropriate tax to each jurisdiction where concurrent use occurs. The tax due shall be calculated as if the apportioned amount of the digital good, computer software, or service had been delivered to each jurisdiction to which the sale is apportioned under this division.

(c) The exemption certificate claiming multiple points of use shall remain in effect for all future sales by the vendor to the business consumer until it is revoked in writing by the business consumer, except as to the business consumer's specific apportionment of a subsequent sale under division (D)(1)(b) of this section and the facts existing at the time of the sale.

(2) When the vendor knows that a digital good, computer software, or service sold will be concurrently available for use by the business consumer in more than one jurisdiction, but the business consumer does not provide an exemption certificate claiming multiple points of use as required by division (D)(1) of this section, the vendor may work with the business consumer to produce the correct apportionment. Governed by the principles of division (D)(1)(b) of this section, the vendor and business consumer may use any reasonable, but consistent and uniform, method of apportionment that is supported by the vendor's and business consumer's books and records as they exist at the time the sale is reported for purposes of the taxes levied under this chapter. If the business consumer certifies to the accuracy of the apportionment and the vendor accepts the certification, the vendor shall collect and remit the tax accordingly. In the absence of bad faith, the vendor is relieved of any further obligation to collect tax on any transaction where the vendor has collected tax pursuant to the information certified by the business consumer.

(3) When the vendor knows that the digital good, computer software, or service will be concurrently available for use in more than one jurisdiction, and the business consumer does not have a direct pay permit and does not provide to the vendor an exemption certificate claiming multiple points of use as required in division (D)(1) of this section, or certification pursuant to division (D)(2) of this section, the vendor shall collect and remit the tax based on division (C) of this section.

(4) Nothing in this section shall limit a person's obligation for sales or use tax to any state in which a digital good, computer software, or service is concurrently available for use, nor limit a person's ability under local, state, or federal law, to claim a credit for sales or use taxes legally due and paid to other jurisdictions.

(E) A person who holds a direct payment permit issued under section 5739.031 of the Revised Code is not required to deliver an exemption certificate claiming multiple points of use to a vendor. But such permit holder shall comply with division (D)(2) of this section in apportioning the tax due on a digital good, computer software, or a service for use in business that will be concurrently available for use in more than one taxing jurisdiction.

(F)(1) Notwithstanding divisions (C)(1) to (5) of this section, the consumer of direct mail that is not a holder of a direct payment permit shall provide to the vendor in conjunction with the sale either an exemption certificate claiming direct mail prescribed by the tax commissioner, or information to show the jurisdictions to which the direct mail is delivered to recipients.

(2) Upon receipt of such exemption certificate, the vendor is relieved of all obligations to collect, pay, or remit the applicable tax and the consumer is obligated to pay that tax on a direct pay basis. An exemption certificate claiming direct mail shall remain in effect for all future sales of direct mail by the vendor to the consumer until it is revoked in writing.

(3) Upon receipt of information from the consumer showing the jurisdictions to which the direct mail is delivered to recipients, the vendor shall collect the tax according to the delivery information provided by the consumer. In the absence of bad faith, the vendor is relieved of any further obligation to collect tax on any transaction where the vendor has collected tax pursuant to the delivery information provided by the consumer.

(4) If the consumer of direct mail does not have a direct payment permit and does not provide the vendor with either an exemption certificate claiming direct mail or delivery information as required by division (F)(1) of this section, the vendor shall collect the tax according to division (C)(5) of this section. Nothing in division (F)(4) of this section shall limit a consumer's obligation to pay sales or use tax to any state to which the direct mail is delivered.

(5) If a consumer of direct mail provides the vendor with documentation of direct payment authority, the consumer shall not be required to provide an exemption certificate claiming direct mail or delivery information to the vendor.

(G) If the vendor provides lodging to transient guests as specified in division (B)(2) of section 5739.01 of the Revised Code, the sale shall be sourced to the location where the lodging is located.

(H)(1) As used in this division and division (I) of this section, "transportation equipment" means any of the following:

(a) Locomotives and railcars that are utilized for the carriage of persons or property in interstate commerce.

(b) Trucks and truck-tractors with a gross vehicle weight rating of greater than ten thousand pounds, trailers, semi-trailers, or passenger buses that are registered through the international registration plan and are operated under authority of a carrier authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate commerce.

(c) Aircraft that are operated by air carriers authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate or foreign commerce.

(d) Containers designed for use on and component parts attached to or secured on the items set forth in division (H)(1)(a), (b), or (c) of this section.

(2) A sale, lease, or rental of transportation equipment shall be sourced pursuant to division (C) of this section.

(I)(1) A lease or rental of tangible personal property that does not require recurring periodic payments shall be sourced pursuant to division (C) of this section.

(2) A lease or rental of tangible personal property that requires recurring periodic payments shall be sourced as follows:

(a) In the case of a motor vehicle, other than a motor vehicle that is transportation equipment, or an aircraft, other than an aircraft that is transportation equipment, such lease or rental shall be sourced as follows:

(i) An accelerated tax payment on a lease or rental taxed pursuant to division (A)(2) of section 5739.02 of the Revised Code shall be sourced to the primary property location at the time the lease or rental is consummated. Any subsequent taxable charges on the lease or rental shall be sourced to the primary property location for the period in which the charges are incurred.

(ii) For a lease or rental taxed pursuant to division (A)(3) of section 5739.02 of the Revised Code, each lease or rental installment shall be sourced to the primary property location for the period covered by the installment.

(b) In the case of a lease or rental of all other tangible personal property, other than transportation equipment, such lease or rental shall be sourced as

follows:

(i) An accelerated tax payment on a lease or rental that is taxed pursuant to division (A)(2) of section 5739.02 of the Revised Code shall be sourced pursuant to division (C) of this section at the time the lease or rental is consummated. Any subsequent taxable charges on the lease or rental shall be sourced to the primary property location for the period in which the charges are incurred.

(ii) For a lease or rental that is taxed pursuant to division (A)(3) of section 5739.02 of the Revised Code, the initial lease or rental installment shall be sourced pursuant to division (C) of this section. Each subsequent installment shall be sourced to the primary property location for the period covered by the installment.

(3) As used in division (I) of this section, "primary property location" means an address for tangible personal property provided by the lessee or renter that is available to the lessor or owner from its records maintained in the ordinary course of business, when use of that address does not constitute bad faith.

(J) Sales described in division (B)(11) of section 5739.01 of the Revised Code shall be sourced to the location of the enrollee for whom a medicaid health insuring corporation receives managed care premiums. Such sales shall be sourced to the locations of the enrollees in the same proportion as the managed care premiums received by the medicaid health insuring corporation on behalf of enrollees located in a particular taxing jurisdiction in Ohio as compared to all managed care premiums received by the medicaid health insuring corporation.

Sec. 5739.051. (A) The tax commissioner shall issue a direct payment permit to a medicaid health insuring corporation that authorizes the medicaid health insuring corporation to pay all taxes due on sales described in division (B)(11) of section 5739.01 of the Revised Code directly to the state. Each medicaid health insuring corporation shall pay pursuant to such direct payment authority all sales tax levied on such sales by sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code and all use tax levied on such sales pursuant to sections 5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code, unless division (B)(11)(b) of section 5739.01 of the Revised Code applies.

(B) Each medicaid health insuring corporation shall, on or before the twenty-third day of each month, file a return for the preceding month on a form prescribed by the tax commissioner and shall pay the tax shown on the return to be due, unless division (B)(11)(b) of section 5739.01 of the Revised Code applies. The return shall show the amount of tax due from the

medicaid health care insuring corporation for the period covered by the return and other such information as the commissioner deems necessary. Upon written request, the commissioner may extend the time for filing the return and paying the tax. The commissioner may require each medicaid health insuring corporation to file returns and remit payment by electronic means as provided in section 5739.032 of the Revised Code.

Sec. 5739.09. (A)(1) A board of county commissioners may, by resolution adopted by a majority of the members of the board, levy an excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The board shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. Except as provided in divisions (A)(2), (3), (4), (5), (6), and (7) of this section, the regulations shall provide, after deducting the real and actual costs of administering the tax, for the return to each municipal corporation or township that does not levy an excise tax on the transactions, a uniform percentage of the tax collected in the municipal corporation or in the unincorporated portion of the township from each transaction, not to exceed thirty-three and one-third per cent. The remainder of the revenue arising from the tax shall be deposited in a separate fund and shall be spent solely to make contributions to the convention and visitors' bureau operating within the county, including a pledge and contribution of any portion of the remainder pursuant to an agreement authorized by section 307.695 of the Revised Code, provided that if the board of county commissioners of an eligible county as defined in section 307.695 of the Revised Code adopts a resolution amending a resolution levying a tax under this division to provide that the revenue from the tax shall be used by the board as described in division (H) of section 307.695 of the Revised Code, the remainder of the revenue shall be used as described in the resolution making that amendment. Except as provided in division (A)(2), (3), (4), (5), (6), or (7) or (H) of this section, on and after May 10, 1994, a board of county commissioners may not levy an excise tax pursuant to this division in any municipal corporation or township located wholly or partly within the county that has in effect an ordinance or resolution levying an excise tax pursuant to division (B) of this section. The board of a county that has levied a tax under division (C) of this section may, by resolution adopted within ninety days after July 15, 1985,

by a majority of the members of the board, amend the resolution levying a tax under this division to provide for a portion of that tax to be pledged and contributed in accordance with an agreement entered into under section 307.695 of the Revised Code. A tax, any revenue from which is pledged pursuant to such an agreement, shall remain in effect at the rate at which it is imposed for the duration of the period for which the revenue from the tax has been so pledged.

The board of county commissioners of an eligible county as defined in section 307.695 of the Revised Code may, by resolution adopted by a majority of the members of the board, amend a resolution levying a tax under this division to provide that the revenue from the tax shall be used by the board as described in division (H) of section 307.695 of the Revised Code, in which case the tax shall remain in effect at the rate at which it was imposed for the duration of any agreement entered into by the board under section 307.695 of the Revised Code, the duration during which any securities issued by the board under that section are outstanding, or the duration of the period during which the board owns a project as defined in section 307.695 of the Revised Code, whichever duration is longest.

(2) A board of county commissioners that levies an excise tax under division (A)(1) of this section on June 30, 1997, at a rate of three per cent, and that has pledged revenue from the tax to an agreement entered into under section 307.695 of the Revised Code or, in the case of the board of county commissioners of an eligible county as defined in section 307.695 of the Revised Code, has amended a resolution levying a tax under division (C) of this section to provide that proceeds from the tax shall be used by the board as described in division (H) of section 307.695 of the Revised Code, may, at any time by a resolution adopted by a majority of the members of the board, amend the resolution levying a tax under division (A)(1) of this section to provide for an increase in the rate of that tax up to seven per cent on each transaction; to provide that revenue from the increase in the rate shall be used as described in division (H) of section 307.695 of the Revised Code or be spent solely to make contributions to the convention and visitors' bureau operating within the county to be used specifically for promotion, advertising, and marketing of the region in which the county is located; and to provide that the rate in excess of the three per cent levied under division (A)(1) of this section shall remain in effect at the rate at which it is imposed for the duration of the period during which any agreement is in effect that was entered into under section 307.695 of the Revised Code by the board of county commissioners levying a tax under division (A)(1) of this section, the duration of the period during which any securities issued by the board

under division (I) of section 307.695 of the Revised Code are outstanding, or the duration of the period during which the board owns a project as defined in section 307.695 of the Revised Code, whichever duration is longest. The amendment also shall provide that no portion of that revenue need be returned to townships or municipal corporations as would otherwise be required under division (A)(1) of this section.

(3) A board of county commissioners that levies a tax under division (A)(1) of this section on March 18, 1999, at a rate of three per cent may, by resolution adopted not later than forty-five days after March 18, 1999, amend the resolution levying the tax to provide for all of the following:

(a) That the rate of the tax shall be increased by not more than an additional four per cent on each transaction;

(b) That all of the revenue from the increase in the rate shall be pledged and contributed to a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code on or before November 15, 1998, and used to pay costs of constructing, maintaining, operating, and promoting a facility in the county, including paying bonds, or notes issued in anticipation of bonds, as provided by that chapter;

(c) That no portion of the revenue arising from the increase in rate need be returned to municipal corporations or townships as otherwise required under division (A)(1) of this section;

(d) That the increase in rate shall not be subject to diminution by initiative or referendum or by law while any bonds, or notes in anticipation of bonds, issued by the authority under Chapter 351. of the Revised Code to which the revenue is pledged, remain outstanding in accordance with their terms, unless provision is made by law or by the board of county commissioners for an adequate substitute therefor that is satisfactory to the trustee if a trust agreement secures the bonds.

Division (A)(3) of this section does not apply to the board of county commissioners of any county in which a convention center or facility exists or is being constructed on November 15, 1998, or of any county in which a convention facilities authority levies a tax pursuant to section 351.021 of the Revised Code on that date.

As used in division (A)(3) of this section, "cost" and "facility" have the same meanings as in section 351.01 of the Revised Code, and "convention center" has the same meaning as in section 307.695 of the Revised Code.

(4)(a) A board of county commissioners that levies a tax under division (A)(1) of this section on June 30, 2002, at a rate of three per cent may, by resolution adopted not later than September 30, 2002, amend the resolution

levying the tax to provide for all of the following:

(i) That the rate of the tax shall be increased by not more than an additional three and one-half per cent on each transaction;

(ii) That all of the revenue from the increase in rate shall be pledged and contributed to a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code on or before May 15, 2002, and be used to pay costs of constructing, expanding, maintaining, operating, or promoting a convention center in the county, including paying bonds, or notes issued in anticipation of bonds, as provided by that chapter;

(iii) That no portion of the revenue arising from the increase in rate need be returned to municipal corporations or townships as otherwise required under division (A)(1) of this section;

(iv) That the increase in rate shall not be subject to diminution by initiative or referendum or by law while any bonds, or notes in anticipation of bonds, issued by the authority under Chapter 351. of the Revised Code to which the revenue is pledged, remain outstanding in accordance with their terms, unless provision is made by law or by the board of county commissioners for an adequate substitute therefor that is satisfactory to the trustee if a trust agreement secures the bonds.

(b) Any board of county commissioners that, pursuant to division (A)(4)(a) of this section, has amended a resolution levying the tax authorized by division (A)(1) of this section may further amend the resolution to provide that the revenue referred to in division (A)(4)(a)(ii) of this section shall be pledged and contributed both to a convention facilities authority to pay the costs of constructing, expanding, maintaining, or operating one or more convention centers in the county, including paying bonds, or notes issued in anticipation of bonds, as provided in Chapter 351. of the Revised Code, and to a convention and visitors' bureau to pay the costs of promoting one or more convention centers in the county.

As used in division (A)(4) of this section, "cost" has the same meaning as in section 351.01 of the Revised Code, and "convention center" has the same meaning as in section 307.695 of the Revised Code.

(5)(a) As used in division (A)(5) of this section:

(i) "Port authority" means a port authority created under Chapter 4582. of the Revised Code.

(ii) "Port authority military-use facility" means port authority facilities on which or adjacent to which is located an installation of the armed forces of the United States, a reserve component thereof, or the national guard and at least part of which is made available for use, for consideration, by the

armed forces of the United States, a reserve component thereof, or the national guard.

(b) For the purpose of contributing revenue to pay operating expenses of a port authority that operates a port authority military-use facility, the board of county commissioners of a county that created, participated in the creation of, or has joined such a port authority may do one or both of the following:

(i) Amend a resolution previously adopted under division (A)(1) of this section to designate some or all of the revenue from the tax levied under the resolution to be used for that purpose, notwithstanding that division;

(ii) Amend a resolution previously adopted under division (A)(1) of this section to increase the rate of the tax by not more than an additional two per cent and use the revenue from the increase exclusively for that purpose.

(c) If a board of county commissioners amends a resolution to increase the rate of a tax as authorized in division (A)(5)(b)(ii) of this section, the board also may amend the resolution to specify that the increase in rate of the tax does not apply to "hotels," as otherwise defined in section 5739.01 of the Revised Code, having fewer rooms used for the accommodation of guests than a number of rooms specified by the board.

(6) A board of county commissioners of a county organized under a county charter adopted pursuant to Article X, Section 3, Ohio Constitution, and that levies an excise tax under division (A)(1) of this section at a rate of three per cent and levies an additional excise tax under division (E) of this section at a rate of one and one-half per cent may, by resolution adopted not later than January 1, 2008, by a majority of the members of the board, amend the resolution levying a tax under division (A)(1) of this section to provide for an increase in the rate of that tax by not more than an additional one per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. Notwithstanding divisions (A)(1) and (E) of this section, the resolution shall provide that all of the revenue from the increase in rate, after deducting the real and actual costs of administering the tax, shall be used to pay the costs of improving, expanding, equipping, financing, or operating a convention center by a convention and visitors' bureau in the county. The increase in rate shall remain in effect for the period specified in the resolution, not to exceed ten years. The increase in rate shall be subject to the regulations adopted under division (A)(1) of this section, except that the resolution may provide that no portion of the revenue from the increase in the rate shall be returned to townships or municipal corporations as would otherwise be required under that division.

(7) Division (A)(7) of this section applies only to a county with a

population greater than sixty-five thousand and less than seventy thousand according to the most recent federal decennial census and in which, on December 31, 2006, an excise tax is levied under division (A)(1) of this section at a rate not less than and not greater than three per cent, and in which the most recent increase in the rate of that tax was enacted or took effect in November 1984.

The board of county commissioners of a county to which this division applies, by resolution adopted by a majority of the members of the board, may increase the rate of the tax by not more than one per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The increase in rate shall be for the purpose of paying expenses deemed necessary by the convention and visitors' bureau operating in the county to promote travel and tourism. The increase in rate shall remain in effect for the period specified in the resolution, not to exceed twenty years, provided that the increase in rate may not continue beyond the time when the purpose for which the increase is levied ceases to exist. If revenue from the increase in rate is pledged to the payment of debt charges on securities, the increase in rate is not subject to diminution by initiative or referendum or by law for so long as the securities are outstanding, unless provision is made by law or by the board of county commissioners for an adequate substitute for that revenue that is satisfactory to the trustee if a trust agreement secures payment of the debt charges. The increase in rate shall be subject to the regulations adopted under division (A)(1) of this section, except that the resolution may provide that no portion of the revenue from the increase in the rate shall be returned to townships or municipal corporations as would otherwise be required under division (A)(1) of this section. A resolution adopted under division (A)(7) of this section is subject to referendum under sections 305.31 to 305.99 of the Revised Code.

(B)(1) The legislative authority of a municipal corporation or the board of trustees of a township that is not wholly or partly located in a county that has in effect a resolution levying an excise tax pursuant to division (A)(1) of this section may, by ordinance or resolution, levy an excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The legislative authority of the municipal corporation or the board of trustees of the township shall deposit at least fifty per cent of the revenue from the tax levied pursuant to this division into a separate fund, which shall be spent solely to make contributions to convention and visitors' bureaus operating within the county in which the municipal corporation or township is wholly or partly located, and the balance of that revenue shall be deposited in the general fund. The

municipal corporation or township shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. The levy of a tax under this division is in addition to any tax imposed on the same transaction by a municipal corporation or a township as authorized by division (A) of section 5739.08 of the Revised Code.

(2)(a) The legislative authority of the most populous municipal corporation located wholly or partly in a county in which the board of county commissioners has levied a tax under division (A)(4) of this section may amend, on or before September 30, 2002, that municipal corporation's ordinance or resolution that levies an excise tax on transactions by which lodging by a hotel is or is to be furnished to transient guests, to provide for all of the following:

(i) That the rate of the tax shall be increased by not more than an additional one per cent on each transaction;

(ii) That all of the revenue from the increase in rate shall be pledged and contributed to a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code on or before May 15, 2002, and be used to pay costs of constructing, expanding, maintaining, operating, or promoting a convention center in the county, including paying bonds, or notes issued in anticipation of bonds, as provided by that chapter;

(iii) That the increase in rate shall not be subject to diminution by initiative or referendum or by law while any bonds, or notes in anticipation of bonds, issued by the authority under Chapter 351. of the Revised Code to which the revenue is pledged, remain outstanding in accordance with their terms, unless provision is made by law, by the board of county commissioners, or by the legislative authority, for an adequate substitute therefor that is satisfactory to the trustee if a trust agreement secures the bonds.

(b) The legislative authority of a municipal corporation that, pursuant to division (B)(2)(a) of this section, has amended its ordinance or resolution to increase the rate of the tax authorized by division (B)(1) of this section may further amend the ordinance or resolution to provide that the revenue referred to in division (B)(2)(a)(ii) of this section shall be pledged and contributed both to a convention facilities authority to pay the costs of

constructing, expanding, maintaining, or operating one or more convention centers in the county, including paying bonds, or notes issued in anticipation of bonds, as provided in Chapter 351. of the Revised Code, and to a convention and visitors' bureau to pay the costs of promoting one or more convention centers in the county.

As used in division (B)(2) of this section, "cost" has the same meaning as in section 351.01 of the Revised Code, and "convention center" has the same meaning as in section 307.695 of the Revised Code.

(C) For the purposes described in section 307.695 of the Revised Code and to cover the costs of administering the tax, a board of county commissioners of a county where a tax imposed under division (A)(1) of this section is in effect may, by resolution adopted within ninety days after July 15, 1985, by a majority of the members of the board, levy an additional excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The tax authorized by this division shall be in addition to any tax that is levied pursuant to division (A) of this section, but it shall not apply to transactions subject to a tax levied by a municipal corporation or township pursuant to the authorization granted by division (A) of section 5739.08 of the Revised Code. The board shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. All revenues arising from the tax shall be expended in accordance with section 307.695 of the Revised Code. The board of county commissioners of an eligible county as defined in section 307.695 of the Revised Code may, by resolution adopted by a majority of the members of the board, amend the resolution levying a tax under this division to provide that the revenue from the tax shall be used by the board as described in division (H) of section 307.695 of the Revised Code. A tax imposed under this division shall remain in effect at the rate at which it is imposed for the duration of the period during which any agreement entered into by the board under section 307.695 of the Revised Code is in effect, the duration of the period during which any securities issued by the board under division (I) of section 307.695 of the Revised Code are outstanding, or the duration of the period during which the board owns a project as defined in section 307.695 of the Revised Code, whichever duration is longest.

(D) For the purpose of providing contributions under division (B)(1) of

section 307.671 of the Revised Code to enable the acquisition, construction, and equipping of a port authority educational and cultural facility in the county and, to the extent provided for in the cooperative agreement authorized by that section, for the purpose of paying debt service charges on bonds, or notes in anticipation of bonds, described in division (B)(1)(b) of that section, a board of county commissioners, by resolution adopted within ninety days after December 22, 1992, by a majority of the members of the board, may levy an additional excise tax not to exceed one and one-half per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The excise tax authorized by this division shall be in addition to any tax that is levied pursuant to divisions (A), (B), and (C) of this section, to any excise tax levied pursuant to section 5739.08 of the Revised Code, and to any excise tax levied pursuant to section 351.021 of the Revised Code. The board of county commissioners shall establish all regulations necessary to provide for the administration and allocation of the tax that are not inconsistent with this section or section 307.671 of the Revised Code. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. All revenues arising from the tax shall be expended in accordance with section 307.671 of the Revised Code and division (D) of this section. The levy of a tax imposed under this division may not commence prior to the first day of the month next following the execution of the cooperative agreement authorized by section 307.671 of the Revised Code by all parties to that agreement. The tax shall remain in effect at the rate at which it is imposed for the period of time described in division (C) of section 307.671 of the Revised Code for which the revenue from the tax has been pledged by the county to the corporation pursuant to that section, but, to any extent provided for in the cooperative agreement, for no lesser period than the period of time required for payment of the debt service charges on bonds, or notes in anticipation of bonds, described in division (B)(1)(b) of that section.

(E) For the purpose of paying the costs of acquiring, constructing, equipping, and improving a municipal educational and cultural facility, including debt service charges on bonds provided for in division (B) of section 307.672 of the Revised Code, and for any additional purposes determined by the county in the resolution levying the tax or amendments to the resolution, including subsequent amendments providing for paying costs of acquiring, constructing, renovating, rehabilitating, equipping, and

improving a port authority educational and cultural performing arts facility, as defined in section 307.674 of the Revised Code, and including debt service charges on bonds provided for in division (B) of section 307.674 of the Revised Code, the legislative authority of a county, by resolution adopted within ninety days after June 30, 1993, by a majority of the members of the legislative authority, may levy an additional excise tax not to exceed one and one-half per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The excise tax authorized by this division shall be in addition to any tax that is levied pursuant to divisions (A), (B), (C), and (D) of this section, to any excise tax levied pursuant to section 5739.08 of the Revised Code, and to any excise tax levied pursuant to section 351.021 of the Revised Code. The legislative authority of the county shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. All revenues arising from the tax shall be expended in accordance with section 307.672 of the Revised Code and this division. The levy of a tax imposed under this division shall not commence prior to the first day of the month next following the execution of the cooperative agreement authorized by section 307.672 of the Revised Code by all parties to that agreement. The tax shall remain in effect at the rate at which it is imposed for the period of time determined by the legislative authority of the county. That period of time shall not exceed fifteen years, except that the legislative authority of a county with a population of less than two hundred fifty thousand according to the most recent federal decennial census, by resolution adopted by a majority of its members before the original tax expires, may extend the duration of the tax for an additional period of time. The additional period of time by which a legislative authority extends a tax levied under this division shall not exceed fifteen years.

(F) The legislative authority of a county that has levied a tax under division (E) of this section may, by resolution adopted within one hundred eighty days after January 4, 2001, by a majority of the members of the legislative authority, amend the resolution levying a tax under that division to provide for the use of the proceeds of that tax, to the extent that it is no longer needed for its original purpose as determined by the parties to a cooperative agreement amendment pursuant to division (D) of section

307.672 of the Revised Code, to pay costs of acquiring, constructing, renovating, rehabilitating, equipping, and improving a port authority educational and cultural performing arts facility, including debt service charges on bonds provided for in division (B) of section 307.674 of the Revised Code, and to pay all obligations under any guaranty agreements, reimbursement agreements, or other credit enhancement agreements described in division (C) of section 307.674 of the Revised Code. The resolution may also provide for the extension of the tax at the same rate for the longer of the period of time determined by the legislative authority of the county, but not to exceed an additional twenty-five years, or the period of time required to pay all debt service charges on bonds provided for in division (B) of section 307.672 of the Revised Code and on port authority revenue bonds provided for in division (B) of section 307.674 of the Revised Code. All revenues arising from the amendment and extension of the tax shall be expended in accordance with section 307.674 of the Revised Code, this division, and division (E) of this section.

(G) For purposes of a tax levied by a county, township, or municipal corporation under this section or section 5739.08 of the Revised Code, a board of county commissioners, board of township trustees, or the legislative authority of a municipal corporation may adopt a resolution or ordinance at any time specifying that "hotel," as otherwise defined in section 5739.01 of the Revised Code, includes ~~establishments~~ the following:

(1) Establishments in which fewer than five rooms are used for the accommodation of guests. ~~The~~

(2) Establishments at which rooms are used for the accommodation of guests regardless of whether each room is accessible through its own keyed entry or several rooms are accessible through the same keyed entry; and, in determining the number of rooms, all rooms are included regardless of the number of structures in which the rooms are situated or the number of parcels of land on which the structures are located if the structures are under the same ownership and the structures are not identified in advertisements of the accommodations as distinct establishments. For the purposes of division (G)(2) of this section, two or more structures are under the same ownership if they are owned by the same person, or if they are owned by two or more persons the majority of the ownership interests of which are owned by the same person.

The resolution or ordinance may apply to a tax imposed pursuant to this section prior to the adoption of the resolution or ordinance if the resolution or ordinance so states, but the tax shall not apply to transactions by which lodging by such an establishment is provided to transient guests prior to the

adoption of the resolution or ordinance.

(H)(1) As used in this division:

(a) "Convention facilities authority" has the same meaning as in section 351.01 of the Revised Code.

(b) "Convention center" has the same meaning as in section 307.695 of the Revised Code.

(2) Notwithstanding any contrary provision of division (D) of this section, the legislative authority of a county with a population of one million or more according to the most recent federal decennial census that has levied a tax under division (D) of this section may, by resolution adopted by a majority of the members of the legislative authority, provide for the extension of such levy and may provide that the proceeds of that tax, to the extent that they are no longer needed for their original purpose as defined by a cooperative agreement entered into under section 307.671 of the Revised Code, shall be deposited into the county general revenue fund. The resolution shall provide for the extension of the tax at a rate not to exceed the rate specified in division (D) of this section for a period of time determined by the legislative authority of the county, but not to exceed an additional forty years.

(3) The legislative authority of a county with a population of one million or more that has levied a tax under division (A)(1) of this section may, by resolution adopted by a majority of the members of the legislative authority, increase the rate of the tax levied by such county under division (A)(1) of this section to a rate not to exceed five per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. Notwithstanding any contrary provision of division (A)(1) of this section, the resolution may provide that all collections resulting from the rate levied in excess of three per cent, after deducting the real and actual costs of administering the tax, shall be deposited in the county general fund.

(4) The legislative authority of a county with a population of one million or more that has levied a tax under division (A)(1) of this section may, by resolution adopted on or before August 30, 2004, by a majority of the members of the legislative authority, provide that all or a portion of the proceeds of the tax levied under division (A)(1) of this section, after deducting the real and actual costs of administering the tax and the amounts required to be returned to townships and municipal corporations with respect to the first three per cent levied under division (A)(1) of this section, shall be deposited in the county general fund, provided that such proceeds shall be used to satisfy any pledges made in connection with an agreement entered into under section 307.695 of the Revised Code.

(5) No amount collected from a tax levied, extended, or required to be deposited in the county general fund under division (H) of this section shall be contributed to a convention facilities authority, corporation, or other entity created after July 1, 2003, for the principal purpose of constructing, improving, expanding, equipping, financing, or operating a convention center unless the mayor of the municipal corporation in which the convention center is to be operated by that convention facilities authority, corporation, or other entity has consented to the creation of that convention facilities authority, corporation, or entity. Notwithstanding any contrary provision of section 351.04 of the Revised Code, if a tax is levied by a county under division (H) of this section, the board of county commissioners of that county may determine the manner of selection, the qualifications, the number, and terms of office of the members of the board of directors of any convention facilities authority, corporation, or other entity described in division (H)(5) of this section.

(6)(a) No amount collected from a tax levied, extended, or required to be deposited in the county general fund under division (H) of this section may be used for any purpose other than paying the direct and indirect costs of constructing, improving, expanding, equipping, financing, or operating a convention center and for the real and actual costs of administering the tax, unless, prior to the adoption of the resolution of the legislative authority of the county authorizing the levy, extension, increase, or deposit, the county and the mayor of the most populous municipal corporation in that county have entered into an agreement as to the use of such amounts, provided that such agreement has been approved by a majority of the mayors of the other municipal corporations in that county. The agreement shall provide that the amounts to be used for purposes other than paying the convention center or administrative costs described in division (H)(6)(a) of this section be used only for the direct and indirect costs of capital improvements, including the financing of capital improvements.

(b) If the county in which the tax is levied has an association of mayors and city managers, the approval of that association of an agreement described in division (H)(6)(a) of this section shall be considered to be the approval of the majority of the mayors of the other municipal corporations for purposes of that division.

(7) Each year, the auditor of state shall conduct an audit of the uses of any amounts collected from taxes levied, extended, or deposited under division (H) of this section and shall prepare a report of the auditor of state's findings. The auditor of state shall submit the report to the legislative authority of the county that has levied, extended, or deposited the tax, the

speaker of the house of representatives, the president of the senate, and the leaders of the minority parties of the house of representatives and the senate.

(I)(1) As used in this division:

(a) "Convention facilities authority" has the same meaning as in section 351.01 of the Revised Code.

(b) "Convention center" has the same meaning as in section 307.695 of the Revised Code.

(2) Notwithstanding any contrary provision of division (D) of this section, the legislative authority of a county with a population of one million two hundred thousand or more according to the most recent federal decennial census or the most recent annual population estimate published or released by the United States census bureau at the time the resolution is adopted placing the levy on the ballot, that has levied a tax under division (D) of this section may, by resolution adopted by a majority of the members of the legislative authority, provide for the extension of such levy and may provide that the proceeds of that tax, to the extent that the proceeds are no longer needed for their original purpose as defined by a cooperative agreement entered into under section 307.671 of the Revised Code and after deducting the real and actual costs of administering the tax, shall be used for paying the direct and indirect costs of constructing, improving, expanding, equipping, financing, or operating a convention center. The resolution shall provide for the extension of the tax at a rate not to exceed the rate specified in division (D) of this section for a period of time determined by the legislative authority of the county, but not to exceed an additional forty years.

(3) The legislative authority of a county with a population of one million two hundred thousand or more that has levied a tax under division (A)(1) of this section may, by resolution adopted by a majority of the members of the legislative authority, increase the rate of the tax levied by such county under division (A)(1) of this section to a rate not to exceed five per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. Notwithstanding any contrary provision of division (A)(1) of this section, the resolution shall provide that all collections resulting from the rate levied in excess of three per cent, after deducting the real and actual costs of administering the tax, shall be used for paying the direct and indirect costs of constructing, improving, expanding, equipping, financing, or operating a convention center.

(4) The legislative authority of a county with a population of one million two hundred thousand or more that has levied a tax under division (A)(1) of this section may, by resolution adopted on or before July 1, 2008,

by a majority of the members of the legislative authority, provide that all or a portion of the proceeds of the tax levied under division (A)(1) of this section, after deducting the real and actual costs of administering the tax and the amounts required to be returned to townships and municipal corporations with respect to the first three per cent levied under division (A)(1) of this section, shall be used to satisfy any pledges made in connection with an agreement entered into under section 307.695 of the Revised Code or shall otherwise be used for paying the direct and indirect costs of constructing, improving, expanding, equipping, financing, or operating a convention center.

(5) Any amount collected from a tax levied or extended under division (I) of this section may be contributed to a convention facilities authority created before July 1, 2005, but no amount collected from a tax levied or extended under division (I) of this section may be contributed to a convention facilities authority, corporation, or other entity created after July 1, 2005, unless the mayor of the municipal corporation in which the convention center is to be operated by that convention facilities authority, corporation, or other entity has consented to the creation of that convention facilities authority, corporation, or entity.

Sec. 5739.131. Any nonresident of this state who accepts the privilege extended by the laws of this state to nonresidents of engaging in the business of selling in this state, as defined in section 5741.01 of the Revised Code, and any resident of this state who is required by sections 5739.17 and 5739.31 of the Revised Code to have a vendor's license and subsequently becomes a nonresident or conceals ~~his~~ the person's whereabouts, makes the secretary of state ~~his~~ the person's agent for the service of process or notice in any assessment, action, or proceedings instituted in this state against such person under sections 5739.01 to 5739.31 and 5741.01 to 5741.22 of the Revised Code.

~~Such process or notice shall be served, by the officer to whom the same is directed or by the tax commissioner, or by the sheriff of Franklin county, who may be deputized for such purpose by the officer to whom the service is directed, upon the secretary of state by leaving at the office of the secretary of state, at least fifteen days before the return day of such process or notice, a true and attested copy thereof, and by sending to the defendant by certified mail, postage prepaid, a like and true attested copy, with an endorsement thereon of the service upon the secretary of state, addressed to such defendant at his last known address as provided under section 5703.37 of the Revised Code.~~

Sec. 5743.15. (A) ~~No~~ Except as otherwise provided in this division, no

person shall engage in this state in the wholesale or retail business of trafficking in cigarettes or in the business of a manufacturer or importer of cigarettes without having a license to conduct each such activity issued by a county auditor under division (B) of this section or the tax commissioner under ~~division (E)~~ divisions (C) and (F) of this section, ~~except that on~~. On dissolution of a partnership by death, the surviving partner may operate under the license of the partnership until expiration of the license, and the heirs or legal representatives of deceased persons, and receivers and trustees in bankruptcy appointed by any competent authority, may operate under the license of the person succeeded in possession by such heir, representative, receiver, or trustee in bankruptcy if the partner or successor notifies the issuer of the license of the dissolution or succession within thirty days after the dissolution or succession.

(B)(1) Each applicant for a license to engage in the ~~wholesale or~~ retail business of trafficking in cigarettes under this section, annually, on or before the fourth Monday of May, shall make and deliver to the county auditor of the county in which the applicant desires to engage in the ~~wholesale or~~ retail business of trafficking in cigarettes, upon a blank form furnished by such auditor for that purpose, a statement showing the name of the applicant, each physical place in the county where the applicant's business is conducted, the nature of the business, and any other information the tax commissioner requires in the form of statement prescribed by the commissioner. If the applicant is a firm, partnership, or association other than a corporation, the application shall state the name and address of each of its members. If the applicant is a corporation, the application shall state the name and address of each of its officers. At the time of making the application required by this section, every person ~~desiring to engage in the wholesale business of trafficking in cigarettes shall pay into the county treasury a license tax in the sum of two hundred dollars, or if desiring to engage in the retail business of trafficking in cigarettes, a license tax shall pay an application fee in the sum of thirty one hundred twenty-five dollars for each of the first five places~~ physical place where the person proposes to carry on such business ~~and twenty five dollars for each additional place~~. Each place of business shall be deemed such space, under lease or license to, or under the control of, or under the supervision of the applicant, as is contained in one or more contiguous, adjacent, or adjoining buildings constituting an industrial plant or a place of business operated by, or under the control of, one person, or under one roof and connected by doors, halls, stairways, or elevators, which space may contain any number of points at which cigarettes are offered for sale, provided that each additional point at

which cigarettes are offered for sale shall be listed in the application.

(2) Upon receipt of the application and exhibition of the county treasurer's receipt showing the payment of the ~~tax~~ application fee, the county auditor shall issue to the applicant a license for each place of business designated in the application, authorizing the applicant to engage in such business at such place for one year commencing on the fourth Monday of May. ~~Companies operating club or dining cars or other cars upon which cigarettes are sold shall obtain licenses at railroad terminals within the state, under such rules as are prescribed by the commissioner.~~ The form of the license shall be prescribed by the commissioner. A duplicate license may be obtained from the county auditor upon payment of a ~~fifty-cent~~ five-dollar fee if the original license is lost, destroyed, or defaced. When an application is filed after the fourth Monday of May, the ~~license tax~~ application fee required to be paid shall be proportioned in amount to the remainder of the license year, except that it shall not be less than ~~one-fifth of the whole amount~~ twenty-five dollars in any one year.

(3) The holder of a ~~wholesale or~~ retail dealer's cigarette license may transfer the license to a place of business within the same county other than that designated on the license ~~or may assign the license to another person for use in the same county~~ on condition that the ~~licensee or assignee, whichever is applicable, make application~~ licensee's ownership interest and business structure remain unchanged, and that the licensee applies to the county auditor therefor, upon forms approved by the commissioner and the payment of a fee of ~~one dollar~~ five dollars into the county treasury.

(C)(1) Each applicant for a license to engage in the wholesale business of trafficking in cigarettes under this section, annually, on or before the fourth Monday in May, shall make and deliver to the tax commissioner, upon a blank form furnished by the commissioner for that purpose, a statement showing the name of the applicant, physical street address where the applicant's business is conducted, the nature of the business, and any other information required by the commissioner. If the applicant is a firm, partnership, or association other than a corporation, the applicant shall state the name and address of each of its members. If the applicant is a corporation, the applicant shall state the name and address of each of its officers. At the time of making the application required by this section, every person desiring to engage in the wholesale business of trafficking in cigarettes shall pay an application fee of one thousand dollars for each physical place where the person proposes to carry on such business. Each place of business shall be deemed such space, under lease or license to, or under the control of, or under the supervision of the applicant, as is

contained in one or more contiguous, adjacent, or adjoining buildings constituting an industrial plant or a place of business operated by, or under the control of, one person, or under one roof and connected by doors, halls, stairways, or elevators. A duplicate license may be obtained from the commissioner upon payment of a twenty-five-dollar fee if the original license is lost, destroyed, or defaced.

(2) Upon receipt of the application and payment of any application fee required by this section, the commissioner shall verify that the applicant is in good standing under Chapter 1346. and Title LVII of the Revised Code. Upon approval, the commissioner shall issue to the applicant a license for each physical place of business designated in the application authorizing the applicant to engage in business at that location for one year commencing on the fourth Monday in May. For licenses issued after the fourth Monday in May, the application fee shall be reduced proportionately by the remainder of the twelve-month period for which the license is issued, except that the application fee required to be paid under this section shall be not less than two hundred dollars in any one year.

(3) The holder of a wholesale dealer cigarette license may transfer the license to a place of business other than that designated on the license on condition that the licensee's ownership or business structure remains unchanged, and that the licensee applies to the commissioner for such a transfer upon a form promulgated by the commissioner and pays a fee of twenty-five dollars, which shall be deposited into the cigarette tax enforcement fund created in division (E) of this section.

(D)(1) The wholesale cigarette ~~tax revenue~~ application fees collected under this section shall be ~~distributed as follows:~~

~~(a) Thirty seven and one half per cent shall be paid upon the warrant of the county auditor into the treasury of the municipal corporation or township in which the place of business for which the tax revenue was received is located;~~

~~(b) Fifteen per cent shall be credited to the general fund of the county;~~

~~(c) Forty seven and one half per cent shall be paid into the cigarette tax enforcement fund created by division (C) of this section.~~

(2) The ~~revenue~~ retail cigarette license application fees collected ~~from the thirty dollar tax imposed upon the first five places of business of a person engaged in the retail business of trafficking in cigarettes~~ under this section shall be distributed as follows:

(a) ~~Sixty two and one half~~ Thirty per cent shall be paid upon the warrant of the county auditor into the treasury of the municipal corporation or township in which the places of business for which the tax revenue was

received are located;

(b) ~~Twenty two and one half~~ Ten per cent shall be credited to the general fund of the county;

(c) ~~Fifteen~~ Sixty per cent shall be paid into the cigarette tax enforcement fund ~~created by division (C) of this section.~~

(3) The remainder of the revenues and fines collected under this section and the penal laws relating to cigarettes shall be distributed as follows:

(a) Three-fourths shall be paid upon the warrant of the county auditor into the treasury of the municipal corporation or township in which the place of business, on account of which the revenues and fines were received, is located;

(b) One-fourth shall be credited to the general fund of the county.

~~(D)~~(E) There is hereby created within the state treasury the cigarette tax enforcement fund for the purpose of providing funds to assist in paying the costs of enforcing sections 1333.11 to 1333.21 and Chapter 5743. of the Revised Code.

The portion of cigarette license ~~tax revenues~~ application fees received by a county auditor during the annual application period that ends ~~before~~ on the fourth Monday in May ~~which and that~~ is required to be deposited in the cigarette tax enforcement fund shall be sent to the treasurer of state by the thirtieth day of June each year accompanied by the form prescribed by the tax commissioner. The portion of cigarette license ~~tax money~~ application fees received by each county auditor after the fourth Monday in May ~~which and that~~ is required to be deposited in the cigarette tax enforcement fund shall be sent to the treasurer of state by the ~~thirty first day of December~~ last day of the month following the month in which such fees were collected.

~~(E)~~(F)(1) Every person who desires to engage in the business of a manufacturer or importer of cigarettes shall, annually, on or before the fourth Monday of May, make and deliver to the tax commissioner, upon a blank form furnished by the commissioner for that purpose, a statement showing the name of the applicant, the nature of the applicant's business, and any other information required by the commissioner. If the applicant is a firm, partnership, or association other than a corporation, the applicant shall state the name and address of each of its members. If the applicant is a corporation, the applicant shall state the name and address of each of its officers.

(2) Upon receipt of the application required under this section, the commissioner shall verify that the applicant is in good standing under Chapter 1346. and Title LVII of the Revised Code. Upon approval, the commissioner shall issue to the applicant a license authorizing the applicant

to engage in the business of manufacturer or importer, whichever the case may be, for one year commencing on the fourth Monday of May.

~~(2)~~(3) The issuing of a license under division ~~(E)~~(F)(1) of this section to a manufacturer does not excuse a manufacturer from the certification process required under section 1346.05 of the Revised Code. A manufacturer who is issued a license under division ~~(E)~~(F)(1) of this section and who is not listed on the directory required under section 1346.05 of the Revised Code shall not be permitted to sell cigarettes in this state other than to a licensed cigarette wholesaler for sale outside this state. Such a manufacturer shall provide documentation to the commissioner evidencing that the cigarettes are legal for sale in another state.

~~(3)~~(G) The tax commissioner may adopt rules necessary to administer ~~division (E)~~ of this section.

Sec. 5743.61. (A) ~~No~~ Except as otherwise provided in this division, no distributor shall engage in the business of distributing tobacco products within this state without having a license issued by the department of taxation to engage in that business, ~~except that on~~. On the dissolution of a partnership by death, the surviving partner may operate under the license of the partnership until the expiration of the license, and the heirs or legal representatives of deceased persons, and receivers and trustees in bankruptcy appointed by any competent authority, may operate under the license of the person succeeded in possession by the heir, representative, receiver, or trustee in bankruptcy if the partner or successor notifies the department of taxation of the dissolution or succession within thirty days after the dissolution or succession.

(B)(1) Each applicant for a license to engage in the business of distributing tobacco products, annually, on or before the first day of February, shall make and deliver to the tax commissioner, upon a form furnished by the commissioner for that purpose, a statement showing the name of the applicant, each physical place from which the applicant distributes to distributors, retail dealers, or wholesale dealers, and any other information the commissioner considers necessary for the administration of sections 5743.51 to 5743.66 of the Revised Code.

(2) At the time of making the license application, the applicant shall pay ~~a license~~ an application fee of one ~~hundred thousand~~ hundred thousand dollars for each place listed ~~in~~ on the application where ~~he~~ the applicant proposes to carry on that business. The fee charged for the ~~license~~ application shall accompany the application and shall be made payable to the treasurer of state for deposit into the cigarette tax enforcement fund.

(3) Upon receipt of the application and payment of any licensing fee

required by this section, the commissioner shall issue to the applicant a license for each place of distribution designated in the application authorizing the applicant to engage in business at that location for one year commencing on the first day of February. For licenses issued after the first day of February, the license application fee shall be reduced proportionately by the remainder of the twelve-month period for which the license is issued, except that the application fee required to be paid under this section shall be not less than two hundred dollars. If the original license is lost, destroyed, or defaced, a duplicate license may be obtained from the commissioner upon payment of a license replacement fee of twenty-five dollars.

(C) The holder of a tobacco products license may transfer the license to a place of business ~~or may assign the license to another person for use,~~ on condition that the licensee's ownership and business structure remains unchanged and the licensee or assignee applies to the commissioner for the transfer, ~~upon forms on a form~~ issued by the commissioner, and pays a transfer fee of twenty-five dollars.

(D) If a distributor fails to file ~~the returns forms~~ forms as required under Chapter 1346. or section 5743.52 of the Revised Code; or pay the tax due ~~thereon, on for~~ two consecutive ~~months periods~~ or three ~~months periods~~ during any twelve-month period, the commissioner may suspend the license issued to the distributor under this section. The suspension is effective ten days after the commissioner notifies the distributor of the suspension in writing personally or by certified mail. The commissioner shall lift the suspension when the distributor files the delinquent ~~returns forms~~ forms and pays the tax due, including any penalties, interest, and additional charges. The commissioner may refuse to issue the annual renewal of the license required by this section and may refuse to issue a new license for the same location until all delinquent ~~returns forms~~ forms are filed and outstanding taxes are paid. This division does not apply to any unpaid or underpaid tax liability that is the subject of a ~~petition~~ petition or appeal filed pursuant to section 5743.56, 5717.02, or 5717.04 of the Revised Code.

Sec. 5747.01. Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(A) "Adjusted gross income" or "Ohio adjusted gross income" means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:

(1) Add interest or dividends on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities.

(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes.

(3) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.

(5) Deduct benefits under Title II of the Social Security Act and tier 1 railroad retirement benefits to the extent included in federal adjusted gross income under section 86 of the Internal Revenue Code.

(6) In the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, add, for the beneficiary's taxable years beginning before 2002, the portion, if any, of such distribution that does not exceed the undistributed net income of the trust for the three taxable years preceding the taxable year in which the distribution is made to the extent that the portion was not included in the trust's taxable income for any of the trust's taxable years beginning in 2002 or thereafter. "Undistributed net income of a trust" means the taxable income of the trust increased by (a)(i) the additions to adjusted gross income required under division (A) of this section and (ii) the personal exemptions allowed to the trust pursuant to section 642(b) of the Internal Revenue Code, and decreased by (b)(i) the deductions to adjusted gross income required under division (A) of this section, (ii) the amount of federal income taxes attributable to such income, and (iii) the amount of taxable income that has been included in the adjusted gross income of a beneficiary by reason of a prior accumulation distribution. Any undistributed net income included in the adjusted gross income of a beneficiary shall reduce the undistributed net income of the trust commencing with the earliest years of the accumulation period.

(7) Deduct the amount of wages and salaries, if any, not otherwise

allowable as a deduction but that would have been allowable as a deduction in computing federal adjusted gross income for the taxable year, had the targeted jobs credit allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.

(8) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent that the interest or interest equivalent is included in federal adjusted gross income.

(9) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of public obligations to the extent that the loss has been deducted or the gain has been included in computing federal adjusted gross income.

(10) Deduct or add amounts, as provided under section 5747.70 of the Revised Code, related to contributions to variable college savings program accounts made or tuition units purchased pursuant to Chapter 3334. of the Revised Code.

(11)(a) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer paid during the taxable year for medical care insurance and qualified long-term care insurance for the taxpayer, the taxpayer's spouse, and dependents. No deduction for medical care insurance under division (A)(11) of this section shall be allowed either to any taxpayer who is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the taxpayer's spouse, or to any taxpayer who is entitled to, or on application would be entitled to, benefits under part A of Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of division (A)(11)(a) of this section, "subsidized health plan" means a health plan for which the employer pays any portion of the plan's cost. The deduction allowed under division (A)(11)(a) of this section shall be the net of any related premium refunds, related premium reimbursements, or related insurance premium dividends received during the taxable year.

(b) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income during the taxable year, the amount the taxpayer paid during the taxable year, not compensated for by any insurance or otherwise, for medical care of the taxpayer, the taxpayer's spouse, and dependents, to the extent the expenses exceed seven and one-half per cent of the taxpayer's federal adjusted gross income.

(c) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income, any amount included in federal adjusted gross income under section 105 or not excluded under

section 106 of the Internal Revenue Code solely because it relates to an accident and health plan for a person who otherwise would be a "qualifying relative" and thus a "dependent" under section 152 of the Internal Revenue Code but for the fact that the person fails to meet the income and support limitations under section 152(d)(1)(B) and (C) of the Internal Revenue Code.

(d) For purposes of division (A)(11) of this section, "medical care" has the meaning given in section 213 of the Internal Revenue Code, subject to the special rules, limitations, and exclusions set forth therein, and "qualified long-term care" has the same meaning given in section 7702B(c) of the Internal Revenue Code. Solely for purposes of divisions (A)(11)(a) and (c) of this section, "dependent" includes a person who otherwise would be a "qualifying relative" and thus a "dependent" under section 152 of the Internal Revenue Code but for the fact that the person fails to meet the income and support limitations under section 152(d)(1)(B) and (C) of the Internal Revenue Code.

(12)(a) Deduct any amount included in federal adjusted gross income solely because the amount represents a reimbursement or refund of expenses that in any year the taxpayer had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable United States department of the treasury regulations. The deduction otherwise allowed under division (A)(12)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio adjusted gross income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio adjusted gross income in any taxable year.

(13) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year;

(b) It does not otherwise reduce the taxpayer's adjusted gross income for the current or any other taxable year.

(14) Deduct an amount equal to the deposits made to, and net investment earnings of, a medical savings account during the taxable year,

in accordance with section 3924.66 of the Revised Code. The deduction allowed by division (A)(14) of this section does not apply to medical savings account deposits and earnings otherwise deducted or excluded for the current or any other taxable year from the taxpayer's federal adjusted gross income.

(15)(a) Add an amount equal to the funds withdrawn from a medical savings account during the taxable year, and the net investment earnings on those funds, when the funds withdrawn were used for any purpose other than to reimburse an account holder for, or to pay, eligible medical expenses, in accordance with section 3924.66 of the Revised Code;

(b) Add the amounts distributed from a medical savings account under division (A)(2) of section 3924.68 of the Revised Code during the taxable year.

(16) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that such amount satisfies either of the following:

(a) The amount was deducted or excluded from the computation of the taxpayer's federal adjusted gross income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;

(b) The amount resulted in a reduction of the taxpayer's federal adjusted gross income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.

(17) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (A)(17) of this section.

(18) Beginning in taxable year 2001 but not for any taxable year beginning after December 31, 2005, if the taxpayer is married and files a joint return and the combined federal adjusted gross income of the taxpayer and the taxpayer's spouse for the taxable year does not exceed one hundred thousand dollars, or if the taxpayer is single and has a federal adjusted gross income for the taxable year not exceeding fifty thousand dollars, deduct amounts paid during the taxable year for qualified tuition and fees paid to an eligible institution for the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer, who is a resident of this state and is enrolled in or attending a program that culminates in a degree or diploma at an eligible institution. The deduction may be claimed only to the extent that qualified tuition and

fees are not otherwise deducted or excluded for any taxable year from federal or Ohio adjusted gross income. The deduction may not be claimed for educational expenses for which the taxpayer claims a credit under section 5747.27 of the Revised Code.

(19) Add any reimbursement received during the taxable year of any amount the taxpayer deducted under division (A)(18) of this section in any previous taxable year to the extent the amount is not otherwise included in Ohio adjusted gross income.

(20)(a)(i) Add five-sixths of the amount of depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code, including the taxpayer's proportionate or distributive share of the amount of depreciation expense allowed by that subsection to a pass-through entity in which the taxpayer has a direct or indirect ownership interest.

(ii) Add five-sixths of the amount of qualifying section 179 depreciation expense, including a person's proportionate or distributive share of the amount of qualifying section 179 depreciation expense allowed to any pass-through entity in which the person has a direct or indirect ownership. For the purposes of this division, "qualifying section 179 depreciation expense" means the difference between (I) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code, and (II) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code as that section existed on December 31, 2002.

The tax commissioner, under procedures established by the commissioner, may waive the add-backs related to a pass-through entity if the taxpayer owns, directly or indirectly, less than five per cent of the pass-through entity.

(b) Nothing in division (A)(20) of this section shall be construed to adjust or modify the adjusted basis of any asset.

(c) To the extent the add-back required under division (A)(20)(a) of this section is attributable to property generating nonbusiness income or loss allocated under section 5747.20 of the Revised Code, the add-back shall be situated to the same location as the nonbusiness income or loss generated by the property for the purpose of determining the credit under division (A) of section 5747.05 of the Revised Code. Otherwise, the add-back shall be apportioned, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(d) For the purposes of division (A) of this section, net operating loss carryback and carryforward shall not include five-sixths of the allowance of any net operating loss deduction carryback or carryforward to the taxable

year to the extent such loss resulted from depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount.

(21)(a) If the taxpayer was required to add an amount under division (A)(20)(a) of this section for a taxable year, deduct one-fifth of the amount so added for each of the five succeeding taxable years.

(b) If the amount deducted under division (A)(21)(a) of this section is attributable to an add-back allocated under division (A)(20)(c) of this section, the amount deducted shall be situated to the same location. Otherwise, the add-back shall be apportioned using the apportionment factors for the taxable year in which the deduction is taken, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(c) No deduction is available under division (A)(21)(a) of this section with regard to any depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount to the extent that such depreciation resulted in or increased a federal net operating loss carryback or carryforward to a taxable year to which division (A)(20)(d) of this section does not apply.

(22) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year as reimbursement for life insurance premiums under section 5919.31 of the Revised Code.

(23) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year as a death benefit paid by the adjutant general under section 5919.33 of the Revised Code.

(24) Deduct, to the extent included in federal adjusted gross income and not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, military pay and allowances received by the taxpayer during the taxable year for active duty service in the United States army, air force, navy, marine corps, or coast guard or reserve components thereof or the national guard. The deduction may not be claimed for military pay and allowances received by the taxpayer while the taxpayer is stationed in this state.

(25) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year and not otherwise compensated for by any other source, the amount of qualified organ donation expenses incurred by the taxpayer during the taxable year, not to exceed ten thousand dollars. A taxpayer may

deduct qualified organ donation expenses only once for all taxable years beginning with taxable years beginning in 2007.

For the purposes of division (A)(25) of this section:

(a) "Human organ" means all or any portion of a human liver, pancreas, kidney, intestine, or lung, and any portion of human bone marrow.

(b) "Qualified organ donation expenses" means travel expenses, lodging expenses, and wages and salary forgone by a taxpayer in connection with the taxpayer's donation, while living, of one or more of the taxpayer's human organs to another human being.

(26) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, amounts received by the taxpayer as retired military personnel pay for service in the United States army, navy, air force, coast guard, or marine corps or reserve components thereof, or the national guard, or received by the surviving spouse or former spouse of such a taxpayer under the survivor benefit plan on account of such a taxpayer's death. If the taxpayer receives income on account of retirement paid under the federal civil service retirement system or federal employees retirement system, or under any successor retirement program enacted by the congress of the United States that is established and maintained for retired employees of the United States government, and such retirement income is based, in whole or in part, on credit for the taxpayer's military service, the deduction allowed under this division shall include only that portion of such retirement income that is attributable to the taxpayer's military service, to the extent that portion of such retirement income is otherwise included in federal adjusted gross income and is not otherwise deducted under this section. Any amount deducted under division (A)(26) of this section is not included in a taxpayer's adjusted gross income for the purposes of section 5747.055 of the Revised Code. No amount may be deducted under division (A)(26) of this section on the basis of which a credit was claimed under section 5747.055 of the Revised Code.

(27) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year from the military injury relief fund created in section 5101.98 of the Revised Code.

(B) "Business income" means income, including gain or loss, arising from transactions, activities, and sources in the regular course of a trade or business and includes income, gain, or loss from real property, tangible property, and intangible property if the acquisition, rental, management, and disposition of the property constitute integral parts of the regular course of a

trade or business operation. "Business income" includes income, including gain or loss, from a partial or complete liquidation of a business, including, but not limited to, gain or loss from the sale or other disposition of goodwill.

(C) "Nonbusiness income" means all income other than business income and may include, but is not limited to, compensation, rents and royalties from real or tangible personal property, capital gains, interest, dividends and distributions, patent or copyright royalties, or lottery winnings, prizes, and awards.

(D) "Compensation" means any form of remuneration paid to an employee for personal services.

(E) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.

(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.

(G) "Individual" means any natural person.

(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(I) "Resident" means any of the following, provided that division (I)(3) of this section applies only to taxable years of a trust beginning in 2002 or thereafter:

(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;

(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code are not controlling for purposes of division (I)(2) of this section.

(3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part.

For the purposes of division (I)(3) of this section:

(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I)(3)(d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred, or caused to be transferred, directly or indirectly, to the trust by any of the following:

(i) A person, a court, or a governmental entity or instrumentality on account of the death of a decedent, but only if the trust is described in division (I)(3)(e)(i) or (ii) of this section;

(ii) A person who was domiciled in this state for the purposes of this chapter when the person directly or indirectly transferred assets to an irrevocable trust, but only if at least one of the trust's qualifying

beneficiaries is domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year;

(iii) A person who was domiciled in this state for the purposes of this chapter when the trust document or instrument or part of the trust document or instrument became irrevocable, but only if at least one of the trust's qualifying beneficiaries is a resident domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year. If a trust document or instrument became irrevocable upon the death of a person who at the time of death was domiciled in this state for purposes of this chapter, that person is a person described in division (I)(3)(a)(iii) of this section.

(b) A trust is irrevocable to the extent that the transferor is not considered to be the owner of the net assets of the trust under sections 671 to 678 of the Internal Revenue Code.

(c) With respect to a trust other than a charitable lead trust, "qualifying beneficiary" has the same meaning as "potential current beneficiary" as defined in section 1361(e)(2) of the Internal Revenue Code, and with respect to a charitable lead trust "qualifying beneficiary" is any current, future, or contingent beneficiary, but with respect to any trust "qualifying beneficiary" excludes a person or a governmental entity or instrumentality to any of which a contribution would qualify for the charitable deduction under section 170 of the Internal Revenue Code.

(d) For the purposes of division (I)(3)(a) of this section, the extent to which a trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred directly or indirectly, in whole or part, to the trust by any of the sources enumerated in that division shall be ascertained by multiplying the fair market value of the trust's assets, net of related liabilities, by the qualifying ratio, which shall be computed as follows:

(i) The first time the trust receives assets, the numerator of the qualifying ratio is the fair market value of those assets at that time, net of any related liabilities, from sources enumerated in division (I)(3)(a) of this section. The denominator of the qualifying ratio is the fair market value of all the trust's assets at that time, net of any related liabilities.

(ii) Each subsequent time the trust receives assets, a revised qualifying ratio shall be computed. The numerator of the revised qualifying ratio is the sum of (1) the fair market value of the trust's assets immediately prior to the subsequent transfer, net of any related liabilities, multiplied by the qualifying ratio last computed without regard to the subsequent transfer, and (2) the fair market value of the subsequently transferred assets at the time

transferred, net of any related liabilities, from sources enumerated in division (I)(3)(a) of this section. The denominator of the revised qualifying ratio is the fair market value of all the trust's assets immediately after the subsequent transfer, net of any related liabilities.

(iii) Whether a transfer to the trust is by or from any of the sources enumerated in division (I)(3)(a) of this section shall be ascertained without regard to the domicile of the trust's beneficiaries.

(e) For the purposes of division (I)(3)(a)(i) of this section:

(i) A trust is described in division (I)(3)(e)(i) of this section if the trust is a testamentary trust and the testator of that testamentary trust was domiciled in this state at the time of the testator's death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(ii) A trust is described in division (I)(3)(e)(ii) of this section if the transfer is a qualifying transfer described in any of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an irrevocable inter vivos trust, and at least one of the trust's qualifying beneficiaries is domiciled in this state for purposes of this chapter during all or some portion of the trust's current taxable year.

(f) For the purposes of division (I)(3)(e)(ii) of this section, a "qualifying transfer" is a transfer of assets, net of any related liabilities, directly or indirectly to a trust, if the transfer is described in any of the following:

(i) The transfer is made to a trust, created by the decedent before the decedent's death and while the decedent was domiciled in this state for the purposes of this chapter, and, prior to the death of the decedent, the trust became irrevocable while the decedent was domiciled in this state for the purposes of this chapter.

(ii) The transfer is made to a trust to which the decedent, prior to the decedent's death, had directly or indirectly transferred assets, net of any related liabilities, while the decedent was domiciled in this state for the purposes of this chapter, and prior to the death of the decedent the trust became irrevocable while the decedent was domiciled in this state for the purposes of this chapter.

(iii) The transfer is made on account of a contractual relationship existing directly or indirectly between the transferor and either the decedent or the estate of the decedent at any time prior to the date of the decedent's death, and the decedent was domiciled in this state at the time of death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(iv) The transfer is made to a trust on account of a contractual relationship existing directly or indirectly between the transferor and another person who at the time of the decedent's death was domiciled in this state for

purposes of this chapter.

(v) The transfer is made to a trust on account of the will of a testator.

(vi) The transfer is made to a trust created by or caused to be created by a court, and the trust was directly or indirectly created in connection with or as a result of the death of an individual who, for purposes of the taxes levied under Chapter 5731. of the Revised Code, was domiciled in this state at the time of the individual's death.

(g) The tax commissioner may adopt rules to ascertain the part of a trust residing in this state.

(J) "Nonresident" means an individual or estate that is not a resident. An individual who is a resident for only part of a taxable year is a nonresident for the remainder of that taxable year.

(K) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code.

(L) "Return" means the notifications and reports required to be filed pursuant to this chapter for the purpose of reporting the tax due and includes declarations of estimated tax when so required.

(M) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or fractional part thereof, upon which the adjusted gross income is calculated pursuant to this chapter.

(N) "Taxpayer" means any person subject to the tax imposed by section 5747.02 of the Revised Code or any pass-through entity that makes the election under division (D) of section 5747.08 of the Revised Code.

(O) "Dependents" means dependents as defined in the Internal Revenue Code and as claimed in the taxpayer's federal income tax return for the taxable year or which the taxpayer would have been permitted to claim had the taxpayer filed a federal income tax return.

(P) "Principal county of employment" means, in the case of a nonresident, the county within the state in which a taxpayer performs services for an employer or, if those services are performed in more than one county, the county in which the major portion of the services are performed.

(Q) As used in sections 5747.50 to 5747.55 of the Revised Code:

(1) "Subdivision" means any county, municipal corporation, park district, or township.

(2) "Essential local government purposes" includes all functions that any subdivision is required by general law to exercise, including like functions that are exercised under a charter adopted pursuant to the Ohio Constitution.

(R) "Overpayment" means any amount already paid that exceeds the

figure determined to be the correct amount of the tax.

(S) "Taxable income" or "Ohio taxable income" applies only to estates and trusts, and means federal taxable income, as defined and used in the Internal Revenue Code, adjusted as follows:

(1) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S)(1)(a) or (b) of this section:

(a) The net amount is not attributable to the S portion of an electing small business trust and has not been distributed to beneficiaries for the taxable year;

(b) The net amount is attributable to the S portion of an electing small business trust for the taxable year.

(2) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S)(1)(a) or (b) of this section;

(3) Add the amount of personal exemption allowed to the estate pursuant to section 642(b) of the Internal Revenue Code;

(4) Deduct interest or dividends, net of related expenses deducted in computing federal taxable income, on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are exempt from state taxes under the laws of the United States, but only to the extent that such amount is included in federal taxable income and is described in either division (S)(1)(a) or (b) of this section;

(5) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal taxable income for the taxable year, had the targeted jobs credit allowed under sections 38, 51, and 52 of the Internal Revenue Code not been in effect, but only to the extent such amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;

(6) Deduct any interest or interest equivalent, net of related expenses deducted in computing federal taxable income, on public obligations and

purchase obligations, but only to the extent that such net amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;

(7) Add any loss or deduct any gain resulting from sale, exchange, or other disposition of public obligations to the extent that such loss has been deducted or such gain has been included in computing either federal taxable income or income of the S portion of an electing small business trust for the taxable year;

(8) Except in the case of the final return of an estate, add any amount deducted by the taxpayer on both its Ohio estate tax return pursuant to section 5731.14 of the Revised Code, and on its federal income tax return in determining federal taxable income;

(9)(a) Deduct any amount included in federal taxable income solely because the amount represents a reimbursement or refund of expenses that in a previous year the decedent had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable treasury regulations. The deduction otherwise allowed under division (S)(9)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer or decedent deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio taxable income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio taxable income in any taxable year, but only to the extent such amount has not been distributed to beneficiaries for the taxable year.

(10) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's taxable income or the decedent's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year.

(b) It does not otherwise reduce the taxpayer's taxable income or the decedent's adjusted gross income for the current or any other taxable year.

(11) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that the amount satisfies either of the following:

(a) The amount was deducted or excluded from the computation of the taxpayer's federal taxable income as required to be reported for the

taxpayer's taxable year under the Internal Revenue Code;

(b) The amount resulted in a reduction in the taxpayer's federal taxable income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.

(12) Deduct any amount, net of related expenses deducted in computing federal taxable income, that a trust is required to report as farm income on its federal income tax return, but only if the assets of the trust include at least ten acres of land satisfying the definition of "land devoted exclusively to agricultural use" under section 5713.30 of the Revised Code, regardless of whether the land is valued for tax purposes as such land under sections 5713.30 to 5713.38 of the Revised Code. If the trust is a pass-through entity investor, section 5747.231 of the Revised Code applies in ascertaining if the trust is eligible to claim the deduction provided by division (S)(12) of this section in connection with the pass-through entity's farm income.

Except for farm income attributable to the S portion of an electing small business trust, the deduction provided by division (S)(12) of this section is allowed only to the extent that the trust has not distributed such farm income. Division (S)(12) of this section applies only to taxable years of a trust beginning in 2002 or thereafter.

(13) Add the net amount of income described in section 641(c) of the Internal Revenue Code to the extent that amount is not included in federal taxable income.

(14) Add or deduct the amount the taxpayer would be required to add or deduct under division (A)(20) or (21) of this section if the taxpayer's Ohio taxable income were computed in the same manner as an individual's Ohio adjusted gross income is computed under this section. In the case of a trust, division (S)(14) of this section applies only to any of the trust's taxable years beginning in 2002 or thereafter.

(T) "School district income" and "school district income tax" have the same meanings as in section 5748.01 of the Revised Code.

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.

(V) "Limited liability company" means any limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state.

(W) "Pass-through entity investor" means any person who, during any portion of a taxable year of a pass-through entity, is a partner, member, shareholder, or equity investor in that pass-through entity.

(X) "Banking day" has the same meaning as in section 1304.01 of the Revised Code.

(Y) "Month" means a calendar month.

(Z) "Quarter" means the first three months, the second three months, the third three months, or the last three months of the taxpayer's taxable year.

(AA)(1) "Eligible institution" means a state university or state institution of higher education as defined in section 3345.011 of the Revised Code, or a private, nonprofit college, university, or other post-secondary institution located in this state that possesses a certificate of authorization issued by the Ohio board of regents pursuant to Chapter 1713. of the Revised Code or a certificate of registration issued by the state board of career colleges and schools under Chapter 3332. of the Revised Code.

(2) "Qualified tuition and fees" means tuition and fees imposed by an eligible institution as a condition of enrollment or attendance, not exceeding two thousand five hundred dollars in each of the individual's first two years of post-secondary education. If the individual is a part-time student, "qualified tuition and fees" includes tuition and fees paid for the academic equivalent of the first two years of post-secondary education during a maximum of five taxable years, not exceeding a total of five thousand dollars. "Qualified tuition and fees" does not include:

(a) Expenses for any course or activity involving sports, games, or hobbies unless the course or activity is part of the individual's degree or diploma program;

(b) The cost of books, room and board, student activity fees, athletic fees, insurance expenses, or other expenses unrelated to the individual's academic course of instruction;

(c) Tuition, fees, or other expenses paid or reimbursed through an employer, scholarship, grant in aid, or other educational benefit program.

(BB)(1) "Modified business income" means the business income included in a trust's Ohio taxable income after such taxable income is first reduced by the qualifying trust amount, if any.

(2) "Qualifying trust amount" of a trust means capital gains and losses from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, a qualifying investee to the extent included in the trust's Ohio taxable income, but only if the following requirements are satisfied:

(a) The book value of the qualifying investee's physical assets in this state and everywhere, as of the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, is available to the trust.

(b) The requirements of section 5747.011 of the Revised Code are satisfied for the trust's taxable year in which the trust recognizes the gain or loss.

Any gain or loss that is not a qualifying trust amount is modified business income, qualifying investment income, or modified nonbusiness income, as the case may be.

(3) "Modified nonbusiness income" means a trust's Ohio taxable income other than modified business income, other than the qualifying trust amount, and other than qualifying investment income, as defined in section 5747.012 of the Revised Code, to the extent such qualifying investment income is not otherwise part of modified business income.

(4) "Modified Ohio taxable income" applies only to trusts, and means the sum of the amounts described in divisions (BB)(4)(a) to (c) of this section:

(a) The fraction, calculated under section 5747.013, and applying section 5747.231 of the Revised Code, multiplied by the sum of the following amounts:

(i) The trust's modified business income;

(ii) The trust's qualifying investment income, as defined in section 5747.012 of the Revised Code, but only to the extent the qualifying investment income does not otherwise constitute modified business income and does not otherwise constitute a qualifying trust amount.

(b) The qualifying trust amount multiplied by a fraction, the numerator of which is the sum of the book value of the qualifying investee's physical assets in this state on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount, and the denominator of which is the sum of the book value of the qualifying investee's total physical assets everywhere on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount. If, for a taxable year, the trust recognizes a qualifying trust amount with respect to more than one qualifying investee, the amount described in division (BB)(4)(b) of this section shall equal the sum of the products so computed for each such qualifying investee.

(c)(i) With respect to a trust or portion of a trust that is a resident as ascertained in accordance with division (I)(3)(d) of this section, its modified nonbusiness income.

(ii) With respect to a trust or portion of a trust that is not a resident as ascertained in accordance with division (I)(3)(d) of this section, the amount of its modified nonbusiness income satisfying the descriptions in divisions

(B)(2) to (5) of section 5747.20 of the Revised Code, except as otherwise provided in division (BB)(4)(c)(ii) of this section. With respect to a trust or portion of a trust that is not a resident as ascertained in accordance with division (I)(3)(d) of this section, the trust's portion of modified nonbusiness income recognized from the sale, exchange, or other disposition of a debt interest in or equity interest in a section 5747.212 entity, as defined in section 5747.212 of the Revised Code, without regard to division (A) of that section, shall not be allocated to this state in accordance with section 5747.20 of the Revised Code but shall be apportioned to this state in accordance with division (B) of section 5747.212 of the Revised Code without regard to division (A) of that section.

If the allocation and apportionment of a trust's income under divisions (BB)(4)(a) and (c) of this section do not fairly represent the modified Ohio taxable income of the trust in this state, the alternative methods described in division (C) of section 5747.21 of the Revised Code may be applied in the manner and to the same extent provided in that section.

(5)(a) Except as set forth in division (BB)(5)(b) of this section, "qualifying investee" means a person in which a trust has an equity or ownership interest, or a person or unit of government the debt obligations of either of which are owned by a trust. For the purposes of division (BB)(2)(a) of this section and for the purpose of computing the fraction described in division (BB)(4)(b) of this section, all of the following apply:

(i) If the qualifying investee is a member of a qualifying controlled group on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, then "qualifying investee" includes all persons in the qualifying controlled group on such last day.

(ii) If the qualifying investee, or if the qualifying investee and any members of the qualifying controlled group of which the qualifying investee is a member on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, separately or cumulatively own, directly or indirectly, on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount, more than fifty per cent of the equity of a pass-through entity, then the qualifying investee and the other members are deemed to own the proportionate share of the pass-through entity's physical assets which the pass-through entity directly or indirectly owns on the last day of the pass-through entity's calendar or fiscal year ending within or with the last day of the qualifying investee's fiscal or calendar year ending immediately

prior to the date on which the trust recognizes the qualifying trust amount.

(iii) For the purposes of division (BB)(5)(a)(iii) of this section, "upper level pass-through entity" means a pass-through entity directly or indirectly owning any equity of another pass-through entity, and "lower level pass-through entity" means that other pass-through entity.

An upper level pass-through entity, whether or not it is also a qualifying investee, is deemed to own, on the last day of the upper level pass-through entity's calendar or fiscal year, the proportionate share of the lower level pass-through entity's physical assets that the lower level pass-through entity directly or indirectly owns on the last day of the lower level pass-through entity's calendar or fiscal year ending within or with the last day of the upper level pass-through entity's fiscal or calendar year. If the upper level pass-through entity directly and indirectly owns less than fifty per cent of the equity of the lower level pass-through entity on each day of the upper level pass-through entity's calendar or fiscal year in which or with which ends the calendar or fiscal year of the lower level pass-through entity and if, based upon clear and convincing evidence, complete information about the location and cost of the physical assets of the lower pass-through entity is not available to the upper level pass-through entity, then solely for purposes of ascertaining if a gain or loss constitutes a qualifying trust amount, the upper level pass-through entity shall be deemed as owning no equity of the lower level pass-through entity for each day during the upper level pass-through entity's calendar or fiscal year in which or with which ends the lower level pass-through entity's calendar or fiscal year. Nothing in division (BB)(5)(a)(iii) of this section shall be construed to provide for any deduction or exclusion in computing any trust's Ohio taxable income.

(b) With respect to a trust that is not a resident for the taxable year and with respect to a part of a trust that is not a resident for the taxable year, "qualifying investee" for that taxable year does not include a C corporation if both of the following apply:

(i) During the taxable year the trust or part of the trust recognizes a gain or loss from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, the C corporation.

(ii) Such gain or loss constitutes nonbusiness income.

(6) "Available" means information is such that a person is able to learn of the information by the due date plus extensions, if any, for filing the return for the taxable year in which the trust recognizes the gain or loss.

(CC) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code.

(DD) "Related member" has the same meaning as in section 5733.042 of

the Revised Code.

(EE)(1) For the purposes of division (EE) of this section:

(a) "Qualifying person" means any person other than a qualifying corporation.

(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:

(i) A corporation that has made an election under subchapter S, chapter one, subtitle A, of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year;

(ii) A subsidiary that is wholly owned by any corporation that has made an election under subchapter S, chapter one, subtitle A of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year.

(2) For the purposes of this chapter, unless expressly stated otherwise, no qualifying person indirectly owns any asset directly or indirectly owned by any qualifying corporation.

(FF) For purposes of this chapter and Chapter 5751. of the Revised Code:

(1) "Trust" does not include a qualified pre-income tax trust.

(2) A "qualified pre-income tax trust" is any pre-income tax trust that makes a qualifying pre-income tax trust election as described in division (FF)(3) of this section.

(3) A "qualifying pre-income tax trust election" is an election by a pre-income tax trust to subject to the tax imposed by section 5751.02 of the Revised Code the pre-income tax trust and all pass-through entities of which the trust owns or controls, directly, indirectly, or constructively through related interests, five per cent or more of the ownership or equity interests. The trustee shall notify the tax commissioner in writing of the election on or before April 15, 2006. The election, if timely made, shall be effective on and after January 1, 2006, and shall apply for all tax periods and tax years until revoked by the trustee of the trust.

(4) A "pre-income tax trust" is a trust that satisfies all of the following requirements:

(a) The document or instrument creating the trust was executed by the grantor before January 1, 1972;

(b) The trust became irrevocable upon the creation of the trust; and

(c) The grantor was domiciled in this state at the time the trust was created.

Sec. 5747.13. (A) If any employer collects the tax imposed by section

5747.02 or under Chapter 5748. of the Revised Code and fails to remit the tax as required by law, or fails to collect the tax, the employer is personally liable for any amount collected that the employer fails to remit, or any amount that the employer fails to collect. If any taxpayer fails to file a return or fails to pay the tax imposed by section 5747.02 or under Chapter 5748. of the Revised Code, the taxpayer is personally liable for the amount of the tax.

If any employer, taxpayer, or qualifying entity required to file a return under this chapter fails to file the return within the time prescribed, files an incorrect return, fails to remit the full amount of the taxes due for the period covered by the return, or fails to remit any additional tax due as a result of a reduction in the amount of the credit allowed under division (B) of section 5747.05 of the Revised Code together with interest on the additional tax within the time prescribed by that division, the tax commissioner may make an assessment against any person liable for any deficiency for the period for which the return is or taxes are due, based upon any information in the commissioner's possession.

An assessment issued against either the employer or the taxpayer pursuant to this section shall not be considered an election of remedies or a bar to an assessment against the other for failure to report or pay the same tax. No assessment shall be issued against any person if the tax actually has been paid by another.

No assessment shall be made or issued against an employer, taxpayer, or qualifying entity more than four years after the final date the return subject to assessment was required to be filed or the date the return was filed, whichever is later. However, the commissioner may assess any balance due as the result of a reduction in the credit allowed under division (B) of section 5747.05 of the Revised Code, including applicable penalty and interest, within four years of the date on which the taxpayer reports a change in either the portion of the taxpayer's adjusted gross income subjected to an income tax or tax measured by income in another state or the District of Columbia, or the amount of liability for an income tax or tax measured by income to another state or the District of Columbia, as required by division (B)(3) of section 5747.05 of the Revised Code. Such time limits may be extended if both the employer, taxpayer, or qualifying entity and the commissioner consent in writing to the extension or if an agreement waiving or extending the time limits has been entered into pursuant to section 122.171 of the Revised Code. Any such extension shall extend the four-year time limit in division (B) of section 5747.11 of the Revised Code for the same period of time. There shall be no bar or limit to an assessment against an employer for taxes withheld from employees and not remitted to the

state, against an employer, taxpayer, or qualifying entity that fails to file a return subject to assessment as required by this chapter, or against an employer, taxpayer, or qualifying entity that files a fraudulent return.

The commissioner shall give the party assessed written notice of the assessment in the manner provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition.

(B) Unless the party assessed files with the tax commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment, signed by the party assessed or that party's authorized agent having knowledge of the facts, the assessment becomes final, and the amount of the assessment is due and payable from the party assessed to the commissioner with remittance made payable to the treasurer of state. The petition shall indicate the objections of the party assessed, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination. If the petition has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the employer's, taxpayer's, or qualifying entity's place of business is located or the county in which the party assessed resides. If the party assessed is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county.

Immediately upon the filing of the entry, the clerk shall enter a judgment against the party assessed in the amount shown on the entry. The judgment shall be filed by the clerk in one of two loose-leaf books, one entitled "special judgments for state and school district income taxes," and the other entitled "special judgments for qualifying entity taxes." The judgment shall have the same effect as other judgments. Execution shall issue upon the judgment upon the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

The portion of the assessment not paid within sixty days after the assessment was issued shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the tax commissioner issues the assessment until it is paid. Interest shall be paid in the same manner as the tax and may be collected by the issuance of an assessment

under this section.

(D) All money collected under this section shall be considered as revenue arising from the taxes imposed by this chapter or Chapter 5733. or 5748. of the Revised Code, as appropriate.

~~(E) The portion of an assessment that must be paid upon the filing of a petition for reassessment shall be as follows:~~

~~(1) If the sole item objected to is the assessed penalty or interest, payment of the assessment, including interest but not penalty, is required;~~

~~(2) If the taxpayer or qualifying entity that is assessed failed to file, prior to the date of issuance of the assessment, the annual return or report required by section 5747.08 or 5747.42 of the Revised Code, any amended return or amended report required by section 5747.10 or 5747.45 of the Revised Code for the taxable year at issue, or any report required by division (B) of section 5747.05 of the Revised Code to indicate a reduction in the amount of the credit provided under that division, payment of the assessment, including interest but not penalty, is required, except as otherwise provided under division (E)(6) or (7) of this section;~~

~~(3) If the employer assessed had not filed, prior to the date of issuance of the assessment, the annual return required by division (E)(2) of section 5747.07 of the Revised Code covering the period at issue, payment of the assessment, including interest but not penalty, is required;~~

~~(4) If the taxpayer or qualifying entity that is assessed filed, prior to the date of issuance of the assessment, the annual return or report required by section 5747.08 or 5747.42 of the Revised Code, all amended returns or reports required by section 5747.10 or 5747.45 of the Revised Code for the taxable year at issue, and all reports required by division (B) of section 5747.05 of the Revised Code to indicate a reduction in the amount of the credit provided under that division, and a balance of the taxes shown due on the returns or reports as computed on the returns or reports remains unpaid, payment of only that portion of the assessment representing the unpaid balance of tax and interest is required;~~

~~(5) If the employer assessed filed, prior to the date of issuance of the assessment, the annual return required by division (E)(2) of section 5747.07 of the Revised Code covering the period at issue, and a balance of the taxes shown due on the return as computed on the return remains unpaid, payment of only that portion of the assessment representing the unpaid balance of tax and interest is required;~~

~~(6) In the case of a party assessed as a qualifying entity subject to the tax levied under section 5733.41 or 5747.41 of the Revised Code, if the party does not dispute that it is a qualifying entity subject to that tax but~~

~~claims the protections of section 101 of Public Law 86-272, 73 Stat. 555, 15 U.S.C.A. 381, as amended, no payment is required;~~

~~(7) In the case of a party assessed as a qualifying entity subject to the tax levied under section 5733.41 or 5747.41 of the Revised Code, if the party does dispute that it is a qualifying entity subject to that tax, no payment is required;~~

~~(8) If none of the conditions specified in divisions (E)(1) to (7) of this section apply, no payment is required. If the party assessed files a petition for reassessment under division (B) of this section, the person, on or before the last day the petition may be filed, shall pay the assessed amount, including assessed interest and assessed penalties, if any of the following conditions exists:~~

~~(1) The person files a tax return reporting Ohio adjusted gross income, less the exemptions allowed by section 5747.025 of the Revised Code, in an amount less than one cent, and the reported amount is not based on the computations required under division (A) of section 5747.01 or section 5747.025 of the Revised Code.~~

~~(2) The person files a tax return that the tax commissioner determines to be incomplete, false, fraudulent, or frivolous.~~

~~(3) The person fails to file a tax return, and the basis for this failure is not either of the following:~~

~~(a) An assertion that the person has no nexus with this state;~~

~~(b) The computations required under division (A) of section 5747.01 of the Revised Code or the application of credits allowed under this chapter has the result that the person's tax liability is less than one dollar and one cent.~~

~~(F) Notwithstanding the fact that a petition for reassessment is pending, the petitioner may pay all or a portion of the assessment that is the subject of the petition. The acceptance of a payment by the treasurer of state does not prejudice any claim for refund upon final determination of the petition.~~

~~If upon final determination of the petition an error in the assessment is corrected by the tax commissioner, upon petition so filed or pursuant to a decision of the board of tax appeals or any court to which the determination or decision has been appealed, so that the amount due from the party assessed under the corrected assessment is less than the portion paid, there shall be issued to the petitioner or to the petitioner's assigns or legal representative a refund in the amount of the overpayment as provided by section 5747.11 of the Revised Code, with interest on that amount as provided by such section, subject to section 5747.12 of the Revised Code.~~

~~Sec. 5747.16. Any nonresident who accepts the privileges extended by the laws of this state to nonresidents earning or receiving income in this~~

state, and any resident who becomes a nonresident or conceals ~~his~~ the ~~person's~~ whereabouts thereby makes the secretary of state ~~his~~ the person's agent for the service of process or notice in any assessment, action, or proceedings instituted in this state against such person under this chapter, such process or notice shall be served ~~by the officer to whom the same is directed by the tax commissioner, or by the sheriff of Franklin county, who may be deputized for such purpose by the officer to whom the service is directed,~~ upon the secretary of state by leaving at the secretary's office at least fifteen days before the return day of such process or notice, a true and attested copy thereof, and by sending to the defendant by certified mail, postage prepaid, a like and true attested copy, with an endorsement thereon of the service upon the secretary of state, addressed to such defendant at his last known address as provided under section 5703.37 of the Revised Code.

Sec. 5747.18. The tax commissioner shall enforce and administer this chapter. In addition to any other powers conferred upon the commissioner by law, the commissioner may:

(A) Prescribe all forms required to be filed pursuant to this chapter;

(B) Adopt such rules as the commissioner finds necessary to carry out this chapter;

(C) Appoint and employ such personnel as are necessary to carry out the duties imposed upon the commissioner by this chapter.

Any information gained as the result of returns, investigations, hearings, or verifications required or authorized by this chapter is confidential, and no person shall disclose such information, except for official purposes, or as provided by section 3125.43, 4123.271, 4123.591, 4507.023, ~~or~~ 5101.182, ~~division (B) of section or~~ 5703.21 of the Revised Code, or in accordance with a proper judicial order. The tax commissioner may furnish the internal revenue service with copies of returns or reports filed and may furnish the officer of a municipal corporation charged with the duty of enforcing a tax subject to Chapter 718. of the Revised Code with the names, addresses, and identification numbers of taxpayers who may be subject to such tax. A municipal corporation shall use this information for tax collection purposes only. This section does not prohibit the publication of statistics in a form which does not disclose information with respect to individual taxpayers.

Sec. 5747.66. (A) Any term used in this section has the same meaning as in section 122.85 of the Revised Code.

(B) There is allowed a credit against the tax imposed by section 5747.02 of the Revised Code for any individual who, on the last day of the individual's taxable year, is the certificate owner of a tax credit certificate issued under section 122.85 of the Revised Code. The credit shall be

claimed for the taxable year that includes the date the certificate was issued by the director of development. The credit amount equals the amount stated in the certificate. The credit shall be claimed in the order required under section 5747.98 of the Revised Code. If the credit amount exceeds the tax otherwise due under section 5747.02 of the Revised Code after deducting all other credits in that order, the excess shall be refunded.

Nothing in this section limits or disallows pass-through treatment of the credit.

Sec. 5747.76. (A) As used in this section, "certificate owner" has the same meaning as in section 149.311 of the Revised Code.

(B) There is allowed a credit against the tax imposed under section 5747.02 of the Revised Code for a taxpayer that is the certificate owner of a rehabilitation tax credit certificate issued under section 149.311 of the Revised Code. The credit shall equal twenty-five per cent of the dollar amount indicated on the certificate, but the amount of credit allowed for any taxpayer shall not exceed five million dollars. The credit shall be claimed for the taxable year specified in the certificate and in the order required under section 5747.98 of the Revised Code.

(C) Nothing in this section limits or disallows pass-through treatment of the credit if the certificate owner is a pass-through entity. If the certificate owner is a pass-through entity, the amount of the credit allowed for the pass-through entity shall not exceed five million dollars. If the certificate owner is a pass-through entity, the credit may be allocated among the entity's equity owners in proportion to their ownership interests or in such proportions or amounts as the equity owners mutually agree.

(D) If the credit allowed for any taxable year exceeds the tax otherwise due under section 5747.02 of the Revised Code, after allowing for any other credits preceding the credit in the order prescribed by section 5747.98 of the Revised Code, the excess shall be refunded to the taxpayer but, if any amount of the credit is refunded, the sum of the amount refunded and the amount applied to reduce the tax otherwise due for that year shall not exceed three million dollars or, if the certificate owner is a pass-through entity, shall not exceed the taxpayer's distributive or proportionate share, as allocated under division (C) of this section, of three million dollars. The taxpayer may carry forward any balance of the credit in excess of the amount claimed for that year for not more than five ensuing taxable years, and shall deduct any amount claimed for any such year from the amount claimed in an ensuing year.

(E) A taxpayer claiming a credit under this section shall retain the rehabilitation tax credit certificate for four years following the end of the

taxable year to which the credit was applied, and shall make the certificate available for inspection by the tax commissioner upon the request of the tax commissioner during that period.

Sec. 5747.98. (A) To provide a uniform procedure for calculating the amount of tax due under section 5747.02 of the Revised Code, a taxpayer shall claim any credits to which the taxpayer is entitled in the following order:

(1) The retirement income credit under division (B) of section 5747.055 of the Revised Code;

(2) The senior citizen credit under division (C) of section 5747.05 of the Revised Code;

(3) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;

(4) The dependent care credit under section 5747.054 of the Revised Code;

(5) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;

(6) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;

(7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;

(8) The low-income credit under section 5747.056 of the Revised Code;

(9) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;

(10) The campaign contribution credit under section 5747.29 of the Revised Code;

(11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;

(12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;

(13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;

(14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;

(15) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;

(16) The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;

(17) The credit for adoption of a minor child under section 5747.37 of the Revised Code;

(18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;

(19) The job retention credit under division (B) of section 5747.058 of the Revised Code;

(20) The credit for selling alternative fuel under section 5747.77 of the Revised Code;

(21) The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code;

(22) The job training credit under section 5747.39 of the Revised Code;

(23) The enterprise zone credit under section 5709.66 of the Revised Code;

(24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;

(25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;

(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;

(27) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;

(28) The export sales credit under section 5747.057 of the Revised Code;

(29) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;

(30) The enterprise zone credits under section 5709.65 of the Revised Code;

(31) The research and development credit under section 5747.331 of the Revised Code;

(32) The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;

(33) The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;

(34) The refundable jobs creation credit under division (A) of section 5747.058 of the Revised Code;

(35) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;

(36) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code;

(37) The refundable credit for tax withheld under division (B)(1) of section 5747.062 of the Revised Code;

(38) The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;

(39) The refundable motion picture production credit under section 5747.66 of the Revised Code.

(B) For any credit, except the refundable credits enumerated in ~~divisions (A)(33) to (38)~~ of this section and the credit granted under division (I) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.

Sec. 5748.02. (A) The board of education of any school district, except a joint vocational school district, may declare, by resolution, the necessity of raising annually a specified amount of money for school district purposes. The resolution shall specify whether the income that is to be subject to the tax is taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of section 5748.01 of the Revised Code or taxable income of individuals as defined in division (E)(1)(b) of that section. A copy of the resolution shall be certified to the tax commissioner no later than eighty-five days prior to the date of the election at which the board intends to propose a levy under this section. Upon receipt of the copy of the resolution, the tax commissioner shall estimate both of the following:

(1) The property tax rate that would have to be imposed in the current year by the district to produce an equivalent amount of money;

(2) The income tax rate that would have had to have been in effect for the current year to produce an equivalent amount of money from a school district income tax.

Within ten days of receiving the copy of the board's resolution, the commissioner shall prepare these estimates and certify them to the board. Upon receipt of the certification, the board may adopt a resolution proposing an income tax under division (B) of this section at the estimated rate contained in the certification rounded to the nearest one-fourth of one per cent. The commissioner's certification applies only to the board's proposal to levy an income tax at the election for which the board requested the certification. If the board intends to submit a proposal to levy an income tax at any other election, it shall request another certification for that election in the manner prescribed in this division.

(B)(1) Upon the receipt of a certification from the tax commissioner under division (A) of this section, a majority of the members of a board of education may adopt a resolution proposing the levy of an annual tax for school district purposes on school district income. The proposed levy may be for a continuing period of time or for a specified number of years. The resolution shall set forth the purpose for which the tax is to be imposed, the rate of the tax, which shall be the rate set forth in the commissioner's certification rounded to the nearest one-fourth of one per cent, the number of years the tax will be levied or that it will be levied for a continuing period of time, the date on which the tax shall take effect, which shall be the first day of January of any year following the year in which the question is submitted, and the date of the election at which the proposal shall be submitted to the electors of the district, which shall be on the date of a primary, general, or special election the date of which is consistent with section 3501.01 of the Revised Code. The resolution shall specify whether the income that is to be subject to the tax is taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of section 5748.01 of the Revised Code or taxable income of individuals as defined in division (E)(1)(b) of that section. The specification shall be the same as the specification in the resolution adopted and certified under division (A) of this section.

If the tax is to be levied for current expenses and permanent improvements, the resolution shall apportion the annual rate of the tax. The apportionment may be the same or different for each year the tax is levied, but the respective portions of the rate actually levied each year for current expenses and for permanent improvements shall be limited by the apportionment.

If the board of education currently imposes an income tax pursuant to this chapter that is due to expire and a question is submitted under this section for a proposed income tax to take effect upon the expiration of the existing tax, the board may specify in the resolution that the proposed tax renews the expiring tax ~~and is not an additional income tax, provided that~~. Two or more expiring income taxes may be renewed under this paragraph if the taxes are due to expire on the same date. If the tax rate being proposed is no higher than the total tax rate that is currently imposed by the expiring tax or taxes, the resolution may state that the proposed tax is not an additional income tax.

(2) A board of education adopting a resolution under division (B)(1) of this section proposing a school district income tax for a continuing period of time and limited to the purpose of current expenses may propose in that resolution to reduce the rate or rates of one or more of the school district's

property taxes levied for a continuing period of time in excess of the ten-mill limitation for the purpose of current expenses. The reduction in the rate of a property tax may be any amount, expressed in mills per one dollar in valuation, not exceeding the rate at which the tax is authorized to be levied. The reduction in the rate of a tax shall first take effect for the tax year that includes the day on which the school district income tax first takes effect, and shall continue for each tax year that both the school district income tax and the property tax levy are in effect.

In addition to the matters required to be set forth in the resolution under division (B)(1) of this section, a resolution containing a proposal to reduce the rate of one or more property taxes shall state for each such tax the maximum rate at which it currently may be levied and the maximum rate at which the tax could be levied after the proposed reduction, expressed in mills per one dollar in valuation, and that the tax is levied for a continuing period of time.

If a board of education proposes to reduce the rate of one or more property taxes under division (B)(2) of this section, the board, when it makes the certification required under division (A) of this section, shall designate the specific levy or levies to be reduced, the maximum rate at which each levy currently is authorized to be levied, and the rate by which each levy is proposed to be reduced. The tax commissioner, when making the certification to the board under division (A) of this section, also shall certify the reduction in the total effective tax rate for current expenses for each class of property that would have resulted if the proposed reduction in the rate or rates had been in effect the previous tax year. As used in this paragraph, "effective tax rate" has the same meaning as in section 323.08 of the Revised Code.

(C) A resolution adopted under division (B) of this section shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided for in the notice of election. Immediately after its adoption and at least seventy-five days prior to the election at which the question will appear on the ballot, a copy of the resolution shall be certified to the board of elections of the proper county, which shall submit the proposal to the electors on the date specified in the resolution. The form of the ballot shall be as provided in section 5748.03 of the Revised Code. Publication of notice of the election shall be made in one or more newspapers of general circulation in the county once a week for two consecutive weeks prior to the election, and, if the board of elections operates and maintains a web site, the board of elections shall post notice of the election on its web site for thirty days prior to the election. The notice

shall contain the time and place of the election and the question to be submitted to the electors. The question covered by the resolution shall be submitted as a separate proposition, but may be printed on the same ballot with any other proposition submitted at the same election, other than the election of officers.

(D) No board of education shall submit the question of a tax on school district income to the electors of the district more than twice in any calendar year. If a board submits the question twice in any calendar year, one of the elections on the question shall be held on the date of the general election.

(E)(1) No board of education may submit to the electors of the district the question of a tax on school district income on the taxable income of individuals as defined in division (E)(1)(b) of section 5748.01 of the Revised Code if that tax would be in addition to an existing tax on the taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of that section.

(2) No board of education may submit to the electors of the district the question of a tax on school district income on the taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of section 5748.01 of the Revised Code if that tax would be in addition to an existing tax on the taxable income of individuals as defined in division (E)(1)(b) of that section.

Sec. 5748.03. (A) The form of the ballot on a question submitted to the electors under section 5748.02 of the Revised Code shall be as follows:

"Shall an annual income tax of (state the proposed rate of tax) on the school district income of individuals and of estates be imposed by (state the name of the school district), for (state the number of years the tax would be levied, or that it would be levied for a continuing period of time), beginning (state the date the tax would first take effect), for the purpose of (state the purpose of the tax)?"

	FOR THE TAX
	AGAINST THE TAX

(B)(1) If the question submitted to electors proposes a school district income tax only on the taxable income of individuals as defined in division (E)(1)(b) of section 5748.01 of the Revised Code, the form of the ballot shall be modified by stating that the tax is to be levied on the "earned income of individuals residing in the school district" in lieu of the "school district income of individuals and of estates."

(2) If the question submitted to electors proposes to renew ~~an~~ one or

more expiring income tax levies, the ballot shall be modified by adding the following language immediately after the name of the school district that would impose the tax: "to renew an income tax (or income taxes) expiring at the end of (state the last year the existing income tax or taxes may be levied)."

(3) If the question includes a proposal under division (B)(2) of section 5748.02 of the Revised Code to reduce the rate of one or more school district property taxes, the ballot shall state that the purpose of the school district income tax is for current expenses, and the form of the ballot shall be modified by adding the following language immediately after the statement of the purpose of the proposed income tax: ", and shall the rate of an existing tax on property, currently levied for the purpose of current expenses at the rate of mills, be REDUCED to mills until any such time as the income tax is repealed." In lieu of "for the tax" and "against the tax," the phrases "for the issue" and "against the issue," respectively, shall be used. If a board of education proposes a reduction in the rates of more than one tax, the ballot language shall be modified accordingly to express the rates at which those taxes currently are levied and the rates to which the taxes will be reduced.

(C) The board of elections shall certify the results of the election to the board of education and to the tax commissioner. If a majority of the electors voting on the question vote in favor of it, the income tax, the applicable provisions of Chapter 5747. of the Revised Code, and the reduction in the rate or rates of existing property taxes if the question included such a reduction shall take effect on the date specified in the resolution. If the question approved by the voters includes a reduction in the rate of a school district property tax, the board of education shall not levy the tax at a rate greater than the rate to which the tax is reduced, unless the school district income tax is repealed in an election under section 5748.04 of the Revised Code.

(D) If the rate at which a property tax is levied and collected is reduced pursuant to a question approved under this section, the tax commissioner shall compute the percentage required to be computed for that tax under division (D) of section 319.301 of the Revised Code each year the rate is reduced as if the tax had been levied in the preceding year at the rate at which it has been reduced. If the rate of a property tax increases due to the repeal of the school district income tax pursuant to section 5748.04 of the Revised Code, the tax commissioner, for the first year for which the rate increases, shall compute the percentage as if the tax in the preceding year had been levied at the rate at which the tax was authorized to be levied prior

to any rate reduction.

Sec. 5749.02. (A) For the purpose of providing revenue to administer the state's coal mining and reclamation regulatory program, to meet the environmental and resource management needs of this state, and to reclaim land affected by mining, an excise tax is hereby levied on the privilege of engaging in the severance of natural resources from the soil or water of this state. The tax shall be imposed upon the severer and shall be:

- (1) Ten cents per ton of coal;
- (2) Four cents per ton of salt;
- (3) Two cents per ton of limestone or dolomite;
- (4) Two cents per ton of sand and gravel;
- (5) Ten cents per barrel of oil;
- (6) Two and one-half cents per thousand cubic feet of natural gas;
- (7) One cent per ton of clay, sandstone or conglomerate, shale, gypsum, or quartzite;

(8) Except as otherwise provided in this division or in rules adopted by the reclamation forfeiture fund advisory board under section 1513.182 of the Revised Code, an additional fourteen cents per ton of coal produced from an area under a coal mining and reclamation permit issued under Chapter 1513. of the Revised Code for which the performance security is provided under division (C)(2) of section 1513.08 of the Revised Code. Beginning July 1, 2007, if at the end of a fiscal biennium the balance of the reclamation forfeiture fund created in section 1513.18 of the Revised Code is equal to or greater than ten million dollars, the rate levied shall be twelve cents per ton. Beginning July 1, 2007, if at the end of a fiscal biennium the balance of the fund is at least five million dollars, but less than ten million dollars, the rate levied shall be fourteen cents per ton. Beginning July 1, 2007, if at the end of a fiscal biennium the balance of the fund is less than five million dollars, the rate levied shall be sixteen cents per ton. Beginning July 1, 2009, not later than thirty days after the close of a fiscal biennium, the chief of the division of mineral resources management shall certify to the tax commissioner the amount of the balance of the reclamation forfeiture fund as of the close of the fiscal biennium. Any necessary adjustment of the rate levied shall take effect on the first day of the following January and shall remain in effect during the calendar biennium that begins on that date.

(9) An additional one and two-tenths cents per ton of coal mined by surface mining methods.

(B) Of the moneys received by the treasurer of state from the tax levied in division (A)(1) of this section, four and seventy-six-hundredths per cent shall be credited to the geological mapping fund created in section 1505.09

of the Revised Code, eighty and ninety-five-hundredths per cent shall be credited to the coal mining administration and reclamation reserve fund created in section 1513.181 of the Revised Code, and fourteen and twenty-nine-hundredths per cent shall be credited to the unreclaimed lands fund created in section 1513.30 of the Revised Code.

~~Fifteen per cent of the moneys~~ The money received by the treasurer of state from the tax levied in division (A)(2) of this section shall be credited to the geological mapping fund ~~and the remainder shall be credited to the unreclaimed lands fund.~~

Of the moneys received by the treasurer of state from the tax levied in divisions (A)(3) and (4) of this section, seven and five-tenths per cent shall be credited to the geological mapping fund, forty-two and five-tenths per cent shall be credited to the unreclaimed lands fund, and the remainder shall be credited to the surface mining fund created in section 1514.06 of the Revised Code.

Of the moneys received by the treasurer of state from the tax levied in divisions (A)(5) and (6) of this section, ninety per cent shall be credited to the oil and gas well fund created in section 1509.02 of the Revised Code and ten per cent shall be credited to the geological mapping fund. All of the moneys received by the treasurer of state from the tax levied in division (A)(7) of this section shall be credited to the surface mining fund.

All of the moneys received by the treasurer of state from the tax levied in division (A)(8) of this section shall be credited to the reclamation forfeiture fund.

All of the moneys received by the treasurer of state from the tax levied in division (A)(9) of this section shall be credited to the unreclaimed lands fund.

(C) When, at the close of any fiscal year, the chief finds that the balance of the reclamation forfeiture fund, plus estimated transfers to it from the coal mining administration and reclamation reserve fund under section 1513.181 of the Revised Code, plus the estimated revenues from the tax levied by division (A)(8) of this section for the remainder of the calendar year that includes the close of the fiscal year, are sufficient to complete the reclamation of lands for which the performance security has been provided under division (C)(2) of section 1513.08 of the Revised Code, the purposes for which the tax under division (A)(8) of this section is levied shall be deemed accomplished at the end of that calendar year. The chief, within thirty days after the close of the fiscal year, shall certify those findings to the tax commissioner, and the tax levied under division (A)(8) of this section shall cease to be imposed after the last day of that calendar year on coal

produced under a coal mining and reclamation permit issued under Chapter 1513. of the Revised Code if the permittee has made tax payments under division (A)(8) of this section during each of the preceding five full calendar years. Not later than thirty days after the close of a fiscal year, the chief shall certify to the tax commissioner the identity of any permittees who accordingly no longer are required to pay the tax levied under division (A)(8) of this section.

Sec. 5749.12. Any nonresident of this state who accepts the privilege extended by the laws of this state to nonresidents severing natural resources in this state, and any resident of this state who subsequently becomes a nonresident or conceals ~~his~~ the resident's whereabouts, makes the secretary of state of Ohio ~~his~~ the person's agent for the service of process or notice in any assessment, action or proceedings instituted in this state against such person under this chapter.

~~Such process or notice shall be served, by the officer to whom the same is directed by the tax commissioner or by the sheriff of Franklin county, who may be deputized for such purpose by the officer to whom the service is directed, upon the secretary of state by leaving at the office of the secretary of state, at least fifteen days before the return day of such process or notice, a true and attested copy thereof, and by sending to the defendant by certified mail, a like and true attested copy, with an endorsement thereon of the service upon said secretary of state, addressed to such defendant at his last known address as provided under section 5703.37 of the Revised Code.~~

Sec. 5751.01. As used in this chapter:

(A) "Person" means, but is not limited to, individuals, combinations of individuals of any form, receivers, assignees, trustees in bankruptcy, firms, companies, joint-stock companies, business trusts, estates, partnerships, limited liability partnerships, limited liability companies, associations, joint ventures, clubs, societies, for-profit corporations, S corporations, qualified subchapter S subsidiaries, qualified subchapter S trusts, trusts, entities that are disregarded for federal income tax purposes, and any other entities. ~~"Person" does not include nonprofit organizations or the state, its agencies, its instrumentalities, and its political subdivisions.~~

(B) "Consolidated elected taxpayer" means a group of two or more persons treated as a single taxpayer for purposes of this chapter as the result of an election made under section 5751.011 of the Revised Code.

(C) "Combined taxpayer" means a group of two or more persons treated as a single taxpayer for purposes of this chapter under section 5751.012 of the Revised Code.

(D) "Taxpayer" means any person, or any group of persons in the case

of a consolidated elected taxpayer or combined taxpayer treated as one taxpayer, required to register or pay tax under this chapter. "Taxpayer" does not include excluded persons.

(E) "Excluded person" means any of the following:

(1) Any person with not more than one hundred fifty thousand dollars of taxable gross receipts during the calendar year. Division (E)(1) of this section does not apply to a person that is a member of a ~~group that is a~~ consolidated elected taxpayer ~~or a combined taxpayer~~;

(2) A public utility that paid the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter, except that a public utility that is a combined company is a taxpayer with regard to the following gross receipts:

(a) Taxable gross receipts directly attributed to a public utility activity, but not directly attributed to an activity that is subject to the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code;

(b) Taxable gross receipts that cannot be directly attributed to any activity, multiplied by a fraction whose numerator is the taxable gross receipts described in division (E)(2)(a) of this section and whose denominator is the total taxable gross receipts that can be directly attributed to any activity;

(c) Except for any differences resulting from the use of an accrual basis method of accounting for purposes of determining gross receipts under this chapter and the use of the cash basis method of accounting for purposes of determining gross receipts under section 5727.24 of the Revised Code, the gross receipts directly attributed to the activity of a natural gas company shall be determined in a manner consistent with division (D) of section 5727.03 of the Revised Code.

As used in division (E)(2) of this section, "combined company" and "public utility" have the same meanings as in section 5727.01 of the Revised Code.

(3) A financial institution, as defined in section 5725.01 of the Revised Code, that paid the corporation franchise tax charged by division (D) of section 5733.06 of the Revised Code based on one or more taxable years that include the entire tax period under this chapter;

(4) A dealer in intangibles, as defined in section 5725.01 of the Revised Code, that paid the dealer in intangibles tax levied by division (D) of section 5707.03 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter;

(5) A financial holding company as defined in the "Bank Holding

Company Act," 12 U.S.C. 1841(p);

(6) A bank holding company as defined in the "Bank Holding Company Act," 12 U.S.C. 1841(a);

(7) A savings and loan holding company as defined in the "Home Owners Loan Act," 12 U.S.C. 1467a(a)(1)(D) that is engaging only in activities or investments permissible for a financial holding company under 12 U.S.C. 1843(k);

(8) A person directly or indirectly owned by one or more financial institutions, financial holding companies, bank holding companies, or savings and loan holding companies described in division (E)(3), (5), (6), or (7) of this section that is engaged in activities permissible for a financial holding company under 12 U.S.C. 1843(k), except that any such person held pursuant to merchant banking authority under 12 U.S.C. 1843(k)(4)(H) or 12 U.S.C. 1843(k)(4)(I) is not an excluded person, or a person directly or indirectly owned by one or more insurance companies described in division (E)(9) of this section that is authorized to do the business of insurance in this state.

For the purposes of division (E)(8) of this section, a person owns another person under the following circumstances:

(a) In the case of corporations issuing capital stock, one corporation owns another corporation if it owns fifty per cent or more of the other corporation's capital stock with current voting rights;

(b) In the case of a limited liability company, one person owns the company if that person's membership interest, as defined in section 1705.01 of the Revised Code, is fifty per cent or more of the combined membership interests of all persons owning such interests in the company;

(c) In the case of a partnership, trust, or other unincorporated business organization other than a limited liability company, one person owns the organization if, under the articles of organization or other instrument governing the affairs of the organization, that person has a beneficial interest in the organization's profits, surpluses, losses, or distributions of fifty per cent or more of the combined beneficial interests of all persons having such an interest in the organization;

(d) In the case of multiple ownership, the ownership interests of more than one person may be aggregated to meet the fifty per cent ownership tests in this division only when each such owner is described in division (E)(3), (5), (6), or (7) of this section and is engaged in activities permissible for a financial holding company under 12 U.S.C. 1843(k) or is a person directly or indirectly owned by one or more insurance companies described in division (E)(9) of this section that is authorized to do the business of

insurance in this state.

(9) A domestic insurance company or foreign insurance company, as defined in section 5725.01 of the Revised Code, that paid the insurance company premiums tax imposed by section 5725.18 or Chapter 5729. of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter;

(10) A person that solely facilitates or services one or more securitizations or similar transactions for any person described in division (E)(3), (5), (6), (7), (8), or (9) of this section. For purposes of this division, "securitization" means transferring one or more assets to one or more persons and then issuing securities backed by the right to receive payment from the asset or assets so transferred.

(11) Except as otherwise provided in this division, a pre-income tax trust as defined in division (FF)(4) of section 5747.01 of the Revised Code and any pass-through entity of which such pre-income tax trust owns or controls, directly, indirectly, or constructively through related interests, more than five per cent of the ownership or equity interests. If the pre-income tax trust has made a qualifying pre-income tax trust election under division (FF)(3) of section 5747.01 of the Revised Code, then the trust and the pass-through entities of which it owns or controls, directly, indirectly, or constructively through related interests, more than five per cent of the ownership or equity interests, shall not be excluded persons for purposes of the tax imposed under section 5751.02 of the Revised Code.

(12) Nonprofit organizations or the state and its agencies, instrumentalities, or political subdivisions.

(F) Except as otherwise provided in divisions (F)(2), (3), and (4) of this section, "gross receipts" means the total amount realized by a person, without deduction for the cost of goods sold or other expenses incurred, that contributes to the production of gross income of the person, including the fair market value of any property and any services received, and any debt transferred or forgiven as consideration.

(1) The following are examples of gross receipts:

(a) Amounts realized from the sale, exchange, or other disposition of the taxpayer's property to or with another;

(b) Amounts realized from the taxpayer's performance of services for another;

(c) Amounts realized from another's use or possession of the taxpayer's property or capital;

(d) Any combination of the foregoing amounts.

(2) "Gross receipts" excludes the following amounts:

- (a) Interest income except interest on credit sales;
- (b) Dividends and distributions from corporations, and distributive or proportionate shares of receipts and income from a pass-through entity as defined under section 5733.04 of the Revised Code;
- (c) Receipts from the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset. Notwithstanding section 1221 of the Internal Revenue Code, receipts from hedging transactions also are excluded to the extent the transactions are entered into primarily to protect a financial position, such as managing the risk of exposure to (i) foreign currency fluctuations that affect assets, liabilities, profits, losses, equity, or investments in foreign operations; (ii) interest rate fluctuations; or (iii) commodity price fluctuations. As used in division (F)(2)(c) of this section, "hedging transaction" has the same meaning as used in section 1221 of the Internal Revenue Code and also includes transactions accorded hedge accounting treatment under statement of financial accounting standards number 133 of the financial accounting standards board. For the purposes of division (F)(2)(c) of this section, the actual transfer of title of real or tangible personal property to another entity is not a hedging transaction.
- (d) Proceeds received attributable to the repayment, maturity, or redemption of the principal of a loan, bond, mutual fund, certificate of deposit, or marketable instrument;
- (e) The principal amount received under a repurchase agreement or on account of any transaction properly characterized as a loan to the person;
- (f) Contributions received by a trust, plan, or other arrangement, any of which is described in section 501(a) of the Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 1, Subchapter (D) of the Internal Revenue Code applies;
- (g) Compensation, whether current or deferred, and whether in cash or in kind, received or to be received by an employee, former employee, or the employee's legal successor for services rendered to or for an employer, including reimbursements received by or for an individual for medical or education expenses, health insurance premiums, or employee expenses, or on account of a dependent care spending account, legal services plan, any cafeteria plan described in section 125 of the Internal Revenue Code, or any similar employee reimbursement;
- (h) Proceeds received from the issuance of the taxpayer's own stock, options, warrants, puts, or calls, or from the sale of the taxpayer's treasury stock;

(i) Proceeds received on the account of payments from ~~life~~ insurance policies, except those proceeds received for the loss of business revenue;

(j) Gifts or charitable contributions received; membership dues received; by trade, professional, homeowners', or condominium associations; and payments received for educational courses, meetings, meals, or similar payments to a trade, professional, or other similar association; and fundraising receipts received by any person when any excess receipts are donated or used exclusively for charitable purposes; ~~and proceeds received by a nonprofit organization including proceeds realized with regard to its unrelated business taxable income;~~

(k) Damages received as the result of litigation in excess of amounts that, if received without litigation, would be gross receipts;

(l) Property, money, and other amounts received or acquired by an agent on behalf of another in excess of the agent's commission, fee, or other remuneration;

(m) Tax refunds, other tax benefit recoveries, and reimbursements for the tax imposed under this chapter made by entities that are part of the same combined taxpayer or consolidated elected taxpayer group, and reimbursements made by entities that are not members of a combined taxpayer or consolidated elected taxpayer group that are required to be made for economic parity among multiple owners of an entity whose tax obligation under this chapter is required to be reported and paid entirely by one owner, pursuant to the requirements of sections 5751.011 and 5751.012 of the Revised Code;

(n) Pension reversions;

(o) Contributions to capital;

(p) Sales or use taxes collected as a vendor or an out-of-state seller on behalf of the taxing jurisdiction from a consumer or other taxes the taxpayer is required by law to collect directly from a purchaser and remit to a local, state, or federal tax authority;

(q) In the case of receipts from the sale of cigarettes or tobacco products by a wholesale dealer, retail dealer, distributor, manufacturer, or seller, all as defined in section 5743.01 of the Revised Code, an amount equal to the federal and state excise taxes paid by any person on or for such cigarettes or tobacco products under subtitle E of the Internal Revenue Code or Chapter 5743. of the Revised Code;

(r) In the case of receipts from the sale of motor fuel by a licensed motor fuel dealer, licensed retail dealer, or licensed permissive motor fuel dealer, all as defined in section 5735.01 of the Revised Code, an amount equal to federal and state excise taxes paid by any person on such motor fuel under

section 4081 of the Internal Revenue Code or Chapter 5735. of the Revised Code;

(s) In the case of receipts from the sale of beer or intoxicating liquor, as defined in section 4301.01 of the Revised Code, by a person holding a permit issued under Chapter 4301. or 4303. of the Revised Code, an amount equal to federal and state excise taxes paid by any person on or for such beer or intoxicating liquor under subtitle E of the Internal Revenue Code or Chapter 4301. or 4305. of the Revised Code;

(t) Receipts realized by a new motor vehicle dealer or used motor vehicle dealer, as defined in section 4517.01 of the Revised Code, from the sale or other transfer of a motor vehicle, as defined in that section, to another motor vehicle dealer for the purpose of resale by the transferee motor vehicle dealer, but only if the sale or other transfer was based upon the transferee's need to meet a specific customer's preference for a motor vehicle;

(u) Receipts from a financial institution described in division (E)(3) of this section for services provided to the financial institution in connection with the issuance, processing, servicing, and management of loans or credit accounts, if such financial institution and the recipient of such receipts have at least fifty per cent of their ownership interests owned or controlled, directly or constructively through related interests, by common owners;

(v) Receipts realized from administering anti-neoplastic drugs and other cancer chemotherapy, biologicals, therapeutic agents, and supportive drugs in a physician's office to patients with cancer;

(w) Funds received or used by a mortgage broker that is not a dealer in intangibles, other than fees or other consideration, pursuant to a table-funding mortgage loan or warehouse-lending mortgage loan. Terms used in division (F)(2)(w) of this section have the same meanings as in section 1322.01 of the Revised Code, except "mortgage broker" means a person assisting a buyer in obtaining a mortgage loan for a fee or other consideration paid by the buyer or a lender, or a person engaged in table-funding or warehouse-lending mortgage loans that are first lien mortgage loans.

(x) Property, money, and other amounts received by a professional employer organization, as defined in section 4125.01 of the Revised Code, from a client employer, as defined in that section, in excess of the administrative fee charged by the professional employer organization to the client employer;

(y) In the case of amounts retained as commissions by a permit holder under Chapter 3769. of the Revised Code, an amount equal to the amounts

specified under that chapter that must be paid to or collected by the tax commissioner as a tax and the amounts specified under that chapter to be used as purse money;

(z) Qualifying distribution center receipts.

(i) For purposes of division (F)(2)(z) of this section:

(I) "Qualifying distribution center receipts" means receipts of a supplier from qualified property that is delivered to a qualified distribution center, multiplied by a quantity that equals one minus the Ohio delivery percentage.

(II) "Qualified property" means tangible personal property delivered to a qualified distribution center that is shipped to that qualified distribution center solely for further shipping by the qualified distribution center to another location in this state or elsewhere. "Further shipping" includes storing and repackaging such property into smaller or larger bundles, so long as such property is not subject to further manufacturing or processing.

(III) "Qualified distribution center" means a warehouse or other similar facility in this state that, for the qualifying year, is operated by a person that is not part of a combined taxpayer group and that has a qualifying certificate. However, all warehouses or other similar facilities that are operated by persons in the same taxpayer group and that are located within one mile of each other shall be treated as one qualified distribution center.

(IV) "Qualifying year" means the calendar year to which the qualifying certificate applies.

(V) "Qualifying period" means the period of the first day of July of the second year preceding the qualifying year through the thirtieth day of June of the year preceding the qualifying year.

(VI) "Qualifying certificate" means the certificate issued by the tax commissioner after the operator of a distribution center files an annual application approved by the tax commissioner from an operator of a distribution center that has filed an application as prescribed by the commissioner and paid the annual fee for the qualifying certificate on or before the first day of September prior to the qualifying year or forty-five days after the opening of the distribution center, whichever is later with the commissioner. The application and annual fee shall be filed and paid for each qualified distribution center on or before the first day of September before the qualifying year or within forty-five days after the distribution center opens, whichever is later.

The applicant must substantiate to the commissioner's satisfaction that, for the qualifying period, all persons operating the distribution center have more than fifty per cent of the cost of the qualified property shipped to a location such that it would be situated outside this state under the provisions

of division (E) of section 5751.033 of the Revised Code. The applicant must also substantiate that the distribution center cumulatively had costs from its suppliers equal to or exceeding five hundred million dollars during the qualifying period. (For purposes of division (F)(2)(z)(i)(VI) of this section, "supplier" excludes any person that is part of the consolidated elected taxpayer group, if applicable, of the operator of the qualified distribution center.) The commissioner may require the applicant to have an independent certified public accountant certify that the calculation of the minimum thresholds required for a qualified distribution center by the operator of a distribution center has been made in accordance with generally accepted accounting principles. The commissioner shall issue or deny the issuance of a certificate within sixty days after the receipt of the application. A denial is subject to appeal under section 5717.02 of the Revised Code. If the operator files a timely appeal under section 5717.02 of the Revised Code, the operator shall be granted a qualifying certificate, provided that the operator is liable for any tax, interest, or penalty upon amounts claimed as qualifying distribution center receipts, other than those receipts exempt under division (C)(1) of section 5751.011 of the Revised Code, that would have otherwise not been owed by its suppliers if the qualifying certificate was valid.

(VII) "Ohio delivery percentage" means the proportion of the total property delivered to a destination inside Ohio from the qualified distribution center during the qualifying period compared with total deliveries from such distribution center everywhere during the qualifying period.

(ii) If the distribution center is new and was not open for the entire qualifying period, the operator of the distribution center may request that the commissioner grant a qualifying certificate. If the certificate is granted and it is later determined that more than fifty per cent of the qualified property during that year was not shipped to a location such that it would be situated outside of this state under the provisions of division (E) of section 5751.033 of the Revised Code or if it is later determined that the person that operates the distribution center had average monthly costs from its suppliers of less than forty million dollars during that year, then the operator of the distribution center shall be liable for any tax, interest, or penalty upon amounts claimed as qualifying distribution center receipts, other than those receipts exempt under division (C)(1) of section 5751.011 of the Revised Code, that would have not otherwise been owed by its suppliers during the qualifying year if the qualifying certificate was valid. (For purposes of division (F)(2)(z)(ii) of this section, "supplier" excludes any person that is part of the consolidated elected taxpayer group, if applicable, of the operator

of the qualified distribution center.)

(iii) When filing an application for a qualifying certificate under division (F)(2)(z)(i)(VI) of this section, the operator of a qualified distribution center also shall provide documentation, as the commissioner requires, for the commissioner to ascertain the Ohio delivery percentage. The commissioner, upon issuing the qualifying certificate, also shall certify the Ohio delivery percentage. The operator of the qualified distribution center may appeal the commissioner's certification of the Ohio delivery percentage in the same manner as an appeal is taken from the denial of a qualifying certificate under division (F)(2)(z)(i)(VI) of this section.

Within thirty days after all appeals have been exhausted, the operator of the qualified distribution center shall notify the affected suppliers of qualified property that such suppliers are required to file, within sixty days after receiving notice from the operator of the qualified distribution center, amended reports for the impacted calendar quarter or quarters or calendar year, whichever the case may be. Any additional tax liability or tax overpayment shall be subject to interest but shall not be subject to the imposition of any penalty so long as the amended returns are timely filed. The supplier of tangible personal property delivered to the qualified distribution center shall include in its report of taxable gross receipts the receipts from the total sales of property delivered to the qualified distribution center for the calendar quarter or calendar year, whichever the case may be, multiplied by the Ohio delivery percentage for the qualifying year. Nothing in division (F)(2)(z)(iii) of this section shall be construed as imposing liability on the operator of a qualified distribution center for the tax imposed by this chapter arising from any change to the Ohio delivery percentage.

(iv) In the case where the distribution center is new and not open for the entire qualifying period, the operator shall make a good faith estimate of an Ohio delivery percentage for use by suppliers in their reports of taxable gross receipts for the remainder of the qualifying period. The operator of the facility shall disclose to the suppliers that such Ohio delivery percentage is an estimate and is subject to recalculation. By the due date of the next application for a qualifying certificate, the operator shall determine the actual Ohio delivery percentage for the estimated qualifying period and proceed as provided in division (F)(2)(z)(iii) of this section with respect to the calculation and recalculation of the Ohio delivery percentage. The supplier is required to file, within sixty days after receiving notice from the operator of the qualified distribution center, amended reports for the impacted calendar quarter or quarters or calendar year, whichever the case

may be. Any additional tax liability or tax overpayment shall be subject to interest but shall not be subject to the imposition of any penalty so long as the amended returns are timely filed.

(v) Qualifying certificates and Ohio delivery percentages issued by the commissioner shall be open to public inspection and shall be timely published by the commissioner. A supplier relying in good faith on a certificate issued under this division shall not be subject to tax on the qualifying distribution center receipts under division (F)(2)(z) of this section. A person receiving a qualifying certificate is responsible for paying the tax, interest, and penalty upon amounts claimed as qualifying distribution center receipts that would not otherwise have been owed by the supplier if the qualifying certificate were available when it is later determined that the qualifying certificate should not have been issued because the statutory requirements were in fact not met.

(vi) The annual fee for a qualifying certificate shall be one hundred thousand dollars for each qualified distribution center. If a qualifying certificate is not issued, the annual fee is subject to refund after the exhaustion of all appeals provided for in division (F)(2)(z)(i)(VI) of this section. The fee imposed under this division may be assessed in the same manner as the tax imposed under this chapter. The first one hundred thousand dollars of the annual application fees collected each calendar year shall be credited to the commercial activity tax administrative fund. The remainder of the annual application fees collected shall be distributed in the same manner required under section 5751.20 of the Revised Code.

(vii) The tax commissioner may require that adequate security be posted by the operator of the distribution center on appeal when the commissioner disagrees that the applicant has met the minimum thresholds for a qualified distribution center as set forth in divisions (F)(2)(z)(i)(VI) and (F)(2)(z)(ii) of this section.

(aa) Receipts of an employer from payroll deductions relating to the reimbursement of the employer for advancing moneys to an unrelated third party on an employee's behalf;

(bb) Cash discounts allowed and taken;

(cc) Returns and allowances;

(dd) Bad debts from receipts on the basis of which the tax imposed by this chapter was paid in a prior quarterly tax payment period. For the purpose of this division, "bad debts" means any debts that have become worthless or uncollectible between the preceding and current quarterly tax payment periods, have been uncollected for at least six months, and that may be claimed as a deduction under section 166 of the Internal Revenue

Code and the regulations adopted under that section, or that could be claimed as such if the taxpayer kept its accounts on the accrual basis. "Bad debts" does not include repossessed property, uncollectible amounts on property that remains in the possession of the taxpayer until the full purchase price is paid, or expenses in attempting to collect any account receivable or for any portion of the debt recovered;

(ee) Any amount realized from the sale of an account receivable to the extent the receipts from the underlying transaction giving rise to the account receivable were included in the gross receipts of the taxpayer;

(ff) Any receipts for which the tax imposed by this chapter is prohibited by the Constitution or laws of the United States or the Constitution of Ohio.

(3) In the case of a taxpayer when acting as a real estate broker, "gross receipts" includes only the portion of any fee for the service of a real estate broker, or service of a real estate salesperson associated with that broker, that is retained by the broker and not paid to an associated real estate salesperson or another real estate broker. For the purposes of this division, "real estate broker" and "real estate salesperson" have the same meanings as in section 4735.01 of the Revised Code.

(4) A taxpayer's method of accounting for gross receipts for a tax period shall be the same as the taxpayer's method of accounting for federal income tax purposes for the taxpayer's federal taxable year that includes the tax period. If a taxpayer's method of accounting for federal income tax purposes changes, its method of accounting for gross receipts under this chapter shall be changed accordingly.

~~In calculating gross receipts, the following shall be deducted to the extent included as a gross receipt in the current tax period or reported as taxable gross receipts in a prior tax period:~~

~~(a) Cash discounts allowed and taken;~~

~~(b) Returns and allowances;~~

~~(c) Bad debts. For the purposes of this division, "bad debts" mean any debts that have become worthless or uncollectible between the preceding and current quarterly tax payment periods, have been uncollected for at least six months, and may be claimed as a deduction under section 166 of the Internal Revenue Code and the regulations adopted pursuant thereto, or that could be claimed as such if the taxpayer kept its accounts on the accrual basis. "Bad debts" does not include uncollectible amounts on property that remains in the possession of the taxpayer until the full purchase price is paid, expenses in attempting to collect any account receivable or for any portion of the debt recovered, and repossessed property;~~

~~(d) Any amount realized from the sale of an account receivable but only~~

~~to the extent the receipts from the underlying transaction giving rise to the account receivable were included in the gross receipts of the taxpayer.~~

(G) "Taxable gross receipts" means gross receipts situated to this state under section 5751.033 of the Revised Code.

(H) A person has "substantial nexus with this state" if any of the following applies. The person:

- (1) Owns or uses a part or all of its capital in this state;
- (2) Holds a certificate of compliance with the laws of this state authorizing the person to do business in this state;
- (3) Has bright-line presence in this state;
- (4) Otherwise has nexus with this state to an extent that the person can be required to remit the tax imposed under this chapter under the Constitution of the United States.

(I) A person has "bright-line presence" in this state for a reporting period and for the remaining portion of the calendar year if any of the following applies. The person:

(1) Has at any time during the calendar year property in this state with an aggregate value of at least fifty thousand dollars. For the purpose of division (I)(1) of this section, owned property is valued at original cost and rented property is valued at eight times the net annual rental charge.

(2) Has during the calendar year payroll in this state of at least fifty thousand dollars. Payroll in this state includes all of the following:

(a) Any amount subject to withholding by the person under section 5747.06 of the Revised Code;

(b) Any other amount the person pays as compensation to an individual under the supervision or control of the person for work done in this state; and

(c) Any amount the person pays for services performed in this state on its behalf by another.

(3) Has during the calendar year taxable gross receipts of at least five hundred thousand dollars.

(4) Has at any time during the calendar year within this state at least twenty-five per cent of the person's total property, total payroll, or total gross receipts.

(5) Is domiciled in this state as an individual or for corporate, commercial, or other business purposes.

(J) "Tangible personal property" has the same meaning as in section 5739.01 of the Revised Code.

(K) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term used in this chapter that

is not otherwise defined has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

(L) "Calendar quarter" means a three-month period ending on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, or the thirty-first day of December.

(M) "Tax period" means the calendar quarter or calendar year on the basis of which a taxpayer is required to pay the tax imposed under this chapter.

(N) "Calendar year taxpayer" means a taxpayer for which the tax period is a calendar year.

(O) "Calendar quarter taxpayer" means a taxpayer for which the tax period is a calendar quarter.

(P) "Agent" means a person authorized by another person to act on its behalf to undertake a transaction for the other, including any of the following:

(1) A person receiving a fee to sell financial instruments;

(2) A person retaining only a commission from a transaction with the other proceeds from the transaction being remitted to another person;

(3) A person issuing licenses and permits under section 1533.13 of the Revised Code;

(4) A lottery sales agent holding a valid license issued under section 3770.05 of the Revised Code;

(5) A person acting as an agent of the division of liquor control under section 4301.17 of the Revised Code.

(Q) "Received" includes amounts accrued under the accrual method of accounting.

(R) "Reporting person" means a person in a consolidated elected taxpayer or combined taxpayer group that is designated by that group to legally bind the group for all filings and tax liabilities and to receive all legal notices with respect to matters under this chapter, or, for the purposes of section 5751.04 of the Revised Code, a separate taxpayer that is not a member of such a group.

Sec. 5751.011. (A) A group of two or more persons may elect to be a consolidated elected taxpayer for the purposes of this chapter if the group satisfies all of the following requirements:

(1) The group elects to include all persons, including persons enumerated in divisions (E)(2) to (10) of section 5751.01 of the Revised

Code, having at least eighty per cent, or having at least fifty per cent, of the value of their ownership interests owned or controlled, directly or constructively through related interests, by common owners during all or any portion of the tax period, together with the common owners. ~~At~~

A group making its initial election on the basis of the eighty per cent ownership test may change its election so that its consolidated elected taxpayer group is formed on the basis of the fifty per cent ownership test if all of the following are satisfied:

(a) When the initial election was made, the group did not have any persons satisfying the fifty per cent ownership test;

(b) One or more of the persons in the initial group subsequently acquires ownership interests in a person such that the fifty per cent ownership test is satisfied, the eighty per cent ownership test is not satisfied, and the acquired person would be required to be included in a combined taxpayer group under section 5751.012 of the Revised Code;

(c) The group requests the change in a written request to the tax commissioner on or before the due date for filing the first return due under section 5751.051 of the Revised Code after the date of the acquisition;

(d) The group has not previously changed its election.

At the election of the group, all entities that are not incorporated or formed under the laws of a state or of the United States and that meet the consolidated elected ownership test shall either be included in the group or all shall be excluded from the group. ~~The~~ If, at the time of registration, the group does not include any such entities that meet the consolidated elected ownership test, the group shall elect to either include or exclude the newly acquired entities before the due date of the first return due after the date of the acquisition.

Each group shall notify the tax commissioner of the foregoing elections before the due date of the return ~~in which the election is to become effective for the period in which the election becomes binding.~~ If fifty per cent of the value of a person's ownership interests is owned or controlled by each of two consolidated elected taxpayer groups formed under the fifty per cent ownership or control test, that person is a member of each group for the purposes of this section, and each group shall include in the group's taxable gross receipts fifty per cent of that person's taxable gross receipts. Otherwise, all of that person's taxable gross receipts shall be included in the taxable gross receipts of the consolidated elected taxpayer group of which the person is a member. In no event shall the ownership or control of fifty per cent of the value of a person's ownership interests by two otherwise unrelated groups form the basis for consolidating the groups into a single

consolidated elected taxpayer group or permit any exclusion under division (C) of this section of taxable gross receipts between members of the two groups. Division (A)(3) of this section applies with respect to the elections described in this division.

(2) The group makes the election to be treated as a consolidated elected taxpayer in the manner prescribed under division (D) of this section.

(3) Subject to review and audit by the tax commissioner, the group agrees that all of the following apply:

(a) The group shall file reports as a single taxpayer for at least the next eight calendar quarters following the election so long as at least two or more of the members of the group meet the requirements of division (A)(1) of this section.

(b) Before the expiration of the eighth such calendar quarter, the group shall notify the commissioner if it elects to cancel its designation as a consolidated elected taxpayer. If the group does not so notify the tax commissioner, the election remains in effect for another eight calendar quarters.

(c) If, at any time during any of those eight calendar quarters following the election, a former member of the group no longer meets the requirements under division (A)(1) of this section, that member shall report and pay the tax imposed under this chapter separately, as a member of a combined taxpayer, or, if the former member satisfies such requirements with respect to another consolidated elected group, as a member of that consolidated elected group.

(d) The group agrees to the application of division (B) of this section.

(B) A group of persons making the election under this section shall report and pay tax on all of the group's taxable gross receipts even if substantial nexus with this state does not exist for one or more persons in the group.

(C)(1)(a) Members of a consolidated elected taxpayer group shall exclude gross receipts among persons included in the consolidated elected taxpayer group.

(b) Subject to divisions (C)(1)(c) and (C)(2) of this section, nothing in this section shall have the effect of requiring a consolidated elected taxpayer group to include gross receipts received by a person enumerated in divisions (E)(2) to (10) of section 5751.01 of the Revised Code if that person is a member of the group pursuant to the elections made by the group under division (A)(1) of this section.

(c)(i) As used in division (C)(1)(c) of this section, "dealer transfer" means a transfer of property that satisfies both of the following: (I) the

property is directly transferred by any means from one member of the group to another member of the group that is a dealer in intangibles but is not a qualifying dealer as defined in section 5725.24 of the Revised Code; and (II) the property is subsequently delivered by the dealer in intangibles to a person that is not a member of the group.

(ii) In the event of a dealer transfer, a consolidated elected taxpayer group shall not exclude, under division (C) of this section, gross receipts from the transfer described in division (C)(1)(c)(i)(I) of this section.

(2) Gross receipts related to the sale or transmission of electricity through the use of an intermediary regional transmission organization approved by the federal energy regulatory commission shall be excluded from taxable gross receipts under division (C)(1) of this section if all other requirements of that division are met, even if the receipts are from and to the same member of the group.

(D) To make the election to be a consolidated elected taxpayer, a group of persons shall notify the tax commissioner of the election in the manner prescribed by the commissioner and pay the commissioner a registration fee equal to the lesser of two hundred dollars or twenty dollars for each person in the group. No additional fee shall be imposed for the addition of new members to the group once the group has remitted a fee in the amount of two hundred dollars. The election shall be made and the fee paid before ~~the~~ ~~later~~ of the beginning of the first calendar quarter to which the election applies ~~or November 15, 2005~~. The fee shall be collected and used in the same manner as provided in section 5751.04 of the Revised Code.

The election shall be made on a form prescribed by the tax commissioner for that purpose and shall be signed by one or more individuals with authority, separately or together, to make a binding election on behalf of all persons in the group.

Any person acquired or formed after the filing of the registration shall be included in the group if the person meets the requirements of division (A)(1) of this section, and the group shall notify the tax commissioner of any additions to the group with the next tax return it files with the commissioner.

~~(E) Each member of a consolidated elected taxpayer is jointly and severally liable for the tax imposed by this chapter and any penalties or interest thereon. The tax commissioner may require one person in the group to be the taxpayer for purposes of registration and remittance of the tax, but all members of the group are subject to assessment under section 5751.09 of the Revised Code.~~

Sec. 5751.012. (A) All persons, other than persons enumerated in

divisions (E)(2) to (10) of section 5751.01 of the Revised Code, having more than fifty per cent of the value of their ownership interest owned or controlled, directly or constructively through related interests, by common owners during all or any portion of the tax period, together with the common owners, shall be members of a combined taxpayer if those persons are not members of a consolidated elected taxpayer pursuant to an election under section 5751.011 of the Revised Code.

(B) A combined taxpayer shall register, file returns, and pay taxes under this chapter as a single taxpayer.

(C) A combined taxpayer shall neither exclude taxable gross receipts between its members nor from others that are not members.

(D) A combined taxpayer shall pay to the tax commissioner a registration fee equal to the lesser of two hundred dollars or twenty dollars for each person in the group. No additional fee shall be imposed for the addition of new members to the group once the group has remitted a fee in the amount of two hundred dollars. The fee shall be timely paid before the later of the beginning of the first calendar quarter or November 15, 2005. The fee shall be collected and used in the same manner as provided in section 5751.04 of the Revised Code.

Any person acquired or formed after the filing of the registration shall be included in the group if the person meets the requirements of division (A) of this section, and the group must notify the tax commissioner of any additions with the next quarterly tax return it files with the commissioner.

~~(E) Each member of a combined taxpayer is jointly and severally liable for the tax imposed by this chapter and any penalties or interest thereon. The tax commissioner may require one person in the group to be the taxpayer for purposes of registration and remittance of the tax, but all members of the group are subject to assessment under section 5751.09 of the Revised Code.~~

Sec. 5751.013. (A) Except as provided in division (B) of this section:

(1) A person shall include as taxable gross receipts the value of property the person transfers into this state for the person's own use within one year after the person receives the property outside this state; and

(2) In the case of ~~an elected~~ a consolidated elected taxpayer group or a combined taxpayer group, the taxpayer shall include as taxable gross receipts the value of property that any of the taxpayer's members transferred into this state for the use of any of the taxpayer's members within one year after the taxpayer receives the property outside this state.

(B) Property brought into this state within one year after it is received outside this state by a person or group described in division (A)(1) or (2) of this section shall not be included as taxable gross receipts as required under

those divisions if the tax commissioner ascertains that the property's receipt outside this state by the person or group followed by its transfer into this state within one year was not intended in whole or in part to avoid in whole or in part the tax imposed under this chapter.

(C) The tax commissioner may adopt rules necessary to administer this section.

Sec. 5751.014. All members of a consolidated elected taxpayer or combined taxpayer group during the tax period or periods for which additional tax, penalty, or interest is owed are jointly and severally liable for such amounts. Although the reporting person will be assessed for the liability, such amounts due may be pursued against any member of the group when a liability is certified to the attorney general under section 131.02 of the Revised Code.

Sec. 5751.02. (A) For the purpose of funding the needs of this state and its local governments beginning with the tax period that commences July 1, 2005, and continuing for every tax period thereafter, there is hereby levied a commercial activity tax on each person with taxable gross receipts for the privilege of doing business in this state. For the purposes of this chapter, "doing business" means engaging in any activity, whether legal or illegal, that is conducted for, or results in, gain, profit, or income, at any time during the calendar year. Persons on which the commercial activity tax is levied include, but are not limited to, persons with substantial nexus with this state. The tax imposed under this section is not a transactional tax and is not subject to Public Law No. 86-272, 73 Stat. 555. The tax imposed under this section is in addition to any other taxes or fees imposed under the Revised Code. The tax levied under this section is imposed on the person receiving the gross receipts and is not a tax imposed directly on a purchaser. The tax imposed by this section is an annual privilege tax for the calendar year that, in the case of calendar year taxpayers, is the annual tax period and, in the case of calendar quarter taxpayers, contains all quarterly tax periods in the calendar year. A taxpayer is subject to the annual privilege tax for doing business during any portion of such calendar year.

(B) The tax imposed by this section is a tax on the taxpayer and; shall not be billed or invoiced to another person. Even if the tax or any portion thereof is billed or invoiced and separately stated, such amounts remain part of the price for purposes of the sales and use taxes levied under Chapters 5739. and 5741. of the Revised Code. Nothing in division (B) of this section prohibits a:

(1) A person from including in the price charged for a good or service an amount sufficient to recover the tax imposed by this section; or

(2) A lessor from including an amount sufficient to recover the tax imposed by this section in a lease payment charged, or from including such an amount on a billing or invoice pursuant to the terms of a written lease agreement providing for the recovery of the lessor's tax costs. The recovery of such costs shall be based on an estimate of the total tax cost of the lessor during the tax period, as the tax liability of the lessor cannot be calculated until the end of that period.

Sec. 5751.03. (A) Except as provided in divisions (B) and (D) of this section and in sections 5751.031 and 5751.032 of the Revised Code, the tax levied under this section for each tax period shall be the product of two and six-tenths mills per dollar times the remainder of the taxpayer's taxable gross receipts for the tax period after subtracting the exclusion amount provided for in division (C) of this section.

(B) Notwithstanding division (C) of this section, the tax on the first one million dollars in taxable gross receipts each calendar year shall be one hundred fifty dollars. For calendar year 2006, the tax imposed under this division shall be paid not later than May 10, 2006, by both calendar year taxpayers and calendar quarter taxpayers. For calendar ~~year~~ years 2007 ~~and thereafter, 2008, and 2009~~, the tax imposed under this division shall be paid with the fourth-quarter tax return or annual tax return for the prior calendar year by both calendar year taxpayers and calendar quarter taxpayers. For calendar years 2010 and thereafter, the tax imposed under this division shall be paid not later than the tenth day of May of each year along with the first quarter or annual tax return, as applicable.

(C)(1) Each calendar quarter taxpayer may exclude the first two hundred fifty thousand dollars of taxable gross receipts for a calendar quarter and may carry forward and apply any unused exclusion amount to the three subsequent calendar quarters. Each calendar year taxpayer may exclude the first one million dollars of taxable gross receipts for a calendar year.

(2) A taxpayer switching from a calendar year tax period to a calendar quarter tax period may, for the first quarter of the change, apply the prior calendar quarter exclusion amounts to the first calendar quarter return the taxpayer files that calendar year. The tax rate shall be based on the rate imposed that calendar quarter when the taxpayer switches from a calendar year to a calendar quarter tax period.

(D) There is hereby allowed a credit against the tax imposed under this chapter for each of the following calendar years if a transfer was made in the preceding calendar year from the general revenue fund to the commercial activity tax refund fund under division (D) of section 5751.032 of the

Revised Code: calendar years 2008, 2010, and 2012. The credit is allowed for taxpayers that paid in full the tax imposed under this chapter for the calendar year in which the transfer was made. The amount of a taxpayer's credit equals the amount computed under division (D) of section 5751.032 of the Revised Code.

Sec. 5751.04. (A) As used in this section, "person" includes a reporting person.

~~(B)~~ Not later than ~~the later of November 15, 2005, or~~ thirty days after a person first has more than one hundred fifty thousand dollars in taxable gross receipts in a calendar year, each person subject to this chapter shall register with the tax commissioner on the form prescribed by the commissioner. The form shall include the following:

- (1) The person's name;
- (2) If applicable, the name of the state or country under the laws of which the person is incorporated;
- (3) If applicable, the location of a person's principal office and the name and address of the officer or agent of the corporation in charge of the business;
- (4) If applicable, the names of the person's president, secretary, treasurer, and statutory agent designated pursuant to section 1703.041 of the Revised Code, with the post office address of each;
- (5) The kind of business in which the person is engaged, including applicable business or industry codes;
- (6) If required by the tax commissioner, the date of the beginning of the person's annual accounting period that includes the first day of January of the taxable calendar year;
- (7) If the person is not a corporation or a sole proprietor, the names of the person's owners and officers, if required by the tax commissioner;
- (8) The person's federal employer identification number or numbers or, if those are not applicable, the person's social security number or equivalent;
- (9) All other information that the commissioner requires to administer and enforce this chapter.

~~(B)~~(C) Except as otherwise provided in this division, each person registering with the tax commissioner as required by division ~~(A)~~(B) of this section shall pay a registration fee. The fee shall be in the amount of fifteen dollars if a person registers electronically and twenty dollars if a person does not register electronically. The registration fee shall be paid in the manner prescribed by the tax commissioner at the same time the registration is due if a person is subject to the tax imposed under this chapter before January 1, 2006. If a person first becomes subject to the tax after that date, the

registration fee is payable with the first tax period return the person is required to file as prescribed by section 5751.051 of the Revised Code. If a ~~registration fee is not paid when due~~ person does not register within the time prescribed by this section, an additional fee is imposed in the amount of one hundred dollars per month or part thereof that the fee is outstanding, not to exceed one thousand dollars. The tax commissioner may abate the additional fee. The fee imposed under this division may be assessed in the same manner as the tax imposed under this chapter. Proceeds from the fee shall be credited to the commercial activity tax administrative fund, which is hereby created in the state treasury for the commissioner to use in implementing and administering the tax imposed under this chapter.

~~No registration fee is payable by a person for a calendar year if the person first begins business operations in this state after the thirtieth day of November of that calendar year or if the person's taxable gross receipts for the calendar year exceed one hundred fifty thousand dollars but do not exceed one hundred fifty thousand dollars as of the first day of December of the calendar year.~~

Registration fees paid under this section, excluding any additional fee imposed for ~~late payment of the registration fee~~ a person's failure to timely register, shall be credited against the first payment of tax payable under section 5751.03 of the Revised Code ~~after the registration fee is paid~~.

~~(C)(D)~~ If a person that has registered under this section is no longer a taxpayer subject to this chapter, including no longer being a taxpayer because of the application of division (E)(1) of section 5751.01 of the Revised Code, the person shall notify the commissioner that the person's registration should be cancelled.

(E) With respect to registrations received by the commissioner before the effective date of the amendment of this section by the main operating appropriations act of the 128th general assembly, the taxpayer listed as the primary taxpayer on the registration shall be the reporting person until the taxpayer notifies the commissioner otherwise.

Sec. 5751.05. (A) If a person subject to this chapter anticipates that the person's taxable gross receipts will be more than one million dollars ~~or less~~ in a calendar year ~~2006~~, the person ~~may elect to be a calendar year taxpayer. If a person is not required to be registered under this section for calendar year 2006 and anticipates that the person's taxable gross receipts will be one million dollars or less in the first calendar year the person is required to register under this section, the person may elect to be a calendar year taxpayer shall notify the tax commissioner on the person's initial registration form and file on a quarterly basis as a calendar quarter taxpayer. Any~~

taxpayer with taxable gross receipts of one million dollars or less shall register as a calendar year taxpayer and shall file annually.

(B) Any person that is a calendar year taxpayer ~~pursuant to an election~~ under division (A) of this section shall become a calendar quarter taxpayer in the subsequent calendar year if the person's taxable gross receipts for the prior calendar year are more than one million dollars, and shall remain a calendar quarter taxpayer until the person notifies the tax commissioner, and receives approval in writing from the tax commissioner, to switch back to being a calendar year taxpayer. Nothing in this division prohibits a person that has elected to be a calendar year taxpayer from notifying the tax commissioner, using the procedures prescribed by the commissioner, that it is switching back to being a calendar quarter taxpayer.

(C) Any taxpayer that is not a calendar ~~year~~ quarter taxpayer pursuant to this section is a calendar ~~quarter~~ year taxpayer. The ~~tax~~ commissioner may grant written approval for a calendar quarter taxpayer to use an alternative reporting schedule or estimate the amount of tax due for a calendar quarter if the taxpayer demonstrates to the commissioner the need for such a deviation. The commissioner may adopt a rule to apply division (C) of this section to a group of taxpayers without the taxpayers having to receive written approval from the commissioner.

Sec. 5751.051. (A)(1) Not later than ~~forty days~~ the tenth day of the second month after the end of each calendar quarter, every taxpayer other than a calendar year taxpayer shall file with the tax commissioner a tax return in such form as the commissioner prescribes. The return shall include, but is not limited to, the amount of the taxpayer's taxable gross receipts for the calendar quarter and shall indicate the amount of tax due under section 5751.03 of the Revised Code for the calendar quarter.

(2)(a) Subject to division (C) of section 5751.05 of the Revised Code, a calendar quarter taxpayer shall report the taxable gross receipts for that calendar quarter.

(b) With respect to taxable gross receipts incorrectly reported in a calendar quarter that has a lower tax rate, the tax shall be computed at the tax rate in effect for the quarterly return in which such receipts should have been reported. Nothing in division (A)(2)(b) of this section prohibits a taxpayer from filing an application for refund under section 5751.08 of the Revised Code with regard to the incorrect reporting of taxable gross receipts discovered after filing the annual return described in division (A)(3) of this section.

A tax return shall not be deemed to be an incorrect reporting of taxable gross receipts for the purposes of division (A)(2)(b) of this section if the

return reflects between ninety-five and one hundred five per cent of the actual taxable gross receipts for the calendar quarter.

(3) ~~The~~ For the purposes of division (A)(2)(b) of this section, the tax return filed for the fourth calendar quarter of a calendar year is the annual return for the privilege tax imposed by this chapter. Such return shall report any additional taxable gross receipts not previously reported in the calendar year and shall adjust for any over-reported taxable gross receipts in the calendar year. If the taxpayer ceases to be a taxpayer before the end of the calendar year, the last return the taxpayer is required to file shall be the annual return for the taxpayer and the taxpayer shall report any additional taxable gross receipts not previously reported in the calendar year and shall adjust for any over-reported taxable gross receipts in the calendar year.

(4) Because the tax imposed by this chapter is a privilege tax, the tax rate with respect to taxable gross receipts for a calendar quarter is not fixed until the end of the measurement period for each calendar quarter. Subject to division (A)(2)(b) of this section, the total amount of taxable gross receipts reported for a given calendar quarter shall be subject to the tax rate in effect in that quarter.

(5) Not later than ~~forty days after~~ the tenth day of May following the end of each calendar year, every calendar year taxpayer shall file with the tax commissioner a tax return in such form as the commissioner prescribes. The return shall include, but is not limited to, the amount of the taxpayer's taxable gross receipts for the calendar year and shall indicate the amount of tax due under section 5751.03 of the Revised Code for the calendar year.

(B)(1) A person that first becomes subject to the tax imposed under this chapter shall pay the minimum tax imposed under division (B) of section 5751.03 of the Revised Code along with the registration fee imposed under this section, if applicable, on or before the day the return is required to be filed for that quarter under division (A)(1) of this section, regardless of whether the person elects to be a calendar year taxpayer under section 5751.05 of the Revised Code.

(2) The amount of the minimum tax for a person subject to division (B)(1) of this section shall be reduced to seventy-five dollars if the registration is timely filed after the first day of May and before the first day of January of the following calendar year.

Sec. 5751.06. (A) Any taxpayer that fails to file a return or pay the full amount of the tax due within the period prescribed therefor under this chapter shall pay a penalty in an amount not exceeding the greater of fifty dollars or ten per cent of the tax required to be paid for the tax period.

(B)(1) If any additional tax is found to be due, the tax commissioner

may impose an additional penalty of up to fifteen per cent on the additional tax found to be due.

(2) Any delinquent payments of the tax made after a taxpayer is notified of an audit or a tax discrepancy by the commissioner is subject to the penalty imposed by division (B) of this section. If an assessment is issued under section ~~5751.10~~ 5751.09 of the Revised Code in connection with such delinquent payments, the payments shall be credited to the assessment.

(C) After calendar year 2008, the tax commissioner may impose an additional penalty against a taxpayer that fails to switch to being a calendar quarter taxpayer at the time it had over two million in taxable gross receipts in the calendar year, as required under section 5751.04 of the Revised Code. The penalty may be imposed in an amount not to exceed ten per cent of the tax due above two million dollars in taxable gross receipts for the calendar year. Any penalty imposed under this division is in addition to any other penalties imposed under this section.

(D) If the tax commissioner notifies a person required to register under section 5751.05 of the Revised Code of such requirement and of the requirement to remit the tax due under this chapter, and the person fails to so register and remit the tax within sixty days after such notice, the tax commissioner may impose an additional penalty of up to thirty-five per cent of the tax due. The penalty imposed under this division is in addition to any other penalties imposed under this section.

(E) The tax commissioner may collect any penalty or interest imposed by this section in the same manner as the tax imposed under this chapter. Penalties and interest so collected shall be considered as revenue arising from the tax imposed under this chapter.

(F) The tax commissioner may abate all or a portion of any penalties imposed under this section and may adopt rules governing such abatements.

(G) If any tax due is not timely paid in accordance with this chapter, the taxpayer shall pay interest, calculated at the rate per annum prescribed by section 5703.47 of the Revised Code, from the date the tax payment was due to the date of payment or to the date an assessment was issued, whichever occurs first.

(H) The tax commissioner may impose a penalty of up to ten per cent for any additional tax that is due under division (A)(2)(b) of section 5751.051 of the Revised Code from a taxpayer incorrectly reporting its taxable gross receipts.

(I) If the tax commissioner discovers that a taxpayer has billed or invoiced another person for the tax imposed under this chapter in violation of division (B) of section 5751.02 of the Revised Code, the tax

commissioner shall notify the taxpayer of the violation by certified mail and may impose a penalty of up to five hundred dollars. If the taxpayer subsequently bills or invoices a person for the tax imposed under this chapter, the tax commissioner shall impose a penalty of five hundred dollars.

Sec. 5751.08. (A) An application for refund to the taxpayer of the amount of taxes imposed under this chapter that are overpaid, paid illegally or erroneously, or paid on any illegal or erroneous assessment shall be filed by the reporting person with the tax commissioner, on the form prescribed by the commissioner, within four years after the date of the illegal or erroneous payment of the tax. The applicant shall provide the amount of the requested refund along with the claimed reasons for, and documentation to support, the issuance of a refund.

(B) On the filing of the refund application, the tax commissioner shall determine the amount of refund to which the applicant is entitled. If the amount is not less than that claimed, the commissioner shall certify the amount to the director of budget and management and treasurer of state for payment from the tax refund fund created under section 5703.052 of the Revised Code. If the amount is less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.

(C) Interest on a refund applied for under this section, computed at the rate provided for in section 5703.47 of the Revised Code, shall be allowed from the later of the date the tax was paid or when the tax payment was due.

(D) A calendar quarter taxpayer with more than one million dollars in taxable gross receipts in a calendar year other than calendar year 2005 and that is not able to exclude one million dollars in taxable gross receipts because of the operation of the taxpayer's business in that calendar year may file for a refund under this section to obtain the full exclusion of one million dollars in taxable gross receipts for that calendar year.

(E) No person with an active registration as a taxpayer under this chapter may claim a refund under this section for the tax imposed under division (B) of section 5751.03 of the Revised Code unless the person cancelled the registration before the tenth day of ~~February~~ May of the current calendar year pursuant to division ~~(C)~~(D) of section 5751.04 of the Revised Code.

(F) Except as provided in section 5751.091 of the Revised Code, the tax commissioner may, with the consent of the taxpayer, provide for the crediting against tax due for a tax year the amount of any refund due the taxpayer under this chapter for a preceding tax year.

Sec. 5751.09. (A) The tax commissioner may make an assessment,

based on any information in the commissioner's possession, against any person that fails to file a return or pay any tax as required by this chapter. The commissioner shall give the person assessed written notice of the assessment as provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on the manner in which to petition for reassessment and request a hearing with respect to the petition. The commissioner shall send any assessments against consolidated elected taxpayer and combined taxpayer groups under section 5751.011 or 5751.012 of the Revised Code to the taxpayer's "reporting person" as defined under division (R) of section 5751.01 of the Revised Code. The reporting person shall notify all members of the group of the assessment and all outstanding taxes, interest, and penalties for which the assessment is issued.

(B) Unless the person assessed, within sixty days after service of the notice of assessment, files with the tax commissioner, either personally or by certified mail, a written petition signed by the person or the person's authorized agent having knowledge of the facts, the assessment becomes final, and the amount of the assessment is due and payable from the person assessed to the treasurer of state. The petition shall indicate the objections of the person assessed, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination.

If a petition for reassessment has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.

(C)(1) After an assessment becomes final, if any portion of the assessment, including accrued interest, remains unpaid, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the person resides or has its principal place of business in this state, or in the office of the clerk of court of common pleas of Franklin county.

(2) Immediately upon the filing of the entry, the clerk shall enter judgment for the state against the person assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled, "special judgments for the commercial activity tax" and shall have the same effect as other judgments. Execution shall issue upon the judgment at the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

(3) The portion of the assessment not paid within sixty days after the day the assessment was issued shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the tax

commissioner issues the assessment until it is paid. Interest shall be paid in the same manner as the tax and may be collected by the issuance of an assessment under this section.

(D) If the tax commissioner believes that collection of the tax will be jeopardized unless proceedings to collect or secure collection of the tax are instituted without delay, the commissioner may issue a jeopardy assessment against the person liable for the tax. Immediately upon the issuance of the jeopardy assessment, the commissioner shall file an entry with the clerk of the court of common pleas in the manner prescribed by division (C) of this section. Notice of the jeopardy assessment shall be served on the person assessed or the person's authorized agent in the manner provided in section 5703.37 of the Revised Code within five days of the filing of the entry with the clerk. The total amount assessed is immediately due and payable, unless the person assessed files a petition for reassessment in accordance with division (B) of this section and provides security in a form satisfactory to the commissioner and in an amount sufficient to satisfy the unpaid balance of the assessment. Full or partial payment of the assessment does not prejudice the commissioner's consideration of the petition for reassessment.

(E) The tax commissioner shall immediately forward to the treasurer of state all amounts the commissioner receives under this section, and such amounts shall be considered as revenue arising from the tax imposed under this chapter.

(F) Except as otherwise provided in this division, no assessment shall be made or issued against a taxpayer for the tax imposed under this chapter more than four years after the due date for the filing of the return for the tax period for which the tax was reported, or more than four years after the return for the tax period was filed, whichever is later. Nothing in this division bars an assessment against a taxpayer that fails to file a return required by this chapter or that files a fraudulent return.

(G) If the tax commissioner possesses information that indicates that the amount of tax a taxpayer is required to pay under this chapter exceeds the amount the taxpayer paid, the tax commissioner may audit a sample of the taxpayer's gross receipts over a representative period of time to ascertain the amount of tax due, and may issue an assessment based on the audit. The tax commissioner shall make a good faith effort to reach agreement with the taxpayer in selecting a representative sample. The tax commissioner may apply a sampling method only if the commissioner has prescribed the method by rule.

(H) If the whereabouts of a person subject to this chapter is not known to the tax commissioner, ~~the secretary of state is hereby deemed to be that~~

~~person's agent for purposes of service of process of notice of any assessment, action, or proceedings instituted in this state against the person under this chapter. Such process or notice shall be served on such person by the commissioner or by one of the commissioner's agents by leaving at the office of the secretary of state, at least fifteen days before the return day of such process or notice, a true and attested copy of the notice, and by sending to such person by ordinary mail, with an endorsement thereon of the service upon the secretary of state, addressed to such person at the person's last known address commissioner shall follow the procedures under section 5703.37 of the Revised Code.~~

Sec. 5751.20. (A) As used in sections 5751.20 to 5751.22 of the Revised Code:

(1) "School district," "joint vocational school district," "local taxing unit," "recognized valuation," "fixed-rate levy," and "fixed-sum levy" have the same meanings as used in section 5727.84 of the Revised Code.

(2) "State education aid" for a school district means the following:

(a) For fiscal years prior to fiscal year 2010, the sum of state aid amounts computed for the district under division (A) of section 3317.022 of the Revised Code, including the amounts calculated under sections 3317.029 and 3317.0217 of the Revised Code; divisions (C)(1), (C)(4), (D), (E), and (F) of section 3317.022; divisions (B), (C), and (D) of section 3317.023; divisions (L) and (N) of section 3317.024; section 3317.0216; and any unit payments for gifted student services paid under sections 3317.05, 3317.052, and 3317.053 of the Revised Code; except that, for fiscal years 2008 and 2009, the amount computed for the district under Section 269.20.80 of H.B. 119 of the 127th general assembly and as that section subsequently may be amended shall be substituted for the amount computed under division (D) of section 3317.022 of the Revised Code, and the amount computed under Section 269.30.80 of H.B. 119 of the 127th general assembly and as that section subsequently may be amended shall be included.

(b) For fiscal year 2010 and for each fiscal year thereafter, the sum of the amounts computed under sections 3306.052, 3306.12, 3306.13, 3306.19, 3306.191, and 3306.192 of the Revised Code.

(3) "State education aid" for a joint vocational school district means the following:

(a) For fiscal years prior to fiscal year 2010, the sum of the state aid computed for the district under division (N) of section 3317.024 and section 3317.16 of the Revised Code, except that, for fiscal years 2008 and 2009, the amount computed under Section 269.30.80 of H.B. 119 of the 127th general assembly and as that section subsequently may be amended shall be

included.

(b) For fiscal years 2010 and 2011, the amount paid in accordance with the section of this act entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS."

(4) "State education aid offset" means the amount determined for each school district or joint vocational school district under division (A)(1) of section 5751.21 of the Revised Code.

(5) "Machinery and equipment property tax value loss" means the amount determined under division (C)(1) of this section.

(6) "Inventory property tax value loss" means the amount determined under division (C)(2) of this section.

(7) "Furniture and fixtures property tax value loss" means the amount determined under division (C)(3) of this section.

(8) "Machinery and equipment fixed-rate levy loss" means the amount determined under division (D)(1) of this section.

(9) "Inventory fixed-rate levy loss" means the amount determined under division (D)(2) of this section.

(10) "Furniture and fixtures fixed-rate levy loss" means the amount determined under division (D)(3) of this section.

(11) "Total fixed-rate levy loss" means the sum of the machinery and equipment fixed-rate levy loss, the inventory fixed-rate levy loss, the furniture and fixtures fixed-rate levy loss, and the telephone company fixed-rate levy loss.

(12) "Fixed-sum levy loss" means the amount determined under division (E) of this section.

(13) "Machinery and equipment" means personal property subject to the assessment rate specified in division (F) of section 5711.22 of the Revised Code.

(14) "Inventory" means personal property subject to the assessment rate specified in division (E) of section 5711.22 of the Revised Code.

(15) "Furniture and fixtures" means personal property subject to the assessment rate specified in division (G) of section 5711.22 of the Revised Code.

(16) "Qualifying levies" are levies in effect for tax year 2004 or applicable to tax year 2005 or approved at an election conducted before September 1, 2005. For the purpose of determining the rate of a qualifying levy authorized by section 5705.212 or 5705.213 of the Revised Code, the rate shall be the rate that would be in effect for tax year 2010.

(17) "Telephone property" means tangible personal property of a telephone, telegraph, or interexchange telecommunications company subject

to an assessment rate specified in section 5727.111 of the Revised Code in tax year 2004.

(18) "Telephone property tax value loss" means the amount determined under division (C)(4) of this section.

(19) "Telephone property fixed-rate levy loss" means the amount determined under division (D)(4) of this section.

(B) The commercial activities tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed under this chapter. All money in that Eighty-five one-hundredths of one per cent of the money credited to that fund shall be credited to the tax reform system implementation fund, which is hereby created in the state treasury, and shall be used to defray the costs incurred by the department of taxation in administering the tax imposed by this chapter and in implementing tax reform measures. The remainder in the commercial activities tax receipts fund shall be credited for each fiscal year in the following percentages to the general revenue fund, to the school district tangible property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5751.21 of the Revised Code, and to the local government tangible property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5751.22 of the Revised Code, in the following percentages:

Fiscal year	General Revenue Fund	School District Tangible Property Tax Replacement Fund	Local Government Tangible Property Tax Replacement Fund
2006	67.7%	22.6%	9.7%
2007	0%	70.0%	30.0%
2008	0%	70.0%	30.0%
2009	0%	70.0%	30.0%
2010	0%	70.0%	30.0%
2011 and thereafter	0%	70.0%	30.0%
2012	5.3%	70.0%	24.7%
2013	10.6%	70.0%	19.4%
2014	14.1%	70.0%	15.9%
2015	17.6%	70.0%	12.4%
2016	21.1%	70.0%	8.9%

2017	24.6%	70.0%	5.4%
2018	28.1%	70.0%	1.9%
2019 and thereafter	30%	70%	0%

(C) Not later than September 15, 2005, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its machinery and equipment, inventory property, furniture and fixtures property, and telephone property tax value losses, which are the applicable amounts described in divisions (C)(1), (2), (3), and (4) of this section, except as provided in division (C)(5) of this section:

(1) Machinery and equipment property tax value loss is the taxable value of machinery and equipment property as reported by taxpayers for tax year 2004 multiplied by:

- (a) For tax year 2006, thirty-three and eight-tenths per cent;
- (b) For tax year 2007, sixty-one and three-tenths per cent;
- (c) For tax year 2008, eighty-three per cent;
- (d) For tax year 2009 and thereafter, one hundred per cent.

(2) Inventory property tax value loss is the taxable value of inventory property as reported by taxpayers for tax year 2004 multiplied by:

- (a) For tax year 2006, a fraction, the numerator of which is five and three-fourths and the denominator of which is twenty-three;
- (b) For tax year 2007, a fraction, the numerator of which is nine and one-half and the denominator of which is twenty-three;
- (c) For tax year 2008, a fraction, the numerator of which is thirteen and one-fourth and the denominator of which is twenty-three;
- (d) For tax year 2009 and thereafter a fraction, the numerator of which is seventeen and the denominator of which is twenty-three.

(3) Furniture and fixtures property tax value loss is the taxable value of furniture and fixture property as reported by taxpayers for tax year 2004 multiplied by:

- (a) For tax year 2006, twenty-five per cent;
- (b) For tax year 2007, fifty per cent;
- (c) For tax year 2008, seventy-five per cent;
- (d) For tax year 2009 and thereafter, one hundred per cent.

The taxable value of property reported by taxpayers used in divisions (C)(1), (2), and (3) of this section shall be such values as determined to be final by the tax commissioner as of August 31, 2005. Such determinations shall be final except for any correction of a clerical error that was made prior to August 31, 2005, by the tax commissioner.

(4) Telephone property tax value loss is the taxable value of telephone

property as taxpayers would have reported that property for tax year 2004 if the assessment rate for all telephone property for that year were twenty-five per cent, multiplied by:

- (a) For tax year 2006, zero per cent;
- (b) For tax year 2007, zero per cent;
- (c) For tax year 2008, zero per cent;
- (d) For tax year 2009, sixty per cent;
- (e) For tax year 2010, eighty per cent;
- (f) For tax year 2011 and thereafter, one hundred per cent.

(5) Division (C)(5) of this section applies to any school district, joint vocational school district, or local taxing unit in a county in which is located a facility currently or formerly devoted to the enrichment or commercialization of uranium or uranium products, and for which the total taxable value of property listed on the general tax list of personal property for any tax year from tax year 2001 to tax year 2004 was fifty per cent or less of the taxable value of such property listed on the general tax list of personal property for the next preceding tax year.

In computing the fixed-rate levy losses under divisions (D)(1), (2), and (3) of this section for any school district, joint vocational school district, or local taxing unit to which division (C)(5) of this section applies, the taxable value of such property as listed on the general tax list of personal property for tax year 2000 shall be substituted for the taxable value of such property as reported by taxpayers for tax year 2004, in the taxing district containing the uranium facility, if the taxable value listed for tax year 2000 is greater than the taxable value reported by taxpayers for tax year 2004. For the purpose of making the computations under divisions (D)(1), (2), and (3) of this section, the tax year 2000 valuation is to be allocated to machinery and equipment, inventory, and furniture and fixtures property in the same proportions as the tax year 2004 values. For the purpose of the calculations in division (A) of section 5751.21 of the Revised Code, the tax year 2004 taxable values shall be used.

To facilitate the calculations required under division (C) of this section, the county auditor, upon request from the tax commissioner, shall provide by August 1, 2005, the values of machinery and equipment, inventory, and furniture and fixtures for all single-county personal property taxpayers for tax year 2004.

(D) Not later than September 15, 2005, the tax commissioner shall determine for each tax year from 2006 through 2009 for each school district, joint vocational school district, and local taxing unit its machinery and equipment, inventory, and furniture and fixtures fixed-rate levy losses, and

for each tax year from 2006 through 2011 its telephone property fixed-rate levy loss, ~~which~~. Except as provided in division (F) of this section, such losses are the applicable amounts described in divisions (D)(1), (2), (3), and (4) of this section:

(1) The machinery and equipment fixed-rate levy loss is the machinery and equipment property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(2) The inventory fixed-rate loss is the inventory property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(3) The furniture and fixtures fixed-rate levy loss is the furniture and fixture property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(4) The telephone property fixed-rate levy loss is the telephone property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(E) Not later than September 15, 2005, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its fixed-sum levy loss. The fixed-sum levy loss is the amount obtained by subtracting the amount described in division (E)(2) of this section from the amount described in division (E)(1) of this section:

(1) The sum of the machinery and equipment property tax value loss, the inventory property tax value loss, and the furniture and fixtures property tax value loss, and, for 2008 ~~through 2017~~ and thereafter the telephone property tax value loss of the district or unit multiplied by the sum of the fixed-sum tax rates of qualifying levies. For 2006 through 2010, this computation shall include all qualifying levies remaining in effect for the current tax year and any school district levies imposed under section 5705.194 or 5705.213 of the Revised Code that are qualifying levies not remaining in effect for the current year. For 2011 ~~through 2017 in the case of school district levies imposed under section 5705.194 or 5705.213 of the Revised Code and for all years after 2010 in the case of other fixed-sum levies~~ and thereafter, this computation shall include only qualifying levies remaining in effect for the current year. For purposes of this computation, a qualifying school district levy imposed under section 5705.194 or 5705.213 of the Revised Code remains in effect in a year after 2010 only if, for that year, the board of education levies a school district levy imposed under section 5705.194 ~~or~~ 5705.199, 5705.213, or 5705.219 of the Revised Code for an annual sum at least equal to the annual sum levied by the board in tax year 2004 less the amount of the payment certified under this division for 2006.

(2) The total taxable value in tax year 2004 less the sum of the machinery and equipment, inventory, furniture and fixtures, and telephone property tax value losses in each school district, joint vocational school district, and local taxing unit multiplied by one-half of one mill per dollar.

(3) For the calculations in divisions (E)(1) and (2) of this section, the tax value losses are those that would be calculated for tax year 2009 under divisions (C)(1), (2), and (3) of this section and for tax year 2011 under division (C)(4) of this section.

(4) To facilitate the calculation under divisions (D) and (E) of this section, not later than September 1, 2005, any school district, joint vocational school district, or local taxing unit that has a qualifying levy that was approved at an election conducted during 2005 before September 1, 2005, shall certify to the tax commissioner a copy of the county auditor's certificate of estimated property tax millage for such levy as required under division (B) of section 5705.03 of the Revised Code, which is the rate that shall be used in the calculations under such divisions.

If the amount determined under division (E) of this section for any school district, joint vocational school district, or local taxing unit is greater than zero, that amount shall equal the reimbursement to be paid pursuant to division (E) of section 5751.21 or division (A)(3) of section 5751.22 of the Revised Code, and the one-half of one mill that is subtracted under division (E)(2) of this section shall be apportioned among all contributing fixed-sum levies in the proportion that each levy bears to the sum of all fixed-sum levies within each school district, joint vocational school district, or local taxing unit.

(F) If a school district levies a tax under section 5705.219 of the Revised Code, the fixed-rate levy loss for qualifying levies, to the extent repealed under that section, shall equal the sum of the following amounts in lieu of the amounts computed for such levies under division (D) of this section:

(1) The sum of the rates of qualifying levies to the extent so repealed multiplied by the sum of the machinery and equipment, inventory, and furniture and fixtures tax value losses for 2009 as determined under that division;

(2) The sum of the rates of qualifying levies to the extent so repealed multiplied by the telephone property tax value loss for 2011 as determined under that division.

The fixed-rate levy losses for qualifying levies to the extent not repealed under section 5705.219 of the Revised Code shall be as determined under division (D) of this section. The revised fixed-rate levy losses determined

under this division and division (D) of this section first apply in the year following the first year the district levies the tax under section 5705.219 of the Revised Code.

(G) Not later than October 1, 2005, the tax commissioner shall certify to the department of education for every school district and joint vocational school district the machinery and equipment, inventory, furniture and fixtures, and telephone property tax value losses determined under division (C) of this section, the machinery and equipment, inventory, furniture and fixtures, and telephone fixed-rate levy losses determined under division (D) of this section, and the fixed-sum levy losses calculated under division (E) of this section. The calculations under divisions (D) and (E) of this section shall separately display the levy loss for each levy eligible for reimbursement.

~~(G)~~(H) Not later than October 1, 2005, the tax commissioner shall certify the amount of the fixed-sum levy losses to the county auditor of each county in which a school district, joint vocational school district, or local taxing unit with a fixed-sum levy loss reimbursement has territory.

(I) Not later than the twenty-eighth day of February each year beginning in 2011 and ending in 2014, the tax commissioner shall certify to the department of education for each school district first levying a tax under section 5705.219 of the Revised Code in the preceding year the revised fixed-rate levy losses determined under divisions (D) and (F) of this section.

Sec. 5751.21. (A) Not later than the thirtieth day of July of 2007 ~~through 2017 and of each year thereafter~~, the department of education shall consult with the director of budget and management and determine the following for each school district and each joint vocational school district eligible for payment under division (B) of this section:

(1) The state education aid offset, which is the difference obtained by subtracting the amount described in division (A)(1)(b) of this section from the amount described in division (A)(1)(a) of this section:

(a) The state education aid computed for the school district or joint vocational school district for the current fiscal year as of the thirtieth day of July;

(b) The state education aid that would be computed for the school district or joint vocational school district for the current fiscal year as of the thirtieth day of July if the recognized valuation included the machinery and equipment, inventory, furniture and fixtures, and telephone property tax value losses for the school district or joint vocational school district for the second preceding tax year, and if taxes charged and payable associated with the tax value losses are accounted for in any state education aid computation

dependent on taxes charged and payable.

(2) The greater of zero or the difference obtained by subtracting the state education aid offset determined under division (A)(1) of this section from the sum of the machinery and equipment fixed-rate levy loss, the inventory fixed-rate levy loss, furniture and fixtures fixed-rate levy loss, and telephone property fixed-rate levy loss certified under ~~division (F)~~ divisions (G) and (I) of section 5751.20 of the Revised Code for all taxing districts in each school district and joint vocational school district for the second preceding tax year.

By the thirtieth day of July of each such year, the department of education and the director of budget and management shall agree upon the amount to be determined under division (A)(1) of this section.

(B) On or before the thirty-first day of August of each year beginning in 2008, the department of education shall recalculate the offset described under division (A) of this section for the previous fiscal year and recalculate the payments made under division (C) of this section in the preceding fiscal year using the offset calculated under this division. If the payments calculated under this division differ from the payments made under division (C) of this section in the preceding fiscal year, the difference shall either be paid to a school district or recaptured from a school district through an adjustment at the same times during the current fiscal year that the payments under division (C) of this section are made. In August and October of the current fiscal year, the amount of each adjustment shall be three-sevenths of the amount calculated under this division. In May of the current fiscal year, the adjustment shall be one-seventh of the amount calculated under this division.

(C) The department of education shall pay from the school district tangible property tax replacement fund to each school district and joint vocational school district all of the following for fixed-rate levy losses certified under ~~division (F)~~ divisions (G) and (I) of section 5751.20 of the Revised Code:

(1) On or before May 31, 2006, one-seventh of the total fixed-rate levy loss for tax year 2006;

(2) On or before August 31, 2006, and October 31, 2006, one-half of six-sevenths of the total fixed-rate levy loss for tax year 2006;

(3) On or before May 31, 2007, one-seventh of the total fixed-rate levy loss for tax year 2007;

(4) On or before August 31, 2007, and October 31, 2007, forty-three per cent of the amount determined under division (A)(2) of this section for fiscal year 2008, but not less than zero, plus one-half of six-sevenths of the

difference between the total fixed-rate levy loss for tax year 2007 and the total fixed-rate levy loss for tax year 2006.

(5) On or before May 31, 2008, fourteen per cent of the amount determined under division (A)(2) of this section for fiscal year 2008, but not less than zero, plus one-seventh of the difference between the total fixed-rate levy loss for tax year 2008 and the total fixed-rate levy loss for tax year 2006.

(6) On or before August 31, 2008, and October 31, 2008, forty-three per cent of the amount determined under division (A)(2) of this section for fiscal year 2009, but not less than zero, plus one-half of six-sevenths of the difference between the total fixed-rate levy loss in tax year 2008 and the total fixed-rate levy loss in tax year 2007.

(7) On or before May 31, 2009, fourteen per cent of the amount determined under division (A)(2) of this section for fiscal year 2009, but not less than zero, plus one-seventh of the difference between the total fixed-rate levy loss for tax year 2009 and the total fixed-rate levy loss for tax year 2007.

(8) On or before August 31, 2009, and October 31, 2009, forty-three per cent of the amount determined under division (A)(2) of this section for fiscal year 2010, but not less than zero, plus one-half of six-sevenths of the difference between the total fixed-rate levy loss in tax year 2009 and the total fixed-rate levy loss in tax year 2008.

(9) On or before May 31, 2010, fourteen per cent of the amount determined under division (A)(2) of this section for fiscal year 2010, but not less than zero, plus one-seventh of the difference between the total fixed-rate levy loss in tax year 2010 and the total fixed-rate levy loss in tax year 2008.

(10) On or before August 31, 2010, and October 31, 2010, forty-three per cent of the amount determined under division (A)(2) of this section for fiscal year 2011, but not less than zero, plus one-half of six-sevenths of the difference between the telephone property fixed-rate levy loss for tax year 2010 and the telephone property fixed-rate levy loss for tax year 2009.

(11) On or before May 31, 2011, fourteen per cent of the amount determined under division (A)(2) of this section for fiscal year 2011, but not less than zero, plus one-seventh of the difference between the telephone property fixed-rate levy loss for tax year 2011 and the telephone property fixed-rate levy loss for tax year 2009.

(12) On or before August 31, 2011, and October 31, 2011, forty-three per cent of the amount determined under division (A)(2) of this section ~~multiplied by a fraction, the numerator of which is fourteen and the~~

~~denominator of which is seventeen, but not less than zero, multiplied by forty-three per cent, plus one-half of six-sevenths of the difference between the telephone property fixed-rate levy loss for tax year 2011 and the telephone property fixed-rate levy loss for tax year 2010.~~

~~(13) On or before May 31, 2012, fourteen per cent of the amount determined under division (A)(2) of this section for fiscal year 2012, multiplied by a fraction, the numerator of which is fourteen and the denominator of which is seventeen but not less than zero, plus one-seventh of the difference between the telephone property fixed-rate levy loss for tax year 2011 and the telephone property fixed-rate levy loss for tax year 2010.~~

~~(14) On or before August 31, 2012, October 31, 2012, and May 31, 2013, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is eleven and the denominator of which is seventeen, but not less than zero, multiplied by one-third.~~

~~(15) On or before August 31, 2013, October 31, 2013, and May 31, 2014, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is nine and the denominator of which is seventeen, but not less than zero, multiplied by one-third.~~

~~(16) On or before August 31, 2014, October 31, 2014, and May 31, 2015, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is seven and the denominator of which is seventeen, but not less than zero, multiplied by one-third.~~

~~(17) On or before August 31, 2015, October 31, 2015, and May 31, 2016, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is five and the denominator of which is seventeen, but not less than zero, multiplied by one-third.~~

~~(18) On or before August 31, 2016, October 31, 2016, and May 31, 2017, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is three and the denominator of which is seventeen, but not less than zero, multiplied by one-third.~~

~~(19) On or before August 31, 2017, October 31, 2017, and May 31, 2018, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is one and the denominator of which is seventeen, but not less than zero, multiplied by one-third the thirty-first day of August and October of 2012 and of each year thereafter and the thirty-first day of May of 2013 and of each year thereafter, one-third of the amount determined under division (A)(2) of this section, but not less than zero.~~

The department of education shall report to each school district and joint vocational school district the apportionment of the payments among the

school district's or joint vocational school district's funds based on the certifications under ~~division (F)~~ divisions (G) and (I) of section 5751.20 of the Revised Code.

Any qualifying levy that is a fixed-rate levy that is not applicable to a tax year after 2010 does not qualify for any reimbursement after the tax year to which it is last applicable.

(D) For taxes levied within the ten-mill limitation for debt purposes in tax year 2005, payments shall be made equal to one hundred per cent of the loss computed as if the tax were a fixed-rate levy, ~~but those payments shall extend from fiscal year 2006 through fiscal year 2018, as long as the qualifying levy continues to be used for debt purposes. If the purpose of such a qualifying levy is changed, that levy becomes subject to the payments determined in division (C) of this section.~~

(E)(1) Not later than January 1, 2006, for each fixed-sum levy of each school district or joint vocational school district and for each year for which a determination is made under ~~division (F)~~(E) of section 5751.20 of the Revised Code that a fixed-sum levy loss is to be reimbursed, the tax commissioner shall certify to the department of education the fixed-sum levy loss determined under that division. The certification shall cover a time period sufficient to include all fixed-sum levies for which the commissioner made such a determination. The department shall pay from the school district property tax replacement fund to the school district or joint vocational school district one-third of the fixed-sum levy loss so certified for each year, plus one-third of the amount certified under division (I) of section 5751.20 of the Revised Code, on or before the last day of May, August, and October of the current year. Payments under this division of the amounts certified under division (I) of section 5751.20 of the Revised Code shall continue until the levy adopted under section 5705.219 of the Revised Code expires.

(2) Beginning in 2006, by the first day of January of each year, the tax commissioner shall review the certification originally made under division (E)(1) of this section. If the commissioner determines that a debt levy that had been scheduled to be reimbursed in the current year has expired, a revised certification for that and all subsequent years shall be made to the department of education.

(F) Beginning in September 2007 ~~and through June 2018~~, the director of budget and management shall transfer from the school district tangible property tax replacement fund to the general revenue fund each of the following:

(1) On the first day of September, one-fourth of the amount determined

for that fiscal year under division (A)(1) of this section;

(2) On the first day of December, one-fourth of the amount determined for that fiscal year under division (A)(1) of this section;

(3) On the first day of March, one-fourth of the amount determined for that fiscal year under division (A)(1) of this section;

(4) On the first day of June, one-fourth of the amount determined for that fiscal year under division (A)(1) of this section.

If, when a transfer is required under division (F)(1), (2), (3), or (4) of this section, there is not sufficient money in the school district tangible property tax replacement fund to make the transfer in the required amount, the director shall transfer the balance in the fund to the general revenue fund and may make additional transfers on later dates as determined by the director in a total amount that does not exceed one-fourth of the amount determined for the fiscal year.

~~(G) For each of the fiscal years 2006 through 2018, if~~ If the total amount in the school district tangible property tax replacement fund is insufficient to make all payments under divisions (C), (D), and (E) of this section at the times the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the school district tangible property tax replacement fund the difference between the total amount to be paid and the amount in the school district tangible property tax replacement fund. ~~For each fiscal year after 2018, at the time payments under division (E) of this section are to be made, the director of budget and management shall transfer from the general revenue fund to the school district property tax replacement fund the amount necessary to make such payments.~~

~~(H)(4) On the fifteenth day of June of 2006 through 2011, the director of budget and management may transfer any balance in the school district tangible property tax replacement fund to the general revenue fund. At the end of fiscal years 2012 through 2018, any balance in the school district tangible property tax replacement fund shall remain in the fund to be used in future fiscal years for school purposes.~~

~~(2) In each fiscal year beginning with fiscal year 2019~~ In each fiscal year thereafter, all amounts credited to the school district tangible personal property tax replacement fund shall be appropriated for school purposes.

(I) If all of the territory of a school district or joint vocational school district is merged with another district, or if a part of the territory of a school district or joint vocational school district is transferred to an existing or newly created district, the department of education, in consultation with the tax commissioner, shall adjust the payments made under this section as follows:

(1) For a merger of two or more districts, the machinery and equipment, inventory, furniture and fixtures, and telephone property fixed-rate levy losses and the fixed-sum levy losses of the successor district shall be equal to the sum of the machinery and equipment, inventory, furniture and fixtures, and telephone property fixed-rate levy losses and debt levy losses as determined in section 5751.20 of the Revised Code, for each of the districts involved in the merger.

(2) If property is transferred from one district to a previously existing district, the amount of machinery and equipment, inventory, furniture and fixtures, and telephone property tax value losses and fixed-rate levy losses that shall be transferred to the recipient district shall be an amount equal to the total machinery and equipment, inventory, furniture and fixtures, and telephone property fixed-rate levy losses times a fraction, the numerator of which is the value of business tangible personal property on the land being transferred in the most recent year for which data are available, and the denominator of which is the total value of business tangible personal property in the district from which the land is being transferred in the most recent year for which data are available. For each of the first five years after the property is transferred, but not after fiscal year 2012, if the tax rate in the recipient district is less than the tax rate of the district from which the land was transferred, one-half of the payments arising from the amount of fixed-rate levy losses so transferred to the recipient district shall be paid to the recipient district and one-half of the payments arising from the fixed-rate levy losses so transferred shall be paid to the district from which the land was transferred. Fixed-rate levy losses so transferred shall be computed on the basis of the sum of the rates of fixed-rate qualifying levies of the district from which the land was transferred, notwithstanding division (E) of this section.

(3) After December 31, 2004, if property is transferred from one or more districts to a district that is newly created out of the transferred property, the newly created district shall be deemed not to have any machinery and equipment, inventory, furniture and fixtures, or telephone property fixed-rate levy losses and the districts from which the property was transferred shall have no reduction in their machinery and equipment, inventory, furniture and fixtures, and telephone property fixed-rate levy losses.

(4) If the recipient district under division (I)(2) of this section or the newly created district under ~~divisions~~ division (I)(3) of this section is assuming debt from one or more of the districts from which the property was transferred and any of the districts losing the property had fixed-sum

levy losses, the department of education, in consultation with the tax commissioner, shall make an equitable division of the fixed-sum levy loss reimbursements.

Sec. 5751.22. (A) Not later than January 1, 2006, the tax commissioner shall compute the payments to be made to each local taxing unit for each year according to divisions (A)(1), (2), (3), and (4) of this section, and shall distribute the payments in the manner prescribed by division (C) of this section. The calculation of the fixed-sum levy loss shall cover a time period sufficient to include all fixed-sum levies for which the commissioner determined, pursuant to division (E) of section 5751.20 of the Revised Code, that a fixed-sum levy loss is to be reimbursed.

~~(1) Except as provided in division (A)(4) of this section, for~~ For machinery and equipment, inventory, and furniture and fixtures fixed-rate levy losses determined under division (D) of section 5751.20 of the Revised Code, payments shall be made in an amount equal to each of those losses ~~multiplied by the following:~~

~~(a) For tax years 2006 through 2010, one hundred per cent;~~

~~(b) For tax year 2011, a fraction, the numerator of which is fourteen and the denominator of which is seventeen;~~

~~(c) For tax year 2012, a fraction, the numerator of which is eleven and the denominator of which is seventeen;~~

~~(d) For tax year 2013, a fraction, the numerator of which is nine and the denominator of which is seventeen;~~

~~(e) For tax year 2014, a fraction, the numerator of which is seven and the denominator of which is seventeen;~~

~~(f) For tax year 2015, a fraction, the numerator of which is five and the denominator of which is seventeen;~~

~~(g) For tax year 2016, a fraction, the numerator of which is three and the denominator of which is seventeen;~~

~~(h) For tax year 2017, a fraction, the numerator of which is one and the denominator of which is seventeen;~~

~~(i) For tax years 2018 and thereafter, no fixed-rate payments shall be made.~~

Any qualifying levy that is a fixed-rate levy that is not applicable to a tax year after 2010 shall not qualify for any reimbursement after the tax year to which it is last applicable.

~~(2) Except as provided in division (A)(4) of this section, for~~ For telephone property fixed-rate levy losses determined under division (D)(4) of section 5751.20 of the Revised Code, payments shall be made in an amount equal to each of those losses ~~multiplied by the following:~~

~~(a) For tax years 2009 through 2011, one hundred per cent;~~
~~(b) For tax year 2012, seven eighths;~~
~~(c) For tax year 2013, six eighths;~~
~~(d) For tax year 2014, five eighths;~~
~~(e) For tax year 2015, four eighths;~~
~~(f) For tax year 2016, three eighths;~~
~~(g) For tax year 2017, two eighths;~~
~~(h) For tax year 2018, one eighth;~~
~~(i) For tax years 2019 and thereafter, no fixed-rate payments shall be made.~~

Any qualifying levy that is a fixed-rate levy that is not applicable to a tax year after 2011 shall not qualify for any reimbursement after the tax year to which it is last applicable.

(3) For fixed-sum levy losses determined under division (E) of section 5751.20 of the Revised Code, payments shall be made in the amount of one hundred per cent of the fixed-sum levy loss for payments required to be made in 2006 and thereafter.

(4) For taxes levied within the ten-mill limitation for debt purposes in tax year 2005, payments shall be made ~~based on the schedule in division (A)(1) of this section for each of the calendar years 2006 through 2010. For each of the calendar years 2011 through 2017, the percentages for calendar year 2010 shall be used, as long as the qualifying levy continues to be used for debt purposes. If the purpose of such a qualifying levy is changed, that levy becomes subject to the payment schedules in divisions (A)(1)(a) to (h) of this section. No payments shall be made for such levies after calendar year 2017~~ equal to one-hundred per cent of the loss computed as if the tax were a fixed-rate levy.

(B) Beginning in 2007, by the thirty-first day of January of each year, the tax commissioner shall review the calculation originally made under division (A) of this section of the fixed-sum levy losses determined under division (E) of section 5751.20 of the Revised Code. If the commissioner determines that a fixed-sum levy that had been scheduled to be reimbursed in the current year has expired, a revised calculation for that and all subsequent years shall be made.

(C) Payments to local taxing units required to be made under division (A) of this section shall be paid from the local government tangible property tax replacement fund to the county undivided income tax fund in the proper county treasury. Beginning in May 2006, one-seventh of the amount certified under that division shall be paid by the last day of May each year, and three-sevenths shall be paid by the last day of August and October each

year. Within forty-five days after receipt of such payments, the county treasurer shall distribute amounts determined under division (A) of this section to the proper local taxing unit as if they had been levied and collected as taxes, and the local taxing unit shall apportion the amounts so received among its funds in the same proportions as if those amounts had been levied and collected as taxes.

~~(D) For each of the fiscal years 2006 through 2019, if~~ If the total amount in the local government tangible property tax replacement fund is insufficient to make all payments under division (C) of this section at the times the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the local government tangible property tax replacement fund the difference between the total amount to be paid and the amount in the local government tangible property tax replacement fund. ~~For each fiscal year after 2019, at the time payments under division (A)(2) of this section are to be made, the director of budget and management shall transfer from the general revenue fund to the local government property tax replacement fund the amount necessary to make such payments.~~

~~(E) On the fifteenth day of June of each year from 2006 through 2018~~ beginning in 2006, the director of budget and management may transfer any balance in the local government tangible property tax replacement fund to the general revenue fund.

(F) If all or a part of the territories of two or more local taxing units are merged, or unincorporated territory of a township is annexed by a municipal corporation, the tax commissioner shall adjust the payments made under this section to each of the local taxing units in proportion to the tax value loss apportioned to the merged or annexed territory, or as otherwise provided by a written agreement between the legislative authorities of the local taxing units certified to the commissioner not later than the first day of June of the calendar year in which the payment is to be made.

Sec. 5751.23. (A) As used in this section:

(1) "Administrative fees" means the dollar percentages allowed by the county auditor for services or by the county treasurer as fees, or paid to the credit of the real estate assessment fund, under divisions (A) and (C) of section 319.54 and division (A) of section 321.26 of the Revised Code.

(2) "Administrative fee loss" means a county's loss of administrative fees due to its tax value loss, determined as follows:

~~(a) For purposes of the determination made under division (B) of this section in the years 2006 through 2010, the administrative fee loss shall be computed~~ by multiplying the amounts determined for all taxing districts in

the county under divisions (D) and (E) of section 5751.20 of the Revised Code by nine thousand six hundred fifty-nine ten-thousandths of one per cent if total taxes collected in the county in 2004 exceeded one hundred fifty million dollars, or one and one thousand one hundred fifty-nine ten-thousandths of one per cent if total taxes collected in the county in 2004 were one hundred fifty million dollars or less;

~~(b) For purposes of the determination under division (B) of this section in the years after 2010, the administrative fee losses shall be determined by multiplying the administrative fee losses calculated for 2010 by the fractions in divisions (A)(1)(b) to (i) of section 5751.22 of the Revised Code.~~

(3) "Total taxes collected" means all money collected on any tax duplicate of the county, other than the estate tax duplicates. "Total taxes collected" does not include amounts received pursuant to divisions (F) and (G) of section 321.24 or section 323.156 of the Revised Code.

(B) Not later than December 31, 2005, the tax commissioner shall certify to each county auditor the tax levy losses calculated under divisions (D) and (E) of section 5751.20 of the Revised Code for each school district, joint vocational school district, and local taxing unit in the county. Not later than the thirty-first day of January of 2006 through 2017, the county auditor shall determine the administrative fee loss for the county and apportion that loss ratably among the school districts, joint vocational school districts, and local taxing units on the basis of the tax levy losses certified under this division.

(C) On or before each of the days prescribed for the settlements under divisions (A) and (C) of section 321.24 of the Revised Code in the years 2006 through 2017, the county treasurer shall deduct one-half of the amount apportioned to each school district, joint vocational school district, and local taxing unit from the portions of revenue payable to them.

(D) On or before each of the days prescribed for settlements under divisions (A) and (C) of section 321.24 of the Revised Code in the years 2006 through 2017, the county auditor shall cause to be deposited an amount equal to one-half of the amount of the administrative fee loss in the same funds as if allowed as administrative fees.

Sec. 5911.10. If any armory erected or purchased by the state becomes vacant because of the deactivation of the organizations quartered in that armory, the governor and the adjutant general may lease that armory for periods not to exceed one year; or, when authorized by an act of the general assembly, may sell that armory or lease it for a period of years. ~~The~~

The proceeds from the sale or lease of such an armory, or from the sale or lease of other facilities and land owned by the adjutant general, shall be

credited to the armory improvements fund, which is hereby created in the state treasury. The moneys in the fund shall be used to support Ohio army national guard facility and maintenance expenses as the adjutant general directs. Any fund expenditure related to the construction, acquisition, lease, or financing of a capital asset is subject to approval by the controlling board. Investment earnings of the fund shall be credited to the general revenue fund.

Sec. 5911.11. There is hereby created in the state treasury the community match armories fund. The fund shall consist of all amounts received as revenue from contributions from local entities for construction and maintenance of Ohio army national guard readiness and community centers and facilities. The moneys in the fund shall be used to support the acquisition and maintenance costs of centers and facilities representing the local entity's share of costs, including the local entity's share of utility costs. Investment earnings of the fund shall be credited to the fund.

Sec. 5913.051. ~~To supplement the military staff of the governor, the (A)~~ ~~The adjutant general may appoint an assistant to the state area commander for readiness and training for adjutant general - army.~~ This assistant shall be a brigadier general and shall aid the adjutant general by performing duties that the adjutant general assigns ~~in~~ that include the areas of readiness, ~~training, and mobilization, and homeland defense preparedness.~~ This assistant shall not be a full-time state employee or a member of the governor's military staff, but shall serve in that capacity only during federally recognized training, special duty periods, ~~or~~ mobilization periods, or state active duty, and shall at the time of appointment be in the rank of colonel or above but otherwise meet the qualifications established ~~in section 5913.021 of the Revised Code~~ by the department of defense/army for general officer qualification.

(B) The adjutant general may appoint an assistant adjutant general – airforce. This assistant shall be a brigadier general and shall aid the adjutant general by performing duties that the adjutant general assigns that include the areas of readiness, mobilization, and homeland defense preparedness. This assistant shall not be a full-time state employee or a member of the governor's military staff, but shall serve in that capacity only during federally recognized training, special duty periods, mobilization periods, or state active duty, and shall at the time of appointment be in the rank of colonel or above but otherwise meet the qualifications established by the department of defense/air force for general officer qualification.

Sec. 5913.09. (A) The adjutant general is the custodian of all military and other adjutant general's department property, both real and personal,

belonging to the state.

(B) The adjutant general may make changes and improvements to military and other adjutant general's department property as the needs of the state and federal government and the exigencies of the service require. All improvements made upon that property belonging to the state, from moneys received either all or in part from the state or federal government, or both, become the property of the state, except as may be provided in an agreement and corresponding regulations by which the United States contributes to the cost of an improvement.

(C)(1) In accordance with applicable state and federal law and regulations, the adjutant general, with the approval of the governor, may acquire by purchase lease, license, or otherwise, real and personal property necessary for the purposes of the department.

(2) In accordance with applicable state and federal law and regulations, the adjutant general, with the approval of the attorney general, may enter into contracts for the construction, repair, renovation, maintenance, and operation of military or other adjutant general's department property.

(3) In accordance with applicable state and federal law and regulations, the adjutant general, with the approval of the governor, may lease or exchange all or part of any military or other adjutant general's department property or grant easements or licenses, if the lease, exchange, easement, or license is advantageous to the state.

(4) All real property of the adjutant general's department shall be sold in accordance with section 5911.10 of the Revised Code.

(D)(1) Except as otherwise provided in this section, all income from any military or other adjutant general's department property of the state, not made a portion of the company, troop, battery, detachment, squadron, or other organization funds by regulations, shall be credited to the funds for the operation and maintenance of the Ohio organized militia, as the adjutant general directs, in accordance with applicable state and federal law and regulations and the agreements by which the United States contributes to the cost of operation and maintenance of the Ohio national guard.

(2) There is hereby created in the state treasury the camp Perry/buckeye inn operations fund. The fund shall consist of all amounts received as revenue from the rental of facilities located at the camp Perry training site in Ottawa county and the buckeye inn at Rickenbacker air national guard base in Franklin county, and all amounts received from the use of the camp Perry training site and its facilities, including shooting ranges. The moneys in the fund shall be used to support the facility operations of the camp Perry clubhouse and the buckeye inn. Investment earnings of the fund shall be

credited to the general revenue fund.

Sec. 5919.20. There is hereby created in the state treasury the national guard service medal fund. The fund shall consist of all amounts received from the purchase of Ohio national guard service medals for eligible national guard service members as authorized by the general assembly. The moneys in the fund shall be used to purchase additional medals. Investment earnings of the fund shall be credited to the fund.

Sec. 5919.36. There is hereby created in the state treasury the Ohio national guard facility maintenance fund. The fund shall consist of all amounts received from revenue from leases of sites, including towers and wells, and other revenue received from reimbursements for services related to Ohio national guard programs. The moneys in the fund shall be used for service, maintenance, and repair expenses, and for equipment purchases for programs and facilities of the adjutant general. Investment earnings of the fund shall be credited to the general revenue fund.

Sec. 6103.01. As used in this chapter:

(A) "Public water supply facilities," "water supply facilities," "water supply improvement," or "improvement" means, without limiting the generality of those terms, water wells and well fields, springs, lakes, rivers, streams, or other sources of water supply, intakes, pumping stations and equipment, treatment, filtration, or purification plants, force and distribution lines or mains, cisterns, reservoirs, storage facilities, necessary equipment for fire protection, other related structures, equipment, and furnishings, and real estate and interests in real estate, necessary or useful in the proper development of a water supply for domestic or other purposes and its proper distribution.

(B) "Current operating expenses," "debt charges," "permanent improvement," "public obligations," and "subdivision" have the same meanings as in section 133.01 of the Revised Code.

(C) "Construct," "construction," or "constructing" means construction, reconstruction, enlargement, extension, improvement, renovation, repair, and replacement of water supply facilities, but does not include repairs, replacements, or similar actions that do not constitute and qualify as permanent improvements.

(D) "Maintain," "maintaining," or "maintenance" means repairs, replacements, and similar actions that constitute and are payable as current operating expenses and that are required to restore water supply facilities to, or to continue water supply facilities in, good order and working condition, but does not include construction of permanent improvements.

(E) "Public agency" means a state and any agency or subdivision of a

state, including a county, a municipal corporation, or other subdivision.

(F) "County sanitary engineer" means either of the following:

(1) The registered professional engineer employed or appointed by the board of county commissioners to be the county sanitary engineer as provided in section 6117.01 of the Revised Code;

(2) The county engineer, if, for as long as and to the extent that engineer by agreement entered into under section 315.14 of the Revised Code is retained to discharge the duties of a county sanitary engineer under this chapter.

(G) "Homestead exemption" means the reduction of taxes allowed under division (A) of section 323.152 of the Revised Code.

(H) "Low- and moderate-income persons" has the same meaning as in section 175.01 of the Revised Code.

Sec. 6103.02. (A) For the purpose of preserving and promoting the public health and welfare, a board of county commissioners may acquire, construct, maintain, and operate any public water supply facilities within its county for one or more sewer districts and may provide for their protection and prevent their pollution and unnecessary waste. The board may negotiate and enter into a contract with any public agency or any person for the management, maintenance, operation, and repair of the facilities on behalf of the county, upon the terms and conditions as may be agreed upon with the agency or person and as may be determined by the board to be in the interests of the county. By contract with any public agency or any person operating public water supply facilities within or without its county, the board also may provide a supply of water to a sewer district from the facilities of the public agency or person.

(B) The county sanitary engineer or sanitary engineering department, in addition to other assigned duties, shall assist the board in the performance of its duties under this chapter and shall be charged with other duties and services in relation to the board's duties as the board prescribes.

(C) The board may adopt, publish, administer, and enforce rules for the construction, maintenance, protection, and use of county-owned or county-operated public water supply facilities outside municipal corporations and of public water supply facilities within municipal corporations that are owned or operated by the county or that are supplied with water from water supply facilities owned or operated by the county, including, but not limited to, rules for the establishment and use of any connections, the termination in accordance with reasonable procedures of water service for nonpayment of county water rates and charges, and the establishment and use of security deposits to the extent considered necessary

to ensure the payment of county water rates and charges. The rules shall not be inconsistent with the laws of the state or any applicable rules of the director of environmental protection.

(D) No public water supply facilities shall be constructed in any county outside municipal corporations by any person, except for the purpose of supplying water to those municipal corporations, until the plans and specifications for the facilities have been approved by the board. Construction shall be done under the supervision of the county sanitary engineer. Any person constructing public water supply facilities shall pay to the county all expenses incurred by the board in connection with the construction.

(E) The county sanitary engineer or the county sanitary engineer's authorized assistants or agents, when properly identified in writing or otherwise and after written notice is delivered to the owner at least five days in advance or mailed at least five days in advance by first class or certified mail to the owner's tax mailing address, may enter upon any public or private property for the purpose of making, and may make, surveys or inspections necessary for the design or evaluation of county public water supply facilities. This entry is not a trespass and is not to be considered an entry in connection with any appropriation of property proceedings under sections 163.01 to 163.22 of the Revised Code that may be pending. No person or public agency shall forbid the county sanitary engineer or the county sanitary engineer's authorized assistants or agents to enter, or interfere with their entry, upon the property for the purpose of making the surveys or inspections. If actual damage is done to property by the making of the surveys or inspections, the board shall pay the reasonable value of the damage to the property owner, and the cost shall be included in the cost of the facilities and may be included in any special assessments levied and collected to pay that cost.

(F) The board shall fix reasonable rates, including penalties for late payments, for water supplied to public agencies and persons when the source of supply or the facilities for its distribution are owned or operated by the county and may change the rates from time to time as it considers advisable. When the source of the water supply to be used by the county is owned by another public agency or person, the schedule of rates to be charged by the public agency or person shall be approved by the board at the time it enters into a contract for the use of water from the public agency or person. ~~When~~

When the distribution facilities are owned by the county, the board also may fix reasonable charges to be collected for the privilege of connecting to

the distribution facilities and may require that, prior to the connection, the charges be paid in full or, if determined by the board to be equitable in a resolution relating to the payment of the charges, may require their payment in installments, as considered adequate by the board, at the times, in the amounts, and with the security, carrying charges, and penalties as may be determined by the board in that resolution to be fair and appropriate. No public agency or person shall be permitted to connect to those facilities until the charges have been paid in full or provision for their payment in installments has been made. If the connection charges are to be paid in installments, the board shall certify, to the county auditor, information sufficient to identify each parcel of property served by a connection and, with respect to each parcel, the total of the charges to be paid in installments, the amount of each installment, and the total number of installments to be paid. The county auditor shall record and maintain the information so supplied in the waterworks record provided for in section 6103.16 of the Revised Code until the connection charges are paid in full. The board may include amounts attributable to connection charges being paid in installments in its billings of rates and other charges for water supplied. In addition, the board may consider payments made to a school district under section 6103.25 of the Revised Code when the board establishes rates and other charges for water supplied.

A board may establish discounted rates or charges or may establish another mechanism for providing a reduction in rates or charges for persons who are sixty-five years of age or older. The board shall establish eligibility requirements for such discounted or reduced rates or charges, including a requirement that a person be eligible for the homestead exemption or qualify as a low- and moderate-income person.

(G) When any rates or charges are not paid when due, the board may do any or all of the following:

(1) Certify the unpaid rates or charges, together with any penalties, to the county auditor. The county auditor shall place the certified amount upon the real property tax list and duplicate against the property served by the connection. The certified amount shall be a lien on the property from the date placed on the real property tax list and duplicate and shall be collected in the same manner as taxes, except that, notwithstanding section 323.15 of the Revised Code, a county treasurer shall accept a payment in that amount when separately tendered as payment for the full amount of the unpaid rates or charges and associated penalties. The lien shall be released immediately upon payment in full of the certified amount.

(2) Collect the unpaid rates or charges, together with any penalties, by

actions at law in the name of the county from an owner, tenant, or other person or public agency that is liable for the payment of the rates or charges;

(3) Terminate, in accordance with established rules, the water service to the particular property unless and until the unpaid rates or charges, together with any penalties, are paid in full;

(4) Apply, to the extent required, any security deposit made in accordance with established rules to the payment of the unpaid rates and charges, together with any penalties, for water service to the particular property.

All moneys collected as rates, charges, or penalties fixed or established in accordance with division (F) of this section for water supply purposes in or for any sewer district shall be paid to the county treasurer and kept in a separate and distinct water fund established by the board to the credit of the district.

Each board that fixes water rates or charges may render estimated bills periodically, provided that at least quarterly it shall schedule an actual reading of each customer's meter so as to render a bill for the actual amount shown by the meter reading to be due, with credit for prior payments of any estimated bills submitted for any part of the billing period, except that estimated bills may be rendered if a customer's meter is not accessible for a timely reading or if the circumstances preclude a scheduled reading. Each board also shall establish procedures providing a fair and reasonable opportunity for the resolution of billing disputes.

When property to which water service is provided is about to be sold, any party to the sale or an agent of a party may request the board to have the meter at that property read and to render, within ten days following the date on which the request is made, a final bill for all outstanding rates and charges for water service. The request shall be made at least fourteen days prior to the transfer of the title of the property.

At any time prior to a certification under division (G)(1) of this section, the board shall accept any partial payment of unpaid water rates or charges in the amount of ten dollars or more.

Except as otherwise provided in any proceedings authorizing or providing for the security for and payment of any public obligations, or in any indenture or trust or other agreement securing public obligations, moneys in the water fund shall be applied first to the payment of the cost of the management, maintenance, and operation of the water supply facilities of, or used or operated for, the sewer district, which cost may include the county's share of management, maintenance, and operation costs under cooperative contracts for the acquisition, construction, or use of water

supply facilities and, in accordance with a cost allocation plan adopted under division (H) of this section, payment of all allowable direct and indirect costs of the district, the county sanitary engineer or sanitary engineering department, or a federal or state grant program, incurred for the purposes of this chapter, and shall be applied second to the payment of debt charges payable on any outstanding public obligations issued or incurred for the acquisition or construction of water supply facilities for or serving the district, or for the funding of a bond retirement or other fund established for the payment of or security for the obligations. Any surplus remaining may be applied to the acquisition or construction of those facilities or for the payment of contributions to be made, or costs incurred, for the acquisition or construction of those facilities under cooperative contracts. Moneys in the water fund shall not be expended other than for the use and benefit of the district.

(H) A board of county commissioners may adopt a cost allocation plan that identifies, accumulates, and distributes allowable direct and indirect costs that may be paid from the water fund of the sewer district created pursuant to division (G) of this section, and that prescribes methods for allocating those costs. The plan shall authorize payment from the fund of only those costs incurred by the district, the county sanitary engineer or sanitary engineering department, or a federal or state grant program, and those costs incurred by the general and other funds of the county for a common or joint purpose, that are necessary and reasonable for the proper and efficient administration of the district under this chapter. The plan shall not authorize payment from the fund of any general government expense required to carry out the overall governmental responsibilities of a county. The plan shall conform to United States office of management and budget Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments," published May 17, 1995.

Sec. 6109.21. (A) Except as provided in divisions (D) and (E) of this section, on and after January 1, 1994, no person shall operate or maintain a public water system in this state without a license issued by the director of environmental protection. A person who operates or maintains a public water system on January 1, 1994, shall obtain an initial license under this section in accordance with the following schedule:

- (1) If the public water system is a community water system, not later than January 31, 1994;
- (2) If the public water system is not a community water system and serves a nontransient population, not later than January 31, 1994;
- (3) If the public water system is not a community water system and

serves a transient population, not later than January 31, 1995.

A person proposing to operate or maintain a new public water system after January 1, 1994, in addition to complying with section 6109.07 of the Revised Code and rules adopted under it, shall submit an application for an initial license under this section to the director prior to commencing operation of the system.

A license or license renewal issued under this section shall be renewed annually. Such a license or license renewal shall expire on the thirtieth day of January in the year following its issuance. A license holder that proposes to continue operating the public water system for which the license or license renewal was issued shall apply for a license renewal at least thirty days prior to that expiration date.

The director shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code establishing procedures governing and information to be included on applications for licenses and license renewals under this section. Through June 30, ~~2010~~ 2012, each application shall be accompanied by the appropriate fee established under division (M) of section 3745.11 of the Revised Code, provided that an applicant for an initial license who is proposing to operate or maintain a new public water system after January 1, 1994, shall submit a fee that equals a prorated amount of the appropriate fee established under that division for the remainder of the licensing year.

(B) Not later than thirty days after receiving a completed application and the appropriate license fee for an initial license under division (A) of this section, the director shall issue the license for the public water system. Not later than thirty days after receiving a completed application and the appropriate license fee for a license renewal under division (A) of this section, the director shall do one of the following:

- (1) Issue the license renewal for the public water system;
- (2) Issue the license renewal subject to terms and conditions that the director determines are necessary to ensure compliance with this chapter and rules adopted under it;
- (3) Deny the license renewal if the director finds that the public water system was not operated in substantial compliance with this chapter and rules adopted under it.

(C) The director may suspend or revoke a license or license renewal issued under this section if the director finds that the public water system was not operated in substantial compliance with this chapter and rules adopted under it. The director shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code governing such

suspensions and revocations.

(D)(1) As used in division (D) of this section, "church" means a fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not formed or operated for the private profit of any person.

(2) This section does not apply to a church that operates or maintains a public water system solely to provide water for that church or for a campground that is owned by the church and operated primarily or exclusively for members of the church and their families. A church that, on or before March 5, 1996, has obtained a license under this section for such a public water system need not obtain a license renewal under this section.

(E) This section does not apply to any public or nonpublic school that meets minimum standards of the state board of education that operates or maintains a public water system solely to provide water for that school.

(F) The environmental protection agency shall collect well log filing fees on behalf of the division of soil and water resources in the department of natural resources in accordance with section 1521.05 of the Revised Code and rules adopted under it. The fees shall be submitted to the division quarterly as provided in those rules.

Sec. 6111.04. (A) Both of the following apply except as otherwise provided in division (A) or (F) of this section:

(1) No person shall cause pollution or place or cause to be placed any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution of any waters of the state.

(2) Such an action prohibited under division (A)(1) of this section is hereby declared to be a public nuisance.

Divisions (A)(1) and (2) of this section do not apply if the person causing pollution or placing or causing to be placed wastes in a location in which they cause pollution of any waters of the state holds a valid, unexpired permit, or renewal of a permit, governing the causing or placement as provided in sections 6111.01 to 6111.08 of the Revised Code or if the person's application for renewal of such a permit is pending.

(B) If the director of environmental protection administers a sludge management program pursuant to division (S) of section 6111.03 of the Revised Code, both of the following apply except as otherwise provided in division (B) or (F) of this section:

(1) No person, in the course of sludge management, shall place on land located in the state or release into the air of the state any sludge or sludge materials.

(2) An action prohibited under division (B)(1) of this section is hereby

declared to be a public nuisance.

Divisions (B)(1) and (2) of this section do not apply if the person placing or releasing the sludge or sludge materials holds a valid, unexpired permit, or renewal of a permit, governing the placement or release as provided in sections 6111.01 to 6111.08 of the Revised Code or if the person's application for renewal of such a permit is pending.

(C) No person to whom a permit has been issued shall place or discharge, or cause to be placed or discharged, in any waters of the state any sewage, sludge, sludge materials, industrial waste, or other wastes in excess of the permissive discharges specified under an existing permit without first receiving a permit from the director to do so.

(D) No person to whom a sludge management permit has been issued shall place on the land or release into the air of the state any sludge or sludge materials in excess of the permissive amounts specified under the existing sludge management permit without first receiving a modification of the existing sludge management permit or a new sludge management permit to do so from the director.

(E) The director may require the submission of plans, specifications, and other information that the director considers relevant in connection with the issuance of permits.

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

(1) Waters used in washing sand, gravel, other aggregates, or mineral products when the washing and the ultimate disposal of the water used in the washing, including any sewage, industrial waste, or other wastes contained in the waters, are entirely confined to the land under the control of the person engaged in the recovery and processing of the sand, gravel, other aggregates, or mineral products and do not result in the pollution of waters of the state;

(2) Water, gas, or other material injected into a well to facilitate, or that is incidental to, the production of oil, gas, artificial brine, or water derived in association with oil or gas production and disposed of in a well, in compliance with a permit issued under Chapter 1509. of the Revised Code, or sewage, industrial waste, or other wastes injected into a well in compliance with an injection well operating permit. Division (F)(2) of this section does not authorize, without a permit, any discharge that is prohibited by, or for which a permit is required by, regulation of the United States environmental protection agency.

(3) Application of any materials to land for agricultural purposes or runoff of the materials from that application or pollution by animal waste or soil sediment, including attached substances, resulting from farming,

silvicultural, or earthmoving activities regulated by Chapter 307. or 1511. of the Revised Code. Division (F)(3) of this section does not authorize, without a permit, any discharge that is prohibited by, or for which a permit is required by, the Federal Water Pollution Control Act or regulations adopted under it.

(4) The excrement of domestic and farm animals defecated on land or runoff therefrom into any waters of the state. Division (F)(4) of this section does not authorize, without a permit, any discharge that is prohibited by, or for which a permit is required by, the Federal Water Pollution Control Act or regulations adopted under it.

(5) On and after the date on which the United States environmental protection agency approves the NPDES program submitted by the director of agriculture under section 903.08 of the Revised Code, any discharge that is within the scope of the approved NPDES program submitted by the director of agriculture;

(6) The discharge of sewage, industrial waste, or other wastes into a sewerage system tributary to a treatment works. Division (F)(6) of this section does not authorize any discharge into a publicly owned treatment works in violation of a pretreatment program applicable to the publicly owned treatment works.

(7) ~~A household sewage treatment system or a small flow on-site sewage treatment system, as applicable, as defined in section 3718.01 of the Revised Code that is installed~~ Septic tanks or other disposal systems for the disposal or treatment of sewage from single-family, two-family, or three-family dwellings in compliance with ~~Chapter 3718: the sanitary code and section 3707.01~~ of the Revised Code and rules adopted under it. Division (F)(7) of this section does not authorize, without a permit, any discharge that is prohibited by, or for which a permit is required by, regulation of the United States environmental protection agency.

(8) Exceptional quality sludge generated outside of this state and contained in bags or other containers not greater than one hundred pounds in capacity. As used in division (F)(8) of this section, "exceptional quality sludge" has the same meaning as in division (Y) of section 3745.11 of the Revised Code.

(G) The holder of a permit issued under section 402 (a) of the Federal Water Pollution Control Act need not obtain a permit for a discharge authorized by the permit until its expiration date. Except as otherwise provided in this division, the director of environmental protection shall administer and enforce those permits within this state and may modify their terms and conditions in accordance with division (J) of section 6111.03 of

the Revised Code. On and after the date on which the United States environmental protection agency approves the NPDES program submitted by the director of agriculture under section 903.08 of the Revised Code, the director of agriculture shall administer and enforce those permits within this state that are issued for any discharge that is within the scope of the approved NPDES program submitted by the director of agriculture.

Sec. 6111.044. Upon receipt of an application for an injection well drilling permit, an injection well operating permit, a renewal of an injection well operating permit, or a modification of an injection well drilling permit, operating permit, or renewal of an operating permit, the director of environmental protection shall determine whether the application is complete and demonstrates that the activities for which the permit, renewal permit, or modification is requested will comply with the Federal Water Pollution Control Act and regulations adopted under it; the "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended, and regulations adopted under it; and this chapter and the rules adopted under it. If the application demonstrates that the proposed activities will not comply or will pose an unreasonable risk of inducing seismic activity, inducing geologic fracturing, or contamination of an underground source of drinking water, the director shall deny the application. If the application does not make the required demonstrations, the director shall return it to the applicant with an indication of those matters about which a required demonstration was not made. If the director determines that the application makes the required demonstrations, the director shall transmit copies of the application and all of the accompanying maps, data, samples, and information to the chief of the division of mineral resources management, the chief of the division of geological survey, and the chief of the division of soil and water resources in the department of natural resources.

The chief of the division of geological survey shall comment upon the application if the chief determines that the proposed well or injection will present an unreasonable risk of loss or damage to valuable mineral resources. If the chief submits comments on the application, those comments shall be accompanied by an evaluation of the geological factors upon which the comments are based, including fractures, faults, earthquake potential, and the porosity and permeability of the injection zone and confining zone, and by the documentation supporting the evaluation. The director shall take into consideration the chief's comments, and the accompanying evaluation of geologic factors and supporting documentation, when considering the application. The director shall provide written notice to the chief of the director's decision on the application and, if the chief's

comments are not included in the permit, renewal permit, or modification, of the director's rationale for not including them.

The chief of the division of mineral resources management shall comment upon the application if the chief determines that the proposed well or injection will present an unreasonable risk that waste or contamination of recoverable oil or gas in the earth will occur. If the chief submits comments on the application, those comments shall be accompanied by an evaluation of the oil or gas reserves that, in the best professional judgment of the chief, are recoverable and will be adversely affected by the proposed well or injection, and by the documentation supporting the evaluation. The director shall take into consideration the chief's comments, and the accompanying evaluation and supporting documentation, when considering the application. The director shall provide written notice to the chief of the director's decision on the application and, if the chief's comments are not included in the permit, renewal permit, or modification, of the director's rationale for not including them.

The chief of the division of soil and water resources shall assist the director in determining whether all underground sources of drinking water in the area of review of the proposed well or injection have been identified and correctly delineated in the application. If the application fails to identify or correctly delineate an underground source of drinking water, the chief shall provide written notice of that fact to the director.

The chief of the division of mineral resources management also shall review the application as follows:

If the application concerns the drilling or conversion of a well or the injection into a well that is not or is not to be located within five thousand feet of the excavation and workings of a mine, the chief of the division of mineral resources management shall note upon the application that it has been examined by the division of mineral resources management, retain a copy of the application and map, and immediately return a copy of the application to the director.

If the application concerns the drilling or conversion of a well or the injection into a well that is or is to be located within five thousand feet, but more than five hundred feet from the surface excavations and workings of a mine, the chief of the division of mineral resources management immediately shall notify the owner or lessee of the mine that the application has been filed and send to the owner or lessee a copy of the map accompanying the application setting forth the location of the well. The chief of the division of mineral resources management shall note on the application that the notice has been sent to the owner or lessee of the mine,

retain a copy of the application and map, and immediately return a copy of the application to the director with the chief's notation on it.

If the application concerns the drilling or conversion of a well or the injection into a well that is or is to be located within five thousand feet of the underground excavations and workings of a mine or within five hundred feet of the surface excavations and workings of a mine, the chief of the division of mineral resources management immediately shall notify the owner or lessee of the mine that the application has been filed and send to the owner or lessee a copy of the map accompanying the application setting forth the location of the well. If the owner or lessee objects to the application, the owner or lessee shall notify the chief of the division of mineral resources management of the objection, giving the reasons, within six days after the receipt of the notice. If the chief of the division of mineral resources management receives no objections from the owner or lessee of the mine within ten days after the receipt of the notice by the owner or lessee, or if in the opinion of the chief of the division of mineral resources management the objections offered by the owner or lessee are not sufficiently ~~well-founded~~ well founded, the chief shall retain a copy of the application and map and return a copy of the application to the director with any applicable notes concerning it.

If the chief of the division of mineral resources management receives an objection from the owner or lessee of the mine as to the application, within ten days after receipt of the notice by the owner or lessee, and if in the opinion of the chief the objection is ~~well-founded~~ well founded, the chief shall disapprove the application and immediately return it to the director together with the chief's reasons for the disapproval. The director promptly shall notify the applicant for the permit, renewal permit, or modification of the disapproval. The applicant may appeal the disapproval of the application by the chief of the division of mineral resources management to the reclamation commission created under section 1513.05 of the Revised Code, and the commission shall hear the appeal in accordance with section 1513.13 of the Revised Code. The appeal shall be filed within thirty days from the date the applicant receives notice of the disapproval. No comments concerning or disapproval of an application shall be delayed by the chief of the division of mineral resources management for more than fifteen days from the date of sending of notice to the mine owner or lessee as required by this section.

The director shall not approve an application for an injection well drilling permit, an injection well operating permit, a renewal of an injection well operating permit, or a modification of an injection well drilling permit,

operating permit, or renewal of an operating permit for a well that is or is to be located within three hundred feet of any opening of any mine used as a means of ingress, egress, or ventilation for persons employed in the mine, nor within one hundred feet of any building or flammable structure connected with the mine and actually used as a part of the operating equipment of the mine, unless the chief of the division of mineral resources management determines that life or property will not be endangered by drilling and operating the well in that location.

Upon review by the chief of the division of mineral resources management, the chief of the division of geological survey, and the chief of the division of soil and water resources, and if the chief of the division of mineral resources management has not disapproved the application, the director shall issue a permit, renewal permit, or modification with any terms and conditions that may be necessary to comply with the Federal Water Pollution Control Act and regulations adopted under it; the "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f) as amended, and regulations adopted under it; and this chapter and the rules adopted under it. The director shall not issue a permit, renewal permit, or modification to an applicant if the applicant or persons associated with the applicant have engaged in or are engaging in a substantial violation of this chapter that is endangering or may endanger human health or the environment or if, in the case of an applicant for an injection well drilling permit, the applicant, at the time of applying for the permit, did not hold an injection well operating permit or renewal of an injection well drilling permit and failed to demonstrate sufficient expertise and competency to operate the well in compliance with the applicable provisions of this chapter.

If the director receives a disapproval from the chief of the division of mineral resources management regarding an application for an injection well drilling or operating permit, renewal permit, or modification, if required, the director shall issue an order denying the application.

The director need not issue a proposed action under section 3745.07 of the Revised Code or hold an adjudication hearing under that section and Chapter 119. of the Revised Code before issuing or denying a permit, renewal permit, or modification of a permit or renewal permit. Before issuing or renewing a permit to drill or operate a class I injection well or a modification of it, the director shall propose the permit, renewal permit, or modification in draft form and shall hold a public hearing to receive public comment on the draft permit, renewal permit, or modification. At least fifteen days before the public hearing on a draft permit, renewal permit, or modification, the director shall publish notice of the date, time, and location

of the public hearing in at least one newspaper of general circulation serving the area where the well is or is to be located. The proposing of such a draft permit, renewal permit, or modification does not constitute the issuance of a proposed action under section 3745.07 of the Revised Code, and the holding of the public hearing on such a draft permit, renewal permit, or modification does not constitute the holding of an adjudication hearing under that section and Chapter 119. of the Revised Code. Appeals of orders other than orders of the chief of the division of mineral resources management shall be taken under sections 3745.04 to 3745.08 of the Revised Code.

The director may order that an injection well drilling permit or an injection well operating permit or renewal permit be suspended and that activities under it cease after determining that those activities are occurring in violation of law, rule, order, or term or condition of the permit. Upon service of a copy of the order upon the permit holder or the permit holder's authorized agent or assignee, the permit and activities under it shall be suspended immediately without prior hearing and shall remain suspended until the violation is corrected and the order of suspension is lifted. If a violation is the second within a one-year period, the director, after a hearing, may revoke the permit.

The director may order that an injection well drilling permit or an injection well operating permit or renewal permit be suspended and that activities under it cease if the director has reasonable cause to believe that the permit would not have been issued if the information available at the time of suspension had been available at the time a determination was made by one of the agencies acting under authority of this section. Upon service of a copy of the order upon the permit holder or the permit holder's authorized agent or assignee, the permit and activities under it shall be suspended immediately without prior hearing, but a permit may not be suspended for that reason without prior hearing unless immediate suspension is necessary to prevent waste or contamination of oil or gas, comply with the Federal Water Pollution Control Act and regulations adopted under it; the "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended, and regulations adopted under it; and this chapter and the rules adopted under it, or prevent damage to valuable mineral resources, prevent contamination of an underground source of drinking water, or prevent danger to human life or health. If after a hearing the director determines that the permit would not have been issued if the information available at the time of the hearing had been available at the time a determination was made by one of the agencies acting under authority of this section, the director shall revoke the permit.

When a permit has been revoked, the permit holder or other person responsible for it immediately shall plug the well in the manner required by the director.

The director may issue orders to prevent or require cessation of violations of this section, section 6111.043, 6111.045, 6111.046, or 6111.047 of the Revised Code, rules adopted under any of those sections, and terms or conditions of permits issued under any of them. The orders may require the elimination of conditions caused by the violation.

Sec. 6111.44. (A) Except as otherwise provided in division (B) of this section, in section 6111.14 of the Revised Code, or in rules adopted under division (G) of section 6111.03 of the Revised Code, no municipal corporation, county, public institution, corporation, or officer or employee thereof or other person shall provide or install sewerage or treatment works for sewage, sludge, or sludge materials disposal or treatment or make a change in any sewerage or treatment works until the plans therefor have been submitted to and approved by the director of environmental protection. Sections 6111.44 to 6111.46 of the Revised Code apply to sewerage and treatment works of a municipal corporation or part thereof, an unincorporated community, a county sewer district, or other land outside of a municipal corporation or any publicly or privately owned building or group of buildings or place, used for the assemblage, entertainment, recreation, education, correction, hospitalization, housing, or employment of persons.

In granting an approval, the director may stipulate modifications, conditions, and rules that the public health and prevention of pollution may require. Any action taken by the director shall be a matter of public record and shall be entered in the director's journal. Each period of thirty days that a violation of this section continues, after a conviction for the violation, constitutes a separate offense.

(B) Sections 6111.45 and 6111.46 of the Revised Code and division (A) of this section do not apply to any of the following:

(1) Sewerage or treatment works for sewage installed or to be installed for the use of a private residence or dwelling;

(2) Sewerage systems, treatment works, or disposal systems for storm water from an animal feeding facility or manure, as "animal feeding facility" and "manure" are defined in section 903.01 of the Revised Code;

(3) Animal waste treatment or disposal works and related management and conservation practices that are subject to rules adopted under division (E)(2) of section 1511.02 of the Revised Code;

~~(4) Sewerage or treatment works for the on-lot disposal or treatment of~~

~~sewage from a small flow on-site sewage treatment system, as defined in section 3718.01 of the Revised Code, if the board of health of a city or general health district has notified the director of health and the director of environmental protection under section 3718.021 of the Revised Code that the board has chosen to regulate the system, provided that the board remains in compliance with the rules adopted under division (A)(13) of section 3718.02 of the Revised Code.~~

The exclusions established in divisions (B)(2) and (3) of this section do not apply to the construction or installation of disposal systems, as defined in section 6111.01 of the Revised Code, that are located at an animal feeding facility and that store, treat, or discharge wastewaters that do not include storm water or manure or that discharge to a publicly owned treatment works.

Sec. 6117.01. (A) As used in this chapter:

(1) "Sanitary facilities" means sanitary sewers, force mains, lift or pumping stations, and facilities for the treatment, disposal, impoundment, or storage of wastes; equipment and furnishings; and all required appurtenances and necessary real estate and interests in real estate.

(2) "Drainage" or "waters" means flows from rainfall or otherwise produced by, or resulting from, the elements, storm water discharges and releases or migrations of waters from properties, accumulations, flows, and overflows of water, including accelerated flows and runoffs, flooding and threats of flooding of properties and structures, and other surface and subsurface drainage.

(3) "Drainage facilities" means storm sewers, force mains, pumping stations, and facilities for the treatment, disposal, impoundment, retention, control, or storage of waters; improvements of or for any channel, ditch, drain, floodway, or watercourse, including location, construction, reconstruction, reconditioning, widening, deepening, cleaning, removal of obstructions, straightening, boxing, culverting, tiling, filling, walling, arching, or change in course, location, or terminus; improvements of or for a river, creek, or run, including reinforcement of banks, enclosing, deepening, widening, straightening, removal of obstructions, or change in course, location, or terminus; facilities for the protection of lands from the overflow of water, including a levee, wall, embankment, jetty, dike, dam, sluice, revetment, reservoir, retention or holding basin, control gate, or breakwater; facilities for controlled drainage, regulation of stream flow, and protection of an outlet; the vacation of a ditch or drain; equipment and furnishings; and all required appurtenances and necessary real estate and interests in real estate.

(4) "County sanitary engineer" means either of the following:

(a) The registered professional engineer employed or appointed by the board of county commissioners to be the county sanitary engineer as provided in this section³;

(b) The county engineer, if, for as long as and to the extent that engineer by agreement entered into under section 315.14 of the Revised Code is retained to discharge duties of a county sanitary engineer under this chapter.

(5) "Current operating expenses," "debt charges," "permanent improvement," "public obligations," and "subdivision" have the same meanings as in section 133.01 of the Revised Code.

(6) "Construct," "construction," or "constructing" means construction, reconstruction, enlargement, extension, improvement, renovation, repair, and replacement of sanitary or drainage facilities or of prevention or replacement facilities, but does not include any repairs, replacements, or similar actions that do not constitute and qualify as permanent improvements.

(7) "Maintain," "maintaining," or "maintenance" means repairs, replacements, and similar actions that constitute and are payable as current operating expenses and that are required to restore sanitary or drainage facilities or prevention or replacement facilities to, or to continue sanitary or drainage facilities or prevention or replacement facilities in, good order and working condition, but does not include construction of permanent improvements.

(8) "Public agency" means a state and any agency or subdivision of a state, including a county, a municipal corporation, or other subdivision.

(9) "Combined sewer" means a sewer system that is designed to collect and convey sewage, including domestic, commercial, and industrial wastewater, and storm water through a single-pipe system to a treatment works or combined sewer overflow outfall approved by the director of environmental protection.

(10) "Prevention or replacement facilities" means vegetated swales or median strips, permeable pavement, trees and tree boxes, rain barrels and cisterns, rain gardens and filtration planters, vegetated roofs, wetlands, riparian buffers, and practices and structures that use or mimic natural processes to filter or reuse storm water.

(11) "Homestead exemption" means the reduction of taxes allowed under division (A) of section 323.152 of the Revised Code.

(12) "Low- and moderate-income person" has the same meaning as in section 175.01 of the Revised Code.

(B)(1) For the purpose of preserving and promoting the public health

and welfare, a board of county commissioners may lay out, establish, consolidate, or otherwise modify the boundaries of, and maintain, one or more sewer districts within the county and outside municipal corporations and may have a registered professional engineer make the surveys necessary for the determination of the proper boundaries of each district, which shall be designated by an appropriate name or number. The board may acquire, construct, maintain, and operate within any district sanitary or drainage facilities that it determines to be necessary or appropriate for the collection of sewage and other wastes originating in or entering the district, to comply with the provisions of a contract entered into for the purposes described in sections 6117.41 to 6117.44 of the Revised Code and pursuant to those sections or other applicable provisions of law, or for the collection, control, or abatement of waters originating or accumulating in, or flowing in, into, or through, the district, and other sanitary or drainage facilities, within or outside of the district, that it determines to be necessary or appropriate to conduct the wastes and waters to a proper outlet and to provide for their proper treatment, disposal, and disposition. The board may provide for the protection of the sanitary and drainage facilities and may negotiate and enter into a contract with any public agency or person for the management, maintenance, operation, and repair of any of the facilities on behalf of the county upon the terms and conditions that may be agreed upon with the agency or person and that may be determined by the board to be in the best interests of the county. By contract with any public agency or person operating sanitary or drainage facilities within or outside of the county, the board may provide a proper outlet for any of the wastes and waters and for their proper treatment, disposal, and disposition.

(2) For purposes of preventing storm water from entering a combined sewer and causing an overflow or an inflow to a sanitary sewer, the board may acquire, design, construct, operate, repair, maintain, and provide for a project or program that separates storm water from a combined sewer or for a prevention or replacement facility that prevents or minimizes storm water from entering a combined sewer or a sanitary sewer.

(C) The board of county commissioners may employ a registered professional engineer to be the county sanitary engineer for the time and on the terms it considers best and may authorize the county sanitary engineer to employ necessary assistants upon the terms fixed by the board. Prior to the initial assignment of drainage facilities duties to the county sanitary engineer, if the county sanitary engineer is not the county engineer, the board first shall offer to enter into an agreement with the county engineer pursuant to section 315.14 of the Revised Code for assistance in the

performance of those duties of the board pertaining to drainage facilities, and the county engineer shall accept or reject the offer within thirty days after the date the offer is made.

The board may create and maintain a sanitary engineering department, which shall be under its supervision and which shall be headed by the county sanitary engineer, for the purpose of aiding it in the performance of its duties under this chapter and Chapter 6103. of the Revised Code or its other duties regarding sanitation, drainage, and water supply provided by law. The board shall provide suitable facilities for the use of the department and shall provide for and pay the compensation of the county sanitary engineer and all authorized necessary expenses of the county sanitary engineer and the sanitary engineering department. The county sanitary engineer, with the approval of the board, may appoint necessary assistants and clerks, and the compensation of those assistants and clerks shall be provided for and paid by the board.

(D) The board of county commissioners may adopt, publish, administer, and enforce rules for the construction, maintenance, protection, and use of county-owned or county-operated sanitary and drainage facilities and prevention or replacement facilities outside municipal corporations, and of sanitary and drainage facilities and prevention or replacement facilities within municipal corporations that are owned or operated by the county or that discharge into sanitary or drainage facilities or prevention or replacement facilities owned or operated by the county, including, but not limited to, rules for the establishment and use of any connections, the termination in accordance with reasonable procedures of sanitary service for the nonpayment of county sanitary rates and charges and, if so determined, the concurrent termination of any county water service for the nonpayment of those rates and charges, the termination in accordance with reasonable procedures of drainage service for the nonpayment of county drainage rates and charges, and the establishment and use of security deposits to the extent considered necessary to ensure the payment of county sanitary or drainage rates and charges. The rules shall not be inconsistent with the laws of this state or any applicable rules of the director of environmental protection.

(E) No sanitary or drainage facilities or prevention or replacement facilities shall be constructed in any county outside municipal corporations by any person until the plans and specifications have been approved by the board of county commissioners, and any construction shall be done under the supervision of the county sanitary engineer. Not less than thirty days before the date drainage plans are submitted to the board for its approval, the plans shall be submitted to the county engineer. If the county engineer is

of the opinion after review that the facilities will have a significant adverse effect on roads, culverts, bridges, or existing maintenance within the county, the county engineer may submit a written opinion to the board not later than thirty days after the date the plans are submitted to the county engineer. The board may take action relative to the drainage plans only after the earliest of receiving the written opinion of the county engineer, receiving a written waiver of submission of an opinion from the county engineer, or passage of thirty days from the date the plans are submitted to the county engineer. Any person constructing the facilities shall pay to the county all expenses incurred by the board in connection with the construction.

(F) The county sanitary engineer or the county sanitary engineer's authorized assistants or agents, when properly identified in writing or otherwise and after written notice is delivered to the owner at least five days in advance or is mailed at least five days in advance by first class or certified mail to the owner's tax mailing address, may enter upon any public or private property for the purpose of making, and may make, surveys or inspections necessary for the laying out of sewer districts or the design or evaluation of county sanitary or drainage facilities or prevention or replacement facilities. This entry is not a trespass and is not to be considered an entry in connection with any appropriation of property proceedings under sections 163.01 to 163.22 of the Revised Code that may be pending. No person or public agency shall forbid the county sanitary engineer or the county sanitary engineer's authorized assistants or agents to enter, or interfere with their entry, upon the property for that purpose or forbid or interfere with their making of surveys or inspections. If actual damage is done to property by the making of the surveys and inspections, the board shall pay the reasonable value of the damage to the property owner, and the cost shall be included in the cost of the facilities and may be included in any special assessments to be levied and collected to pay that cost.

Sec. 6117.02. (A) The board of county commissioners shall fix reasonable rates, including penalties for late payments, for the use, or the availability for use, of the sanitary facilities of a sewer district to be paid by every person and public agency whose premises are served, or capable of being served, by a connection directly or indirectly to those facilities when those facilities are owned or operated by the county and may change the rates from time to time as it considers advisable. When the sanitary facilities to be used by the county are owned by another public agency or person, the schedule of rates to be charged by the public agency or person for the use of the facilities by the county, or the formula or other procedure for their determination, shall be approved by the board at the time it enters into a

contract for that use.

(B) The board also shall establish reasonable charges to be collected for the privilege of connecting to the sanitary facilities of the district, with the requirement that, prior to the connection, the charges shall be paid in full, or, if determined by the board to be equitable in a resolution relating to the payment of the charges, provision considered adequate by the board shall be made for their payment in installments at the times, in the amounts, and with the security, carrying charges, and penalties as may be found by the board in that resolution to be fair and appropriate. No public agency or person shall be permitted to connect to those facilities until the charges have been paid in full or provision for their payment in installments has been made. If the connection charges are to be paid in installments, the board shall certify to the county auditor information sufficient to identify each parcel of property served by a connection and, with respect to each parcel, the total of the charges to be paid in installments, the amount of each installment, and the total number of installments to be paid. The auditor shall record and maintain the information supplied in the sewer improvement record provided for in section 6117.33 of the Revised Code until the connection charges are paid in full. The board may include amounts attributable to connection charges being paid in installments in its billings of rates and charges for the use of sanitary facilities.

(C) When any of the sanitary rates or charges are not paid when due, the board may do any or all of the following as it considers appropriate:

(1) Certify the unpaid rates or charges, together with any penalties, to the county auditor, who shall place them upon the real property tax list and duplicate against the property served by the connection. The certified amount shall be a lien on the property from the date placed on the real property tax list and duplicate and shall be collected in the same manner as taxes, except that, notwithstanding section 323.15 of the Revised Code, a county treasurer shall accept a payment in that amount when separately tendered as payment for the full amount of the unpaid sanitary rates or charges and associated penalties. The lien shall be released immediately upon payment in full of the certified amount.

(2) Collect the unpaid rates or charges, together with any penalties, by actions at law in the name of the county from an owner, tenant, or other person or public agency that is liable for the payment of the rates or charges;

(3) Terminate, in accordance with established rules, the sanitary service to the particular property and, if so determined, any county water service to that property, unless and until the unpaid sanitary rates or charges, together with any penalties, are paid in full;

(4) Apply, to the extent required, any security deposit made in accordance with established rules to the payment of sanitary rates and charges for service to the particular property.

All moneys collected as sanitary rates, charges, or penalties fixed or established in accordance with divisions (A) and (B) of this section for any sewer district shall be paid to the county treasurer and kept in a separate and distinct sanitary fund established by the board to the credit of the district. Except as otherwise provided in any proceedings authorizing or providing for the security for and payment of any public obligations, or in any indenture or trust or other agreement securing public obligations, moneys in the sanitary fund shall be applied first to the payment of the cost of the management, maintenance, and operation of the sanitary facilities of, or used or operated for, the district, which cost may include the county's share of management, maintenance, and operation costs under cooperative contracts for the acquisition, construction, or use of sanitary facilities and, in accordance with a cost allocation plan adopted under division (E) of this section, payment of all allowable direct and indirect costs of the district, the county sanitary engineer or sanitary engineering department, or a federal or state grant program, incurred for sanitary purposes under this chapter, and shall be applied second to the payment of debt charges payable on any outstanding public obligations issued or incurred for the acquisition or construction of sanitary facilities for or serving the district, or for the funding of a bond retirement or other fund established for the payment of or security for the obligations. Any surplus remaining may be applied to the acquisition or construction of those facilities or for the payment of contributions to be made, or costs incurred, for the acquisition or construction of those facilities under cooperative contracts. Moneys in the sanitary fund shall not be expended other than for the use and benefit of the district.

(D) The board may fix reasonable rates and charges, including connection charges and penalties for late payments, to be paid by any person or public agency owning or having possession or control of any properties that are connected with, capable of being served by, or otherwise served directly or indirectly by, drainage facilities owned or operated by or under the jurisdiction of the county, including, but not limited to, properties requiring, or lying within an area of the district requiring, in the judgment of the board, the collection, control, or abatement of waters originating or accumulating in, or flowing in, into, or through, the district, and may change those rates and charges from time to time as it considers advisable. In addition, the board may fix the rates and charges in order to pay the costs of

complying with the requirements of phase II of the storm water program of the national pollutant discharge elimination system established in 40 C.F.R. part 122.

The rates and charges shall be payable periodically as determined by the board, except that any connection charges shall be paid in full in one payment, or, if determined by the board to be equitable in a resolution relating to the payment of those charges, provision considered adequate by the board shall be made for their payment in installments at the times, in the amounts, and with the security, carrying charges, and penalties as may be found by the board in that resolution to be fair and appropriate. The board may include amounts attributable to connection charges being paid in installments in its billings of rates and charges for the services provided by the drainage facilities. In the case of rates and charges that are fixed in order to pay the costs of complying with the requirements of phase II of the storm water program of the national pollutant discharge elimination system established in 40 C.F.R. part 122, the rates and charges may be paid annually or semiannually with real property taxes, provided that the board certifies to the county auditor information that is sufficient for the auditor to identify each parcel of property for which a rate or charge is levied and the amount of the rate or charge.

When any of the drainage rates or charges are not paid when due, the board may do any or all of the following as it considers appropriate:

(1) Certify the unpaid rates or charges, together with any penalties, to the county auditor, who shall place them upon the real property tax list and duplicate against the property to which the rates or charges apply. The certified amount shall be a lien on the property from the date placed on the real property tax list and duplicate and shall be collected in the same manner as taxes, except that notwithstanding section 323.15 of the Revised Code, a county treasurer shall accept a payment in that amount when separately tendered as payment for the full amount of the unpaid drainage rates or charges and associated penalties. The lien shall be released immediately upon payment in full of the certified amount.

(2) Collect the unpaid rates or charges, together with any penalties, by actions at law in the name of the county from an owner, tenant, or other person or public agency that is liable for the payment of the rates or charges;

(3) Terminate, in accordance with established rules, the drainage service for the particular property until the unpaid rates or charges, together with any penalties, are paid in full;

(4) Apply, to the extent required, any security deposit made in accordance with established rules to the payment of drainage rates and

charges applicable to the particular property.

All moneys collected as drainage rates, charges, or penalties in or for any sewer district shall be paid to the county treasurer and kept in a separate and distinct drainage fund established by the board to the credit of the district. Except as otherwise provided in any proceedings authorizing or providing for the security for and payment of any public obligations, or in any indenture or trust or other agreement securing public obligations, moneys in the drainage fund shall be applied first to the payment of the cost of the management, maintenance, and operation of the drainage facilities of, or used or operated for, the district, which cost may include the county's share of management, maintenance, and operation costs under cooperative contracts for the acquisition, construction, or use of drainage facilities and, in accordance with a cost allocation plan adopted under division (E) of this section, payment of all allowable direct and indirect costs of the district, the county sanitary engineer or sanitary engineering department, or a federal or state grant program, incurred for drainage purposes under this chapter, and shall be applied second to the payment of debt charges payable on any outstanding public obligations issued or incurred for the acquisition or construction of drainage facilities for or serving the district, or for the funding of a bond retirement or other fund established for the payment of or security for the obligations. Any surplus remaining may be applied to the acquisition or construction of those facilities or for the payment of contributions to be made, or costs incurred, for the acquisition or construction of those facilities under cooperative contracts. Moneys in the drainage fund shall not be expended other than for the use and benefit of the district.

(E) A board of county commissioners may adopt a cost allocation plan that identifies, accumulates, and distributes allowable direct and indirect costs that may be paid from each of the funds of the district created pursuant to divisions (C) and (D) of this section, and that prescribes methods for allocating those costs. The plan shall authorize payment from each of those funds of only those costs incurred by the district, the county sanitary engineer or sanitary engineering department, or a federal or state grant program, and those costs incurred by the general and other funds of the county for a common or joint purpose, that are necessary and reasonable for the proper and efficient administration of the district under this chapter and properly attributable to the particular fund of the district. The plan shall not authorize payment from either of the funds of any general government expense required to carry out the overall governmental responsibilities of a county. The plan shall conform to United States office of management and

budget Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments," published May 17, 1995.

(F) A board of county commissioners may establish discounted rates or charges or may establish another mechanism for providing a reduction in rates or charges for persons who are sixty-five years of age or older. The board shall establish eligibility requirements for such discounted or reduced rates or charges, including a requirement that a person be eligible for the homestead exemption or qualify as a low- and moderate-income person.

Sec. 6119.011. As used in ~~Chapter 6119. of the Revised Code~~ this chapter:

(A) "Court of common pleas" or "court" means, unless the context indicates a different meaning or intent, the court of common pleas in which the petition for the organization of a regional water and sewer district is filed.

(B) "Political subdivision" includes departments, divisions, authorities, or other units of state governments, watershed districts, soil and water conservation districts, park districts, municipal corporations, counties, townships, and other political subdivisions, special water districts, including county and regional water and sewer districts, conservancy districts, sanitary districts, sewer districts or any other public corporation or agency having the authority to acquire, construct, or operate waste water or water management facilities, and all other governmental agencies now or hereafter granted the power of levying taxes or special assessments, the United States or any agency thereof, and any agency, commission, or authority established pursuant to an interstate compact or agreement.

(C) "Person" means any natural person, firm, partnership, association, or corporation other than a political subdivision.

(D) "Beneficial use" means a use of water, including the method of diversion, storage, transportation, treatment, and application, that is reasonable and consistent with the public interest in the proper utilization of water resources, including, but not limited to, domestic, agricultural, industrial, power, municipal, navigational, fish and wildlife, and recreational uses.

(E) "Waters of the state" ~~mean~~ means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, ~~which~~ that are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters ~~which~~ that do not combine or effect a junction with natural surface or underground waters.

(F) "Water resources" means all waters of the state occurring on the surface in natural or artificial channels, lakes, reservoirs, or impoundments, and in subsurface aquifers, ~~which that~~ that are available or may be made available to agricultural, commercial, recreational, public, and domestic users.

(G) "Project" or "water resource project" means any waste water facility or water management facility acquired, constructed, or operated by or leased to a regional water and sewer district or to be acquired, constructed, or operated by or leased to a regional water and sewer district under ~~Chapter 6119. of the Revised Code~~ this chapter, or acquired or constructed or to be acquired or constructed by a political subdivision with a portion of the cost thereof being paid from a loan or grant from the district under ~~Chapter 6119. of the Revised Code~~ this chapter, including all buildings and facilities ~~which that~~ that the district considers necessary for the operation of the project, together with all property, rights, easements, and interest ~~which that~~ that may be required for the operation of the project. Any water resource project shall be determined by the board of trustees of the district to be consistent with any applicable comprehensive plan of water management approved by the director of natural resources ~~of the state~~ or in the process of preparation by ~~such the~~ the director and to be not inconsistent with the standards set for the waters of the state affected thereby by the ~~water pollution control board of the state~~ environmental protection agency. Any resolution of the board of trustees of the district providing for acquiring, operating, leasing, or constructing such projects or for making a loan or grant for such projects shall include a finding by the board of trustees of the district that ~~such those~~ those determinations have been made.

(H) "Pollution" means the placing of any noxious or deleterious substances in any waters of the state or affecting the properties of any waters of the state in a manner ~~which that~~ that renders ~~such those~~ those waters harmful or inimical to the public health, or to animal or aquatic life, or to the use of ~~such the~~ the waters for domestic water supply, industrial or agricultural purposes, or recreation.

(I) "Sewage" means any substance that contains any of the waste products or excrementitious or other discharge from the bodies of human beings or animals, ~~which that~~ that pollutes the waters of the state.

(J) "Industrial waste" means any liquid, gaseous, or solid waste substance resulting from any process of industry, manufacture, trade, or business, or from the development, processing, or recovery of any natural resource, together with such sewage as is present, ~~which that~~ that pollutes the waters of the state.

(K) "Waste water" means any storm water and any water containing sewage or industrial waste or other pollutants or contaminants derived from the prior use of ~~such~~ the water.

(L) "Waste water facilities" means facilities for the purpose of treating, neutralizing, disposing of, stabilizing, cooling, segregating, or holding waste water, including, without limiting the generality of the foregoing, facilities for the treatment and disposal of sewage or industrial waste and the residue thereof, facilities for the temporary or permanent impoundment of waste water, both surface and underground, and storm and sanitary sewers and other systems, whether on the surface or underground, designed to transport waste water, together with the equipment and furnishings thereof and their appurtenances and systems, whether on the surface or underground, including force mains and pumping facilities therefor when necessary.

(M) "Water management facilities" means facilities for the purpose of the development, use, and protection of water resources, including, without limiting the generality of the foregoing, facilities for water supply, facilities for stream flow improvement, dams, reservoirs, and other impoundments, water transmission lines, water wells and well fields, pumping stations and works for underground water recharge, stream monitoring systems, facilities for the stabilization of stream and river banks, and facilities for the treatment of streams and rivers, including, without limiting the generality of the foregoing, facilities for the removal of oil, debris, and other solid waste from the waters of the state and stream and river aeration facilities.

(N) "Cost" as applied to water resource projects means the cost of acquisition and construction, the cost of acquisition of all land, rights-of-way, property rights, easements, franchise rights, and interests required by the district for such acquisition and construction, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of acquiring or constructing and equipping a principal office and sub-offices of the district, the cost of diverting highways, interchange of highways, and access roads to private property, including the cost of land or easements therefor, the cost of all machinery, furnishings, and equipment, financing charges, interest prior to and during construction and for no more than eighteen months after completion of ~~acquisition~~ acquisition or construction, engineering, expenses of research and development with respect to waste water or water management facilities, legal expenses, plans, specifications, surveys, estimates of cost and revenues, working capital, other expenses necessary or incident to determining the feasibility or practicability of acquiring or

constructing any such project, administrative expense, and such other expense as may be necessary or incident to the acquisition or construction of the project, the financing of ~~such~~ the acquisition or construction, including the amount authorized in the resolution of the district providing for the issuance of water resource revenue bonds to be paid into any special funds from the proceeds of ~~such~~ those bonds and the financing of the placing of any such project in operation. Any obligation or expense incurred by any political subdivision, and approved by the district, for surveys, borings, preparation of plans and specifications, and other engineering services in connection with the acquisition or construction of a project shall be regarded as a part of the cost of ~~such~~ the project and may be reimbursed by the district.

(O) "Owner" includes all individuals, partnerships, associations, corporations, or political subdivisions having any title or interest in any property rights, easements, and interests authorized to be acquired by ~~Chapter 6119. of the Revised Code~~ this chapter.

(P) "Revenues" means all rentals and other charges received by a district for the use or services of any project, all special assessments levied by the district pursuant to ~~Chapter 6119. of the Revised Code~~ this chapter, any gift or grant received with respect thereto, and moneys received in repayment of and for interest on any loan made by the district to a political subdivision, whether from the United States or a department, administration, or agency thereof, or otherwise.

(Q) "Public roads" includes all public highways, roads, and streets in the state, whether maintained by the state, county, city, township, or other political subdivision.

(R) "Public utility facilities" includes tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and appliances of any public utility.

(S) "Construction," unless the context indicates a different meaning or intent, includes reconstruction, enlargement, improvement, or providing furnishings or equipment.

(T) "Water resources bonds," unless the context indicates a different meaning or intent, includes water resource notes and water resource refunding bonds.

(U) "Regional water and sewer district" means a district organized or operating for one or both of the purposes described in section 6119.01 of the Revised Code and, if organized or operating for only one of ~~such~~ those purposes, may be designated either a regional water district or a regional sewer district, as the case may be.

(V) "Homestead exemption" means the reduction of taxes allowed under division (A) of section 323.152 of the Revised Code.

(W) "Low- and moderate-income person" has the same meaning as in section 175.01 of the Revised Code.

Sec. 6119.091. When fixing rentals or other charges under section 6119.09 of the Revised Code, a board of trustees of a regional water and sewer district may establish discounted rentals or charges or may establish another mechanism for providing a reduction in rentals or charges for persons who are sixty-five years of age or older. The board shall establish eligibility requirements for such discounted or reduced rentals or charges, including a requirement that a person be eligible for the homestead exemption or qualify as a low- and moderate-income person.

Sec. 6301.03. (A) In administering the "Workforce Investment Act of 1998," 112 Stat. 936, 29 U.S.C.A. 2801, as amended, the "Wagner-Peyser Act," 48 Stat. 113 (1933), 29 U.S.C.A. 49, as amended, the funds received pursuant to those acts, and the workforce development system, the director of job and family services may make allocations and payment of funds for the local administration of the workforce development activities established under this chapter. Pursuant to the "Workforce Investment Act of 1998," 112 Stat. 936, 29 U.S.C.A. 2801, as amended, the governor shall reserve not more than fifteen per cent of the amounts allocated to the state under Title I of that act for adults, dislocated workers, and youth for statewide activities, and not more than twenty-five per cent of funds allocated for dislocated workers under Title I of that act for statewide rapid response activities.

(B) The director shall allocate to local areas all funds required to be allocated to local areas pursuant to the "Workforce Investment Act of 1998," 112 Stat. 936, 29 U.S.C.A. 2801, as amended. The director shall make allocations only with funds available. Local areas, as defined by either section 101 of the "Workforce Investment Act of 1998," 112 Stat. 936, 29 U.S.C.A. 2801, as amended, or section 6301.01 of the Revised Code, and subrecipients of a local area shall establish a workforce development fund and the entity receiving funds shall deposit all funds received under this section into the workforce development fund. All expenditures for activities funded under this section shall be made from the workforce development fund, including reimbursements to a county public assistance fund for expenditures made for activities funded under this section.

(C) The use of funds, reporting requirements, and other administrative and operational requirements governing the use of funds received by the director pursuant to this section shall be governed by internal management rules adopted by the director pursuant to section 111.15 of the Revised

Code.

(D) To the extent permitted by state or federal law, the director, local areas, counties, and municipal corporations authorized to administer workforce development activities may assess a fee for specialized services requested by an employer. The director shall adopt rules pursuant to Chapter 119. of the Revised Code governing the nature and amount of those types of fees.

SECTION 101.02. That existing sections 7.12, 9.06, 9.24, 9.314, 101.34, 101.72, 102.02, 105.41, 107.21, 107.40, 109.57, 109.572, 109.73, 109.731, 109.742, 109.744, 109.751, 109.761, 109.77, 109.802, 109.803, 117.13, 118.05, 120.08, 121.04, 121.07, 121.08, 121.083, 121.084, 121.31, 121.37, 121.40, 121.401, 121.402, 122.011, 122.05, 122.051, 122.075, 122.151, 122.17, 122.171, 122.40, 122.603, 122.71, 122.751, 122.76, 122.89, 123.01, 124.03, 124.04, 124.07, 124.11, 124.134, 124.14, 124.152, 124.181, 124.183, 124.22, 124.23, 124.27, 124.321, 124.324, 124.325, 124.34, 124.381, 124.382, 124.385, 124.386, 124.392, 124.81, 125.11, 125.18, 125.831, 126.05, 126.21, 126.35, 127.16, 131.23, 131.33, 133.01, 133.02, 133.06, 133.18, 133.20, 133.21, 133.34, 135.03, 135.06, 135.08, 135.32, 141.04, 145.012, 145.298, 148.02, 148.04, 149.43, 149.45, 150.01, 150.02, 150.03, 150.04, 150.05, 150.07, 152.09, 152.10, 152.12, 152.15, 152.33, 156.01, 156.02, 156.03, 156.04, 166.02, 166.07, 166.08, 166.11, 166.25, 169.08, 173.08, 173.35, 173.392, 173.40, 173.401, 173.42, 173.43, 173.50, 173.71, 173.76, 173.99, 174.02, 174.03, 174.06, 175.01, 176.05, 303.213, 307.626, 307.629, 307.79, 311.17, 311.42, 319.28, 319.301, 319.302, 319.54, 321.24, 321.261, 323.01, 323.121, 323.156, 323.73, 323.74, 323.77, 323.78, 329.03, 329.04, 329.042, 329.051, 329.06, 340.033, 343.01, 351.01, 351.021, 504.21, 505.82, 711.001, 711.05, 711.10, 711.131, 718.04, 721.15, 901.20, 901.32, 901.43, 903.082, 903.11, 903.25, 905.32, 905.33, 905.331, 905.36, 905.50, 905.51, 905.52, 905.56, 907.13, 907.14, 907.30, 907.31, 915.24, 918.08, 918.28, 921.02, 921.06, 921.09, 921.11, 921.13, 921.16, 921.22, 921.27, 921.29, 923.44, 923.46, 927.51, 927.52, 927.53, 927.56, 927.69, 927.70, 927.701, 927.71, 942.01, 942.02, 942.06, 942.13, 943.01, 943.02, 943.04, 943.05, 943.06, 943.07, 943.13, 943.14, 943.16, 953.21, 953.22, 953.23, 955.201, 1321.20, 1321.51, 1321.52, 1321.53, 1321.54, 1321.55, 1321.551, 1321.57, 1321.59, 1321.60, 1321.99, 1322.01, 1322.02, 1322.03, 1322.031, 1322.04, 1322.041, 1322.05, 1322.051, 1322.052, 1322.06, 1322.061, 1322.062, 1322.063, 1322.064, 1322.07, 1322.071, 1322.072, 1322.074, 1322.075, 1322.08, 1322.081, 1322.09, 1322.10, 1322.11, 1322.99, 1332.24, 1332.25, 1343.011, 1345.01, 1345.05, 1345.09,

1347.08, 1349.31, 1349.43, 1501.01, 1501.05, 1501.07, 1501.30, 1502.12, 1506.01, 1507.01, 1511.01, 1511.02, 1511.021, 1511.022, 1511.03, 1511.04, 1511.05, 1511.06, 1511.07, 1511.071, 1511.08, 1514.08, 1514.10, 1514.13, 1515.08, 1515.14, 1515.183, 1517.02, 1517.10, 1517.11, 1517.14, 1517.16, 1517.17, 1517.18, 1519.03, 1520.02, 1520.03, 1521.03, 1521.031, 1521.04, 1521.05, 1521.06, 1521.061, 1521.062, 1521.063, 1521.064, 1521.07, 1521.10, 1521.11, 1521.12, 1521.13, 1521.14, 1521.15, 1521.16, 1521.18, 1521.19, 1523.01, 1523.02, 1523.03, 1523.04, 1523.05, 1523.06, 1523.07, 1523.08, 1523.09, 1523.10, 1523.11, 1523.12, 1523.13, 1523.14, 1523.15, 1523.16, 1523.17, 1523.18, 1523.19, 1523.20, 1533.11, 1541.03, 1547.01, 1547.51, 1547.52, 1547.531, 1547.54, 1547.542, 1547.73, 1547.99, 1548.10, 1707.17, 1707.18, 1707.37, 1710.01, 1710.02, 1710.03, 1710.04, 1710.06, 1710.07, 1710.10, 1710.13, 1721.211, 1724.02, 1724.04, 1733.26, 1739.05, 1751.03, 1751.04, 1751.05, 1751.14, 1751.15, 1751.16, 1751.18, 1751.19, 1751.32, 1751.321, 1751.34, 1751.35, 1751.36, 1751.45, 1751.46, 1751.48, 1751.831, 1751.84, 1751.85, 1753.09, 1901.121, 1901.26, 1901.31, 1907.14, 1907.24, 2101.01, 2301.02, 2301.03, 2303.201, 2305.234, 2317.422, 2503.17, 2505.09, 2505.12, 2743.51, 2744.05, 2903.214, 2903.33, 2907.27, 2911.21, 2913.46, 2915.01, 2921.13, 2921.51, 2923.125, 2923.1210, 2923.1213, 2923.16, 2937.22, 2949.091, 2949.111, 2949.17, 2981.13, 3105.87, 3111.04, 3119.01, 3119.54, 3121.03, 3121.035, 3121.037, 3121.0311, 3121.19, 3121.20, 3121.898, 3123.952, 3125.25, 3301.07, 3301.075, 3301.079, 3301.0710, 3301.0711, 3301.0714, 3301.0715, 3301.0716, 3301.0718, 3301.12, 3301.16, 3301.46, 3301.55, 3301.57, 3302.01, 3302.02, 3302.021, 3302.03, 3302.031, 3302.05, 3302.07, 3304.16, 3304.231, 3307.31, 3307.64, 3309.41, 3309.48, 3309.51, 3310.03, 3310.08, 3310.09, 3310.11, 3310.14, 3310.41, 3311.059, 3311.06, 3311.19, 3311.21, 3311.29, 3311.52, 3311.76, 3313.174, 3313.483, 3313.53, 3313.532, 3313.536, 3313.55, 3313.60, 3313.602, 3313.603, 3313.605, 3313.608, 3313.6013, 3313.61, 3313.611, 3313.612, 3313.614, 3313.615, 3313.64, 3313.642, 3313.6410, 3313.65, 3313.713, 3313.843, 3313.976, 3313.978, 3313.98, 3313.981, 3314.012, 3314.015, 3314.016, 3314.02, 3314.021, 3314.03, 3314.08, 3314.085, 3314.087, 3314.091, 3314.10, 3314.13, 3314.19, 3314.25, 3314.26, 3314.35, 3314.36, 3315.37, 3316.041, 3316.06, 3316.20, 3317.01, 3317.011, 3317.013, 3317.02, 3317.021, 3317.022, 3317.023, 3317.024, 3317.025, 3317.0210, 3317.0211, 3317.0216, 3317.03, 3317.031, 3317.04, 3317.061, 3317.063, 3317.08, 3317.081, 3317.082, 3317.12, 3317.16, 3317.18, 3317.20, 3317.201, 3318.011, 3318.051, 3318.061, 3318.36, 3318.38, 3318.44, 3319.073, 3319.08, 3319.081,

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5722.04, 5722.21, 5723.04, 5725.18, 5725.98, 5727.81, 5727.811, 5727.84, 5728.12, 5729.03, 5729.98, 5733.01, 5733.04, 5733.47, 5733.98, 5735.142, 5739.01, 5739.02, 5739.03, 5739.033, 5739.09, 5739.131, 5743.15, 5743.61, 5747.01, 5747.13, 5747.16, 5747.18, 5747.76, 5747.98, 5748.02, 5748.03, 5749.02, 5749.12, 5751.01, 5751.011, 5751.012, 5751.013, 5751.02, 5751.03, 5751.04, 5751.05, 5751.051, 5751.06, 5751.08, 5751.09, 5751.20, 5751.21, 5751.22, 5751.23, 5911.10, 5913.051, 5913.09, 6103.01, 6103.02, 6109.21, 6111.04, 6111.044, 6111.44, 6117.01, 6117.02, 6119.011, and 6301.03 of the Revised Code are hereby repealed.

That existing Section 6 of H.B. 364 of the 124th General Assembly is hereby repealed.

SECTION 105.01. That sections 117.102, 173.71, 173.72, 173.721, 173.722, 173.723, 173.724, 173.73, 173.731, 173.732, 173.74, 173.741, 173.742, 173.75, 173.751, 173.752, 173.753, 173.76, 173.77, 173.771, 173.772, 173.773, 173.78, 173.79, 173.791, 173.80, 173.801, 173.802, 173.803, 173.81, 173.811, 173.812, 173.813, 173.814, 173.815, 173.82, 173.83, 173.831, 173.832, 173.833, 173.84, 173.85, 173.86, 173.861, 173.87, 173.871, 173.872, 173.873, 173.874, 173.875, 173.876, 173.88, 173.89, 173.891, 173.892, 173.90, 173.91, 905.38, 905.381, 905.66, 907.16, 927.74, 1504.01, 1504.02, 1504.03, 1504.04, 1517.15, 1521.02, 1711.58, 3301.0712, 3301.41, 3301.42, 3301.43, 3302.032, 3313.473, 3314.15, 3319.0810, 3319.222, 3319.23, 3319.261, 3319.302, 3319.304, 3333.27, 3701.77, 3701.771, 3701.772, 3701.93, 3701.931, 3701.932, 3701.933, 3701.934, 3701.935, 3701.936, 3702.511, 3702.523, 3702.527, 3702.528, 3702.529, 3702.542, 3704.143, 3724.01, 3724.02, 3724.021, 3724.03, 3724.04, 3724.05, 3724.06, 3724.07, 3724.08, 3724.09, 3724.10, 3724.11, 3724.12, 3724.13, 3724.99, 4517.052, 4517.27, 4735.22, 4735.23, 5101.072, 5103.154, 5111.263, 5112.371, 5115.10, 5115.11, 5115.12, 5115.13, 5115.14, 5145.32, and 5923.141 of the Revised Code are hereby repealed.

SECTION 105.10. Sections 1751.53 and 3923.38 of the Revised Code as they result from Section 120.10 of H.B. 2 of the 128th General Assembly are hereby repealed. This repeal enables the continued existence of those sections as they result from Section 101.01 of H.B. 2 of the 128th General Assembly.

SECTION 110.10. That the version of section 2949.111 of the Revised Code that is scheduled to take effect January 1, 2010, be amended to read as follows:

Sec. 2949.111. (A) As used in this section:

(1) "Court costs" means any assessment that the court requires an offender to pay to defray the costs of operating the court.

(2) "State fines or costs" means any costs imposed or forfeited bail collected by the court under section 2743.70 of the Revised Code for deposit into the reparations fund or under section 2949.091 of the Revised Code for deposit into the ~~general revenue~~ indigent defense support fund established under section 120.08 of the Revised Code and all fines, penalties, and forfeited bail collected by the court and paid to a law library association under section 307.515 of the Revised Code.

(3) "Reimbursement" means any reimbursement for the costs of confinement that the court orders an offender to pay pursuant to section 2929.28 of the Revised Code, any supervision fee, any fee for the costs of house arrest with electronic monitoring that an offender agrees to pay, any reimbursement for the costs of an investigation or prosecution that the court orders an offender to pay pursuant to section 2929.71 of the Revised Code, or any other costs that the court orders an offender to pay.

(4) "Supervision fees" means any fees that a court, pursuant to sections 2929.18, 2929.28, and 2951.021 of the Revised Code, requires an offender who is under a community control sanction to pay for supervision services.

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

(B) Unless the court, in accordance with division (C) of this section, enters in the record of the case a different method of assigning payments, if a person who is charged with a misdemeanor is convicted of or pleads guilty to the offense, if the court orders the offender to pay any combination of court costs, state fines or costs, restitution, a conventional fine, or any reimbursement, and if the offender makes any payment of any of them to a clerk of court, the clerk shall assign the offender's payment in the following manner:

(1) If the court ordered the offender to pay any court costs, the offender's payment shall be assigned toward the satisfaction of those court costs until they have been entirely paid.

(2) If the court ordered the offender to pay any state fines or costs and if all of the court costs that the court ordered the offender to pay have been paid, the remainder of the offender's payment shall be assigned on a pro rata

basis toward the satisfaction of the state fines or costs until they have been entirely paid.

(3) If the court ordered the offender to pay any restitution and if all of the court costs and state fines or costs that the court ordered the offender to pay have been paid, the remainder of the offender's payment shall be assigned toward the satisfaction of the restitution until it has been entirely paid.

(4) If the court ordered the offender to pay any fine and if all of the court costs, state fines or costs, and restitution that the court ordered the offender to pay have been paid, the remainder of the offender's payment shall be assigned toward the satisfaction of the fine until it has been entirely paid.

(5) If the court ordered the offender to pay any reimbursement and if all of the court costs, state fines or costs, restitution, and fines that the court ordered the offender to pay have been paid, the remainder of the offender's payment shall be assigned toward the satisfaction of the reimbursements until they have been entirely paid.

(C) If a person who is charged with a misdemeanor is convicted of or pleads guilty to the offense and if the court orders the offender to pay any combination of court costs, state fines or costs, restitution, fines, or reimbursements, the court, at the time it orders the offender to make those payments, may prescribe an order of payments that differs from the order set forth in division (B) of this section by entering in the record of the case the order so prescribed. If a different order is entered in the record, on receipt of any payment, the clerk of the court shall assign the payment in the manner prescribed by the court.

SECTION 110.11. That the existing version of section 2949.111 of the Revised Code that is scheduled to take effect January 1, 2010, is hereby repealed.

SECTION 110.12. Sections 110.10 and 110.11 of this act take effect January 1, 2010.

SECTION 110.20. That the version of section 5739.033 of the Revised Code that is scheduled to take effect January 1, 2010, be amended to read as follows:

Sec. 5739.033. (A) The amount of tax due pursuant to sections 5739.02,

5739.021, 5739.023, and 5739.026 of the Revised Code is the sum of the taxes imposed pursuant to those sections at the sourcing location of the sale as determined under this section or, if applicable, under division (C) of section 5739.031 or section 5739.034 of the Revised Code. This section applies only to a vendor's or seller's obligation to collect and remit sales taxes under section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code or use taxes under section 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code. Division (A) of this section does not apply in determining the jurisdiction for which sellers are required to collect the use tax under section 5741.05 of the Revised Code. This section does not affect the obligation of a consumer to remit use taxes on the storage, use, or other consumption of tangible personal property or on the benefit realized of any service provided, to the jurisdiction of that storage, use, or consumption, or benefit realized.

(B)(1) Beginning January 1, 2010, retail sales, excluding the lease or rental, of tangible personal property or digital goods shall be sourced to the location where the vendor receives an order for the sale of such property or goods if:

(a) The vendor receives the order in this state and the consumer receives the property or goods in this state;

(b) The location where the consumer receives the property or goods is determined under division (C)(2), (3), or (4) of this section; and

(c) The record-keeping system used by the vendor to calculate the tax imposed captures the location where the order is received at the time the order is received.

(2) A consumer has no additional liability to this state under this chapter or Chapter 5741. of the Revised Code for tax, penalty, or interest on a sale for which the consumer remits tax to the vendor in the amount invoiced by the vendor if the invoice amount is calculated at either the rate applicable to the location where the consumer receives the property or digital good or at the rate applicable to the location where the order is received by the vendor. A consumer may rely on a written representation by the vendor as to the location where the order for the sale was received by the vendor. If the consumer does not have a written representation by the vendor as to the location where the order was received by the vendor, the consumer may use a location indicated by a business address for the vendor that is available from records that are maintained in the ordinary course of the consumer's business to determine the rate applicable to the location where the order was received.

(3) For the purposes of division (B) of this section, the location where

an order is received by or on behalf of a vendor means the physical location of the vendor or a third party such as an established outlet, office location, or automated order receipt system operated by or on behalf of the vendor, where an order is initially received by or on behalf of the vendor, and not where the order may be subsequently accepted, completed, or fulfilled. An order is received when all necessary information to determine whether the order can be accepted has been received by or on behalf of the vendor. The location from which the property or digital good is shipped shall not be used to determine the location where the order is received by the vendor.

(4) For the purposes of division (B) of this section, if services subject to taxation under this chapter or Chapter 5741. of the Revised Code are sold with tangible personal property or digital goods pursuant to a single contract or in the same transaction, the services are billed on the same billing statement or invoice, and, because of the application of division (B) of this section, the transaction would be sourced to more than one jurisdiction, the situs of the transaction shall be the location where the order is received by or on behalf of the vendor.

(C) Except for sales, other than leases, of titled motor vehicles, titled watercraft, or titled outboard motors as provided in section 5741.05 of the Revised Code, or as otherwise provided in this section and section 5739.034 of the Revised Code, all sales shall be sourced as follows:

(1) If the consumer or a donee designated by the consumer receives tangible personal property or a service at a vendor's place of business, the sale shall be sourced to that place of business.

(2) When the tangible personal property or service is not received at a vendor's place of business, the sale shall be sourced to the location known to the vendor where the consumer or the donee designated by the consumer receives the tangible personal property or service, including the location indicated by instructions for delivery to the consumer or the consumer's donee.

(3) If divisions (C)(1) and (2) of this section do not apply, the sale shall be sourced to the location indicated by an address for the consumer that is available from the vendor's business records that are maintained in the ordinary course of the vendor's business, when use of that address does not constitute bad faith.

(4) If divisions (C)(1), (2), and (3) of this section do not apply, the sale shall be sourced to the location indicated by an address for the consumer obtained during the consummation of the sale, including the address associated with the consumer's payment instrument, if no other address is available, when use of that address does not constitute bad faith.

(5) If divisions (C)(1), (2), (3), and (4) of this section do not apply, including in the circumstance where the vendor is without sufficient information to apply any of those divisions, the sale shall be sourced to the address from which tangible personal property was shipped, or from which the service was provided, disregarding any location that merely provided the electronic transfer of the property sold or service provided.

(6) As used in division (C) of this section, "receive" means taking possession of tangible personal property or making first use of a service. "Receive" does not include possession by a shipping company on behalf of a consumer.

(D)(1)(a) Notwithstanding divisions (C)(1) to (5) of this section, a business consumer that is not a holder of a direct payment permit granted under section 5739.031 of the Revised Code, that purchases a digital good, computer software, except computer software received in person by a business consumer at a vendor's place of business, or a service, and that knows at the time of purchase that such digital good, software, or service will be concurrently available for use in more than one taxing jurisdiction shall deliver to the vendor in conjunction with its purchase an exemption certificate claiming multiple points of use, or shall meet the requirements of division (D)(2) of this section. On receipt of the exemption certificate claiming multiple points of use, the vendor is relieved of its obligation to collect, pay, or remit the tax due, and the business consumer must pay the tax directly to the state.

(b) A business consumer that delivers the exemption certificate claiming multiple points of use to a vendor may use any reasonable, consistent, and uniform method of apportioning the tax due on the digital good, computer software, or service that is supported by the consumer's business records as they existed at the time of the sale. The business consumer shall report and pay the appropriate tax to each jurisdiction where concurrent use occurs. The tax due shall be calculated as if the apportioned amount of the digital good, computer software, or service had been delivered to each jurisdiction to which the sale is apportioned under this division.

(c) The exemption certificate claiming multiple points of use shall remain in effect for all future sales by the vendor to the business consumer until it is revoked in writing by the business consumer, except as to the business consumer's specific apportionment of a subsequent sale under division (D)(1)(b) of this section and the facts existing at the time of the sale.

(2) When the vendor knows that a digital good, computer software, or service sold will be concurrently available for use by the business consumer

in more than one jurisdiction, but the business consumer does not provide an exemption certificate claiming multiple points of use as required by division (D)(1) of this section, the vendor may work with the business consumer to produce the correct apportionment. Governed by the principles of division (D)(1)(b) of this section, the vendor and business consumer may use any reasonable, but consistent and uniform, method of apportionment that is supported by the vendor's and business consumer's books and records as they exist at the time the sale is reported for purposes of the taxes levied under this chapter. If the business consumer certifies to the accuracy of the apportionment and the vendor accepts the certification, the vendor shall collect and remit the tax accordingly. In the absence of bad faith, the vendor is relieved of any further obligation to collect tax on any transaction where the vendor has collected tax pursuant to the information certified by the business consumer.

(3) When the vendor knows that the digital good, computer software, or service will be concurrently available for use in more than one jurisdiction, and the business consumer does not have a direct pay permit and does not provide to the vendor an exemption certificate claiming multiple points of use as required in division (D)(1) of this section, or certification pursuant to division (D)(2) of this section, the vendor shall collect and remit the tax based on division (C) of this section.

(4) Nothing in this section shall limit a person's obligation for sales or use tax to any state in which a digital good, computer software, or service is concurrently available for use, nor limit a person's ability under local, state, or federal law, to claim a credit for sales or use taxes legally due and paid to other jurisdictions.

(E) A person who holds a direct payment permit issued under section 5739.031 of the Revised Code is not required to deliver an exemption certificate claiming multiple points of use to a vendor. But such permit holder shall comply with division (D)(2) of this section in apportioning the tax due on a digital good, computer software, or a service for use in business that will be concurrently available for use in more than one taxing jurisdiction.

(F)(1) Notwithstanding divisions (C)(1) to (5) of this section, the consumer of direct mail that is not a holder of a direct payment permit shall provide to the vendor in conjunction with the sale either an exemption certificate claiming direct mail prescribed by the tax commissioner, or information to show the jurisdictions to which the direct mail is delivered to recipients.

(2) Upon receipt of such exemption certificate, the vendor is relieved of

all obligations to collect, pay, or remit the applicable tax and the consumer is obligated to pay that tax on a direct pay basis. An exemption certificate claiming direct mail shall remain in effect for all future sales of direct mail by the vendor to the consumer until it is revoked in writing.

(3) Upon receipt of information from the consumer showing the jurisdictions to which the direct mail is delivered to recipients, the vendor shall collect the tax according to the delivery information provided by the consumer. In the absence of bad faith, the vendor is relieved of any further obligation to collect tax on any transaction where the vendor has collected tax pursuant to the delivery information provided by the consumer.

(4) If the consumer of direct mail does not have a direct payment permit and does not provide the vendor with either an exemption certificate claiming direct mail or delivery information as required by division (F)(1) of this section, the vendor shall collect the tax according to division (C)(5) of this section. Nothing in division (F)(4) of this section shall limit a consumer's obligation to pay sales or use tax to any state to which the direct mail is delivered.

(5) If a consumer of direct mail provides the vendor with documentation of direct payment authority, the consumer shall not be required to provide an exemption certificate claiming direct mail or delivery information to the vendor.

(G) If the vendor provides lodging to transient guests as specified in division (B)(2) of section 5739.01 of the Revised Code, the sale shall be sourced to the location where the lodging is located.

(H)(1) As used in this division and division (I) of this section, "transportation equipment" means any of the following:

(a) Locomotives and railcars that are utilized for the carriage of persons or property in interstate commerce.

(b) Trucks and truck-tractors with a gross vehicle weight rating of greater than ten thousand pounds, trailers, semi-trailers, or passenger buses that are registered through the international registration plan and are operated under authority of a carrier authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate commerce.

(c) Aircraft that are operated by air carriers authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate or foreign commerce.

(d) Containers designed for use on and component parts attached to or secured on the items set forth in division (H)(1)(a), (b), or (c) of this section.

(2) A sale, lease, or rental of transportation equipment shall be sourced pursuant to division (C) of this section.

(I)(1) A lease or rental of tangible personal property that does not require recurring periodic payments shall be sourced pursuant to division (C) of this section.

(2) A lease or rental of tangible personal property that requires recurring periodic payments shall be sourced as follows:

(a) In the case of a motor vehicle, other than a motor vehicle that is transportation equipment, or an aircraft, other than an aircraft that is transportation equipment, such lease or rental shall be sourced as follows:

(i) An accelerated tax payment on a lease or rental taxed pursuant to division (A)(2) of section 5739.02 of the Revised Code shall be sourced to the primary property location at the time the lease or rental is consummated. Any subsequent taxable charges on the lease or rental shall be sourced to the primary property location for the period in which the charges are incurred.

(ii) For a lease or rental taxed pursuant to division (A)(3) of section 5739.02 of the Revised Code, each lease or rental installment shall be sourced to the primary property location for the period covered by the installment.

(b) In the case of a lease or rental of all other tangible personal property, other than transportation equipment, such lease or rental shall be sourced as follows:

(i) An accelerated tax payment on a lease or rental that is taxed pursuant to division (A)(2) of section 5739.02 of the Revised Code shall be sourced pursuant to division (C) of this section at the time the lease or rental is consummated. Any subsequent taxable charges on the lease or rental shall be sourced to the primary property location for the period in which the charges are incurred.

(ii) For a lease or rental that is taxed pursuant to division (A)(3) of section 5739.02 of the Revised Code, the initial lease or rental installment shall be sourced pursuant to division (C) of this section. Each subsequent installment shall be sourced to the primary property location for the period covered by the installment.

(3) As used in division (I) of this section, "primary property location" means an address for tangible personal property provided by the lessee or renter that is available to the lessor or owner from its records maintained in the ordinary course of business, when use of that address does not constitute bad faith.

(J) If the vendor provides a service specified in division (B)(11) of section 5739.01 of the Revised Code, the situs of the sale is the location of

the enrollee for whom a medicaid health insurance corporation receives managed care premiums. Such sales shall be sourced to the locations of the enrollees in the same proportion as the managed care premiums received by the medicaid health insuring corporation on behalf of enrollees located in a particular taxing jurisdiction in Ohio as compared to all managed care premiums received by the medicaid health insuring corporation.

SECTION 110.21. That the existing version of section 5739.033 of the Revised Code that is scheduled to take effect January 1, 2010, is hereby repealed.

SECTION 110.22. Sections 110.20 and 110.21 of this act take effect January 1, 2010.

SECTION 125.10. Sections 5112.40, 5112.41, 5112.42, 5112.43, 5112.44, 5112.45, 5112.46, 5112.47, and 5112.48 of the Revised Code are hereby repealed, effective October 1, 2011.

SECTION 201.01. Except as otherwise provided in this act, all appropriation items in this act are appropriated out of any moneys in the state treasury to the credit of the designated fund that are not otherwise appropriated. For all appropriations made in this act, the amounts in the first column are for fiscal year 2010 and the amounts in the second column are for fiscal year 2011.

SECTION 203.10. ACC ACCOUNTANCY BOARD OF OHIO

General Services Fund Group

4J80	889601	CPA Education Assistance	\$	200,000	\$	200,000
4K90	889609	Operating Expenses	\$	1,000,000	\$	1,000,000
TOTAL GSF General Services Fund						
Group			\$	1,200,000	\$	1,200,000
TOTAL ALL BUDGET FUND GROUPS			\$	1,200,000	\$	1,200,000

SECTION 205.10. ADJ ADJUTANT GENERAL

General Revenue Fund

GRF	745401	Ohio Military Reserve	\$	13,675	\$	13,675
GRF	745404	Air National Guard	\$	1,810,606	\$	1,810,606
GRF	745407	National Guard Benefits	\$	400,000	\$	400,000
GRF	745409	Central Administration	\$	2,849,096	\$	2,849,096

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GRF 745499	Army National Guard	\$	4,237,516	\$	4,237,516
TOTAL GRF General Revenue Fund		\$	9,310,893	\$	9,310,893
General Services Fund Group					
5340 745612	Property	\$	534,304	\$	534,304
	Operations/Management				
5360 745605	Marksmanship Activities	\$	128,600	\$	128,600
5360 745620	Camp Perry/Buckeye Inn	\$	1,502,970	\$	1,502,970
	Operations				
5370 745604	Ohio National Guard Facility	\$	269,826	\$	269,826
	Maintenance				
TOTAL GSF General Services Fund Group		\$	2,435,700	\$	2,435,700
Federal Special Revenue Fund Group					
3410 745615	Air National Guard Base	\$	2,777,692	\$	2,777,692
	Security				
3420 745616	Army National Guard	\$	10,970,050	\$	10,970,050
	Agreement				
3E80 745628	Air National Guard	\$	16,048,595	\$	16,048,595
	Agreement				
3R80 745603	Counter Drug Operations	\$	25,000	\$	25,000
TOTAL FED Federal Special Revenue Fund		\$	29,821,337	\$	29,821,337
Group					
State Special Revenue Fund Group					
5U80 745613	Community Match Armories	\$	250,000	\$	250,000
TOTAL SSR State Special Revenue Fund Group		\$	250,000	\$	250,000
TOTAL ALL BUDGET FUND GROUPS		\$	41,817,930	\$	41,817,930

NATIONAL GUARD BENEFITS

The foregoing appropriation item 745407, National Guard Benefits, shall be used for purposes of sections 5919.31 and 5919.33 of the Revised Code, and for administrative costs of the associated programs.

For active duty members of the Ohio National Guard who died after October 7, 2001, while performing active duty, the death benefit, pursuant to section 5919.33 of the Revised Code, shall be paid to the beneficiary or beneficiaries designated on the member's Servicemembers' Group Life Insurance Policy.

STATE ACTIVE DUTY COSTS

Of the foregoing appropriation item 745409, Central Administration, \$50,000 in each fiscal year shall be used for the purpose of paying expenses related to state active duty of members of the Ohio organized militia, in accordance with a proclamation of the Governor. Expenses include, but are not limited to, the cost of equipment, supplies, and services, as determined by the Adjutant General's Department.

SECTION 205.20. FUND ABOLITION

On July 1, 2009, or as soon as possible thereafter, the Director of Budget and Management, upon request by the Adjutant General, shall

transfer the cash balance in the Marksmanship Activities Fund (Fund 5280) to the Camp Perry/Buckeye Inn Operations Fund (Fund 5360). The Director shall cancel any existing encumbrances against appropriation item 745645, Marksmanship Activities, and re-establish them against appropriation item 745620, Camp Perry/Buckeye Inn Operations. The re-established encumbrance amounts are hereby appropriated. Upon completion of the transfer, Fund 5280 is abolished.

SECTION 207.10. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES

General Revenue Fund

GRF 100415	OAKS Rental Payments	\$	18,066,000	\$	21,693,200
GRF 100416	STARS Lease Rental Payments	\$	4,977,600	\$	4,982,500
GRF 100418	Web Sites and Business Gateway	\$	2,696,933	\$	2,943,076
GRF 100419	IT Security Infrastructure	\$	861,250	\$	1,111,250
GRF 100423	EEO Project Tracking Software	\$	0	\$	100,000
GRF 100433	State of Ohio Computer Center	\$	5,385,268	\$	4,289,127
GRF 100439	Equal Opportunity Certification Programs	\$	712,724	\$	712,724
GRF 100447	OBA - Building Rent Payments	\$	102,635,400	\$	97,712,600
GRF 100448	OBA - Building Operating Payments	\$	24,003,000	\$	24,203,000
GRF 100449	DAS - Building Operating Payments	\$	2,971,384	\$	3,271,384
GRF 100451	Minority Affairs	\$	50,016	\$	50,016
GRF 102321	Construction Compliance	\$	1,108,744	\$	1,108,744
GRF 130321	State Agency Support Services	\$	3,239,578	\$	3,339,578
TOTAL GRF General Revenue Fund		\$	166,707,897	\$	165,517,199

General Services Fund Group

1120 100616	DAS Administration	\$	4,500,000	\$	4,500,000
1150 100632	Central Service Agency	\$	756,642	\$	756,642
1170 100644	General Services Division - Operating	\$	10,000,000	\$	10,000,000
1220 100637	Fleet Management	\$	1,500,000	\$	1,500,000
1250 100622	Human Resources Division - Operating	\$	20,560,614	\$	20,560,614
1280 100620	Collective Bargaining	\$	3,662,534	\$	3,662,534
1300 100606	Risk Management Reserve	\$	5,568,548	\$	5,568,548
1310 100639	State Architect's Office	\$	7,544,146	\$	7,544,146
1320 100631	DAS Building Management	\$	8,637,670	\$	8,637,670
1330 100607	IT Services Delivery	\$	58,750,678	\$	58,750,678
1880 100649	Equal Opportunity Division - Operating	\$	884,650	\$	884,650

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2100	100612	State Printing	\$	12,000,000	\$	12,000,000
2290	100630	IT Governance	\$	15,346,474	\$	15,346,474
2290	100640	Leveraged Enterprise Purchases	\$	10,000,000	\$	10,000,000
4270	100602	Investment Recovery	\$	5,592,697	\$	5,592,697
4N60	100617	Major IT Purchases	\$	7,495,719	\$	1,950,000
4P30	100603	DAS Information Services	\$	4,054,414	\$	4,054,414
5C20	100605	MARCS Administration	\$	11,069,291	\$	11,069,291
5C30	100608	Skilled Trades	\$	605,885	\$	605,885
5EB0	100635	OAKS Support Organization	\$	15,984,761	\$	18,009,192
5L70	100610	Professional Development	\$	3,900,000	\$	3,900,000
5V60	100619	Employee Educational Development	\$	936,129	\$	936,129
5X30	100634	Centralized Gateway Enhancement	\$	3,676,956	\$	2,052,308
TOTAL GSF General Services Fund Group			\$	213,027,807	\$	207,881,871
TOTAL ALL BUDGET FUND GROUPS			\$	379,735,704	\$	373,399,070

SECTION 207.10.20. OAKS RENTAL PAYMENTS

The foregoing appropriation item 100415, OAKS Rental Payments, shall be used for payments for the period from July 1, 2009, through June 30, 2011, pursuant to leases and agreements entered into under Chapter 125. of the Revised Code, as supplemented by Section 503.10 of Am. Sub. H.B. 496 and Section 281.10 of Am. Sub. H.B. 562 of the 127th General Assembly with respect to financing the costs associated with the acquisition, development, installation, and implementation of the Ohio Administrative Knowledge System. If it is determined that additional appropriations are necessary for this purpose, the amounts are hereby appropriated.

SECTION 207.10.30. STATE TAXATION ACCOUNTING AND REVENUE SYSTEM

The Office of Information Technology, in conjunction with the Department of Taxation, may acquire the State Taxation Accounting and Revenue System (STARS) pursuant to Chapter 125. of the Revised Code, including, but not limited to, the application software and installation and implementation thereof, for the use of the Department of Taxation. STARS is an integrated tax collection and audit system that will replace all of the state's existing separate tax software and administration systems for the various taxes collected by the state. Any lease-purchase arrangement used under Chapter 125. of the Revised Code to acquire STARS, including any fractionalized interests therein as defined in division (N) of section 133.01 of the Revised Code, shall provide that at the end of the lease period,

STARS becomes the property of the state.

SECTION 207.10.40. STARS LEASE RENTAL PAYMENTS

The foregoing appropriation item 100416, STARS Lease Rental Payments, shall be used for payments for the period from July 1, 2009, through June 30, 2011, pursuant to leases and agreements entered into under Chapter 125. of the Revised Code, as supplemented by Section 757.10 of Am. Sub. H.B. 119 of the 127th General Assembly, with respect to financing the cost associated with the acquisition, development, installation, and implementation of the State Taxation Accounting and Revenue System (STARS). If it is determined that additional appropriations are necessary for this purpose, the amounts are appropriated.

SECTION 207.10.50. BUILDING RENT PAYMENTS

The foregoing appropriation item 100447, OBA - Building Rent Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2009, to June 30, 2011, by the Department of Administrative Services to the Ohio Building Authority pursuant to leases and agreements under Chapter 152. of the Revised Code. These appropriations are the source of funds pledged for bond service charges on obligations issued pursuant to Chapter 152. of the Revised Code.

The foregoing appropriation item 100448, OBA - Building Operating Payments, shall be used to meet all payments at the times that they are required to be made during the period from July 1, 2009, to June 30, 2011, by the Department of Administrative Services to the Ohio Building Authority pursuant to leases and agreements under Chapter 152. of the Revised Code, but limited to the aggregate amount of \$51,206,000.

The payments to the Ohio Building Authority are for paying the expenses of agencies that occupy space in various state facilities. The Department of Administrative Services may enter into leases and agreements with the Ohio Building Authority providing for the payment of these expenses. The Ohio Building Authority shall report to the Department of Administrative Services and the Office of Budget and Management not later than five months after the start of each fiscal year the actual expenses incurred by the Ohio Building Authority in operating the facilities and any balances remaining from payments and rentals received in the prior fiscal year. The Department of Administrative Services shall reduce subsequent payments by the amount of the balance reported to it by the Ohio Building Authority.

SECTION 207.10.60. DAS - BUILDING OPERATING PAYMENTS

The foregoing appropriation item 100449, DAS - Building Operating Payments, shall be used to pay the rent expenses of veterans organizations pursuant to section 123.024 of the Revised Code in fiscal years 2010 and 2011.

The foregoing appropriation item, 100449, DAS - Building Operating Payments, also may be used to provide funding for the cost of property appraisals or building studies that the Department of Administrative Services may be required to obtain for property that is being sold by the state or property under consideration to be renovated or purchased by the state.

Notwithstanding section 125.28 of the Revised Code, the remaining portion of the appropriation may be used to pay the operating expenses of state facilities maintained by the Department of Administrative Services that are not billed to building tenants. These expenses may include, but are not limited to, the costs for vacant space and space undergoing renovation, and the rent expenses of tenants that are relocated because of building renovations. These payments shall be processed by the Department of Administrative Services through intrastate transfer vouchers and placed in the Building Management Fund (Fund 1320).

Notwithstanding division (A)(1) of section 125.28 of the Revised Code, the Department of Administrative Services may use the Building Management Fund (Fund 1320) to support utility costs at the State of Ohio Computer Center that exceed the available appropriation in appropriation item 100433, State of Ohio Computer Center.

SECTION 207.10.70. CENTRAL SERVICE AGENCY FUND

The appropriation item 100632, Central Service Agency, shall be used to purchase the equipment, products, and services that are needed to maintain automated applications for the professional licensing boards and to support board licensing functions in fiscal years 2010 and 2011. The Department of Administrative Services shall establish charges for recovering the costs of carrying out these functions. The charges shall be billed to the professional licensing boards and deposited via intrastate transfer vouchers to the credit of the Central Service Agency Fund (Fund 1150). Total Department of Administrative Services charges for the maintenance and support of the licensing system shall not exceed \$363,678 in each fiscal year of the biennium.

SECTION 207.20.10. GENERAL SERVICE CHARGES

The Department of Administrative Services, with the approval of the Director of Budget and Management, shall establish charges for recovering the costs of administering the programs funded by the General Services Fund (Fund 1170) and the State Printing Fund (Fund 2100). Such charges within Fund 1170 may be used to recover the cost of paying a vendor to establish reduced pricing for contracted supplies or services.

If the Director of Administrative Services determines that additional amounts are necessary to pay for consulting and administrative costs related to securing lower pricing, the Director of Administrative Services may request that the Director of Budget and Management approve additional expenditures. Such approved additional amounts are appropriated to appropriation item 100644, General Services Division-Operating.

SECTION 207.20.20. COLLECTIVE BARGAINING ARBITRATION EXPENSES

With approval of the Director of Budget and Management, the Department of Administrative Services may seek reimbursement from state agencies for the actual costs and expenses the Department incurs in the collective bargaining arbitration process. The reimbursements shall be processed through intrastate transfer vouchers and credited to the Collective Bargaining Fund (Fund 1280).

SECTION 207.20.30. BROADBAND OHIO

Any unencumbered, unexpended amounts of the foregoing appropriation item 100607, IT Services Delivery, that were allocated for implementation of the NextGen Network in fiscal years 2008 and 2009, and are necessary for the continuation of the Connect Ohio contract in fiscal years 2010 and 2011, are hereby reappropriated for the same purpose in fiscal years 2010 and 2011.

SECTION 207.20.40. EQUAL OPPORTUNITY PROGRAM

The Department of Administrative Services, with the approval of the Director of Budget and Management, shall establish charges for recovering the costs of administering the activities supported by the State EEO Fund (Fund 1880). These charges shall be deposited to the credit of the State EEO Fund (Fund 1880) upon payment made by state agencies, state-supported or

state-assisted institutions of higher education, and tax-supported agencies, municipal corporations, and other political subdivisions of the state, for services rendered.

SECTION 207.20.43. GRF TRANSFER TO STATE EQUAL EMPLOYMENT OPPORTUNITY FUND

On July 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$500,000 cash from the General Revenue Fund to the State Equal Employment Opportunity Fund (Fund 1880) used by the Department of Administrative Services.

SECTION 207.20.50. MERCHANDISE RESALE FUND ABOLISHMENT

On July 1, 2009, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance, functions, assets, and liabilities of the Merchandise Resale Fund (Fund 2010) to the State Printing Fund (Fund 2100). The Director of Budget and Management shall cancel any existing encumbrances against appropriation item 100653, General Services Resale Merchandise, and re-establish them against appropriation item 100612, State Printing. The re-established encumbrances are appropriated. Upon completion of the transfer, Fund 2010 is abolished.

The State Printing Fund is thereupon and thereafter successor to, assumes the obligations of, and otherwise constitutes the continuation of the Merchandise Resale Fund. Any business commenced but not completed pertaining to the Merchandise for Resale Fund by July 1, 2009, shall be completed within the State Printing Fund in the same manner and with the same effect as if it were completed within the Merchandise for Resale Fund. All of the rules, orders, and determinations associated with the Merchandise for Resale Fund continue in effect as rules, orders, and determinations associated with the State Printing Fund until modified or rescinded by the Director of Administrative Services. If necessary to ensure the integrity of the Administrative Code, the Director of the Legislative Service Commission shall renumber the rules relating to the Merchandise for Resale Fund to reflect its transfer to the State Printing Fund.

On and after July 1, 2009, when the Merchandise for Resale Fund is referred to in any statute, rule, contract, grant or other document, the reference is hereby deemed to refer to the State Printing Fund.

SECTION 207.20.60. LEVERAGED ENTERPRISE PURCHASE PROGRAM FUNDING

The foregoing appropriation item 100640, Leveraged Enterprise Purchases, may be used by the Director of Administrative Services to operate a Leveraged Enterprise Purchases Program to make enterprise-wide information technology purchases. The Director of Administrative Services may recover the cost of operating such a program from all participating government entities through intrastate transfer voucher billings for each applicable procurement, or the Director may use any pass-through billing method agreed to by the Director of Administrative Services, the Director of Budget and Management, and the participating government entities that will receive the applicable procurement. If the Director of Administrative Services chooses to recover the costs through intrastate transfer voucher billings, the participating government entities shall process the intrastate transfer vouchers to pay for the cost.

Amounts received under this section for the Leveraged Enterprise Purchases Program shall be deposited to the credit of the IT Governance Fund (Fund 2290).

SECTION 207.20.70. INFORMATION TECHNOLOGY ASSESSMENT

The Director of Administrative Services, with the approval of the Director of Budget and Management, may establish an information technology assessment for the purpose of recovering the cost of selected infrastructure and statewide programs. The information technology assessment shall be charged to all organized bodies, offices, or agencies established by the laws of the state for the exercise of any function of state government except for the General Assembly, any legislative agency, the Supreme Court, the other courts of record in Ohio, or any judicial agency, the Adjutant General, the Bureau of Workers' Compensation, and institutions administered by a board of trustees. Any state-entity exempted by this section may use the infrastructure or statewide program by participating in the information technology assessment. All charges for the information technology assessment shall be deposited to the credit of the IT Governance Fund (Fund 2290).

SECTION 207.20.80. INVESTMENT RECOVERY FUND

Notwithstanding division (B) of section 125.14 of the Revised Code,

cash balances in the Investment Recovery Fund (Fund 4270) may be used to support the operating expenses of the Federal Surplus Operating Program created in sections 125.84 to 125.90 of the Revised Code.

Notwithstanding division (B) of section 125.14 of the Revised Code, cash balances in the Investment Recovery Fund may be used to support the operating expenses of the Asset Management Services Program, including, but not limited to, the cost of establishing and maintaining procedures for inventory records for state property as described in section 125.16 of the Revised Code.

Of the foregoing appropriation item 100602, Investment Recovery, up to \$2,093,564 in fiscal year 2010 and up to \$2,107,388 in fiscal year 2011 shall be used to pay the operating expenses of the State Surplus Property Program, the Surplus Federal Property Program, and the Asset Management Services Program under Chapter 125. of the Revised Code and this section. If additional appropriations are necessary for the operations of these programs, the Director of Administrative Services shall seek increased appropriations from the Controlling Board under section 131.35 of the Revised Code.

Of the foregoing appropriation item 100602, Investment Recovery, \$3,590,000 in fiscal year 2010 and \$3,576,176 in fiscal year 2011 shall be used to transfer proceeds from the sale of surplus property from the Investment Recovery Fund to non-General Revenue Funds under division (A)(2) of section 125.14 of the Revised Code. If it is determined by the Director of Administrative Services that additional amounts are necessary for the transfer of such sale proceeds, the Director of Administrative Services may request the Director of Budget and Management to authorize additional amounts. Such authorized additional amounts are hereby appropriated.

SECTION 207.20.90. DAS INFORMATION SERVICES

There is hereby established in the State Treasury the DAS Information Services Fund. The foregoing appropriation item 100603, DAS Information Services, shall be used to pay the costs of providing information systems and services in the Department of Administrative Services. Any state agency, board, or commission may use DAS Information Services by paying for the services rendered.

The Department of Administrative Services shall establish user charges for all information systems and services that are allowable in the statewide indirect cost allocation plan submitted annually to the United States Department of Health and Human Services. These charges shall comply

with federal regulations and shall be deposited to the credit of the DAS Information Services Fund (Fund 4P30).

SECTION 207.30.30. CASH TRANSFER TO OAKS SUPPORT ORGANIZATION FUND

The Director of Budget and Management may transfer \$1,317,922.16 in cash from the IT Services Delivery Fund (Fund 1330) to the OAKS Support Organization Fund (5EB0) to correct an intrastate transfer voucher from the Department of Administrative Services that was deposited in the IT Services Delivery Fund.

SECTION 207.30.40. PROFESSIONAL DEVELOPMENT FUND

The foregoing appropriation item 100610, Professional Development, shall be used to make payments from the Professional Development Fund (Fund 5L70) under section 124.182 of the Revised Code.

SECTION 207.30.50. EMPLOYEE EDUCATIONAL DEVELOPMENT

The foregoing appropriation item 100619, Employee Educational Development, shall be used to make payments from the Employee Educational Development Fund (Fund 5V60) under section 124.86 of the Revised Code. The fund shall be used to pay the costs of administering educational programs under existing collective bargaining agreements with District 1199, the Health Care and Social Service Union; State Council of Professional Educators; Ohio Education Association and National Education Association; the Fraternal Order of Police Ohio Labor Council, Unit 2; and the Ohio State Troopers Association, Units 1 and 15.

If it is determined by the Director of Administrative Services that additional amounts are necessary, the Director of Administrative Services may request that the Director of Budget and Management approve additional amounts. Such approved additional amounts are hereby appropriated.

SECTION 207.30.60. CENTRALIZED GATEWAY ENHANCEMENT FUND

(A) As used in this section, "Ohio Business Gateway" refers to the internet-based system operated by the Department of Administrative Services with the advice of the Ohio Business Gateway Steering Committee established under section 5703.57 of the Revised Code. The Ohio Business

Gateway is established to provide businesses a central web site where various filings and payments are submitted on-line to government. The information is then distributed to the various government entities that interact with the business community.

(B) As used in this section:

(1) "State Portal" refers to the official web site of the state, operated by the Department of Administrative Services.

(2) "Shared Hosting Environment" refers to the computerized system operated by the Department of Administrative Services for the purpose of providing capability for state agencies to host web sites.

(C) There is hereby created in the state treasury the Centralized Gateway Enhancement Fund (Fund 5X30). The foregoing appropriation item 100634, Centralized Gateway Enhancement, shall be used by the Department of Administrative Services to pay the costs of enhancing, expanding, and operating the infrastructure of the Ohio Business Gateway, State Portal, and Shared Hosting Environment. The Director of Administrative Services shall submit spending plans to the Director of Budget and Management to justify operating transfers to the fund from the General Revenue Fund. Upon approval, the Director of Budget and Management shall transfer approved amounts to the fund, not to exceed the amount of the annual appropriation in each fiscal year. The spending plans may be based on the recommendations of the Ohio Business Gateway Steering Committee or its successor.

SECTION 207.30.70. MAJOR IT PURCHASES AND CONTRACTS

The Director of Administrative Services shall compute the amount of revenue attributable to the amortization of all equipment purchases and capitalized systems from appropriation item 100607, IT Services Delivery; appropriation item 100617, Major IT Purchases; and appropriation item C10014, Major Computer Purchases, which is recovered by the Department of Administrative Services as part of the rates charged by the IT Service Delivery Fund (Fund 1330) created in section 125.15 of the Revised Code. The Director of Budget and Management may transfer cash in an amount not to exceed the amount of amortization computed from the IT Service Delivery Fund (Fund 1330) to the Major IT Purchases Fund (Fund 4N60).

SECTION 207.30.80. CASH TRANSFERS FROM THE MAJOR IT PURCHASES FUND

Upon request of the Director of Administrative Services, the Director of

Budget and Management may make the following transfers from the Major IT Purchases Fund (Fund 4N60):

(1) Up to \$2,800,000 in each fiscal year of the biennium to the State Architect's Fund (Fund 1310) to support the OAKS Capital Improvements Module and other costs of the State Architect's Office that are not directly related to capital projects managed by the State Architect;

(2) Up to \$457,467 in fiscal year 2010 and up to \$471,630 in fiscal year 2011 to the Director's Office Fund (Fund 1120) to support operating expenses of the Accountability and Results Initiative;

(3) Up to \$4,000,000 in fiscal year 2010 and up to \$1,000,000 in fiscal year 2011 to the OAKS Support Organization Fund (Fund 5EB0) to support OAKS operating costs not billed to the Office of Budget and Management's Accounting and Budgeting Fund (Fund 1050), to the Department of Administrative Services' Human Resources Services Fund (Fund 1250), or paid from other funds of the Department of Administrative Services; and

(4) Up to \$639,945 in each fiscal year of the biennium to the General Revenue Fund.

Upon approval of the Director of Budget and Management, the transferred amounts to non-GRF funds are appropriated in the designated fiscal years to the following appropriation items: 100639, State Architect's Office (Fund 1310) in each fiscal year 2010 and fiscal year 2011; 100616, DAS Administration (Fund 1120) in both fiscal year 2010 and fiscal year 2011; and 100635, OAKS Support Organization (Fund 5EB0) in fiscal year 2010 only.

SECTION 207.30.90. CORRECTIVE CASH TRANSFER TO INFORMATION TECHNOLOGY FUND

On July 1, 2009, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$7,768.37 in cash from the Unemployment Compensation Fund (Fund 1130) to the Information Technology Fund (Fund 1330). This transfer corrects a deposit of revenue that was made to Fund 1130. Upon completion of the transfer, Fund 1130 is abolished.

SECTION 207.40.10. MULTI-AGENCY RADIO COMMUNICATION SYSTEM DEBT SERVICE PAYMENTS

The Director of Administrative Services, in consultation with the Multi-Agency Radio Communication System (MARCS) Steering Committee and the Director of Budget and Management, shall determine the

share of debt service payments attributable to spending for MARCS components that are not specific to any one agency and that shall be charged to agencies supported by the motor fuel tax. Such share of debt service payments shall be calculated for MARCS capital disbursements made beginning July 1, 1997. Within thirty days of any payment made from appropriation item 100447, OBA - Building Rent Payments, the Director of Administrative Services shall certify to the Director of Budget and Management the amount of this share. The Director of Budget and Management shall transfer such amounts to the General Revenue Fund from the State Highway Safety Fund (Fund 7036) established in section 4501.06 of the Revised Code.

The Director of Administrative Services shall consider renting or leasing existing tower sites at reasonable or current market rates, so long as these existing sites are equipped with the technical capabilities to support the MARCS project.

SECTION 207.40.30. DIRECTOR'S DECLARATION OF PUBLIC EXIGENCY

Whenever the Director of Administrative Services declares a "public exigency," as provided in division (C) of section 123.15 of the Revised Code, the Director shall also notify the members of the Controlling Board.

SECTION 209.10. AGE DEPARTMENT OF AGING

General Revenue Fund

GRF 490321	Operating Expenses	\$	1,709,817	\$	1,709,817
GRF 490409	AmeriCorps Operations	\$	147,034	\$	147,034
GRF 490410	Long-Term Care Ombudsman	\$	535,857	\$	535,857
GRF 490411	Senior Community Services	\$	5,934,134	\$	5,934,134
GRF 490412	Residential State Supplement	\$	5,225,417	\$	5,225,417
GRF 490414	Alzheimer's Respite	\$	4,131,595	\$	4,131,595
GRF 490423	Long Term Care Budget - State	\$	97,916,967	\$	134,317,603
GRF 490506	National Senior Service Corps	\$	268,237	\$	268,237
TOTAL GRF General Revenue Fund		\$	115,869,058	\$	152,269,694

General Services Fund Group

4800 490606	Senior Community Outreach and Education	\$	372,677	\$	372,677
TOTAL GSF General Services Fund Group		\$	372,677	\$	372,677

Federal Special Revenue Fund Group

3220 490618	Federal Aging Grants	\$	10,200,000	\$	10,200,000
3C40 490623	Long Term Care Budget	\$	350,162,957	\$	340,193,418
3M40 490612	Federal Independence	\$	63,655,080	\$	63,655,080

		Services			
3R70	490617	AmeriCorps Programs	\$	8,870,000	\$ 8,870,000
TOTAL FED Federal Special Revenue					
		Fund Group	\$	432,888,037	\$ 422,918,498
State Special Revenue Fund Group					
4C40	490609	Regional Long-Term Care Ombudsman Program	\$	935,000	\$ 935,000
4J40	490610	PASSPORT/Residential State Supplement	\$	33,263,984	\$ 33,263,984
4U90	490602	PASSPORT Fund	\$	4,424,969	\$ 4,424,969
5AA0	490673	Ohio's Best Rx Administration	\$	202,712	\$ 0
5BA0	490620	Ombudsman Support	\$	600,000	\$ 600,000
5K90	490613	Long Term Care Consumers Guide	\$	820,400	\$ 820,400
5W10	490616	Resident Services Coordinator Program	\$	330,000	\$ 330,000
6240	490604	OCSC Community Support	\$	470,000	\$ 470,000
TOTAL SSR State Special Revenue					
		Fund Group	\$	41,047,065	\$ 40,844,353
TOTAL ALL BUDGET FUND GROUPS					
			\$	590,176,837	\$ 616,405,222

SECTION 209.20. LONG-TERM CARE

Pursuant to an interagency agreement, the Department of Job and Family Services shall designate the Department of Aging to perform assessments under section 5111.204 of the Revised Code. The Department of Aging shall provide long-term care consultations under section 173.42 of the Revised Code to assist individuals in planning for their long-term health care needs. The foregoing appropriation items 490423, Long Term Care Budget – State, and 490623, Long Term Care Budget, may be used to provide the preadmission screening and resident review (PASRR), which includes screening, assessments, and determinations made under sections 5111.02, 5111.204, 5119.061, and 5123.021 of the Revised Code.

The foregoing appropriation items 490423, Long Term Care Budget - State, and 490623, Long Term Care Budget, may be used to assess and provide long-term care consultations to clients regardless of Medicaid eligibility.

The Director of Aging shall adopt rules under section 111.15 of the Revised Code governing the nonwaiver funded PASSPORT program, including client eligibility. The foregoing appropriation item 490423, Long Term Care Budget - State, may be used by the Department of Aging to provide nonwaiver funded PASSPORT services to persons the Department has determined to be eligible to participate in the nonwaiver funded PASSPORT Program, including those persons not yet determined to be financially eligible to participate in the Medicaid waiver component of the

PASSPORT Program by a county department of job and family services.

The Department of Aging shall administer the Medicaid waiver-funded PASSPORT Home Care Program, the Choices Program, the Assisted Living Program, and the PACE Program as delegated by the Department of Job and Family Services in an interagency agreement. The foregoing appropriation item 490423, Long Term Care Budget - State, shall be used to provide the required state match for federal Medicaid funds supporting the Medicaid Waiver-funded PASSPORT Home Care Program, the Choices Program, the Assisted Living Program, and the PACE Program. The foregoing appropriation items 490423, Long Term Care Budget - State, and 490623, Long Term Care Budget, may also be used to support the Department of Aging's administrative costs associated with operating the PASSPORT, Choices, Assisted Living, and PACE programs.

The foregoing appropriation item 490623, Long Term Care Budget, shall be used to provide the federal matching share for all program costs determined by the Department of Job and Family Services to be eligible for Medicaid reimbursement.

HOME FIRST PROGRAM

(A) As used in this section, "Long Term Care Budget Services" includes the following existing programs: PASSPORT, Assisted Living, Residential State Supplement, and PACE.

(B) On a quarterly basis, on receipt of the certified expenditures related to sections 173.401, 173.351, and 5111.894 of the Revised Code, the Director of Budget and Management may do all of the following for fiscal years 2010 and 2011:

(1) Transfer cash from the Nursing Facility Stabilization Fund (Fund 5R20), used by the Department of Job and Family Services, to the PASSPORT/Residential State Supplement Fund (Fund 4J40), used by the Department of Aging.

The transferred cash is hereby appropriated to appropriation item 490610, PASSPORT/Residential State Supplement.

(2) If receipts credited to the PASSPORT Fund (Fund 3C40) exceed the amounts appropriated from the fund, the Director of Aging may request the Director of Budget and Management to authorize expenditures from the fund in excess of the amounts appropriated. Upon the approval of the Director of Budget and Management, the additional amounts are hereby appropriated.

(3) If receipts credited to the Interagency Reimbursement Fund (Fund 3G50) exceed the amounts appropriated from the fund, the Director of Job and Family Services may request the Director of Budget and Management to

authorize expenditures from the fund in excess of the amounts appropriated. Upon the approval of the Director of Budget and Management, the additional amounts are hereby appropriated.

(C) The individuals placed in Long Term Care Budget Services pursuant to this section shall be in addition to the individuals placed in Long Term Care Budget Services during fiscal years 2010 and 2011 before any transfers to appropriation item 490423, Long Term Care Budget-State, are made under this section.

ALLOCATION OF PACE SLOTS

In order to effectively administer and manage growth within the PACE Program, the Director of Aging may, as the director deems appropriate and to the extent funding is available, expand the PACE Program to regions of Ohio beyond those currently served by the PACE Program. In implementing the expansion, the Director may not decrease the number of residents of Cuyahoga and Hamilton counties and parts of Butler, Clermont, and Warren counties who are participating in the PACE Program below the number of residents of those counties and parts of counties who were enrolled in the PACE Program on July 1, 2008.

SECTION 209.30. OHIO COMMUNITY SERVICE COUNCIL

The foregoing appropriation items 490409, AmeriCorps Operations, and 490617, AmeriCorps Programs, shall be used in accordance with section 121.40 of the Revised Code.

LONG-TERM CARE OMBUDSMAN

The foregoing appropriation item 490410, Long-Term Care Ombudsman, shall be used for a program to fund ombudsman program activities as authorized in sections 173.14 to 173.27 and section 173.99 of the Revised Code.

SENIOR COMMUNITY SERVICES

The foregoing appropriation item 490411, Senior Community Services, shall be used for services designated by the Department of Aging, including, but not limited to, home-delivered and congregate meals, transportation services, personal care services, respite services, adult day services, home repair, care coordination, and decision support systems. Service priority shall be given to low income, frail, and cognitively impaired persons 60 years of age and over. The department shall promote cost sharing by service recipients for those services funded with senior community services funds, including, when possible, sliding-fee scale payment systems based on the income of service recipients.

RESIDENTIAL STATE SUPPLEMENT

Under the Residential State Supplement Program, the amount used to determine whether a resident is eligible for payment and for determining the amount per month the eligible resident will receive shall be as follows:

(A) \$927 for a residential care facility, as defined in section 3721.01 of the Revised Code;

(B) \$927 for an adult group home, as defined in Chapter 3722. of the Revised Code;

(C) \$824 for an adult foster home, as defined in Chapter 173. of the Revised Code;

(D) \$824 for an adult family home, as defined in Chapter 3722. of the Revised Code;

(E) \$824 for an adult residential facility, as defined in Chapter 5119. of the Revised Code;

(F) \$618 for adult community mental health housing services, as defined in division (B)(5) of section 173.35 of the Revised Code.

The Departments of Aging and Job and Family Services shall reflect these amounts in any applicable rules the departments adopt under section 173.35 of the Revised Code.

TRANSFER OF RESIDENTIAL STATE SUPPLEMENT APPROPRIATIONS

The foregoing appropriation items 490412, Residential State Supplement, and 490610, PASSPORT/Residential State Supplement, may be used by the Director of Aging to transfer cash to the Home and Community Based Services for the Aged Fund (Fund 4J50), which is used by the Department of Job and Family Services and the Residential State Supplement Fund (Fund 5CH0), used by the Department of Mental Health for training for adult care facilities serving residents with mental illness. The transferred cash shall be used to make benefit payments to residential state supplement recipients. The transfer shall be made using an intrastate transfer voucher.

RESIDENTIAL STATE SUPPLEMENT WORKGROUP

(A) There is hereby created the Residential State Supplement Workgroup consisting of all of the following:

(1) The Director of Aging or the Director's designee;

(2) The Director of Health or the Director's designee;

(3) The Director of Job and Family Services or the Director's designee;

(4) The Director of Mental Health or the Director's designee.

(B) The Director of Aging or the Director's designee shall serve as the chairperson of the Workgroup. Members of the Workgroup shall serve without compensation, except to the extent that serving on the Workgroup is

considered part of their regular employment duties.

(C) The Workgroup shall examine solely the issue of which state agency is the most appropriate to administer the Residential State Supplement Program. Not later than December 31, 2009, the Workgroup shall submit written recommendations on this issue to the Governor and, in accordance with section 101.68 of the Revised Code, to the General Assembly. The Workgroup shall cease to exist on submission of its recommendations.

ALZHEIMER'S RESPITE

The foregoing appropriation item 490414, Alzheimer's Respite, shall be used to fund only Alzheimer's disease services under section 173.04 of the Revised Code.

EDUCATION AND TRAINING

The foregoing appropriation item 490606, Senior Community Outreach and Education, may be used to provide training to workers in the field of aging pursuant to division (G) of section 173.02 of the Revised Code.

REGIONAL LONG-TERM CARE OMBUDSMAN PROGRAM

The foregoing appropriation item 490609, Regional Long-Term Care Ombudsman, shall be used to pay the costs of operating the regional long-term care ombudsman programs designated by the Long-Term Care Ombudsman.

PASSPORT/RESIDENTIAL STATE SUPPLEMENT

The foregoing appropriation item 490610, PASSPORT/Residential State Supplement, may be used to fund the Residential State Supplement Program. The remaining available funds shall be used to fund the PASSPORT program.

TRANSFER OF APPROPRIATIONS - FEDERAL INDEPENDENCE SERVICES AND FEDERAL AGING GRANTS

At the request of the Director of Aging, the Director of Budget and Management may transfer appropriation between appropriation items 490612, Federal Independence Services, and 490618, Federal Aging Grants. The amounts transferred shall not exceed 30 per cent of the appropriation from which the transfer is made. Any transfers shall be reported by the Department of Aging to the Controlling Board at the next scheduled meeting of the board.

TRANSFER OF RESIDENT PROTECTION FUNDS

In each fiscal year, the Director of Budget and Management may transfer \$600,000 cash from the Resident Protection Fund (Fund 4E30), which is used by the Department of Job and Family Services, to the Ombudsman Support Fund (Fund 5BA0), which is used by the Department of Aging.

SECTION 209.40. UNIFIED LONG-TERM CARE BUDGET WORKGROUP

(A) There is hereby created the Unified Long-Term Care Budget Workgroup. The Workgroup shall consist of the following members:

- (1) The Director of Aging;
- (2) Consumer advocates, representatives of the provider community, representatives of managed care organizations with which the Department of Job and Family Services contracts under section 5111.17 of the Revised Code, and state policy makers, appointed by the Governor;
- (3) Two members of the House of Representatives, one member from the majority party and one member from the minority party, appointed by the Speaker of the House of Representatives;
- (4) Two members of the Senate, one member from the majority party and one member from the minority party, appointed by the President of the Senate.

The Director of Aging shall serve as the chairperson of the Workgroup.

The Workgroup shall be staffed by the departments of Aging and Job and Family Services.

(B) The Workgroup shall develop a unified long-term care budget that facilitates the following:

- (1) Providing a consumer a choice of services that meet the consumer's health care needs and improve the consumer's quality of life;
- (2) Providing a continuum of services that meet the needs of a consumer throughout life and promote a consumer's independence and autonomy;
- (3) Consolidating policymaking authority and the associated budgets in a single entity to simplify the consumer's decision making and maximize the state's flexibility in meeting the consumer's needs;
- (4) Assuring the state has a system that is cost effective and links disparate services across agencies and jurisdictions.

(C) On an annual basis, the Directors of Aging, Job and Family Services, and Budget and Management shall submit a written report to the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the President of the Senate, the Minority Leader of the Senate, and the members of the Joint Legislative Committee on Medicaid Technology and Reform describing the progress towards establishing, or if already established, the effectiveness of the unified long-term care budget.

(D) In support of the Workgroup's proposal, the Director of Budget and Management may seek Controlling Board approval to transfer cash from the Nursing Facility Stabilization Fund (Fund 5R20), used by the Department of

Job and Family Services, to the PASSPORT/Residential State Supplement Fund (Fund 4J40), used by the Department of Aging.

Any transfers of cash approved by the Controlling Board under this section are hereby appropriated to appropriation item 490610, PASSPORT/Residential State Supplement.

SECTION 209.50. OHIO'S BEST RX PROGRAM

On and after the effective date of this section, the Director of Aging may take any actions necessary to conclude the operation of the Ohio's Best Rx Program and settle all accounts with drug manufacturers and terminal distributors of dangerous drugs that had program agreements in effect on the day before the effective date of this section. As appropriate, the Director's actions shall be taken in accordance with the provisions of former sections 173.71 to 173.91 of the Revised Code, as those sections existed on the day before the effective date of this section. The Director shall make every effort to conclude the program by the thirtieth day after the effective date of this section, but any program accounts with drug manufacturers and terminal distributors that remain open after that date may be settled until October 1, 2009.

OHIO'S BEST RX ADMINISTRATION

On the thirty-first day after the effective date of this section, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance in the Ohio's Best Rx Administration Fund (Fund 5AA0) to the General Revenue Fund. Fund 5AA0 shall remain open after the transfer to allow program accounts to be settled with drug manufacturers and terminal distributors pursuant to this section. On October 1, 2009, or as soon as possible thereafter, the Director of Budget and Management shall complete the final transfer of any cash balance in Fund 5AA0 to the General Revenue Fund. Upon completion of the transfer, Fund 5AA0 is abolished. The Director shall cancel any existing encumbrances against appropriation item 490673, Ohio's Best Rx Administration.

SECTION 211.10. AGR DEPARTMENT OF AGRICULTURE

General Revenue Fund

GRF 700401	Animal Disease Control	\$	3,730,436	\$	3,713,876
GRF 700403	Dairy Division	\$	1,173,700	\$	1,163,700
GRF 700404	Ohio Proud	\$	196,895	\$	196,895
GRF 700406	Consumer Analytical Lab	\$	1,321,771	\$	1,289,982
GRF 700407	Food Safety	\$	875,043	\$	875,043
GRF 700409	Farmland Preservation	\$	200,000	\$	200,000
GRF 700411	International Trade and	\$	529,548	\$	507,005

		Market Development			
GRF 700412		Weights and Measures	\$	200,000	\$ 200,000
GRF 700415		Poultry Inspection	\$	400,401	\$ 400,401
GRF 700418		Livestock Regulation Program	\$	1,322,784	\$ 1,343,676
GRF 700424		Livestock Testing and Inspections	\$	120,906	\$ 120,906
GRF 700499		Meat Inspection Program - State Share	\$	4,920,926	\$ 4,960,926
GRF 700501		County Agricultural Societies	\$	414,903	\$ 434,903
		TOTAL GRF General Revenue Fund	\$	15,407,313	\$ 15,407,313
General Services Fund Group					
5DA0 700644		Laboratory Administration Support	\$	1,100,000	\$ 1,100,000
5GH0 700655		Central Support Indirect Cost	\$	5,713,404	\$ 5,713,404
		TOTAL GSF General Services Fund Group	\$	6,813,404	\$ 6,813,404
Federal Special Revenue Fund Group					
3260 700618		Meat Inspection Program - Federal Share	\$	4,950,000	\$ 4,950,000
3360 700617		Ohio Farm Loan Revolving Fund	\$	1,000,000	\$ 1,000,000
3820 700601		Cooperative Contracts	\$	2,000,000	\$ 2,000,000
3AB0 700641		Agricultural Easement	\$	1,000,000	\$ 1,000,000
3J40 700607		Indirect Cost	\$	600,000	\$ 600,000
3R20 700614		Federal Plant Industry	\$	1,000,000	\$ 1,000,000
		TOTAL FED Federal Special Revenue Fund Group	\$	10,550,000	\$ 10,550,000
State Special Revenue Fund Group					
4900 700651		License Plates - Sustainable Agriculture	\$	20,000	\$ 20,000
4940 700612		Agricultural Commodity Marketing Program	\$	250,000	\$ 250,000
4960 700626		Ohio Grape Industries	\$	849,999	\$ 849,999
4970 700627		Commodity Handlers Regulatory Program	\$	496,000	\$ 496,000
4C90 700605		Commercial Feed and Seed	\$	2,200,000	\$ 2,200,000
4D20 700609		Auction Education	\$	41,000	\$ 41,000
4E40 700606		Utility Radiological Safety	\$	134,631	\$ 134,631
4P70 700610		Food Safety Inspection	\$	1,099,396	\$ 1,099,396
4R00 700636		Ohio Proud Marketing	\$	10,500	\$ 10,500
4R20 700637		Dairy Industry Inspection	\$	1,800,000	\$ 1,800,000
4T60 700611		Poultry and Meat Inspection	\$	140,469	\$ 140,469
4T70 700613		Ohio Proud International and Domestic Market Development	\$	15,000	\$ 15,000
5780 700620		Ride Inspection Fees	\$	1,000,001	\$ 1,000,001
5B80 700629		Auctioneers	\$	365,390	\$ 365,390
5CP0 700652		License Plate Scholarships	\$	20,000	\$ 20,000
5FC0 700648		Plant Pest Program	\$	1,000,000	\$ 1,000,000
5H20 700608		Metrology Lab and Scale Certification	\$	1,454,006	\$ 1,454,006
5L80 700604		Livestock Management Program	\$	256,286	\$ 256,286
6520 700634		Animal and Consumer	\$	4,400,000	\$ 4,400,000

6690	700635	Analytical Laboratory Pesticide, Fertilizer, and Lime Inspection Program	\$	3,470,000	\$	3,470,000
TOTAL SSR State Special Revenue						
Fund Group			\$	19,022,678	\$	19,022,678
Clean Ohio Conservation Fund Group						
7057	700632	Clean Ohio Agricultural Easement	\$	149,000	\$	149,000
TOTAL CLF Clean Ohio Conservation Fund						
Group			\$	149,000	\$	149,000
TOTAL ALL BUDGET FUND GROUPS			\$	51,942,395	\$	51,942,395

COUNTY AGRICULTURAL SOCIETIES

The foregoing appropriation item 700501, County Agricultural Societies, shall be used to reimburse county and independent agricultural societies for expenses related to Junior Fair activities.

COMMERCIAL FEED AND SEED FUND TRANSFER

On July 1, 2009, or as soon as possible thereafter, the Director of Budget and Management shall transfer thirty-two per cent of the cash balance in the Commercial Feed and Seed Fund (Fund 4C90) as of June 30, 2009, to the Pesticide, Fertilizer, and Lime Inspection Program Fund (Fund 6690). The Director shall cancel existing encumbrances against appropriation item 700605, Commercial Feed and Seed, and re-establish them against appropriation item 700635, Pesticide, Fertilizer, and Lime Inspection Program. The re-established encumbrance amounts are hereby appropriated.

PESTICIDE, FERTILIZER, AND LIME INSPECTION FUND TRANSFER

On July, 1, 2009, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$600,000 in cash from the Pesticide, Fertilizer, and Lime Inspection Fund (Fund 6690) to the Plant Pest Program Fund (Fund 5FC0).

CLEAN OHIO AGRICULTURAL EASEMENT

The foregoing appropriation item 700632, Clean Ohio Agricultural Easement, shall be used by the Department of Agriculture in administering sections 901.21, 901.22, and 5301.67 to 5301.70 of the Revised Code.

SECTION 213.10. AIR AIR QUALITY DEVELOPMENT AUTHORITY

General Revenue Fund

GRF 898402	Coal Development Office	\$	296,902	\$	296,902	
GRF 898901	Coal Research and Development General Obligation Debt Service	\$	8,976,000	\$	9,381,200	
TOTAL GRF General Revenue Fund						
			\$	9,272,902	\$	9,678,102

General Services Fund Group

5EG0 898608	Energy Strategy Development	\$	307,000	\$	307,000
TOTAL GSF General Services Fund		\$	307,000	\$	307,000

Agency Fund Group

4Z90 898602	Small Business Ombudsman	\$	294,290	\$	294,290
5700 898601	Operating Expenses	\$	264,000	\$	264,000
5A00 898603	Small Business Assistance	\$	71,087	\$	71,087
TOTAL AGY Agency Fund Group		\$	629,377	\$	629,377

Coal Research/Development Fund

7046 898604	Coal Research and Development Fund	\$	66,000,000	\$	10,000,000
TOTAL 046 Coal Research and Development Fund		\$	66,000,000	\$	10,000,000
TOTAL ALL BUDGET FUND GROUPS		\$	76,209,279	\$	20,614,479

COAL DEVELOPMENT OFFICE

The foregoing appropriation item 898402, Coal Development Office, shall be used for the administrative costs of the Coal Development Office.

COAL RESEARCH AND DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item GRF 898901, Coal Research and Development General Obligation Debt Service, shall be used to pay all debt service and related financing costs at the times they are required to be made during the period from July 1, 2009, to June 30, 2011, for obligations issued under sections 151.01 and 151.07 of the Revised Code.

COAL RESEARCH AND DEVELOPMENT

The foregoing appropriation item 898604, Coal Research and Development Fund, shall be used for research and development of clean coal technologies. On or before June 30, 2010, any unexpended and unencumbered portion of the appropriation item at the end of fiscal year 2010 is hereby reappropriated for the same purpose in fiscal year 2011.

SECTION 213.20. ENERGY STRATEGY DEVELOPMENT

The Ohio Air Quality Development Authority shall establish the Energy Strategy Development Program for the purpose of developing energy initiatives, projects, and policy for the state. Issues addressed by such initiatives, projects, and policy shall not be limited to those governed by Chapter 3706. of the Revised Code.

There is hereby created in the state treasury the Energy Strategy Development Fund (Fund 5EG0). The fund shall consist of money credited to it and money obtained for advanced energy projects from federal or private grants, loans, or other sources. Money in the fund shall be used to carry out the purposes of the program. Interest earned on the money in the

fund shall be credited to the General Revenue Fund.

On July 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management may transfer cash from the funds specified below, in the amounts specified below, to the Energy Strategy Development Fund. Fund 5EG0 may accept contributions and transfers made to the fund. On July 1, 2012, or as soon as possible thereafter, the Director shall transfer to the General Revenue Fund all cash credited to Fund 5EG0. Upon completion of the transfer, Fund 5EG0 is abolished.

<u>Fund</u>	<u>Fund Name</u>	<u>User</u>	<u>FY 2010</u>	<u>FY 2011</u>
1170	Office Services	Dept. of Administrative Services	\$35,000	\$35,000
5GH0	Central Support Indirect Cost	Dept. of Agriculture	\$35,000	\$35,000
1350	Supportive Services	Dept. of Development	\$35,000	\$35,000
2190	Central Support Indirect Cost	Environmental Protection Agency	\$35,000	\$35,000
1570	Central Support Indirect Chargeback	Dept. of Natural Resources	\$35,000	\$35,000
7002	Highway Operating	Dept. of Transportation	\$50,000	\$50,000

SECTION 213.30. REIMBURSEMENT TO AIR QUALITY DEVELOPMENT AUTHORITY TRUST ACCOUNT

Notwithstanding any other provision of law to the contrary, the Air Quality Development Authority may reimburse the Air Quality Development Authority trust account established under section 3706.10 of the Revised Code from all operating funds of the agency for expenses pertaining to the administration and shared costs incurred by the Air Quality Development Authority in the execution of responsibilities as prescribed in Chapter 3706. of the Revised Code. Reimbursement shall be made by voucher and completed in accordance with the administrative indirect costs allocation plan approved by the Office of Budget and Management.

**SECTION 215.10. ADA DEPARTMENT OF ALCOHOL AND DRUG ADDICTION SERVICES
General Revenue Fund**

2759

GRF 038401	Treatment Services	\$	25,998,105	\$	26,784,703
GRF 038404	Prevention Services	\$	868,659	\$	868,659
TOTAL GRF General Revenue Fund		\$	26,866,764	\$	27,653,362
General Services Fund					
5T90 038616	Problem Gambling Services	\$	335,000	\$	335,000
TOTAL GSF General Services Fund Group		\$	335,000	\$	335,000
Federal Special Revenue Fund Group					
3G30 038603	Drug Free Schools	\$	2,260,000	\$	2,260,000
3G40 038614	Substance Abuse Block Grant	\$	71,500,000	\$	71,500,000
3H80 038609	Demonstration Grants	\$	7,093,075	\$	7,093,075
3J80 038610	Medicaid	\$	62,772,342	\$	60,817,910
3N80 038611	Administrative Reimbursement	\$	500,000	\$	500,000
TOTAL FED Federal Special Revenue Fund Group		\$	144,125,417	\$	142,170,985
State Special Revenue Fund Group					
4750 038621	Statewide Treatment and Prevention	\$	18,000,000	\$	18,000,000
5DH0 038620	Fetal Alcohol Spectrum Disorder	\$	327,500	\$	327,500
6890 038604	Education and Conferences	\$	200,000	\$	200,000
TOTAL SSR State Special Revenue Fund Group		\$	18,527,500	\$	18,527,500
TOTAL ALL BUDGET FUND GROUPS		\$	189,854,681	\$	188,686,847

SECTION 217.10. ARC ARCHITECTS BOARD**General Services Fund Group**

4K90 891609	Operating Expenses	\$	522,055	\$	550,718
TOTAL GSF General Services Fund Group		\$	522,055	\$	550,718
TOTAL ALL BUDGET FUND GROUPS		\$	522,055	\$	550,718

SECTION 219.10. ART OHIO ARTS COUNCIL**General Revenue Fund**

GRF 370321	Operating Expenses	\$	1,450,782	\$	1,450,782
GRF 370502	State Program Subsidies	\$	5,143,508	\$	5,143,508
TOTAL GRF General Revenue Fund		\$	6,594,290	\$	6,594,290

General Services Fund Group

4600 370602	Management Expenses and Donations	\$	285,000	\$	285,000
4B70 370603	Percent for Art Acquisitions	\$	86,366	\$	86,366
TOTAL GSF General Services Fund Group		\$	371,366	\$	371,366

Federal Special Revenue Fund Group

3140 370601	Federal Support	\$	1,000,000	\$	1,000,000
TOTAL FED Federal Special Revenue Fund Group		\$	1,000,000	\$	1,000,000
TOTAL ALL BUDGET FUND GROUPS		\$	7,965,656	\$	7,965,656

PROGRAM SUBSIDIES

A museum is not eligible to receive funds from appropriation item 370502, State Program Subsidies, if \$8,000,000 or more in capital appropriations were appropriated by the state for the museum between January 1, 1986, and December 31, 2002.

SECTION 221.10. ATH ATHLETIC COMMISSION

General Services Fund Group

4K90	175609	Operating Expenses	\$	247,624	\$	247,624
TOTAL GSF General Services Fund Group			\$	247,624	\$	247,624
TOTAL ALL BUDGET FUND GROUPS			\$	247,624	\$	247,624

SECTION 223.10. AGO ATTORNEY GENERAL

General Revenue Fund

GRF	055321	Operating Expenses	\$	45,469,699	\$	45,469,699
GRF	055405	Law-Related Education	\$	100,000	\$	100,000
GRF	055411	County Sheriffs' Pay Supplement	\$	757,921	\$	757,921
GRF	055415	County Prosecutors' Pay Supplement	\$	831,499	\$	831,499
TOTAL GRF General Revenue Fund			\$	47,159,119	\$	47,159,119

General Services Fund Group

1060	055612	General Reimbursement	\$	38,750,000	\$	38,750,000
1950	055660	Workers' Compensation Section	\$	8,415,504	\$	8,415,504
4180	055615	Charitable Foundations	\$	7,286,000	\$	7,286,000
4200	055603	Attorney General Antitrust	\$	1,750,000	\$	1,750,000
4210	055617	Police Officers' Training Academy Fee	\$	2,000,000	\$	2,000,000
4Z20	055609	BCI Asset Forfeiture and Cost Reimbursement	\$	1,000,000	\$	1,000,000
5900	055633	Peace Officer Private Security Fund	\$	98,370	\$	98,370
5A90	055618	Telemarketing Fraud Enforcement	\$	7,500	\$	7,500
5L50	055619	Law Enforcement Assistance Program	\$	1,457,852	\$	0
6290	055636	Corrupt Activity Investigation and Prosecution	\$	15,000	\$	15,000
6310	055637	Consumer Protection Enforcement	\$	3,500,000	\$	3,500,000
TOTAL GSF General Services Fund Group			\$	64,280,226	\$	62,822,374

Federal Special Revenue Fund Group

3060	055620	Medicaid Fraud Control	\$	3,879,672	\$	3,879,672
3810	055611	Civil Rights Legal Service	\$	402,540	\$	402,540
3830	055634	Crime Victims Assistance	\$	16,000,000	\$	16,000,000
3E50	055638	Attorney General Pass-Through Funds	\$	3,030,000	\$	3,030,000

2761

3R60	055613	Attorney General Federal Funds	\$	5,115,000	\$	5,115,000
TOTAL FED Federal Special Revenue Fund Group						
			\$	28,427,212	\$	28,427,212
State Special Revenue Fund Group						
4020	055616	Victims of Crime	\$	29,000,000	\$	28,000,000
4190	055623	Claims Section	\$	36,875,000	\$	36,875,000
4L60	055606	DARE Programs	\$	3,927,962	\$	3,927,962
4Y70	055608	Title Defect Recision	\$	600,000	\$	600,000
6590	055641	Solid and Hazardous Waste Background Investigations	\$	621,159	\$	621,159
TOTAL SSR State Special Revenue Fund Group						
			\$	71,024,121	\$	70,024,121
Holding Account Redistribution Fund Group						
R004	055631	General Holding Account	\$	1,000,000	\$	1,000,000
R005	055632	Antitrust Settlements	\$	1,000	\$	1,000
R018	055630	Consumer Frauds	\$	750,000	\$	750,000
R042	055601	Organized Crime Commission Distributions	\$	25,025	\$	25,025
R054	055650	Collection Outside Counsel Payments	\$	4,500,000	\$	4,500,000
TOTAL 090 Holding Account Redistribution Fund Group						
			\$	6,276,025	\$	6,276,025
Tobacco Master Settlement Agreement Fund Group						
J087	055635	Law Enforcement Technology, Training, and Facility Enhancements	\$	1,987,073	\$	0
U087	055402	Tobacco Settlement Oversight, Administration, and Enforcement	\$	2,478,850	\$	2,478,850
TOTAL TSF Tobacco Master Settlement Agreement Fund Group						
			\$	4,465,923	\$	2,478,850
TOTAL ALL BUDGET FUND GROUPS						
			\$	221,632,626	\$	217,187,701

COUNTY SHERIFFS' PAY SUPPLEMENT

The foregoing appropriation item 055411, County Sheriffs' Pay Supplement, shall be used for the purpose of supplementing the annual compensation of county sheriffs as required by section 325.06 of the Revised Code.

At the request of the Attorney General, the Director of Budget and Management may transfer appropriation from appropriation item 055321, Operating Expenses, to appropriation item 055411, County Sheriffs' Pay Supplement. Any appropriation so transferred shall be used to supplement the annual compensation of county sheriffs as required by section 325.06 of the Revised Code.

COUNTY PROSECUTORS' PAY SUPPLEMENT

The foregoing appropriation item 055415, County Prosecutors' Pay Supplement, shall be used for the purpose of supplementing the annual compensation of certain county prosecutors as required by section 325.111

of the Revised Code.

At the request of the Attorney General, the Director of Budget and Management may transfer appropriation from appropriation item 055321, Operating Expenses, to appropriation item 055415, County Prosecutors' Pay Supplement. Any appropriation so transferred shall be used to supplement the annual compensation of county prosecutors as required by section 325.111 of the Revised Code.

WORKERS' COMPENSATION SECTION

The Workers' Compensation Fund (Fund 1950) is entitled to receive payments from the Bureau of Workers' Compensation and the Ohio Industrial Commission at the beginning of each quarter of each fiscal year to fund legal services to be provided to the Bureau of Workers' Compensation and the Ohio Industrial Commission during the ensuing quarter. The advance payment shall be subject to adjustment.

In addition, the Bureau of Workers' Compensation shall transfer payments at the beginning of each quarter for the support of the Workers' Compensation Fraud Unit.

All amounts shall be mutually agreed upon by the Attorney General, the Bureau of Workers' Compensation, and the Ohio Industrial Commission.

CORRUPT ACTIVITY INVESTIGATION AND PROSECUTION

The foregoing appropriation item 055636, Corrupt Activity Investigation and Prosecution, shall be used as provided by division (D)(2) of section 2923.35 of the Revised Code to dispose of the proceeds, fines, and penalties credited to the Corrupt Activity Investigation and Prosecution Fund, which is created in division (D)(1)(b) of section 2923.35 of the Revised Code. If it is determined that additional amounts are necessary for this purpose, the amounts are hereby appropriated.

GENERAL HOLDING ACCOUNT

The foregoing appropriation item 055631, General Holding Account, shall be used to distribute moneys under the terms of relevant court orders or other settlements received in a variety of cases involving the Office of the Attorney General. If it is determined that additional amounts are necessary for this purpose, the amounts are hereby appropriated.

ATTORNEY GENERAL PASS-THROUGH FUNDS

The foregoing appropriation item 055638, Attorney General Pass-Through Funds, shall be used to receive federal grant funds provided to the Attorney General by other state agencies, including, but not limited to, the Department of Youth Services and the Department of Public Safety.

ANTITRUST SETTLEMENTS

The foregoing appropriation item 055632, Antitrust Settlements, shall

be used to distribute moneys under the terms of relevant court orders or other out of court settlements in antitrust cases or antitrust matters involving the Office of the Attorney General. If it is determined that additional amounts are necessary for this purpose, the amounts are hereby appropriated.

CONSUMER FRAUDS

The foregoing appropriation item 055630, Consumer Frauds, shall be used for distribution of moneys from court-ordered judgments against sellers in actions brought by the Office of Attorney General under sections 1334.08 and 4549.48 and division (B) of section 1345.07 of the Revised Code. These moneys shall be used to provide restitution to consumers victimized by the fraud that generated the court-ordered judgments. If it is determined that additional amounts are necessary for this purpose, the amounts are hereby appropriated.

ORGANIZED CRIME COMMISSION DISTRIBUTIONS

The foregoing appropriation item 055601, Organized Crime Commission Distributions, shall be used by the Organized Crime Investigations Commission, as provided by section 177.011 of the Revised Code, to reimburse political subdivisions for the expenses the political subdivisions incur when their law enforcement officers participate in an organized crime task force. If it is determined that additional amounts are necessary for this purpose, the amounts are hereby appropriated.

FUND ABOLISHMENTS

Effective July 1, 2009, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance in the Asbestos Abatement Distribution Fund (Fund 6740) to the General Revenue Fund. Upon completion of the transfer, Fund 6740 is abolished.

Effective July 1, 2009, the Bingo License Refunds Fund (Fund R003) is abolished.

SECTION 225.10. AUD AUDITOR OF STATE

General Revenue Fund

GRF 070321	Operating Expenses	\$	29,279,031	\$	29,279,031
GRF 070403	Fiscal Watch/Emergency	\$	700,000	\$	700,000
	Technical Assistance				
TOTAL GRF	General Revenue Fund	\$	29,979,031	\$	29,979,031

Auditor of State Fund Group

1090 070601	Public Audit Expense - Intra-State	\$	11,000,000	\$	11,000,000
4220 070602	Public Audit Expense - Local Government	\$	30,828,000	\$	31,053,000
5840 070603	Training Program	\$	181,250	\$	181,250

6750 070605	Uniform Accounting Network	\$	2,800,000	\$	3,500,000
TOTAL AUD Auditor of State Fund					
Group		\$	44,809,250	\$	45,734,250
TOTAL ALL BUDGET FUND GROUPS					
		\$	74,788,281	\$	75,713,281

FISCAL WATCH/EMERGENCY TECHNICAL ASSISTANCE

The foregoing appropriation item 070403, Fiscal Watch/Emergency Technical Assistance, shall be used for expenses incurred by the Office of the Auditor of State in its role relating to fiscal watch or fiscal emergency activities under Chapters 118. and 3316. of the Revised Code. Expenses include, but are not limited to, the following: duties related to the determination or termination of fiscal watch or fiscal emergency of municipal corporations, counties, townships, or school districts; development of preliminary accounting reports; performance of annual forecasts; provision of performance audits; and supervisory, accounting, or auditing services for the municipal corporations, counties, townships, or school districts.

An amount equal to the unexpended, unencumbered portion of appropriation item 070403, Fiscal Watch/Emergency Technical Assistance, at the end of fiscal year 2010 is hereby reappropriated for the same purpose in fiscal year 2011.

SECTION 225.20. The moneys transferred pursuant to division (E) of section 117.13 of the Revised Code relative to costs of audits of state agencies and local public offices are hereby appropriated.

SECTION 227.10. BRB BOARD OF BARBER EXAMINERS

General Services Fund Group

4K90 877609	Operating Expenses	\$	600,851	\$	600,851
TOTAL GSF General Services Fund					
Group		\$	600,851	\$	600,851
TOTAL ALL BUDGET FUND GROUPS					
		\$	600,851	\$	600,851

ED JEFFERS BARBER MUSEUM

On October 1, 2009, or as soon as possible thereafter, the Director of Budget and Management and the Executive Director of the Barber Board shall develop a plan to distribute the amounts collected under division (C) of section 4709.12 of the Revised Code to the Ed Jeffers Barber Museum.

SECTION 229.10. OBM OFFICE OF BUDGET AND MANAGEMENT

General Revenue Fund

GRF 042321	Budget Development and Implementation	\$	2,412,346	\$	2,350,805
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GRF	042410	National Association Dues	\$	30,448	\$	31,361
GRF	042412	Audit of Auditor of State	\$	44,528	\$	46,309
GRF	042416	Medicaid Agency Transition	\$	571,028	\$	369,298
GRF	042435	Gubernatorial Transition	\$	0	\$	250,000
TOTAL GRF General Revenue Fund			\$	3,058,350	\$	3,047,773
General Services Fund Group						
1050	042603	State Accounting and Budgeting	\$	37,031,976	\$	41,206,060
5N40	042602	OAKS Project Implementation	\$	2,100,000	\$	2,100,000
5Z80	042608	Executive Medicaid Administration	\$	57,751	\$	0
TOTAL GSF General Services Fund Group			\$	39,189,727	\$	43,306,060
Federal Special Revenue Fund Group						
3CM0	042606	Medicaid Transition - Federal	\$	734,979	\$	747,098
TOTAL FED Federal Special Revenue Fund Group			\$	734,979	\$	747,098
Agency Fund Group						
5EH0	042604	Forgery Recovery	\$	50,000	\$	50,000
TOTAL AGY Agency Fund Group			\$	50,000	\$	50,000
TOTAL ALL BUDGET FUND GROUPS			\$	43,033,056	\$	47,150,931

AUDIT COSTS

All centralized audit costs associated with either Single Audit Schedules or financial statements prepared in conformance with generally accepted accounting principles for the state shall be paid from the foregoing appropriation item 042603, State Accounting and Budgeting.

SHARED SERVICES CENTER

The Director of Budget and Management shall use the OAKS Project Implementation Fund (Fund 5N40) and the Accounting and Budgeting Fund (Fund 1050) to implement a Shared Services Center within the Office of Budget and Management for the purpose of consolidating statewide finance functions and common transactional processes. The Director of Budget and Management shall transfer the unobligated cash balance remaining in Fund 5N40 to the General Revenue Fund before the end of fiscal year 2011.

Effective July 1, 2009, the Director of Budget and Management shall include the recovery of costs to operate the Shared Services Center in the accounting and budgeting services payroll rate and through a direct charge using intrastate transfer vouchers to agencies for services rendered. The Director of Budget and Management shall determine the cost recovery methodology. Such cost recovery revenues shall be deposited to the credit of Fund 1050.

INTERNAL CONTROL AND AUDIT OVERSIGHT

Effective July 1, 2009, the Director of Budget and Management shall include the recovery of costs to operate the Internal Control and Audit Oversight Program in the accounting and budgeting services payroll rate and

through a direct charge using intrastate transfer vouchers to agencies reviewed by the program. The Director of Budget and Management, with advice from the Internal Audit Advisory Council, shall determine the cost recovery methodology. Such cost recovery revenues shall be deposited to the credit of the Accounting and Budgeting Fund (Fund 1050).

FORGERY RECOVERY

The foregoing appropriation item 042604, Forgery Recovery, shall be used to reissue warrants that have been certified as forgeries by the rightful recipient as determined by the Bureau of Criminal Identification and Investigation and the Treasurer of State. Upon receipt of funds to cover the reissuance of the warrant, the Director of Budget and Management shall reissue a state warrant of the same amount.

SECTION 231.10. CSR CAPITOL SQUARE REVIEW AND ADVISORY BOARD

General Revenue Fund

GRF 874100	Personal Services	\$	1,311,358	\$	1,311,358
GRF 874320	Maintenance and Equipment	\$	526,814	\$	526,813
TOTAL GRF General Revenue Fund		\$	1,838,172	\$	1,838,171

General Services Fund Group

4G50 874603	Capitol Square Education Center and Arts	\$	15,000	\$	15,000
4S70 874602	Statehouse Gift Shop/Events	\$	686,708	\$	686,708
TOTAL GSF General Services Fund Group		\$	701,708	\$	701,708

Federal Special Revenue Fund Group

5AQ0 874606	Grant	\$	3,977	\$	0
TOTAL FED Federal Special Revenue Fund Group		\$	3,977	\$	0

Underground Parking Garage

2080 874601	Underground Parking Garage Operations	\$	2,923,224	\$	2,979,615
TOTAL UPG Underground Parking Garage		\$	2,923,224	\$	2,979,615

TOTAL ALL BUDGET FUND GROUPS		\$	5,467,081	\$	5,519,494
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WAREHOUSE PAYMENTS

Of the foregoing appropriation item 874601, Underground Parking Garage Operations, \$48,000 in each fiscal year shall be used to meet all payments at the times they are required to be made during the period from July 1, 2009, to June 30, 2011, to the Ohio Building Authority for bond service charges relating to the purchase and improvement of a warehouse acquired pursuant to section 105.41 of the Revised Code, in which to store items of the Capitol Collection Trust and, whenever necessary, equipment or other property of the Board.

Notwithstanding division (G) of section 105.41 of the Revised Code and any other provision to the contrary, moneys in the Underground Parking Garage Fund (Fund 2080) may be used for personnel and operating costs related to the operations of the Statehouse and the Statehouse Underground Parking Garage.

SECTION 233.10. SCR STATE BOARD OF CAREER COLLEGES AND SCHOOLS

General Services Fund Group

4K90 233601	Operating Expenses	\$	490,008	\$	490,008
TOTAL GSF General Services Fund Group		\$	490,008	\$	490,008
TOTAL ALL BUDGET FUND GROUPS		\$	490,008	\$	490,008

SECTION 235.10. CDP CHEMICAL DEPENDENCY PROFESSIONALS BOARD

General Services Fund Group

4K90 930609	Operating Expenses	\$	478,799	\$	478,799
TOTAL GSF General Services Fund Group		\$	478,799	\$	478,799
TOTAL ALL BUDGET FUND GROUPS		\$	478,799	\$	478,799

SECTION 237.10. CHR STATE CHIROPRACTIC BOARD

General Services Fund Group

4K90 878609	Operating Expenses	\$	541,455	\$	541,455
TOTAL GSF General Services Fund Group		\$	541,455	\$	541,455
TOTAL ALL BUDGET FUND GROUPS		\$	541,455	\$	541,455

SECTION 239.10. CIV OHIO CIVIL RIGHTS COMMISSION

General Revenue Fund

GRF 876321	Operating Expenses	\$	4,897,185	\$	4,897,185
TOTAL GRF General Revenue Fund		\$	4,897,185	\$	4,897,185

General Services Fund Group

2170 876604	Operations Support	\$	8,000	\$	8,000
TOTAL GSF General Services Fund Group		\$	8,000	\$	8,000

Federal Special Revenue Fund Group

3340 876601	Federal Programs	\$	3,876,500	\$	3,281,500
TOTAL FED Federal Special Revenue Fund Group		\$	3,876,500	\$	3,281,500
TOTAL ALL BUDGET FUND GROUPS		\$	8,781,685	\$	8,186,685

SECTION 241.10. COM DEPARTMENT OF COMMERCE

General Revenue Fund

GRF 800410	Labor and Worker Safety	\$	1,492,677	\$	0
Total GRF General Revenue Fund		\$	1,492,677	\$	0

General Services Fund Group

1630 800620	Division of Administration	\$	7,420,049	\$	7,561,286
1630 800637	Information Technology	\$	6,219,734	\$	6,137,122
5430 800602	Unclaimed Funds-Operating	\$	9,948,085	\$	9,948,085
5430 800625	Unclaimed Funds-Claims	\$	75,000,000	\$	75,000,000
5F10 800635	Small Government Fire Departments	\$	300,000	\$	300,000

TOTAL GSF General Services Fund Group		\$	98,887,868	\$	98,946,493
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Federal Special Revenue Fund Group

3480 800622	Underground Storage Tanks	\$	586,128	\$	585,782
3480 800624	Leaking Underground Storage Tanks	\$	1,477,606	\$	1,489,717

TOTAL FED Federal Special Revenue Fund Group		\$	2,063,734	\$	2,075,499
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State Special Revenue Fund Group

4B20 800631	Real Estate Appraisal Recovery	\$	35,000	\$	35,000
4H90 800608	Cemeteries	\$	273,465	\$	273,465
4X20 800619	Financial Institutions	\$	2,233,031	\$	2,221,395
5440 800612	Banks	\$	6,703,253	\$	6,753,254
5450 800613	Savings Institutions	\$	2,286,615	\$	2,307,019
5460 800610	Fire Marshal	\$	15,118,673	\$	15,191,721
5460 800639	Fire Department Grants	\$	1,695,198	\$	1,698,802
5470 800603	Real Estate Education/Research	\$	250,000	\$	250,000
5480 800611	Real Estate Recovery	\$	50,000	\$	50,000
5490 800614	Real Estate	\$	3,456,405	\$	3,451,694
5500 800617	Securities	\$	4,761,545	\$	4,411,545
5520 800604	Credit Union	\$	3,627,390	\$	3,627,390
5530 800607	Consumer Finance	\$	5,367,260	\$	5,148,702
5560 800615	Industrial Compliance	\$	25,753,662	\$	26,713,417
5FW0800616	Financial Literacy Education	\$	350,000	\$	350,000
5GK0800609	Securities Investor Education/Enforcement	\$	485,000	\$	485,000
5K70 800621	Penalty Enforcement	\$	150,000	\$	150,000
5X60 800623	Video Service	\$	34,476	\$	34,476
6530 800629	UST Registration/Permit Fee	\$	1,433,189	\$	1,431,831
6A40 800630	Real Estate Appraiser-Operating	\$	664,006	\$	664,006

TOTAL SSR State Special Revenue Fund Group		\$	74,728,168	\$	75,248,717
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Liquor Control Fund Group

7043 800601	Merchandising	\$	472,492,696	\$	488,434,277
7043 800627	Liquor Control Operating	\$	13,776,430	\$	14,313,346
7043 800633	Development Assistance Debt Service	\$	40,565,100	\$	52,412,800
7043 800636	Revitalization Debt Service	\$	15,632,800	\$	20,359,000

TOTAL LCF Liquor Control					
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Fund Group		\$	542,467,026	\$	575,519,423
Volunteer Firefighters' Dependents Fund Group					
7085	800985	Volunteer Firefighters'	\$	300,000	\$ 300,000
		Dependents Fund			
TOTAL 085 Volunteer Firefighters' Dependents		\$	300,000	\$	300,000
Fund Group					
Revenue Distribution Fund Group					
7066	800966	Undivided Liquor Permits	\$	14,100,000	\$ 14,100,000
TOTAL RDF Revenue Distribution Fund Group		\$	14,100,000	\$	14,100,000
TOTAL ALL BUDGET FUND GROUPS		\$	734,039,473	\$	766,190,132

SMALL GOVERNMENT FIRE DEPARTMENTS

Notwithstanding section 3737.17 of the Revised Code, the foregoing appropriation item 800635, Small Government Fire Departments, may be used to provide loans to private fire departments.

UNCLAIMED FUNDS PAYMENTS

The foregoing appropriation item 800625, Unclaimed Funds-Claims, shall be used to pay claims under section 169.08 of the Revised Code. If it is determined that additional amounts are necessary, the amounts are appropriated.

UNCLAIMED FUNDS TRANSFERS

Notwithstanding division (A) of section 169.05 of the Revised Code, on or after December 1, 2009, the Director of Budget and Management shall request the Director of Commerce to transfer to the General Revenue Fund up to \$250,000,000 of unclaimed funds that have been reported by holders of unclaimed funds under section 169.05 of the Revised Code, irrespective of the allocation of the unclaimed funds under that section. After such request has been made, the Director of Commerce shall transfer the funds prior to June 30, 2010.

Notwithstanding division (A) of section 169.05 of the Revised Code, on or after December 1, 2010, the Director of Budget and Management shall request the Director of Commerce to transfer to the General Revenue Fund up to \$135,000,000 of unclaimed funds that have been reported by holders of unclaimed funds under section 169.05 of the Revised Code, irrespective of the allocation of the unclaimed funds under that section. After such request has been made, the Director of Commerce shall transfer the funds prior to June 30, 2011.

FIRE DEPARTMENT GRANTS

Of the foregoing appropriation item 800639, Fire Department Grants, up to \$1,647,140 in each fiscal year shall be used to make annual grants to volunteer fire departments, fire departments that serve one or more small municipalities or small townships, joint fire districts comprised of fire departments that primarily serve small municipalities or small townships,

local units of government responsible for such fire departments, and local units of government responsible for the provision of fire protection services for small municipalities or small townships.

The grants shall be used by recipients to purchase firefighting or rescue equipment or gear or similar items, to provide full or partial reimbursement for the documented costs of firefighter training, or, at the discretion of the State Fire Marshal, to cover fire department costs for providing fire protection services in that grant recipient's jurisdiction.

Grant awards for firefighting or rescue equipment or gear or for fire department costs of providing fire protection services shall be up to \$15,000 per fiscal year, or up to \$25,000 per fiscal year if an eligible entity serves a jurisdiction in which the Governor declared a natural disaster during the preceding or current fiscal year in which the grant was awarded. In addition to any grant funds awarded for rescue equipment or gear, or for fire department costs associated with the provision of fire protection services, an eligible entity may receive a grant for up to \$15,000 per fiscal year for full or partial reimbursement of the documented costs of firefighter training. For each fiscal year, the State Fire Marshal shall determine the total amounts to be allocated for each eligible purpose.

The grant program shall be administered by the State Fire Marshal in accordance with rules the State Fire Marshal adopts as part of the state fire code adopted pursuant to section 3737.82 of the Revised Code that are necessary for the administration and operation of the grant program. The rules may further define the entities eligible to receive grants and establish criteria for the awarding and expenditure of grant funds, including methods the State Fire Marshal may use to verify the proper use of grant funds or to obtain reimbursement for or the return of equipment for improperly used grant funds. Any amounts in appropriation item 800639, Fire Department Grants, in excess of the amount allocated for these grants may be used for the administration of the grant program.

DIVISION OF SECURITIES TECHNOLOGY UPGRADES

Of the foregoing appropriation item 800617, Securities, such sums as are necessary may be used over the biennium to support the development and implementation of information technology solutions designed to enable the Division of Securities to better protect the interests of investors, the public, and the securities industry. Implementation of these solutions shall, among other things, enhance the Division's ability to monitor complaints about and actions against persons engaged in any practice prohibited by Chapter 1707. of the Revised Code or defined as fraudulent in that chapter or any other deceptive scheme or practice in connection with the sale of

securities. The Director of Commerce may seek assistance from the Department of Administrative Services in relation to the development and implementation of the solutions.

CASH TRANSFERS TO THE DIVISION OF SECURITIES INVESTOR EDUCATION AND ENFORCEMENT EXPENSE FUND

The Director of Budget and Management, upon the request of the Director of Commerce, shall transfer up to \$485,000 in cash in each fiscal year from the Division of Securities Fund (Fund 5500) to the Division of Securities Investor Education and Enforcement Expense Fund (Fund 5GK0) created in section 1707.37 of the Revised Code.

CASH TRANSFERS TO THE REAL ESTATE OPERATING FUND

The Director of Budget and Management, upon request of the Director of Commerce, shall transfer \$1,300,000 in cash over the FY 2010-FY 2011 biennium from the Real Estate Education and Research Fund (Fund 5470) to the Real Estate Operating Fund (Fund 5490).

The Director of Budget and Management, upon request of the Director of Commerce, shall transfer \$600,000 in cash over the FY 2010-FY 2011 biennium from the Real Estate Recovery Fund (Fund 5480) to the Real Estate Operating Fund (Fund 5490).

INCREASED APPROPRIATION - MERCHANDISING

The foregoing appropriation item 800601, Merchandising, shall be used under section 4301.12 of the Revised Code. If it is determined that additional expenditures are necessary, the amounts are appropriated.

DEVELOPMENT ASSISTANCE DEBT SERVICE

The foregoing appropriation item 800633, Development Assistance Debt Service, shall be used to pay debt service and related financing costs at the times they are required to be made during the period from July 1, 2009, to June 30, 2011, for bond service charges on obligations issued under Chapter 166. of the Revised Code. If it is determined that additional appropriations are necessary for this purpose, such amounts are appropriated, subject to the limitations set forth in section 166.11 of the Revised Code. An appropriation for this purpose is not required, but is made in this form and in this act for record purposes only.

REVITALIZATION DEBT SERVICE

The foregoing appropriation item 800636, Revitalization Debt Service, shall be used to pay debt service and related financing costs under sections 151.01 and 151.40 of the Revised Code during the period from July 1, 2009, to June 30, 2011. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated. The General Assembly acknowledges the priority of the pledge of a portion of

receipts from that source to obligations issued and to be issued under Chapter 166. of the Revised Code.

ADMINISTRATIVE ASSESSMENTS

Notwithstanding any other provision of law to the contrary, the Division of Administration Fund (Fund 1630) is entitled to receive assessments from all operating funds of the Department in accordance with procedures prescribed by the Director of Commerce and approved by the Director of Budget and Management.

SECTION 243.10. OCC OFFICE OF CONSUMERS' COUNSEL

General Services Fund Group

5F50 053601	Operating Expenses	\$	8,498,000	\$	8,498,000
TOTAL GSF General Services Fund Group		\$	8,498,000	\$	8,498,000
TOTAL ALL BUDGET FUND GROUPS		\$	8,498,000	\$	8,498,000

SECTION 245.10. CEB CONTROLLING BOARD

General Revenue Fund

GRF 911401	Emergency Purposes/Contingencies	\$	2,800,000	\$	2,800,000
GRF 911404	Mandate Assistance	\$	545,417	\$	545,417
GRF 911418	Unemployment Compensation ERI	\$	29,228,833	\$	37,275,369
GRF 911441	Ballot Advertising Costs	\$	487,600	\$	487,600
TOTAL GRF General Revenue Fund		\$	33,061,850	\$	41,108,386
TOTAL ALL BUDGET FUND GROUPS		\$	33,061,850	\$	41,108,386

DISASTER SERVICES FUND TRANSFERS TO THE EMERGENCY PURPOSES/CONTINGENCIES APPROPRIATION LINE ITEM

The Controlling Board may, at the request of any state agency or the Director of Budget and Management, transfer all or part of the appropriation in appropriation item 911401, Emergency Purposes/Contingencies, for the purpose of providing disaster and emergency situation aid to state agencies and political subdivisions in the event of disasters and emergency situations or for the other purposes noted in this section, including, but not limited to, costs related to the disturbance that occurred on April 11, 1993, at the Southern Ohio Correctional Facility in Lucasville, Ohio.

FEDERAL SHARE

In transferring appropriations to or from appropriation items that have federal shares identified in this act, the Controlling Board shall add or subtract corresponding amounts of federal matching funds at the percentages indicated by the state and federal division of the appropriations in this act. Such changes are hereby appropriated.

DISASTER ASSISTANCE

Pursuant to requests submitted by the Department of Public Safety, the Controlling Board may approve transfers from appropriation item 911401, Emergency Purposes/Contingencies, to appropriation items used by the Department of Public Safety to provide funding for assistance to political subdivisions and individuals made necessary by natural disasters or emergencies. Such transfers may be requested and approved prior to or following the occurrence of any specific natural disasters or emergencies in order to facilitate the provision of timely assistance.

DISASTER SERVICES

Pursuant to requests submitted by the Department of Public Safety, the Controlling Board may approve transfers from the Disaster Services Fund (5E20) to a fund and appropriation item used by the Department of Public Safety to provide for assistance to political subdivisions made necessary by natural disasters or emergencies. These transfers may be requested and approved prior to the occurrence of any specific natural disasters or emergencies in order to facilitate the provision of timely assistance. The Emergency Management Agency of the Department of Public Safety shall use the funding to fund the State Disaster Relief Program for disasters that have been declared by the Governor, and the State Individual Assistance Program for disasters that have been declared by the Governor and the federal Small Business Administration. The Ohio Emergency Management Agency shall publish and make available application packets outlining procedures for the State Disaster Relief Program and the State Individual Assistance Program.

Fund 5E20 shall be used by the Controlling Board, pursuant to requests submitted by state agencies, to transfer cash and appropriations to any fund and appropriation item for the payment of state agency disaster relief program expenses for disasters declared by the Governor, if the Director of Budget and Management determines that sufficient funds exist.

SOUTHERN OHIO CORRECTIONAL FACILITY COST

The Division of Criminal Justice Services in the Department of Public Safety and the Public Defender Commission may each request, upon approval of the Director of Budget and Management, additional funds from appropriation item 911401, Emergency Purposes/Contingencies, for costs related to the disturbance that occurred on April 11, 1993, at the Southern Ohio Correctional Facility in Lucasville, Ohio.

MANDATE ASSISTANCE

(A) The foregoing appropriation item 911404, Mandate Assistance, shall be used to provide financial assistance to local units of government and school districts for the cost of the following two state mandates:

(1) The cost to county prosecutors for prosecuting certain felonies that occur on the grounds of state institutions operated by the Department of Rehabilitation and Correction and the Department of Youth Services;

(2) The cost to school districts of in-service training for child abuse detection.

(B) The Division of Criminal Justice Services in the Department of Public Safety and the Department of Education may prepare and submit to the Controlling Board one or more requests to transfer appropriations from appropriation item 911404, Mandate Assistance. The state agencies charged with this administrative responsibility are listed below, as well as the estimated annual amounts that may be used for each program of state financial assistance.

PROGRAM	ADMINISTERING AGENCY	ESTIMATED ANNUAL AMOUNT
Prosecution Costs	Division of Criminal Justice Services	\$125,446
Child Abuse Detection Training Costs	Department of Education	\$419,971

(C) Subject to the total amount appropriated in each fiscal year for appropriation item 911404, Mandate Assistance, the Division of Criminal Justice Services and the Department of Education may request from the Controlling Board that amounts smaller or larger than these estimated annual amounts be transferred to each program.

(D) In addition to making the initial transfers requested by the Division of Criminal Justice Services and the Department of Education, the Controlling Board may transfer appropriations received by a state agency under this section back to appropriation item 911404, Mandate Assistance, or to the other program of state financial assistance identified under this section.

(E) It is expected that not all costs incurred by local units of government and school districts under each of the two programs of state financial assistance identified in this section will be fully reimbursed by the state. Reimbursement levels may vary by program and shall be based on: the relationship between the appropriation transfers requested by the Division of Criminal Justice Services and the Department of Education and provided by the Controlling Board for each of the programs; the rules and procedures established for each program by the administering state agency; and the actual costs incurred by local units of government and school districts.

(F) Each of these programs of state financial assistance shall be carried

out as follows:

(1) PROSECUTION COSTS

(a) Appropriations may be transferred to the Division of Criminal Justice Services to cover local prosecution costs for aggravated murder, murder, felonies of the first degree, and felonies of the second degree that occur on the grounds of institutions operated by the Department of Rehabilitation and Correction and the Department of Youth Services.

(b) Upon a delinquency filing in juvenile court or the return of an indictment for aggravated murder, murder, or any felony of the first or second degree that was committed at a Department of Youth Services or a Department of Rehabilitation and Correction institution, the affected county may, in accordance with rules that the Division of Criminal Justice Services shall adopt, apply to the Division of Criminal Justice Services for a grant to cover all documented costs that are incurred by the county prosecutor's office.

(c) Twice each year, the Division of Criminal Justice Services shall designate counties to receive grants from those counties that have submitted one or more applications in compliance with the rules that have been adopted by the Division of Criminal Justice Services for the receipt of such grants. In each year's first round of grant awards, if sufficient appropriations have been made, up to a total of \$100,000 may be awarded. In each year's second round of grant awards, the remaining appropriations available for this purpose may be awarded.

(d) If for a given round of grants there are insufficient appropriations to make grant awards to all the eligible counties, the first priority shall be given to counties with cases involving aggravated murder and murder; second priority shall be given to counties with cases involving a felony of the first degree; and third priority shall be given to counties with cases involving a felony of the second degree. Within these priorities, the grant awards shall be based on the order in which the applications were received, except that applications for cases involving a felony of the first or second degree shall not be considered in more than two consecutive rounds of grant awards.

(2) CHILD ABUSE DETECTION TRAINING COSTS

Appropriations may be transferred to the Department of Education for payment to local school districts as full or partial reimbursement for the cost of providing in-service training for child abuse detection. In accordance with rules that the Department shall adopt, a local school district may apply to the Department for a grant to cover all documented costs that are incurred to provide in-service training for child abuse detection. The department shall

make grants within the limits of the funding provided.

(G) Any moneys allocated within appropriation item 911404, Mandate Assistance, not fully utilized may, upon application of the Ohio Public Defender Commission, and with the approval of the Controlling Board, be paid to boards of county commissioners to provide additional reimbursement for the costs incurred by counties in providing defense to indigent defendants pursuant to Chapter 120. of the Revised Code. Application for the unutilized funds shall be made by the Ohio Public Defender Commission at the first June meeting of the Controlling Board.

The amount to be paid to each county shall be allocated proportionately on the basis of the total amount of reimbursement paid to each county as a percentage of the amount of reimbursement paid to all of the counties during the most recent state fiscal year for which data is available and as calculated by the Ohio Public Defender Commission.

BALLOT ADVERTISING COSTS

Pursuant to section 3501.17 of the Revised Code, and upon requests submitted by the Secretary of State, the Controlling Board shall approve transfers from the foregoing appropriation item 911441, Ballot Advertising Costs, to appropriation item 050621, Statewide Ballot Advertising, in order to pay for the cost of public notices associated with statewide ballot initiatives.

CAPITAL APPROPRIATION INCREASE FOR FEDERAL STIMULUS ELIGIBILITY

A state agency director shall request that the Controlling Board increase the amount of the agency's capital appropriations if the director determines such an increase is necessary for the agency to receive and use funds under the federal American Recovery and Reinvestment Act of 2009. The Controlling Board may increase the capital appropriations pursuant to the request up to the exact amount necessary under the federal act if the Board determines it is necessary for the agency to receive and use those federal funds.

SECTION 247.10. COS STATE BOARD OF COSMETOLOGY

General Services Fund Group

4K90 879609 Operating Expenses	\$	3,533,679	\$	3,533,679
TOTAL GSF General Services Fund Group	\$	3,533,679	\$	3,533,679
TOTAL ALL BUDGET FUND GROUPS	\$	3,533,679	\$	3,533,679

SECTION 249.10. CSW COUNSELOR, SOCIAL WORKER, AND

MARRIAGE AND FAMILY THERAPIST BOARD**General Services Fund Group**

4K90 899609	Operating Expenses	\$	1,117,171	\$	1,117,171
TOTAL GSF General Services Fund					
Group		\$	1,117,171	\$	1,117,171
TOTAL ALL BUDGET FUND GROUPS					

SECTION 251.10. CLA COURT OF CLAIMS**General Revenue Fund**

GRF 015321	Operating Expenses	\$	2,699,369	\$	2,780,350
TOTAL GRF General Revenue Fund					

State Special Revenue Fund Group

5K20 015603	CLA Victims of Crime	\$	1,582,684	\$	1,582,684
TOTAL SSR State Special Revenue					
Fund Group		\$	1,582,684	\$	1,582,684
TOTAL ALL BUDGET FUND GROUPS					

SECTION 253.10. AFC OHIO CULTURAL FACILITIES**COMMISSION****General Revenue Fund**

GRF 371321	Operating Expenses	\$	98,636	\$	98,636
GRF 371401	Lease Rental Payments	\$	26,454,900	\$	28,301,600
TOTAL GRF General Revenue Fund					

State Special Revenue Fund Group

4T80 371601	Riffe Theatre Equipment Maintenance	\$	81,000	\$	81,000
4T80 371603	Project Administration Services	\$	1,302,866	\$	1,302,866
TOTAL SSR State Special Revenue Group					
TOTAL ALL BUDGET FUND GROUPS					

LEASE RENTAL PAYMENTS

The foregoing appropriation item 371401, Lease Rental Payments, shall be used to meet all payments from the Ohio Cultural Facilities Commission to the Treasurer of State during the period from July 1, 2009, to June 30, 2011, under the primary leases and agreements for those arts and sports facilities made under Chapters 152. and 154. of the Revised Code. This appropriation is the source of funds pledged for bond service charges on related obligations issued under Chapters 152. and 154. of the Revised Code.

OPERATING EXPENSES

The foregoing appropriation item 371321, Operating Expenses, shall be used by the Ohio Cultural Facilities Commission to carry out its responsibilities under this section and Chapter 3383. of the Revised Code.

By the tenth day following each calendar quarter in each fiscal year, or

as soon as possible thereafter, the Director of Budget and Management shall determine the amount of cash from interest earnings to be transferred from the Cultural and Sports Facilities Building Fund (Fund 7030) to the Cultural Facilities Commission Administration Fund (Fund 4T80).

As soon as possible after each bond issuance made on behalf of the Cultural Facilities Commission, the Director of Budget and Management shall determine the amount of cash from any premium paid on each issuance that is available to be transferred after all issuance costs have been paid from the Cultural and Sports Facilities Building Fund (Fund 7030) to the Cultural Facilities Commission Administration Fund (Fund 4T80).

CAPITAL DONATIONS FUND CERTIFICATIONS AND APPROPRIATIONS

The Executive Director of the Cultural Facilities Commission shall certify to the Director of Budget and Management the amount of cash receipts and related investment income, irrevocable letters of credit from a bank, or certification of the availability of funds that have been received from a county or a municipal corporation for deposit into the Capital Donations Fund (Fund 5A10) and that are related to an anticipated project. These amounts are hereby appropriated to appropriation item C37146, Capital Donations. Prior to certifying these amounts to the Director, the Executive Director shall make a written agreement with the participating entity on the necessary cash flows required for the anticipated construction or equipment acquisition project.

SECTION 255.10. DEN STATE DENTAL BOARD

General Services Fund Group			
4K90 880609	Operating Expenses	\$ 1,409,944	\$ 1,409,944
TOTAL GSF General Services Fund			
Group		\$ 1,409,944	\$ 1,409,944
TOTAL ALL BUDGET FUND GROUPS			
		\$ 1,409,944	\$ 1,409,944

SECTION 257.10. BDP BOARD OF DEPOSIT

General Services Fund Group			
4M20 974601	Board of Deposit	\$ 1,876,000	\$ 1,876,000
TOTAL GSF General Services Fund			
Group		\$ 1,876,000	\$ 1,876,000
TOTAL ALL BUDGET FUND GROUPS			
		\$ 1,876,000	\$ 1,876,000

BOARD OF DEPOSIT EXPENSE FUND

Upon receiving certification of expenses from the Treasurer of State, the Director of Budget and Management shall transfer cash from the Investment Earnings Redistribution Fund (Fund 6080) to the Board of Deposit Expense

Fund (Fund 4M20). The latter fund shall be used pursuant to section 135.02 of the Revised Code to pay for any and all necessary expenses of the Board of Deposit or for banking charges and fees required for the operation of the State of Ohio Regular Account.

SECTION 259.10. DEV DEPARTMENT OF DEVELOPMENT

General Revenue Fund

GRF	195401	Thomas Edison Program	\$	15,796,751	\$	15,796,751
GRF	195404	Small Business Development	\$	1,565,770	\$	1,565,770
GRF	195405	Minority Business Enterprise Division	\$	1,238,528	\$	1,238,528
GRF	195407	Travel and Tourism	\$	400,000	\$	0
GRF	195412	Rapid Outreach Grants	\$	5,000,000	\$	5,000,000
GRF	195415	Strategic Business Investment Division and Regional Offices	\$	5,882,129	\$	5,882,129
GRF	195416	Governor's Office of Appalachia	\$	4,508,741	\$	4,508,741
GRF	195422	Technology Action	\$	3,500,000	\$	3,500,000
GRF	195426	Clean Ohio Implementation	\$	168,365	\$	168,365
GRF	195432	Global Markets	\$	3,889,566	\$	3,889,566
GRF	195434	Industrial Training Grants	\$	7,593,940	\$	7,643,940
GRF	195497	CDBG Operating Match	\$	955,000	\$	955,000
GRF	195501	Appalachian Local Development Districts	\$	391,482	\$	391,482
GRF	195502	Appalachian Regional Commission Dues	\$	195,000	\$	195,000
GRF	195905	Third Frontier Research & Development General Obligation Debt Service	\$	20,920,700	\$	30,852,200
GRF	195912	Job Ready Site Development General Obligation Debt Service	\$	4,747,900	\$	10,601,900
TOTAL GRF General Revenue Fund			\$	76,753,872	\$	92,189,372
General Services Fund Group						
1350	195684	Supportive Services	\$	10,299,575	\$	10,299,575
4W10	195646	Minority Business Enterprise Loan	\$	1,500,000	\$	1,500,000
5AD0	195677	Economic Development Contingency	\$	4,000,000	\$	4,000,000
5DU0	195689	Energy Projects	\$	840,000	\$	840,000
5W50	195690	Travel and Tourism Cooperative Projects	\$	20,643	\$	20,643
6850	195636	Direct Cost Recovery Expenditures	\$	416,742	\$	416,742
TOTAL GSF General Services Fund Group			\$	17,076,959	\$	17,076,959
Federal Special Revenue Fund Group						
3080	195602	Appalachian Regional Commission	\$	475,000	\$	475,000

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3080	195603	Housing and Urban Development	\$	6,000,000	\$	6,000,000
3080	195605	Federal Projects	\$	27,000,000	\$	27,000,000
3080	195609	Small Business Administration	\$	5,011,381	\$	5,011,381
3080	195618	Energy Federal Grants	\$	3,400,000	\$	3,400,000
3350	195610	Energy Conservation and Emerging Technology	\$	1,800,000	\$	1,100,000
3AE0	195643	Workforce Development Initiatives	\$	17,000,000	\$	16,500,000
3K80	195613	Community Development Block Grant	\$	65,000,000	\$	65,000,000
3K90	195611	Home Energy Assistance Block Grant	\$	115,743,608	\$	115,743,608
3K90	195614	HEAP Weatherization	\$	22,000,000	\$	22,000,000
3L00	195612	Community Services Block Grant	\$	25,235,000	\$	25,235,000
3V10	195601	HOME Program	\$	40,000,000	\$	40,000,000
TOTAL FED Federal Special Revenue Fund Group			\$	328,664,989	\$	327,464,989
State Special Revenue Fund Group						
4440	195607	Water and Sewer Commission Loans	\$	29,628	\$	29,628
4500	195624	Minority Business Bonding Program Administration	\$	53,967	\$	53,967
4510	195625	Economic Development Financing Operating	\$	1,924,557	\$	1,924,557
4F20	195639	State Special Projects	\$	100,000	\$	100,000
4F20	195676	Marketing Initiatives	\$	8,400,000	\$	3,800,000
4F20	195699	Utility Provided Funds	\$	500,000	\$	500,000
4S00	195630	Tax Incentive Programs	\$	367,020	\$	367,020
5CG0	195679	Alternative Fuel Transportation	\$	567,216	\$	567,216
5M40	195659	Low Income Energy Assistance	\$	245,000,000	\$	245,000,000
5M50	195660	Advanced Energy Programs	\$	8,268,581	\$	8,268,581
5W60	195691	International Trade Cooperative Projects	\$	25,000	\$	0
5X10	195651	Exempt Facility Inspection	\$	8,000	\$	0
6110	195631	Water and Sewer Administration	\$	10,000	\$	10,000
6170	195654	Volume Cap Administration	\$	113,941	\$	113,941
6460	195638	Low- and Moderate- Income Housing Trust Fund	\$	53,000,000	\$	53,000,000
TOTAL SSR State Special Revenue Fund Group			\$	318,367,910	\$	313,734,910
Facilities Establishment Fund Group						
4Z60	195647	Rural Industrial Park Loan	\$	2,000,000	\$	2,000,000
5D20	195650	Urban Redevelopment Loans	\$	3,000,000	\$	3,000,000
5S80	195627	Rural Development Initiative	\$	1,750,000	\$	1,750,000
5S90	195628	Capital Access Loan Program	\$	2,000,000	\$	2,000,000
7008	195698	Logistics & Distribution Infrastructure	\$	50,000,000	\$	0

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7009	195664	Innovation Ohio	\$	15,000,000	\$	15,000,000
7010	195665	Research and Development	\$	12,000,000	\$	12,000,000
7022	195606	Rapid Outreach Loans	\$	15,000,000	\$	15,000,000
7037	195615	Facilities Establishment	\$	65,000,000	\$	65,000,000
TOTAL 037 Facilities Establishment Fund Group						
			\$	165,750,000	\$	115,750,000
Clean Ohio Revitalization Fund						
7003	195663	Clean Ohio Operating	\$	964,200	\$	953,300
TOTAL 7003 Clean Ohio Revitalization Fund						
			\$	964,200	\$	953,300
Third Frontier Research & Development Fund Group						
7011	195687	Third Frontier Research & Development Projects	\$	55,000,000	\$	55,000,000
7014	195692	Research & Development Taxable Bond Projects	\$	6,000,000	\$	6,000,000
TOTAL 011 Third Frontier Research & Development Fund Group						
			\$	61,000,000	\$	61,000,000
Job Ready Site Development Fund Group						
7012	195688	Job Ready Site Operating	\$	1,000,000	\$	1,000,000
TOTAL 012 Job Ready Site Development Fund Group						
			\$	1,000,000	\$	1,000,000
Tobacco Master Settlement Agreement Fund Group						
M087	195435	Biomedical Research and Technology Transfer	\$	1,257,363	\$	1,259,563
TOTAL TSF Tobacco Master Settlement Agreement Fund Group						
			\$	1,257,363	\$	1,259,563
TOTAL ALL BUDGET FUND GROUPS						
			\$	970,835,294	\$	930,429,094

SECTION 259.10.10. THOMAS EDISON PROGRAM

The foregoing appropriation item 195401, Thomas Edison Program, shall be used for the purposes of sections 122.28 to 122.38 of the Revised Code. Of the foregoing appropriation item 195401, Thomas Edison Program, not more than ten per cent in each fiscal year shall be used for operating expenditures in administering the programs of the Technology and Innovation Division.

SECTION 259.10.20. SMALL BUSINESS DEVELOPMENT

The foregoing appropriation item 195404, Small Business Development, shall be used as matching funds for grants from the United States Small Business Administration and other federal agencies, pursuant to Pub. L. No. 96-302 (1980) as amended by Pub. L. No. 98-395 (1984), and regulations and policy guidelines for the programs pursuant thereto. This appropriation item also may be used to provide grants to local organizations to support the operation of small business development centers and other local economic development activities that promote small business

development and entrepreneurship.

SECTION 259.10.30. RAPID OUTREACH GRANTS

Of the foregoing appropriation item 195412, Rapid Outreach Grants, \$5,000,000 in each fiscal year shall be used as an incentive for attracting, expanding, and retaining business opportunities for the state in accordance with Chapter 166. of the Revised Code. Of that amount, no more than five per cent in each fiscal year shall be used for administrative costs of Rapid Outreach Program.

The department shall award funds directly to business entities considering Ohio for their expansion or new site location opportunities. Rapid Outreach grants shall be used by recipients to purchase equipment, make infrastructure improvements, make real property improvements, or fund other fixed assets. To meet the particular needs of economic development in a region, the department may elect to award funds directly to a political subdivision to assist with making on- or off-site infrastructure improvements to water and sewage treatment facilities, electric or gas service connections, fiber optic access, rail facilities, site preparation, and parking facilities. The Director of Development may recommend that the funds be used for alternative purposes when considered appropriate to satisfy an economic development opportunity or need deemed extraordinary in nature by the Director including, but not limited to, construction, rehabilitation, and acquisition projects for rail freight assistance as requested by the Department of Transportation. The Director of Transportation shall submit the proposed projects to the Director of Development for an evaluation of potential economic benefit.

Moneys awarded directly to business entities from the foregoing appropriation item 195412, Rapid Outreach Grants, may be expended only after the submission of a request to the Controlling Board by the Department of Development outlining the planned use of the funds, and the subsequent approval of the request by the Controlling Board.

SECTION 259.10.40. STRATEGIC BUSINESS INVESTMENT DIVISION AND REGIONAL OFFICES

The foregoing appropriation item 195415, Strategic Business Investment Division and Regional Offices, shall be used for the operating expenses of the Strategic Business Investment Division and the regional economic development offices and for grants for cooperative economic development ventures.

SECTION 259.10.50. GOVERNOR'S OFFICE OF APPALACHIA

The foregoing appropriation item 195416, Governor's Office of Appalachia, may be used for the administrative costs of planning and liaison activities for the Governor's Office of Appalachia, to provide financial assistance to projects in Ohio's Appalachian counties, and to match federal funds from the Appalachian Regional Commission.

SECTION 259.10.60. TECHNOLOGY ACTION

The foregoing appropriation item 195422, Technology Action, shall be used for operating expenses the Department of Development incurs for administering sections 184.10 to 184.20 of the Revised Code. If the appropriation is insufficient to cover the operating expenses, the Department may request Controlling Board approval to appropriate the additional amount needed in appropriation item 195686, Third Frontier Operating. The Department shall not request an amount in excess of the amount needed.

SECTION 259.10.70. CLEAN OHIO IMPLEMENTATION

The foregoing appropriation item 195426, Clean Ohio Implementation, shall be used to fund the costs of administering the Clean Ohio Revitalization program and other urban revitalization programs that may be implemented by the Department of Development.

SECTION 259.10.80. GLOBAL MARKETS

The foregoing appropriation item 195432, Global Markets, shall be used to administer Ohio's foreign trade and investment programs, including operation and maintenance of Ohio's out-of-state trade and investment offices. This appropriation item also shall be used to fund the Global Markets Division and to assist Ohio manufacturers, agricultural producers, and service providers in exporting to foreign countries and to assist in the attraction of foreign direct investment.

SECTION 259.10.90. OHIO WORKFORCE GUARANTEE PROGRAM

The foregoing appropriation item 195434, Industrial Training Grants, may be used for the Ohio Workforce Guarantee Program to promote training through grants to businesses and, in the case of a business consortium, training and education providers for the reimbursement of eligible training

expenses.

SECTION 259.20.10. OHIO FILM OFFICE

The Ohio Film Office shall promote media productions in the state and help the industry optimize its production experience in the state by enhancing local economies through increased employment and tax revenues and ensuring an accurate portrayal of Ohio. The Office shall serve as an informational clearinghouse and provide technical assistance to the media production industry and business entities engaged in media production in the state. The Office shall promote Ohio as the ideal site for media production and help those in the industry benefit from their experience in the state.

The primary objective of the Office shall be to encourage development of a strong capital base for electronic media production in order to achieve an independent, self-supporting industry in Ohio. Other objectives shall include:

(A) Attracting private investment for the electronic media production industry;

(B) Developing a tax infrastructure that encourages private investment; and

(C) Encouraging increased employment opportunities within this sector and increased competition with other states.

SECTION 259.20.30. THIRD FRONTIER RESEARCH & DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 195905, Third Frontier Research & Development General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period from July 1, 2009, to June 30, 2011, on obligations issued for research and development purposes under sections 151.01 and 151.10 of the Revised Code.

JOB READY SITE DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 195912, Job Ready Site Development General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period from July 1, 2009, to June 30, 2011, on obligations issued for job ready site development purposes under sections 151.01 and 151.11 of the Revised Code.

SECTION 259.20.40. SUPPORTIVE SERVICES

The Director of Development may assess divisions of the department for the cost of central service operations. An assessment shall contain the characteristics of administrative ease and uniform application. A division's payments shall be credited to the Supportive Services Fund (Fund 1350) using an intrastate transfer voucher.

ECONOMIC DEVELOPMENT CONTINGENCY

The foregoing appropriation item 195677, Economic Development Contingency, may be used to award funds directly to either (1) business entities considering Ohio for expansion or new site location opportunities or (2) political subdivisions to assist with necessary costs involved in attracting a business entity. In addition, the Director of Development may award funds for alternative purposes when appropriate to satisfy an economic development opportunity or need deemed extraordinary in nature by the Director.

DIRECT COST RECOVERY EXPENDITURES

The foregoing appropriation item 195636, Direct Cost Recovery Expenditures, shall be used for reimbursable costs. Revenues to the General Reimbursement Fund (Fund 6850) shall consist of moneys charged for administrative costs that are not central service costs.

SECTION 259.20.50. HEAP WEATHERIZATION

Up to fifteen per cent of the federal funds deposited to the credit of the Home Energy Assistance Block Grant Fund (Fund 3K90) may be expended from appropriation item 195614, HEAP Weatherization, to provide home weatherization services in the state as determined by the Director of Development. Any transfers or increases in appropriation for the foregoing appropriation items 195614, HEAP Weatherization, or 195611, Home Energy Assistance Block Grant, shall be subject to approval by the Controlling Board.

STATE SPECIAL PROJECTS

The State Special Projects Fund (Fund 4F20), may be used for the deposit of private-sector funds from utility companies and for the deposit of other miscellaneous state funds. State moneys so deposited shall be used to match federal housing grants for the homeless and to market economic development opportunities in the state. Private-sector moneys shall be deposited for use in appropriation item 195699, Utility Provided Funds, and shall be used to (1) pay the expenses of verifying the income-eligibility of HEAP applicants, (2) leverage additional federal funds, (3) fund special projects to assist homeless individuals, (4) fund special projects to assist with the energy efficiency of households eligible to participate in the

Percentage of Income Payment Plan, and (5) assist with training programs for agencies that administer low-income customer assistance programs.

SECTION 259.20.60. TAX INCENTIVE PROGRAMS OPERATING

The foregoing appropriation item 195630, Tax Incentive Programs, shall be used for the operating costs of the Office of Grants and Tax Incentives.

SECTION 259.20.70. MINORITY BUSINESS ENTERPRISE LOAN

All repayments from the Minority Development Financing Advisory Board Loan Program and the Ohio Mini-Loan Guarantee Program shall be deposited in the State Treasury to the credit of the Minority Business Enterprise Loan Fund (Fund 4W10). All operating costs of administering the Minority Business Enterprise Loan Fund shall be paid from the Minority Business Enterprise Loan Fund (Fund 4W10).

MINORITY BUSINESS BONDING FUND

Notwithstanding Chapters 122., 169., and 175. of the Revised Code, the Director of Development may, upon the recommendation of the Minority Development Financing Advisory Board, pledge up to \$10,000,000 in the fiscal year 2010-fiscal year 2011 biennium of unclaimed funds administered by the Director of Commerce and allocated to the Minority Business Bonding Program under section 169.05 of the Revised Code. The transfer of any cash by the Director of Budget and Management from the Department of Commerce's Unclaimed Funds Fund (Fund 5430) to the Department of Development's Minority Business Bonding Fund (Fund 4490) shall occur, if requested by the Director of Development, only if such funds are needed for payment of losses arising from the Minority Business Bonding Program, and only after proceeds of the initial transfer of \$2,700,000 by the Controlling Board to the Minority Business Bonding Program has been used for that purpose. Moneys transferred by the Director of Budget and Management from the Department of Commerce for this purpose may be moneys in custodial funds held by the Treasurer of State. If expenditures are required for payment of losses arising from the Minority Business Bonding Program, such expenditures shall be made from appropriation item 195623, Minority Business Bonding Contingency in the Minority Business Bonding Fund, and such amounts are hereby appropriated.

SECTION 259.20.80. ALTERNATIVE FUEL TRANSPORTATION

Of the foregoing appropriation item 195679, Alternative Fuel Transportation, not more than ten per cent shall be used by the Director of Development for administrative costs associated with the program under section 122.075 of the Revised Code.

ADVANCED ENERGY FUND

The foregoing appropriation item 195660, Advanced Energy Programs, shall be used to provide financial assistance to customers for eligible advanced energy projects for residential, commercial, and industrial business, local government, educational institution, nonprofit, and agriculture customers, and to pay for the program's administrative costs as provided in sections 4928.61 to 4928.63 of the Revised Code and rules adopted by the Director of Development.

GLOBAL ANALYST SETTLEMENT AGREEMENTS PAYMENTS

All payments received by the state pursuant to a series of settlements with ten brokerage firms reached with the United States Securities and Exchange Commission, the National Association of Securities Dealers, the New York Stock Exchange, the New York Attorney General, and other state regulators (henceforth referred to as the "Global Analysts Settlement Agreements"), shall be deposited into the state treasury to the credit of the Economic Development Contingency Fund (Fund 5Y60). The fund shall be used by the Director of Development to support economic development projects. Moneys shall be awarded to either (1) business entities considering Ohio for expansion or new site location opportunities or (2) political subdivisions to assist with necessary costs involved in attracting a business entity. In addition, the Director of Development may award funds for alternative purposes when appropriate to satisfy an economic development opportunity or need deemed extraordinary by the Director. Grant funds may be expended only after the submission of a request to the Controlling Board by the Department outlining the planned use of the funds and the subsequent approval of the Controlling Board.

VOLUME CAP ADMINISTRATION

The foregoing appropriation item 195654, Volume Cap Administration, shall be used for expenses related to the administration of the Volume Cap Program. Revenues received by the Volume Cap Administration Fund (Fund 6170) shall consist of application fees, forfeited deposits, and interest earned from the custodial account held by the Treasurer of State.

INNOVATION OHIO LOAN FUND

The foregoing appropriation item 195664, Innovation Ohio, shall be used to provide for innovation Ohio purposes, including loan guarantees and loans under Chapter 166. and particularly sections 166.12 to 166.16 of the

Revised Code.

RESEARCH AND DEVELOPMENT

The foregoing appropriation item 195665, Research and Development, shall be used to provide for research and development purposes, including loans, under Chapter 166. and particularly sections 166.17 to 166.21 of the Revised Code.

SECTION 259.20.90. LOGISTICS AND DISTRIBUTION INFRASTRUCTURE

The foregoing appropriation item 195698, Logistics and Distribution Infrastructure, shall be used for eligible logistics and distribution infrastructure projects as defined in section 166.01 of the Revised Code. Any unexpended and unencumbered portion of the appropriation item at the end of fiscal year 2009 is hereby reappropriated for the same purpose in fiscal year 2010, and any unexpended and unencumbered portion of the appropriation item at the end of fiscal year 2010 is hereby reappropriated for the same purpose in fiscal year 2011.

Any unexpended and unencumbered portion of appropriation item 195649, Logistics and Distribution Infrastructure Taxable Bonds, in fiscal year 2010 is hereby reappropriated to the Department of Development for the same purpose in fiscal year 2011.

The Director of Budget and Management may approve written requests from the Director of Development for the transfer of appropriations between appropriation items 195698, Logistics and Distribution Infrastructure, and 195649, Logistics and Distribution Infrastructure Taxable Bonds, based upon awards recommended by the Director of Development. Such transfers shall be subject to approval by the Controlling Board.

FACILITIES ESTABLISHMENT FUND

The foregoing appropriation item 195615, Facilities Establishment (Fund 7037), shall be used for the purposes of the Facilities Establishment Fund under Chapter 166. of the Revised Code.

Notwithstanding Chapter 166. of the Revised Code, an amount not to exceed \$2,000,000 in cash each fiscal year may be transferred from the Facilities Establishment Fund (Fund 7037) to the Economic Development Financing Operating Fund (Fund 4510). The transfer is subject to Controlling Board approval under division (B) of section 166.03 of the Revised Code.

Notwithstanding Chapter 166. of the Revised Code, an amount not to exceed \$5,000,000 in cash each fiscal year may be transferred during the biennium from the Facilities Establishment Fund (Fund 7037) to the Urban

Redevelopment Loans Fund (Fund 5D20) for the purpose of removing barriers to urban core redevelopment. The Director of Development shall develop program guidelines for the transfer and release of funds, including, but not limited to, the completion of all appropriate environmental assessments before state assistance is committed to a project. The transfers shall be subject to approval by the Controlling Board upon the submission of a request by the Department of Development.

Notwithstanding Chapter 166. of the Revised Code, an amount not to exceed \$3,000,000 in cash each fiscal year may be transferred from the Facilities Establishment Fund (Fund 7037) to the Rural Industrial Park Loan Fund (Fund 4Z60). The transfer is subject to Controlling Board approval under section 166.03 of the Revised Code.

Notwithstanding Chapter 166. of the Revised Code, on the first day of July of each year of the biennium, or as soon as possible thereafter, the Director of Budget and Management, at the request of the Director of Development, may transfer \$6,102,500 in cash from the Facilities Establishment Fund (Fund 7037) to the General Revenue Fund. The amount transferred is hereby appropriated for each fiscal year in appropriation item 195412, Rapid Outreach Grants.

Notwithstanding Chapter 166. of the Revised Code, on the first day of July of each year of the biennium, or as soon as possible thereafter, the Director of Budget and Management, at the request of the Director of Development, shall transfer \$4,275,000 cash from the Facilities Establishment Fund (Fund 7037) to the Job Development Initiatives Fund (Fund 5AD0). The amount transferred is hereby appropriated in each fiscal year in appropriation item 195677, Economic Development Contingency.

ALTERNATIVE FUEL TRANSPORTATION GRANT FUND

Notwithstanding Chapter 166. of the Revised Code, an amount not to exceed \$1,000,000 in cash in fiscal year 2010 and \$500,000 in cash in fiscal year 2011 shall be transferred from moneys in the Facilities Establishment Fund (Fund 7037) to the Alternative Fuel Transportation Grant Fund (Fund 5CG0) in the Department of Development.

RURAL DEVELOPMENT INITIATIVE FUND

(A)(1) The Rural Development Initiative Fund (Fund 5S80) is entitled to receive moneys from the Facilities Establishment Fund (Fund 7037). The Director of Development may make grants from the Rural Development Initiative Fund as specified in division (A)(2) of this section to eligible applicants in Appalachian counties and in rural counties in the state that are designated as distressed under section 122.25 of the Revised Code. Preference shall be given to eligible applicants located in Appalachian

counties designated as distressed by the federal Appalachian Regional Commission.

(2) The Director of Development shall make grants from the Rural Development Initiative Fund (Fund 5S80) only to eligible applicants who also qualify for and receive funding under the Rural Industrial Park Loan Program as specified in sections 122.23 to 122.27 of the Revised Code. Eligible applicants shall use the grants for the purposes specified in section 122.24 of the Revised Code. All projects supported by grants from the fund are subject to Chapter 4115. of the Revised Code as specified in division (E) of section 166.02 of the Revised Code. The Director shall develop program guidelines for the transfer and release of funds. The release of grant moneys to an eligible applicant is subject to Controlling Board approval.

(B) Notwithstanding Chapter 166. of the Revised Code, the Director of Budget and Management may transfer an amount not to exceed \$3,000,000 in cash each fiscal year on an as-needed basis at the request of the Director of Development from the Facilities Establishment Fund (Fund 7037) to the Rural Development Initiative Fund (Fund 5S80). The transfer is subject to Controlling Board approval under section 166.03 of the Revised Code.

CAPITAL ACCESS LOAN PROGRAM

The foregoing appropriation item 195628, Capital Access Loan Program, shall be used for operating, program, and administrative expenses of the program. Funds of the Capital Access Loan Program shall be used to assist participating financial institutions in making program loans to eligible businesses that face barriers in accessing working capital and obtaining fixed-asset financing.

Notwithstanding Chapter 166. of the Revised Code, the Director of Budget and Management may transfer an amount not to exceed \$3,000,000 in cash each fiscal year on an as-needed basis at the request of the Director of Development from the Facilities Establishment Fund (Fund 7037) to the Capital Access Loan Program Fund (Fund 5S90). The transfer is subject to Controlling Board approval under section 166.03 of the Revised Code.

SECTION 259.30.05. RAPID OUTREACH LOANS

Of the foregoing appropriation item 195606, Rapid Outreach Loans, \$15,000,000 in each fiscal year shall be used to provide financial assistance in the form of forgivable loans or grants for eligible projects in accordance with Chapter 166. of the Revised Code. Such loans or grants shall be awarded on the same basis as awards from appropriation item 195412, Rapid Outreach Grants, and shall be repaid in such a manner as determined by the Director of Development in accordance with section 166.22 of the

Revised Code.

When necessary, the Director of Budget and Management may transfer the cash arising from the issuance of obligations under section 166.08 of the Revised Code or from the funds mentioned in sections 166.20, 166.21, 166.25, and 166.26 of the Revised Code, into the Rapid Outreach Loan Fund (Fund 7022). The Director may make additional transfers on later dates as determined by the Director, in consultation with the Director of Development, provided the total amount of transfers does not exceed \$30,000,000 for fiscal years 2010 and 2011.

The foregoing appropriation item 195606, Rapid Outreach Loans, may be expended only after the submission of a request to the Controlling Board by the Department of Development outlining the planned use of the funds, and the subsequent approval of the request by the Controlling Board.

SECTION 259.30.10. CLEAN OHIO OPERATING EXPENSES

The foregoing appropriation item 195663, Clean Ohio Operating, shall be used by the Department of Development in administering sections 122.65 to 122.658 of the Revised Code.

SECTION 259.30.20. THIRD FRONTIER RESEARCH AND DEVELOPMENT PROJECTS AND RESEARCH AND DEVELOPMENT TAXABLE BOND PROJECTS

The foregoing appropriation items 195687, Third Frontier Research and Development Projects, and 195692, Research and Development Taxable Bond Projects, shall be used by the Department of Development to fund selected projects. Eligible costs are those costs of research and development projects to which the proceeds of the Third Frontier Research and Development Fund (Fund 7011) and the Research & Development Taxable Bond Project Fund (Fund 7014) are to be applied.

TRANSFERS OF THIRD FRONTIER APPROPRIATIONS

The Director of Budget and Management may approve written requests from the Director of Development for the transfer of appropriations between appropriation items 195687, Third Frontier Research and Development Projects, and 195692, Research and Development Taxable Bond Projects, based upon awards recommended by the Third Frontier Commission. The transfers are subject to approval by the Controlling Board.

On or before June 30, 2010, any unexpended and unencumbered portions of the foregoing appropriation items 195687, Third Frontier Research & Development Projects, and 195692, Research & Development

Taxable Bond Projects, for fiscal year 2010 are hereby reappropriated to the Department of Development for the same purposes for fiscal year 2011.

AUTHORITY TO ISSUE AND SELL ORIGINAL OBLIGATIONS

The Ohio Public Facilities Commission, upon request of the Department of Development, is hereby authorized to issue and sell, in accordance with Section 2p of Article VIII, Ohio Constitution, and particularly sections 151.01 and 151.10 of the Revised Code, original obligations of the State of Ohio in an aggregate amount not to exceed \$100,000,000 in addition to the original issuance of obligations authorized by prior acts of the General Assembly. The authorized obligations shall be issued and sold from time to time and in amounts necessary to ensure sufficient moneys to the credit of the Third Frontier Research and Development Fund (Fund 7011) to pay costs of research and development projects.

SECTION 259.30.30. JOB READY SITE OPERATING

The foregoing appropriation item 195688, Job Ready Site Operating, shall be used for operating expenses incurred by the Department of Development in administering the Job Ready Sites Program authorized under sections 122.085 to 122.0820 of the Revised Code. Operating expenses include, but are not limited to, certain expenses of the District Public Works Integrating Committees, as applicable, engineering review of submitted applications by the State Architect or a third party engineering firm, audit and accountability activities, and costs associated with formal certifications verifying that site infrastructure is in place and is functional.

SECTION 259.30.40. THIRD FRONTIER BIOMEDICAL RESEARCH AND COMMERCIALIZATION PROGRAM

The General Assembly and the Governor recognize the role that the biomedical industry has in job creation, innovation, and economic development throughout Ohio. It is the intent of the General Assembly, the Governor, the Director of Development, and the Director of Budget and Management to work together in continuing to provide comprehensive state support for the biomedical industry as a whole through the Third Frontier Biomedical Research and Commercialization Program.

SECTION 259.30.60. JOBS FUND CASH TRANSFER

On June 30, 2011, or as soon as possible thereafter, the Director of Budget and Management shall transfer the unexpended and unencumbered

cash balance in the Jobs Fund (Fund 5Z30) to the General Revenue Fund. Upon completion of the transfer, the Jobs Fund is abolished.

SECTION 259.30.70. UNCLAIMED FUNDS TRANSFER

(A) Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, before June 30, 2010, shall transfer to the Job Development Initiatives Fund (Fund 5AD0) an amount not to exceed \$4,000,000 in cash of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described under that section.

Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, before June 30, 2011, shall transfer to the Job Development Initiatives Fund (Fund 5AD0) an amount not to exceed \$4,000,000 in cash of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described under that section.

(B) Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, before June 30, 2010, shall transfer to the State Special Projects Fund (Fund 4F20) an amount not to exceed \$8,400,000 of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described under that section.

Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, prior to June 30, 2011, shall transfer to the State Special Projects Fund (Fund 4F20) an amount not to exceed \$3,800,000 in cash of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described under that section.

SECTION 259.30.90. WORKFORCE DEVELOPMENT

The Director of Development and the Director of Job and Family Services may enter into one or more interagency agreements between the two departments and take other actions the directors consider appropriate to further integrate workforce development into a larger economic

development strategy, to implement the recommendations of the Workforce Policy Board, and to complete activities related to the transition of the administration of employment programs identified by the board. Subject to the approval of the Director of Budget and Management, the Department of Development and the Department of Job and Family Services may expend moneys to support the recommendations of the Workforce Policy Board in the area of integration of employment functions as described in this paragraph and to complete implementation and transition activities from the appropriations to those departments.

SECTION 259.40.10. CORRECTIVE CASH TRANSFERS

On July 1, 2009, or as soon as possible thereafter, the Director of Budget and Management, upon request from the Director of Development, shall transfer up to \$130,000 in cash from the Low- and Moderate-Income Housing Trust Fund (Fund 6460) to the HOME Program Fund (Fund 3V10) to correct deposits that were mistakenly deposited in Fund 6460.

On July 1, 2009, or as soon as possible thereafter, the Director of Budget and Management, upon request from the Director of Development, shall transfer up to \$6,660 in cash from the Low- and Moderate-Income Housing Trust Fund (Fund 6460) to the Community Development Block Grant Fund (Fund 3K80) to correct deposits that were mistakenly deposited in Fund 6460.

SECTION 259.40.20. DIESEL EMISSIONS REDUCTION GRANT PROGRAM

Any unexpended and unencumbered balance of appropriation item 195697, Diesel Emissions Reduction Grants, remaining at the end of fiscal year 2009, less amounts encumbered by the Department of Transportation for reimbursement of public entities for fiscal year 2009, is hereby reappropriated to the Department of Development for the same purpose in fiscal year 2010. Total expenditures of both the Department of Development and the Department of Transportation for the Diesel Emissions Reduction Grant Program in fiscal year 2010 shall not exceed the reappropriated amount.

SECTION 261.10. OBD OHIO BOARD OF DIETETICS

General Services Fund Group			
4K90 860609	Operating Expenses	\$	311,067 \$
TOTAL GSF General Services Fund			311,067

2795

Group	\$	311,067	\$	311,067
TOTAL ALL BUDGET FUND GROUPS	\$	311,067	\$	311,067

SECTION 263.10. CDR COMMISSION ON DISPUTE RESOLUTION
AND CONFLICT MANAGEMENT

General Revenue Fund

GRF 145401	Commission Operations	\$	250,000	\$	0
TOTAL GRF General Revenue Fund		\$	250,000	\$	0
TOTAL ALL BUDGET FUND GROUPS		\$	250,000	\$	0

SECTION 265.10. EDU DEPARTMENT OF EDUCATION

General Revenue Fund

GRF 200100	Personal Services	\$	10,490,789	\$	10,723,972
GRF 200320	Maintenance and Equipment	\$	3,110,071	\$	3,144,897
GRF 200408	Early Childhood Education	\$	23,268,341	\$	23,268,341
GRF 200416	Career-Technical Education	\$	2,233,195	\$	2,233,195
	Match				
GRF 200420	Computer/Application/ Network Development	\$	4,880,871	\$	4,880,871
GRF 200421	Alternative Education Programs	\$	7,814,479	\$	7,918,749
GRF 200422	School Management Assistance	\$	1,950,521	\$	3,230,469
GRF 200424	Policy Analysis	\$	356,311	\$	361,065
GRF 200425	Tech Prep Consortia Support	\$	1,243,943	\$	1,260,542
GRF 200426	Ohio Educational Computer Network	\$	20,156,602	\$	20,425,556
GRF 200427	Academic Standards	\$	5,300,074	\$	5,300,074
GRF 200431	School Improvement Initiatives	\$	7,294,175	\$	7,391,503
GRF 200437	Student Assessment	\$	55,954,648	\$	56,703,265
GRF 200439	Accountability/Report Cards	\$	3,804,673	\$	3,804,673
GRF 200442	Child Care Licensing	\$	865,590	\$	877,140
GRF 200446	Education Management Information System	\$	13,199,152	\$	11,934,284
GRF 200447	GED Testing	\$	975,536	\$	988,553
GRF 200448	Educator Preparation	\$	1,310,750	\$	1,328,240
GRF 200455	Community Schools	\$	1,000,000	\$	1,000,000
GRF 200457	STEM Initiatives	\$	5,000,000	\$	5,000,000
GRF 200458	School Employees Health Care Board	\$	800,000	\$	800,000
GRF 200502	Pupil Transportation	\$	448,022,619	\$	462,822,619
GRF 200505	School Lunch Match	\$	9,100,000	\$	9,100,000
GRF 200511	Auxiliary Services	\$	111,979,388	\$	111,979,388
GRF 200532	Nonpublic Administrative Cost Reimbursement	\$	50,838,939	\$	50,838,939
GRF 200540	Special Education Enhancements	\$	134,150,233	\$	135,820,668
GRF 200545	Career-Technical Education Enhancements	\$	7,752,662	\$	7,802,699

2796

GRF 200550	Foundation Funding	\$	5,130,669,418	\$	4,746,289,372
GRF 200551	Foundation Funding – Federal Stimulus	\$	387,583,913	\$	457,449,362
GRF 200578	Violence Prevention and School Safety	\$	200,000	\$	200,000
GRF 200901	Property Tax Allocation - Education	\$	1,053,262,363	\$	1,020,655,157
TOTAL GRF General Revenue Fund		\$	7,504,569,256	\$	7,175,533,593
General Services Fund Group					
1380 200606	Computer Services-Operational Support	\$	7,600,091	\$	7,600,091
4520 200638	Miscellaneous Educational Services	\$	275,000	\$	275,000
4L20 200681	Teacher Certification and Licensure	\$	8,013,206	\$	8,147,756
5960 200656	Ohio Career Information System	\$	529,761	\$	529,761
5H30 200687	School District Solvency Assistance	\$	18,000,000	\$	18,000,000
TOTAL GSF General Services Fund Group		\$	34,418,058	\$	34,552,608
Federal Special Revenue Fund Group					
3090 200601	Educationally Disadvantaged Programs	\$	8,405,512	\$	8,405,512
3670 200607	School Food Services	\$	6,324,707	\$	6,577,695
3680 200614	Veterans' Training	\$	778,349	\$	793,846
3690 200616	Career-Technical Education Federal Enhancement	\$	5,000,000	\$	5,000,000
3700 200624	Education of Exceptional Children	\$	2,664,000	\$	2,755,000
3740 200647	Troops to Teachers	\$	100,000	\$	100,000
3780 200660	Learn and Serve	\$	619,211	\$	619,211
3AF0 200603	Schools Medicaid Administrative Claims	\$	639,000	\$	639,000
3AN0 200671	School Improvement Grants	\$	17,909,676	\$	17,936,675
3AX0 200698	Improving Health and Educational Outcomes of Young People	\$	630,954	\$	630,954
3BK0 200628	Longitudinal Data Systems	\$	100,000	\$	0
3BV0 200636	Character Education	\$	700,000	\$	0
3C50 200661	Early Childhood Education	\$	14,189,711	\$	14,554,749
3CF0 200644	Foreign Language Assistance	\$	25,000	\$	0
3CG0 200646	Teacher Incentive Fund	\$	3,007,975	\$	1,157,834
3D10 200664	Drug Free Schools	\$	13,347,966	\$	13,347,966
3D20 200667	Honors Scholarship Program	\$	6,990,000	\$	6,985,000
3DJ0 200699	IDEA Part B - Federal Stimulus	\$	218,868,026	\$	218,868,026
3DK0 200642	Title IA - Federal Stimulus	\$	186,336,737	\$	186,336,737
3DL0 200650	IDEA Preschool - Federal Stimulus	\$	6,679,679	\$	6,679,679
3DM0 200651	Title IID Technology - Federal Stimulus	\$	11,951,000	\$	11,951,000
3DP0 200652	Title I School Improvement -	\$	54,221,000	\$	54,221,000

3H90	200605	Federal Stimulus Head Start Collaboration Project	\$	225,000	\$	225,000
3L60	200617	Federal School Lunch	\$	295,421,000	\$	310,150,675
3L70	200618	Federal School Breakfast	\$	80,850,000	\$	84,892,500
3L80	200619	Child/Adult Food Programs	\$	89,250,000	\$	93,712,500
3L90	200621	Career-Technical Education Basic Grant	\$	48,029,701	\$	48,029,701
3M00	200623	ESEA Title 1A	\$	530,000,000	\$	530,010,000
3M10	200678	Innovative Education	\$	1,000,000	\$	0
3M20	200680	Individuals with Disabilities Education Act	\$	413,391,594	\$	421,241,163
3S20	200641	Education Technology	\$	9,487,397	\$	9,487,397
3T40	200613	Public Charter Schools	\$	14,275,618	\$	14,291,353
3Y20	200688	21st Century Community Learning Centers	\$	36,000,000	\$	36,000,000
3Y40	200632	Reading First	\$	27,366,373	\$	24,455,172
3Y60	200635	Improving Teacher Quality	\$	101,778,397	\$	101,778,400
3Y70	200689	English Language Acquisition	\$	8,142,299	\$	8,142,299
3Y80	200639	Rural and Low Income Technical Assistance	\$	1,500,000	\$	1,500,000
3Z20	200690	State Assessments	\$	12,923,799	\$	12,923,799
3Z30	200645	Consolidated Federal Grant Administration	\$	8,499,279	\$	8,499,280
3Z70	200697	General Supervisory Enhancement Grant	\$	887,319	\$	0
TOTAL FED Federal Special Revenue Fund Group			\$	2,238,516,279	\$	2,262,899,123
State Special Revenue Fund Group						
4540	200610	Guidance and Testing	\$	450,000	\$	450,000
4550	200608	Commodity Foods	\$	24,000,000	\$	24,000,000
4R70	200695	Indirect Operational Support	\$	6,050,000	\$	6,250,000
4V70	200633	Interagency Operational Support	\$	1,111,838	\$	1,117,725
5980	200659	Auxiliary Services Reimbursement	\$	1,328,910	\$	1,328,910
5BB0	200696	State Action for Education Leadership	\$	1,250,000	\$	600,000
5BJ0	200626	Half-Mill Maintenance Equalization	\$	16,100,000	\$	16,600,000
5U20	200685	National Education Statistics	\$	300,000	\$	300,000
5W20	200663	Early Learning Initiative	\$	2,200,000	\$	2,200,000
5X90	200911	NGA STEM	\$	100,000	\$	0
6200	200615	Educational Improvement Grants	\$	3,000,000	\$	3,000,000
TOTAL SSR State Special Revenue Fund Group			\$	55,890,748	\$	55,846,635
Lottery Profits Education Fund Group						
7017	200612	Foundation Funding	\$	990,236,905	\$	1,277,271,428
TOTAL LPE Lottery Profits Education Fund Group			\$	990,236,905	\$	1,277,271,428
Revenue Distribution Fund Group						

7047	200909	School District Property Tax Replacement-Business	\$	1,150,207,366	\$	1,150,207,366
7053	200900	School District Property Tax Replacement-Utility	\$	91,123,523	\$	91,123,523
TOTAL RDF Revenue Distribution						
Fund Group			\$	1,241,330,889	\$	1,241,330,889
TOTAL ALL BUDGET FUND GROUPS			\$	12,064,962,135	\$	12,047,434,276

SECTION 265.10.10. PERSONAL SERVICES

The foregoing appropriation item 200100, Personal Services, may be used to pay fees for the Department's membership in the Education Commission of the States, an interstate nonprofit, nonpartisan organization that supports states with the development of education policy.

Of the foregoing appropriation item 200100, Personal Services, up to \$500,000 in each fiscal year shall be used to support administration and activities including travel, contract services, and other expenses of the Governor's Closing the Achievement Gap Initiative in the Department.

SECTION 265.10.20. EARLY CHILDHOOD EDUCATION

The Department of Education shall distribute the foregoing appropriation item 200408, Early Childhood Education, to pay the costs of early childhood education programs.

(A) As used in this section:

(1) "Provider" means a city, local, exempted village, or joint vocational school district, or an educational service center.

(2) In the case of a city, local, or exempted village school district, "new eligible provider" means a district that did not receive state funding for Early Childhood Education in the previous fiscal year or demonstrates a need for early childhood programs as defined in division (D) of this section.

(3) "Eligible child" means a child who is at least three years of age as of the district entry date for kindergarten, is not of the age to be eligible for kindergarten, and whose family earns not more than two hundred per cent of the federal poverty guidelines as defined in division (A)(3) of section 5101.46 of the Revised Code. Children with an Individualized Education Program and where the Early Childhood Education program is the least restrictive environment may be enrolled on their third birthday.

(B) In each fiscal year, up to two per cent of the total appropriation may be used by the Department for program support and technical assistance. The Department shall distribute the remainder of the appropriation in each fiscal year to serve eligible children.

(C) The Department shall provide an annual report to the Governor, the

Speaker of the House of Representatives, and the President of the Senate and post the report to the Department's web site, regarding early childhood education programs operated under this section and the early learning program guidelines.

(D) After setting aside the amounts to make payments due from the previous fiscal year, in fiscal year 2010, the Department shall distribute funds first to recipients of funds for early childhood education programs under Section 269.10.20 of Am. Sub. H.B. 119 of the 127th General Assembly in the previous fiscal year and the balance to new eligible providers of early childhood education programs under this section or to existing providers to serve more eligible children or for purposes of program expansion, improvement, or special projects to promote quality and innovation.

After setting aside the amounts to make payments due from the previous fiscal year, in fiscal year 2011, the Department shall distribute funds first to providers of early childhood education programs under this section in the previous fiscal year and the balance to new eligible providers or to existing providers to serve more eligible children or for purposes of program expansion, improvement, or special projects to promote quality and innovation.

Awards under this section shall be distributed on a per-pupil basis, and in accordance with division (H) of this section. The Department may adjust the per-pupil amount so that the per-pupil amount multiplied by the number of eligible children enrolled and receiving services, as defined by the Department, reported on the first day of December or the first business day following that date equals the amount allocated under this section.

(E) Costs for developing and administering an early childhood education program may not exceed fifteen per cent of the total approved costs of the program.

All providers shall maintain such fiscal control and accounting procedures as may be necessary to ensure the disbursement of, and accounting for, these funds. The control of funds provided in this program, and title to property obtained therefrom, shall be under the authority of the approved provider for purposes provided in the program unless, as described in division (J) of this section, the program waives its right for funding or a program's funding is eliminated or reduced due to its inability to meet financial or early learning program guidelines. The approved provider shall administer and use such property and funds for the purposes specified.

(F) The Department may examine a provider's financial and program records. If the financial practices of the program are not in accordance with

standard accounting principles or do not meet financial standards outlined under division (E) of this section, or if the program fails to substantially meet the early learning program guidelines or exhibits below average performance as measured against the guidelines, the early childhood education program shall propose and implement a corrective action plan that has been approved by the Department. The approved corrective action plan shall be signed by the chief executive officer and the executive of the official governing body of the provider. The corrective action plan shall include a schedule for monitoring by the Department. Such monitoring may include monthly reports, inspections, a timeline for correction of deficiencies, and technical assistance to be provided by the Department or obtained by the early childhood education program. The Department may withhold funding pending corrective action. If an early childhood education program fails to satisfactorily complete a corrective action plan, the Department may deny expansion funding to the program or withdraw all or part of the funding to the program and establish a new eligible provider through a selection process established by the Department.

(G) Each early childhood education program shall do all of the following:

(1) Meet teacher qualification requirements prescribed by section 3301.311 of the Revised Code;

(2) Align curriculum to the early learning content standards developed by the Department;

(3) Meet any child or program assessment requirements prescribed by the Department;

(4) Require teachers, except teachers enrolled and working to obtain a degree pursuant to section 3301.311 of the Revised Code, to attend a minimum of twenty hours every two years of professional development as prescribed by the Department;

(5) Document and report child progress as prescribed by the Department;

(6) Meet and report compliance with the early learning program guidelines as prescribed by the Department.

(H) Per-pupil funding for programs subject to this section shall be sufficient to provide eligible children with services for a standard early childhood schedule which shall be defined in this section as one-half of the statewide average length of the school day, as determined by the Department, for the minimum school year as defined in sections 3313.48, 3313.481, and 3313.482 of the Revised Code. Nothing in this section shall be construed to prohibit program providers from utilizing other funds to

serve eligible children in programs that exceed the statewide average length of the school day or that exceed the minimum school year. For any provider for which a standard early childhood education does not meet the local need or creates a hardship, the provider may submit a waiver to the Department requesting an alternate schedule. If the Department approves a waiver for an alternate schedule that provides services for less time than the standard early childhood education schedule, the Department shall reduce the provider's annual allocation proportionately. Under no circumstances shall an annual allocation be increased because of the approval of an alternate schedule.

(I) Each provider shall develop a sliding fee scale based on family incomes and shall charge families who earn more than two hundred per cent of the federal poverty guidelines, as defined in division (A)(3) of section 5101.46 of the Revised Code, for the early childhood education program.

(J) If an early childhood education program voluntarily waives its right for funding, or has its funding eliminated for not meeting financial standards or the early learning program guidelines, the provider shall transfer control of title to property, equipment, and remaining supplies obtained through the program to providers designated by the Department and return any unexpended funds to the Department along with any reports prescribed by the Department. The funding made available from a program that waives its right for funding or has its funding eliminated or reduced may be used by the Department for new grant awards or expansion grants. The Department may award new grants or expansion grants to eligible providers who apply. The eligible providers who apply must do so in accordance with the selection process established by the Department.

(K) As used in this section, "early learning program guidelines" means the guidelines established by the Department pursuant to division (C)(3) of Section 206.09.54 of Am. Sub. H.B. 66 of the 126th General Assembly.

(L) Eligible expenditures for the Early Childhood Education program shall be claimed each fiscal year to help meet the state's TANF maintenance of effort requirement. The Superintendent of Public Instruction and the Director of Job and Family Services shall enter into an interagency agreement to carry out the requirements under this division, which shall include developing reporting guidelines for these expenditures.

SECTION 265.10.23. EARLY CHILDHOOD CABINET

The Governor shall appoint to the entity in the Office of the Governor known as the Early Childhood Cabinet a representative of a board of health of a city or general health district or an authority having the duties of a board of health under section 3709.05 of the Revised Code. The Governor

shall make the appointment not later than six months after the effective date of this section.

SECTION 265.10.30. CAREER-TECHNICAL EDUCATION MATCH

The foregoing appropriation item 200416, Career-Technical Education Match, shall be used by the Department of Education to provide vocational administration matching funds under 20 U.S.C. 2311.

COMPUTER/APPLICATION/NETWORK DEVELOPMENT

The foregoing appropriation item 200420, Computer/Application/Network Development, shall be used to support the development and implementation of information technology solutions designed to improve the performance and services of the Department of Education. Funds may be used for personnel, maintenance, and equipment costs related to the development and implementation of these technical system projects. Implementation of these systems shall allow the Department to provide greater levels of assistance to school districts and to provide more timely information to the public, including school districts, administrators, and legislators. Funds may also be used to support data-driven decision-making and differentiated instruction, as well as to communicate academic content standards and curriculum models to schools through web-based applications.

SECTION 265.10.40. ALTERNATIVE EDUCATION PROGRAMS

The foregoing appropriation item 200421, Alternative Education Programs, shall be used for the renewal of successful implementation grants and for competitive matching grants to the 21 urban school districts as defined in division (O) of section 3317.02 of the Revised Code as it existed prior to July 1, 1998, and for the renewal of successful implementation grants and for competitive matching grants to rural and suburban school districts for alternative educational programs for existing and new at-risk and delinquent youth. Programs shall be focused on youth in one or more of the following categories: those who have been expelled or suspended, those who have dropped out of school or who are at risk of dropping out of school, those who are habitually truant or disruptive, or those on probation or on parole from a Department of Youth Services facility. Grants shall be awarded according to the criteria established by the Alternative Education Advisory Council in 1999. Grants shall be awarded only to programs in which the grant will not serve as the program's primary source of funding. These grants shall be administered by the Department of Education.

The Department of Education may waive compliance with any minimum education standard established under section 3301.07 of the Revised Code for any alternative school that receives a grant under this section on the grounds that the waiver will enable the program to more effectively educate students enrolled in the alternative school.

Of the foregoing appropriation item 200421, Alternative Education Programs, a portion may be used for program administration, monitoring, technical assistance, support, research, and evaluation.

SECTION 265.10.50. SCHOOL MANAGEMENT ASSISTANCE

Of the foregoing appropriation item 200422, School Management Assistance, \$1,279,948 in fiscal year 2010 and \$1,500,000 in fiscal year 2011 shall be used by the Auditor of State in consultation with the Department of Education for expenses incurred in the Auditor of State's role relating to fiscal caution, fiscal watch, and fiscal emergency activities as defined in Chapter 3316. of the Revised Code and may also be used by the Auditor of State to conduct performance audits of other school districts with priority given to districts in fiscal distress. Districts in fiscal distress shall be determined by the Auditor of State and shall include districts that the Auditor of State, in consultation with the Department of Education determines are employing fiscal practices or experiencing budgetary conditions that could produce a state of fiscal watch or fiscal emergency.

The remainder of foregoing appropriation item 200422, School Management Assistance, shall be used by the Department of Education to provide fiscal technical assistance and inservice education for school district management personnel and to administer, monitor, and implement the fiscal caution, fiscal watch, and fiscal emergency provisions under Chapter 3316. of the Revised Code.

SECTION 265.10.60. POLICY ANALYSIS

The foregoing appropriation item 200424, Policy Analysis, shall be used by the Department of Education to support a system of administrative, statistical, and legislative education information to be used for policy analysis. Staff supported by this appropriation shall administer the development of reports, analyses, and briefings to inform education policymakers of current trends in education practice, efficient and effective use of resources, and evaluation of programs to improve education results. The database shall be kept current at all times. These research efforts shall be used to supply information and analysis of data to the General Assembly

and other state policymakers, including the Office of Budget and Management and the Legislative Service Commission.

The Department of Education may use funding from this appropriation item to purchase or contract for the development of software systems or contract for policy studies that will assist in the provision and analysis of policy-related information. Funding from this appropriation item also may be used to monitor and enhance quality assurance for research-based policy analysis and program evaluation to enhance the effective use of education information to inform education policymakers.

A portion of the foregoing appropriation item 200424, Policy Analysis, may be used in conjunction with appropriation item 200439, Accountability/Report Cards, to develop a fiscal reporting dimension, which shall contain fiscal data reported for the prior fiscal year, to the school report card for publication beginning in fiscal year 2011. The fiscal information contained therein shall be updated and reported annually in a form and in a manner as determined by the Department.

TECH PREP CONSORTIA SUPPORT

The foregoing appropriation item 200425, Tech Prep Consortia Support, shall be used by the Department of Education to support state-level activities designed to support, promote, and expand tech prep programs. Use of these funds shall include, but not be limited to, administration of grants, program evaluation, professional development, curriculum development, assessment development, program promotion, communications, and statewide coordination of tech prep consortia.

SECTION 265.10.70. OHIO EDUCATIONAL COMPUTER NETWORK

The foregoing appropriation item 200426, Ohio Educational Computer Network, shall be used by the Department of Education to maintain a system of information technology throughout Ohio and to provide technical assistance for such a system in support of the P-16 State Education Technology Plan developed under section 3353.09 of the Revised Code.

Of the foregoing appropriation item 200426, Ohio Educational Computer Network, up to \$11,626,123 in fiscal year 2010 and \$11,895,077 in fiscal year 2011 shall be used by the Department of Education to support connection of all public school buildings and participating chartered nonpublic schools to the state's education network, to each other, and to the Internet. In each fiscal year the Department of Education shall use these funds to assist information technology centers or school districts with the operational costs associated with this connectivity. The Department of Education shall develop a formula and guidelines for the distribution of

these funds to information technology centers or individual school districts. As used in this section, "public school building" means a school building of any city, local, exempted village, or joint vocational school district, any community school established under Chapter 3314. of the Revised Code, any educational service center building used for instructional purposes, the Ohio School for the Deaf and the Ohio School for the Blind, or high schools chartered by the Ohio Department of Youth Services and high schools operated by Ohio Department of Rehabilitation and Corrections' Ohio Central School System.

Of the foregoing appropriation item 200426, Ohio Educational Computer Network, up to \$1,600,000 in each fiscal year shall be used for the Union Catalog and InfOhio Network and to support the provision of electronic resources with priority given to resources that support the teaching of state academic content standards in all public schools. Consideration shall be given by the Department of Education to coordinating the allocation of these moneys with the efforts of Libraries Connect Ohio, whose members include OhioLINK, the Ohio Public Information Network, and the State Library of Ohio.

Of the foregoing appropriation item 200426, Ohio Educational Computer Network, up to \$5,800,000 in each fiscal year shall be used, through a formula and guidelines devised by the Department, to subsidize the activities of designated information technology centers, as defined by State Board of Education rules, to provide school districts and chartered nonpublic schools with computer-based student and teacher instructional and administrative information services, including approved computerized financial accounting, and to ensure the effective operation of local automated administrative and instructional systems.

The remainder of appropriation item 200426, Ohio Educational Computer Network, shall be used to support development, maintenance, and operation of a network of uniform and compatible computer-based information and instructional systems. This technical assistance shall include, but not be restricted to, development and maintenance of adequate computer software systems to support network activities. In order to improve the efficiency of network activities, the Department and information technology centers may jointly purchase equipment, materials, and services from funds provided under this appropriation for use by the network and, when considered practical by the Department, may utilize the services of appropriate state purchasing agencies.

SECTION 265.10.80. ACADEMIC STANDARDS

The foregoing appropriation item 200427, Academic Standards, shall be used by the Department of Education to develop, revise, and communicate to school districts academic content standards and curriculum models.

SECTION 265.10.90. SCHOOL IMPROVEMENT INITIATIVES

Of the foregoing appropriation item 200431, School Improvement Initiatives, up to \$300,000 in each fiscal year may be used by the Department for administrative costs associated with middle school and high school reform programs.

The remainder of the foregoing appropriation item 200431, School Improvement Initiatives, shall be used to support districts in the development and implementation of their continuous improvement plans as required in section 3302.04 of the Revised Code and to provide technical assistance and support in accordance with Title I of the "No Child Left Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 6317.

SECTION 265.20.10. STUDENT ASSESSMENT

Of the foregoing appropriation item 200437, Student Assessment, up to \$100,000 in each fiscal year may be used to support the assessments required under section 3301.0715 of the Revised Code.

The remainder of appropriation item 200437, Student Assessment, shall be used to develop, field test, print, distribute, score, report results, and support other associated costs for the tests required under sections 3301.0710 and 3301.0711 of the Revised Code and for similar purposes as required by section 3301.27 of the Revised Code. If funds remain in this appropriation after these purposes have been fulfilled, the Department may use the remainder of the appropriation to develop end-of-course exams.

SECTION 265.20.15. (A) Notwithstanding anything to the contrary in section 3301.0710, 3301.0711, 3301.0715 or 3313.608 of the Revised Code, the administration of the English language arts assessments for elementary grades as a replacement for the separate reading and writing assessments prescribed by sections 3301.0710 and 3301.0711 of the Revised Code, as those sections are amended by this act, shall not be required until a date prescribed by rule of the State Board of Education. Until that date, the Department of Education and school districts and schools shall continue to administer separate reading and writing assessments for elementary grades, as prescribed by the versions of sections 3301.0710 and 3301.0711 of the

Revised Code that were in effect prior to the effective date of this section. The intent for delaying implementation of the replacement English language arts assessment is to provide adequate time for the complete development of the new assessment.

(B) Notwithstanding anything to the contrary in section 3301.0710 of the Revised Code, the State Board shall not prescribe the three ranges of scores for the assessments prescribed by division (A)(2) of section 3301.0710 of the Revised Code, as amended by this act, until the Board adopts the rule required by division (A) of this section. Until that date, the Board shall continue to prescribe the five ranges of scores required by the version of section 3301.0710 of the Revised Code in effect prior to the effective date of this section, and the following apply:

(1) The range of scores designated by the State Board as a proficient level of skill remains the passing score on the Ohio Graduation Tests for purposes of sections 3313.61, 3313.611, 3313.612, and 3325.08 of the Revised Code;

(2) The range of scores designated as a limited level of skill remains the standard for applying the third-grade reading guarantee under division (A) of section 3313.608 of the Revised Code;

(3) The range of scores designated by the State Board as a proficient level of skill remains the standard for the summer remediation requirement of division (B)(2) of section 3313.608 of the Revised Code.

(C) This section is not subject to expiration under Section 809.10 of this act.

SECTION 265.20.18. Notwithstanding anything to the contrary in sections 3301.0710 and 3301.0711 of the Revised Code, in the 2009-2010 and 2010-2011 school years, the Department of Education shall not furnish, and school districts and schools shall not administer, the elementary writing and social studies achievement assessments prescribed by section 3301.0710 of the Revised Code, unless the Superintendent of Public Instruction determines the Department has sufficient funds to pay the costs of furnishing and scoring those assessments.

SECTION 265.20.20. ACCOUNTABILITY/REPORT CARDS

Of the foregoing appropriation item 200439, Accountability/Report Cards, a portion in each fiscal year may be used to train district and regional specialists and district educators in the use of the value-added progress dimension and in the use of data as it relates to improving student

achievement. This training may include teacher and administrator professional development in the use of data to improve instruction and student learning, and teacher and administrator training in understanding teacher value-added reports and how they can be used as a component in measuring teacher and administrator effectiveness. A portion of this funding may be provided to a credible nonprofit organization with expertise in value-added progress dimensions.

The remainder of appropriation item 200439, Accountability/Report Cards, shall be used by the Department to incorporate a statewide pilot value-added progress dimension into performance ratings for school districts and for the development of an accountability system that includes the preparation and distribution of school report cards and funding and expenditure accountability reports under sections 3302.03 and 3302.031 of the Revised Code.

CHILD CARE LICENSING

The foregoing appropriation item 200442, Child Care Licensing, shall be used by the Department of Education to license and to inspect preschool and school-age child care programs under sections 3301.52 to 3301.59 of the Revised Code.

SECTION 265.20.30. EDUCATION MANAGEMENT INFORMATION SYSTEM

The foregoing appropriation item 200446, Education Management Information System, shall be used by the Department of Education to improve the Education Management Information System (EMIS).

Of the foregoing appropriation item 200446, Education Management Information System, up to \$1,000,000 in fiscal year 2010 and up to \$810,000 in fiscal year 2011 shall be distributed to designated information technology centers for costs relating to processing, storing, and transferring data for the effective operation of the EMIS. These costs may include, but are not limited to, personnel, hardware, software development, communications connectivity, professional development, and support services, and to provide services to participate in the State Education Technology Plan developed under section 3353.09 of the Revised Code.

Of the foregoing appropriation item 200446, Education Management Information System, up to \$6,035,256 in fiscal year 2010 and up to \$4,960,388 in fiscal year 2011 shall be distributed on a per-pupil basis to school districts, community schools established under Chapter 3314. of the Revised Code, educational service centers, joint vocational school districts, and any other education entity that reports data through EMIS. From this

funding, each school district or community school established under Chapter 3314. of the Revised Code with enrollment greater than 100 students and each vocational school district shall receive a minimum of \$5,000 in each fiscal year. Each school district or community school established under Chapter 3314. of the Revised Code with enrollment between one and one hundred and each educational service center and each county board of MR/DD that submits data through EMIS shall receive \$3,000 in each fiscal year. This subsidy shall be used for costs relating to reporting, processing, storing, transferring, and exchanging data necessary to meet requirements of the Department of Education's data system.

The remainder of appropriation item 200446, Education Management Information System, shall be used to develop and support a common core of data definitions and standards as adopted by the Education Management Information System Advisory Board, including the ongoing development and maintenance of the data dictionary and data warehouse. In addition, such funds shall be used to support the development and implementation of data standards and the design, development, and implementation of a new data exchange system.

Any provider of software meeting the standards approved by the Education Management Information System Advisory Board shall be designated as an approved vendor and may enter into contracts with local school districts, community schools, information technology centers, or other educational entities for the purpose of collecting and managing data required under Ohio's education management information system (EMIS) laws. On an annual basis, the Department of Education shall convene an advisory group of school districts, community schools, and other education-related entities to review the Education Management Information System data definitions and data format standards. The advisory group shall recommend changes and enhancements based upon surveys of its members, education agencies in other states, and current industry practices, to reflect best practices, align with federal initiatives, and meet the needs of school districts.

School districts and community schools not implementing a common and uniform set of data definitions and data format standards for Education Management Information System purposes shall have all EMIS funding withheld until they are in compliance.

SECTION 265.20.40. GED TESTING

The foregoing appropriation item 200447, GED Testing, shall be used to provide General Educational Development (GED) testing under rules

adopted by the State Board of Education. The Department of Education may reimburse in fiscal year 2010 school districts and community schools, created under Chapter 3314. of the Revised Code, for a portion of the costs incurred in providing summer instructional or intervention services to students who have not graduated because of their inability to pass one or more parts of the state's Ohio Graduation Test. School districts shall also provide such services to students who are residents of the district under section 3313.64 of the Revised Code, but who are enrolled in chartered, nonpublic schools. The services shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off the nonpublic school premises. No school district shall provide summer instructional or intervention services to nonpublic school students as authorized by this section unless such services are available to students attending the public schools within the district. No school district shall provide services for use in religious courses, devotional exercises, religious training, or any other religious activity. Chartered, nonpublic schools shall pay for any unreimbursed costs incurred by school districts for providing summer instruction or intervention services to students enrolled in chartered, nonpublic schools. School districts may provide these services to students directly or contract with postsecondary or nonprofit community-based institutions in providing instruction.

SECTION 265.20.50. EDUCATOR PREPARATION

The foregoing appropriation item 200448, Educator Preparation, may be used by the Department to support the Educator Standards Board under section 3319.61 of the Revised Code as it develops and recommends to the State Board of Education standards for educator training and standards for teacher and other school leadership positions. Also, any remaining funds may be used by the Department to develop alternative preparation programs for school leaders and coordination of a career ladder for teachers.

SECTION 265.20.60. COMMUNITY SCHOOLS

The foregoing appropriation item 200455, Community Schools, may be used by the Department of Education for additional services and responsibilities under section 3314.11 of the Revised Code.

Of the foregoing appropriation item 200455, Community Schools, a portion in each fiscal year may be used by the Department of Education for developing and conducting training sessions for community schools and sponsors and prospective sponsors of community schools as prescribed in

division (A)(1) of section 3314.015 of the Revised Code. In developing the training sessions, the Department shall collect and disseminate examples of best practices used by sponsors of independent charter schools in Ohio and other states.

STEM INITIATIVES

The foregoing appropriation item 200457, STEM Initiatives, shall be distributed by the STEM Committee to STEM schools, STEM Programs of Excellence, or other initiatives that support innovative mathematics and science education and mathematics and science professional development for teachers. Such initiatives may include on-site laboratories, job-embedded professional development, and mentoring and coaching.

SCHOOL EMPLOYEES HEALTH CARE BOARD

The foregoing appropriation item 200458, School Employees Health Care Board, shall be used by the School Employees Health Care Board to hire staff to provide administrative support to the Board as the Board carries out its duties under section 9.901 of the Revised Code.

SECTION 265.20.70. PUPIL TRANSPORTATION

Of the foregoing appropriation item 200502, Pupil Transportation, up to \$838,930 in each fiscal year may be used by the Department of Education for training prospective and experienced school bus drivers in accordance with training programs prescribed by the Department. Up to \$60,469,220 in each fiscal year may be used by the Department of Education for special education transportation reimbursements to school districts and county MR/DD boards for transportation operating costs as provided in division (J) of section 3317.024 of the Revised Code.

Of the foregoing appropriation item 200502, Pupil Transportation, \$376,914,469 in each fiscal year shall be used to calculate the prorated portion of transportation aid to school districts and shall be distributed as provided by division (L)(1) of section 3306.12 of the Revised Code.

The remainder of appropriation item 200502, Pupil Transportation, shall be used for additional transportation aid for school districts as provided by division (L)(2) of section 3306.12 of the Revised Code.

SECTION 265.20.80. SCHOOL LUNCH MATCH

The foregoing appropriation item 200505, School Lunch Match, shall be used to provide matching funds to obtain federal funds for the school lunch program.

Any remaining appropriation after providing matching funds for the

school lunch program shall be used to partially reimburse school buildings within school districts that are required to have a school breakfast program under section 3313.813 of the Revised Code, at a rate decided by the Department.

SECTION 265.20.90. AUXILIARY SERVICES

The foregoing appropriation item 200511, Auxiliary Services, shall be used by the Department of Education for the purpose of implementing section 3317.06 of the Revised Code. Of the appropriation, up to \$1,789,943 in each fiscal year may be used for payment of the Post-Secondary Enrollment Options Program for nonpublic students. Notwithstanding section 3365.10 of the Revised Code, the Department shall distribute funding according to rules adopted by the Department in accordance with Chapter 119. of the Revised Code.

SECTION 265.30.10. NONPUBLIC ADMINISTRATIVE COST REIMBURSEMENT

The foregoing appropriation item 200532, Nonpublic Administrative Cost Reimbursement, shall be used by the Department of Education for the purpose of implementing section 3317.063 of the Revised Code.

SECTION 265.30.20. SPECIAL EDUCATION ENHANCEMENTS

Of the foregoing appropriation item 200540, Special Education Enhancements, up to \$2,206,875 in each fiscal year shall be used for home instruction for children with disabilities.

Of the foregoing appropriation item 200540, Special Education Enhancements, up to \$44,700,561 in fiscal year 2010 and up to \$45,282,959 in fiscal year 2011 shall be used to fund special education and related services at county boards of developmental disabilities for eligible students under section 3317.20 of the Revised Code and at institutions for eligible students under section 3317.201 of the Revised Code. Notwithstanding the distribution formulas under sections 3317.20 and 3317.201 of the Revised Code, funding for MR/DD boards and institutions in fiscal year 2010 and fiscal year 2011 shall be determined by inflating the per pupil amount received by each MR/DD board and institution in the prior fiscal year by .75 per cent and providing that inflated per pupil amount for each student served in the current fiscal year.

Of the foregoing appropriation item 200540, Special Education

Enhancements, up to \$1,333,468 in each fiscal year shall be used for parent mentoring programs.

Of the foregoing appropriation item 200540, Special Education Enhancements, up to \$2,537,824 in each fiscal year may be used for school psychology interns.

The remainder of appropriation item 200540, Special Education Enhancements, shall be distributed by the Department of Education to county boards of developmental disabilities, educational service centers, and school districts for preschool special education units and preschool supervisory units under section 3317.052 of the Revised Code. To the greatest extent possible, the Department of Education shall allocate these units to school districts and educational service centers.

The Department may reimburse county MR/DD boards, educational service centers, and school districts for services provided by instructional assistants, related services as defined in rule 3301-51-11 of the Administrative Code, physical therapy services provided by a licensed physical therapist or physical therapist assistant under the supervision of a licensed physical therapist as required under Chapter 4755. of the Revised Code and Chapter 4755-27 of the Administrative Code and occupational therapy services provided by a licensed occupational therapist or occupational therapy assistant under the supervision of a licensed occupational therapist as required under Chapter 4755. of the Revised Code and Chapter 4755-7 of the Administrative Code. Nothing in this section authorizes occupational therapy assistants or physical therapist assistants to generate or manage their own caseloads.

The Department of Education shall require school districts, educational service centers, and county MR/DD boards serving preschool children with disabilities to document child progress using research-based indicators prescribed by the Department and report results annually. The reporting dates and method shall be determined by the Department.

SECTION 265.30.30. CAREER-TECHNICAL EDUCATION ENHANCEMENTS

Of the foregoing appropriation item 200545, Career-Technical Education Enhancements, up to \$2,543,531 in fiscal year 2010 and up to \$2,563,568 in fiscal year 2011 shall be used to fund secondary career-technical education at institutions.

Of the foregoing appropriation item 200545, Career-Technical Education Enhancements, up to \$2,138,281 in each fiscal year shall be used by the Department of Education to fund competitive grants to tech prep

consortia that expand the number of students enrolled in tech prep programs. These grant funds shall be used to directly support expanded tech prep programs provided to students enrolled in school districts, including joint vocational school districts, and affiliated higher education institutions. This support may include the purchase of equipment.

Of the foregoing appropriation item 200545, Career-Technical Education Enhancements, up to \$2,800,850 in each fiscal year shall be used by the Department of Education to support existing High Schools That Work (HSTW) sites, develop and support new sites, fund technical assistance, and support regional centers and middle school programs. The purpose of HSTW is to combine challenging academic courses and modern career-technical studies to raise the academic achievement of students. HSTW provides intensive technical assistance, focused staff development, targeted assessment services, and ongoing communications and networking opportunities.

Of the foregoing appropriation item 200545, Career-Technical Education Enhancements, up to \$270,000 in fiscal year 2010 and up to \$300,000 in fiscal year 2011 shall be used by the Department of Education to enable students in agricultural programs to enroll in a fifth quarter of instruction based on the agricultural education model of delivering work-based learning through supervised agricultural experience. The Department of Education shall determine eligibility criteria and the reporting process for the Agriculture 5th Quarter Project and shall fund as many programs as possible given the set aside.

SECTION 265.30.40. FOUNDATION FUNDING

The foregoing appropriation item 200550, Foundation Funding, includes \$92,300,000 in fiscal year 2010 and \$92,700,000 in fiscal year 2011 for the state education aid offset due to the change in public utility valuation as a result of Am. Sub. S.B. 3 and Am. Sub. S.B. 287, both of the 123rd General Assembly. For each fiscal year, this amount represents the greater of the total state education aid offset calculated for that fiscal year or for fiscal year 2009 due to the valuation change for school districts and the total state education aid offset calculated for fiscal year 2009 for joint vocational school districts from all relevant appropriation line item sources. Upon certification by the Department of Education, in consultation with the Department of Taxation, to the Director of Budget and Management of the actual state aid offsets, the cash transfer from the School District Property Tax Replacement - Utility Fund (Fund 7053) to the General Revenue Fund shall be decreased or increased by the Director of Budget and Management

to match the certification in accordance with section 5727.84 of the Revised Code.

The foregoing appropriation item 200550, Foundation Funding, includes \$127,700,000 in fiscal year 2010 and \$126,600,000 in fiscal year 2011 for the state education aid offset because of the changes in tangible personal property valuation as a result of Am. Sub. H.B. 66 of the 126th General Assembly. For each fiscal year, this amount represents the greater of the total state education aid offset calculated for that fiscal year or for fiscal year 2009 because of the valuation change for school districts and the total state education aid offset calculated for fiscal year 2009 for joint vocational school districts from all relevant appropriation item sources. Upon certification by the Department of Education of the actual state education aid offsets to the Director of Budget and Management, the cash transfer from the School District Tangible Property Tax Replacement - Business Fund (Fund 7047) to the General Revenue Fund shall be decreased or increased by the Director of Budget and Management to match the certification in accordance with section 5751.21 of the Revised Code.

Of the foregoing appropriation item 200550, Foundation Funding, up to \$425,000 shall be expended in each fiscal year for court payments under section 2151.362 of the Revised Code.

Of the foregoing appropriation item 200550, Foundation Funding, up to \$15,000,000 in each fiscal year shall be reserved for payments under sections 3317.026, 3317.027, and 3317.028 of the Revised Code except that the Controlling Board may increase the \$15,000,000 amount if presented with such a request from the Department of Education.

Of the foregoing appropriation item 200550, Foundation Funding, up to \$8,100,000 in each fiscal year shall be used to fund gifted education units at educational service centers under division (L) of section 3317.024 of the Revised Code, notwithstanding divisions (D)(3) and (6) of section 3317.018 of the Revised Code.

Of the foregoing appropriation item 200550, Foundation Funding, an amount shall be available in each fiscal year to be used by the Department of Education for transitional aid for school districts under section 3306.19 of the Revised Code.

Of the foregoing appropriation item 200550, Foundation Funding, up to \$10,000,000 in each fiscal year shall be used to provide additional state aid to school districts for special education students under division (C)(3) of section 3317.022 of the Revised Code, except that the Controlling Board may increase these amounts if presented with such a request from the Department of Education at the final meeting of the fiscal year; up to

\$2,000,000 in each fiscal year shall be reserved for Youth Services tuition payments under section 3317.024 of the Revised Code; and up to \$46,400,000 in each fiscal year shall be reserved to fund the state reimbursement of educational service centers under section 3317.11 of the Revised Code and the section of this act entitled "EDUCATIONAL SERVICE CENTERS FUNDING."

Of the foregoing appropriation item 200550, Foundation Funding, up to \$1,000,000 in each fiscal year shall be used by the Department of Education for a program to pay for educational services for youth who have been assigned by a juvenile court or other authorized agency to any of the facilities described in division (A) of the section of this act entitled "PRIVATE TREATMENT FACILITY PROJECT."

Of the foregoing appropriation item 200550, Foundation Funding, up to \$8,686,000 in fiscal year 2010 and up to \$8,722,860 in fiscal year 2011 shall be used to operate school choice programs.

Of the portion of the funds distributed to the Cleveland Municipal School District under this section, up to \$11,901,887 in each fiscal year shall be used to operate the school choice program in the Cleveland Municipal School District under sections 3313.974 to 3313.979 of the Revised Code. Notwithstanding divisions (B) and (C) of section 3313.978 and division (C) of section 3313.979 of the Revised Code, up to \$1,000,000 in each fiscal year of this amount shall be used by the Cleveland Municipal School District to provide tutorial assistance as provided in division (H) of section 3313.974 of the Revised Code. The Cleveland Municipal School District shall report the use of these funds in the district's three-year continuous improvement plan as described in section 3302.04 of the Revised Code in a manner approved by the Department of Education.

Of the foregoing appropriation item 200550, Foundation Funding, an amount shall be available in each fiscal year to be paid to joint vocational school districts in accordance with the section of this act entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS."

Appropriation items 200502, Pupil Transportation, 200540, Special Education Enhancements, 200550, Foundation Funding, and 200551, Foundation Funding - Federal Stimulus, other than specific set-asides, are collectively used in each fiscal year to pay state formula aid obligations for school districts, community schools, and joint vocational school districts under this act. The first priority of these appropriation items, with the exception of specific set-asides, is to fund state formula aid obligations. It may be necessary to reallocate funds among these appropriation items or use excess funds from other general revenue fund appropriation items in the

Department of Education's budget in each fiscal year, in order to meet state formula aid obligations. If it is determined that it is necessary to transfer funds among these appropriation items or to transfer funds from other General Revenue Fund appropriations in the Department of Education's budget to meet state formula aid obligations, the Department of Education shall seek approval from the Controlling Board to transfer funds as needed.

SECTION 265.30.45. STATE EDUCATION AID OFFSET

Notwithstanding anything to the contrary in sections 5727.84 to 5727.87 or sections 5751.20 to 5751.22 of the Revised Code, when calculating payments under those sections for fiscal years 2010 and 2011:

(A) The Department of Education shall use for each city, local, and exempted village school district for each fiscal year the greater of the respective "state education aid offset" amount calculated for the district for the current fiscal year or the respective "state education aid offset" amount calculated for the district for fiscal year 2009.

(B) The Department shall use for each joint vocational school district for each fiscal year the respective "state education aid offset" amount calculated for the district for fiscal year 2009.

SECTION 265.30.50. FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS

(A) The Department of Education shall distribute funds within appropriation item 200550, Foundation Funding, for joint vocational funding in each fiscal year to each joint vocational school district that received joint vocational funding in fiscal year 2009. The Department shall distribute to each such district joint vocational funding in an amount equal to the district's joint vocational funding from the previous fiscal year inflated by .75 per cent.

(B)(1) A district's fiscal year 2009 joint vocational funding equals the sum of the following, as reconciled by the Department:

(a) Base-cost funding under division (B) of section 3317.16 of the Revised Code;

(b) Special education and related services additional weighted funding under division (D)(1) of section 3317.16 of the Revised Code;

(c) Speech services funding under division (D)(2) of section 3317.16 of the Revised Code;

(d) Vocational education additional weighted funding under division (C) of section 3317.16 of the Revised Code;

(e) GRADS funding under division (N) of section 3317.024 of the Revised Code;

(f) Any transitional aid computed for the district under Section 269.30.90 of Am. Sub. H.B. 119 of the 127th General Assembly.

(2) The joint vocational funding for each fiscal year for each district is the amount specified in division (A) or (B) of this section less any general revenue fund spending reductions ordered by the Governor under section 126.05 of the Revised Code.

SECTION 265.30.70. VIOLENCE PREVENTION AND SCHOOL SAFETY

The foregoing appropriation item 200578, Violence Prevention and School Safety, shall be used to fund a safe school center to provide resources for parents and for school and law enforcement personnel.

SECTION 265.30.80. PROPERTY TAX ALLOCATION - EDUCATION

The Superintendent of Public Instruction shall not request, and the Controlling Board shall not approve, the transfer of appropriation from appropriation item 200901, Property Tax Allocation - Education, to any other appropriation item.

The appropriation item 200901, Property Tax Allocation - Education, is appropriated to pay for the state's costs incurred because of the homestead exemption, the property tax rollback, and payments required under division (C) of section 5705.2110 of the Revised Code. In cooperation with the Department of Taxation, the Department of Education shall distribute these funds directly to the appropriate school districts of the state, notwithstanding sections 321.24 and 323.156 of the Revised Code, which provide for payment of the homestead exemption and property tax rollback by the Tax Commissioner to the appropriate county treasurer and the subsequent redistribution of these funds to the appropriate local taxing districts by the county auditor.

Upon receipt of these amounts, each school district shall distribute the amount among the proper funds as if it had been paid as real or tangible personal property taxes. Payments for the costs of administration shall continue to be paid to the county treasurer and county auditor as provided for in sections 319.54, 321.26, and 323.156 of the Revised Code.

Any sums, in addition to the amount specifically appropriated in appropriation items 200901, Property Tax Allocation - Education, for the homestead exemption and the property tax rollback payments, and payments

required under division (C) of section 5705.2110 of the Revised Code, which are determined to be necessary for these purposes, are hereby appropriated.

SECTION 265.30.83. EDUCATION TECHNOLOGY

(A) As used in this section, "eligible entity" means an "eligible local entity" for purposes of the "Enhancing Education Through Technology Act of 2001," as defined in 20 U.S.C. 6753.

(B) Notwithstanding anything in section 3353.20 of the Revised Code to the contrary, for fiscal years 2010 and 2011, the interactive distance learning pilot project required by that section shall be developed and administered only as prescribed by this section.

Of the foregoing appropriation item 200641, Education Technology, the Department of Education, in each fiscal year, shall use the lesser of one-half of the amount of federal funds allocated to the state for the fiscal year as an Education Technology State Grant (CFDA 84.318) or \$4,500,000 in collaboration with the eTech Ohio Commission to provide grants on a competitive basis to eligible entities for their participation in the interactive distance learning pilot project.

An amount equal to the unexpended, unencumbered portion of this set aside at the end of fiscal year 2010 is hereby reappropriated to the Department of Education for fiscal year 2011 to provide grants under this section.

(1) The Department and the Commission shall enter into a memorandum of understanding giving the Commission the authority to set the grant criteria and to select the grant recipients and giving the Department all federal monitoring and compliance responsibilities. The memorandum of understanding also shall specify all of the following:

(a) Administrative functions to be provided by each of the Department and the Commission and the distribution between the Department and the Commission of the costs associated with those functions;

(b) The process that the Department shall use to draw down and transfer the funds necessary under this section in accordance with the "Cash Management Improvement Act of 1990," 31 U.S.C. 6501 et seq. to support the Commission in its functions;

(c) The amount that may be used for administration of the pilot project is limited to not more than five per cent of the total amount expended under this section.

The memorandum of understanding shall comply with all relevant federal guidelines and regulations.

(2) The Commission shall issue a request for proposals for awards to be issued before or during the 2009-2010 academic year.

(3) The Commission shall limit the number of grants so that each grant recipient receives an amount that is sufficient to ensure full participation in the program. The Commission shall endeavor to award grants in a manner that ensures diversity among grant recipients according to geographical regions, economic scale, and school district size.

(4) In awarding grants under this section, the Commission shall give priority to the following:

(a) School districts for which advanced placement or foreign language course offerings make up less than one per cent of the district's total course offerings;

(b) Schools and school districts that without additional assistance lack the necessary connectivity to offer interactive distance learning courses;

(c) Schools and school districts that demonstrate commitment to appropriately supporting distance learning offerings, as determined satisfactory by the Commission, including but not limited to:

(i) Enrolling a minimum number of students to participate in the distance learning classes;

(ii) Committing the necessary personnel to facilitate and assist students with distance learning classes;

(iii) Committing the necessary personnel capable of operating distance learning equipment.

(d) Schools and school districts that without additional assistance lack the necessary equipment to offer interactive distance learning courses;

(e) School districts that demonstrate that the course offerings will take place during the regular school day.

(C) In implementing this section, the Commission shall do all of the following:

(1) Solicit all eligible entities to participate in the program;

(2) Require twenty-five per cent of any grant award to be used for professional development. This professional development shall include at least one component of training in the classroom. It also shall include any training conducted by the Commission that the Commission deems necessary to participate in the program.

(3) Require that eligible entities awarded grants under this section use a percentage of their respective grant awards to contract with a vendor selected by the Commission for the development and offering of interactive distance learning courses;

(4) Require each eligible entity submitting a proposal to specify the

amount, if any, needed to purchase video conferencing telecommunications equipment and connectivity devices and the cost of upgrading the school.

(5) Require each eligible entity submitting a proposal to specify the amount needed to upgrade its Internet service, if the school currently has a connection slower than 1.544 Mbits per second;

(6) Assist eligible entities awarded grants in arranging for the purchase and installation of telecommunications equipment and connectivity devices.

(D) In the development of, administration of, oversight of, and award of funds for the program, the Commission shall not be obligated for more than the amount appropriated.

(E) In fiscal years 2010 and 2011, no school that is not an eligible entity shall be entitled to the items specified in divisions (A)(3) to (5) of section 3353.20 of the Revised Code. However, any student, teacher, or other school employee of a public or nonpublic school that is not awarded a grant under this section may participate in the interactive distance learning pilot project, as long as such participation does not impose an additional cost to the state, does not diminish the quality of project outcomes for those entities that are awarded grants, and aligns with federal regulations and guidelines.

(F) The Superintendent of Public Instruction, the Chancellor of the Board of Regents, and the Commission shall submit the formative evaluation prescribed by division (G) of section 3353.20 of the Revised Code.

SECTION 265.30.90. TEACHER CERTIFICATION AND LICENSURE

The foregoing appropriation item 200681, Teacher Certification and Licensure, shall be used by the Department of Education in each year of the biennium to administer and support teacher certification and licensure activities.

SCHOOL DISTRICT SOLVENCY ASSISTANCE

Of the foregoing appropriation item 200687, School District Solvency Assistance, \$9,000,000 in each fiscal year shall be allocated to the School District Shared Resource Account and \$9,000,000 in each fiscal year shall be allocated to the Catastrophic Expenditures Account. These funds shall be used to provide assistance and grants to school districts to enable them to remain solvent under section 3316.20 of the Revised Code. Assistance and grants shall be subject to approval by the Controlling Board. Any required reimbursements from school districts for solvency assistance shall be made to the appropriate account in the School District Solvency Assistance Fund (Fund 5H30).

Notwithstanding any provision of law to the contrary, upon the request

of the Superintendent of Public Instruction, the Director of Budget and Management may make transfers to the School District Solvency Assistance Fund (Fund 5H30) from any fund used by the Department of Education or the General Revenue Fund to maintain sufficient cash balances in Fund 5H30 in fiscal years 2010 and 2011. Any cash transferred is hereby appropriated. The transferred cash may be used by the Department of Education to provide assistance and grants to school districts to enable them to remain solvent and to pay unforeseeable expenses of a temporary or emergency nature that the school district is unable to pay from existing resources. The Director of Budget and Management shall notify the members of the Controlling Board of any such transfers.

SECTION 265.40.10. SCHOOLS MEDICAID ADMINISTRATIVE CLAIMS

Upon the request of the Superintendent of Public Instruction, the Director of Budget and Management may transfer up to \$639,000 cash in each fiscal year from the General Revenue Fund to the Schools Medicaid Administrative Claims Fund (Fund 3AF0). The transferred cash is to be used by the Department of Education to pay the expenses the Department incurs in administering the Medicaid School Component of the Medicaid program established under sections 5111.71 to 5111.715 of the Revised Code. On June 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management shall transfer cash from Fund 3AF0 back to the General Revenue Fund in an amount equal to the total amount transferred to Fund 3AF0 in that fiscal year.

The money deposited into Fund 3AF0 under division (B) of section 5111.714 of the Revised Code is hereby appropriated for fiscal years 2010 and 2011 and shall be used in accordance with division (D) of section 5111.714 of the Revised Code.

SECTION 265.40.20. READING FIRST

The foregoing appropriation item 200632, Reading First, shall be used by school districts to administer federal diagnostic tests as well as other functions permitted by federal statute. Notwithstanding section 3301.079 of the Revised Code, federal diagnostic tests may be recognized as meeting the state diagnostic testing requirements outlined in section 3301.079 of the Revised Code.

HALF-MILL MAINTENANCE EQUALIZATION

The foregoing appropriation item 200626, Half-Mill Maintenance

Equalization, shall be used to make payments pursuant to section 3318.18 of the Revised Code.

SECTION 265.40.30. START-UP FUNDS

Funds appropriated for the purpose of providing start-up grants to Title IV-A Head Start and Title IV-A Head Start Plus agencies in fiscal year 2004 and fiscal year 2005 for the provision of services to children eligible for Title IV-A services under the Title IV-A Head Start or Title IV-A Head Start Plus programs shall be reimbursed to the General Revenue Fund as follows:

(A) If, for fiscal years 2010 or 2011, an entity that was a Title IV-A Head Start or Title IV-A Head Start Plus agency will not be an early learning agency or early learning provider, the entity shall repay the entire amount of the start-up grant it received in fiscal year 2004 and fiscal year 2005 not later than June 30, 2019, in accordance with a payment schedule agreed to by the Department of Education.

(B) If an entity that was a Title IV-A Head Start or Title IV-A Head Start Plus agency in fiscal year 2004 or fiscal year 2005 will be an early learning agency or early learning provider in fiscal year 2010 and fiscal year 2011, the entity shall be allowed to retain any amount of the start-up grant it received, unless division (D) of this section applies to the entity. In that case, the entity shall repay the entire amount of the obligation described in that division not later than June 30, 2019.

(C) Within ninety days after the closure of an early learning agency or early learning provider that was a Title IV-A Head Start Plus agency in fiscal year 2004 or fiscal year 2005, the former Title IV-A Head Start agencies, Title IV-A Head Start Plus agencies, and the Department of Education shall determine the repayment schedule for amounts owed under division (A) of this section. These amounts shall be paid to the state not later than June 30, 2019.

(D) If an entity that was a Title IV-A Head Start or Title IV-A Head Start Plus agency in fiscal year 2004 or fiscal year 2005 owed the state any portion of the start-up grant amount during fiscal year 2006 or fiscal year 2007 but failed to repay the entire amount of the obligation by June 30, 2007, the entity shall be given an extension for repayment through June 30, 2019, before any amounts remaining due and payable to the state are referred to the Attorney General for collection under section 131.02 of the Revised Code.

(E) Any Title IV-A Head Start or Title IV-A Head Start Plus start-up grants that are retained by early learning agencies or early learning providers

pursuant to this section shall be reimbursed to the General Revenue Fund when the early learning program ceases or if an early learning agency's or early learning provider's participation in the early learning program ceases or is terminated.

SECTION 265.40.40. AUXILIARY SERVICES REIMBURSEMENT

Notwithstanding section 3317.064 of the Revised Code, if the unexpended, unencumbered cash balance is sufficient, the Treasurer of State shall transfer \$1,500,000 in fiscal year 2010 within thirty days after the effective date of this section, and \$1,500,000 in fiscal year 2011 by August 1, 2010, from the Auxiliary Services Personnel Unemployment Compensation Fund to the Auxiliary Services Reimbursement Fund (Fund 5980) used by the Department of Education.

SECTION 265.40.50. LOTTERY PROFITS EDUCATION FUND

Appropriation item 200612, Foundation Funding (Fund 7017), shall be used in conjunction with appropriation item 200550, Foundation Funding (GRF), to provide state foundation payments to school districts.

The Department of Education, with the approval of the Director of Budget and Management, shall determine the monthly distribution schedules of appropriation item 200550, Foundation Funding (GRF), and appropriation item 200612, Foundation Funding (Fund 7017). If adjustments to the monthly distribution schedule are necessary, the Department of Education shall make such adjustments with the approval of the Director of Budget and Management.

SECTION 265.40.60. LOTTERY PROFITS EDUCATION RESERVE FUND

(A) There is hereby created the Lottery Profits Education Reserve Fund (Fund 7018) in the State Treasury. Investment earnings of the Lottery Profits Education Reserve Fund shall be credited to the fund. The Superintendent of Public Instruction may certify cash balances exceeding \$75,000,000 in Fund 7018 to the Director of Budget and Management in June of any given fiscal year. Prior to making the certification, the Superintendent of Public Instruction shall determine whether the funds above the \$75,000,000 threshold are needed to help pay for foundation program obligations for that fiscal year.

For fiscal years 2010 and 2011, notwithstanding any provisions of law

to the contrary, amounts necessary to make loans authorized by sections 3317.0210, 3317.0211, and 3317.62 of the Revised Code are hereby appropriated to Fund 7018. Loan repayments from loans made in previous years shall be deposited to the fund.

(B) On July 15, 2009, or as soon as possible thereafter, the Director of the Ohio Lottery Commission shall certify to the Director of Budget and Management the amount by which lottery profit transfers received by the Lottery Profits Education Fund (Fund 7017) exceeded \$667,900,000 in fiscal year 2009. The Director of Budget and Management may transfer the amount so certified, plus the cash balance in Fund 7017, to Fund 7018.

(C) On July 15, 2010, or as soon as possible thereafter, the Director of the Ohio Lottery Commission shall certify to the Director of Budget and Management the amount by which lottery profit transfers received by Fund 7017 exceeded \$705,000,000 in fiscal year 2010. The Director of Budget and Management may transfer the amount so certified, plus the cash balance in Fund 7017, to Fund 7018.

(D) Any amounts transferred under division (B) or (C) of this section may be made available by the Controlling Board in fiscal years 2010 or 2011, at the request of the Superintendent of Public Instruction, to provide assistance and grants to school districts to enable them to remain solvent and to pay unforeseeable expenses of a temporary or emergency nature that they are unable to pay from existing resources under section 3316.20 of the Revised Code, and to provide state foundation payments to school districts.

SECTION 265.40.70. GENERAL REVENUE FUND TRANSFERS TO SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - BUSINESS (FUND 7047)

Notwithstanding any provision of law to the contrary, in fiscal year 2010 and fiscal year 2011 the Director of Budget and Management may make temporary transfers between the General Revenue Fund and the School District Property Tax Replacement – Business Fund (Fund 7047) in the Department of Education to ensure sufficient balances in Fund 7047 and to replenish the General Revenue Fund for such transfers.

SECTION 265.40.80. SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - BUSINESS

The foregoing appropriation item 200909, School District Property Tax Replacement – Business, shall be used by the Department of Education, in consultation with the Department of Taxation, to make payments to school

districts and joint vocational school districts under section 5751.21 of the Revised Code. If it is determined by the Director of Budget and Management that additional appropriations are necessary for this purpose, such amounts are hereby appropriated.

SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - UTILITY

The foregoing appropriation item 200900, School District Property Tax Replacement-Utility, shall be used by the Department of Education, in consultation with the Department of Taxation, to make payments to school districts and joint vocational school districts under section 5727.85 of the Revised Code. If it is determined by the Director of Budget and Management that additional appropriations are necessary for this purpose, such amounts are hereby appropriated.

DISTRIBUTION FORMULAS

The Department of Education shall report the following to the Director of Budget and Management and the Legislative Service Commission:

(A) Changes in formulas for distributing state appropriations, including administratively defined formula factors;

(B) Discretionary changes in formulas for distributing federal appropriations;

(C) Federally mandated changes in formulas for distributing federal appropriations.

Any such changes shall be reported two weeks prior to the effective date of the change.

SECTION 265.50.10. EDUCATIONAL SERVICE CENTERS FUNDING

(A) As used in this section:

(1) "Internet- or computer-based community school" has the same meaning as in section 3314.02 of the Revised Code.

(2) "Service center ADM" has the same meaning as in section 3317.11 of the Revised Code.

(3) "STEM school" means a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code.

(B) Notwithstanding division (F) of section 3317.11 of the Revised Code, no funds shall be provided under that division to an educational service center in either fiscal year for any pupils of a city or exempted village school district unless an agreement to provide services under section 3313.843 of the Revised Code was entered into by January 1, 1997, except that funds shall be provided to an educational service center for any pupils of a city school district if the agreement to provide services was entered into within one year of the date upon which such district changed from a local

school district to a city school district.

If an educational service center that entered into an agreement by January 1, 1997, with a city or exempted village school district to provide services under section 3313.843 of the Revised Code ceases to operate because all of the local school districts that constituted the territory of the service center have severed from the service center pursuant to section 3311.059 of the Revised Code, another educational service center, by resolution of its governing board, may assume the obligations of the original service center to provide services to the city or exempted village school district under that agreement. If that other service center assumes those obligations to provide services to the city or exempted village school district, that service center shall be considered to be the service center that entered into the agreement by January 1, 1997, and, accordingly, may receive funds under division (F) of section 3317.11 of the Revised Code in accordance with this section in fiscal years 2010 and 2011 for pupils of that city or exempted village school district.

(C) Notwithstanding any provision of the Revised Code to the contrary, an educational service center that sponsors a community school under Chapter 3314. of the Revised Code in either fiscal year may include the students of that community school in its service center ADM for purposes of state funding under division (F) of section 3317.11 of the Revised Code, unless the community school is an Internet- or computer-based community school. A service center shall include the community school students in its service center ADM only to the extent that the students are not already so included, and only in accordance with guidelines issued by the Department of Education. If the students of a community school sponsored by an educational service center are included in the service center ADM of another educational service center, those students shall be removed from the service center ADM of the other educational service center and added to the service center ADM of the community school's sponsoring service center. The General Assembly authorizes this procedure as an incentive for educational service centers to take over sponsorship of community schools from the State Board of Education as the State Board's sponsorship is phased out in accordance with Sub. H.B. 364 of the 124th General Assembly. No student of an Internet- or computer-based community school shall be counted in the service center ADM of any educational service center. The Department shall pay educational service centers under division (F) of section 3317.11 of the Revised Code for community school students included in their service center ADMs under this division only if sufficient funds earmarked within appropriation item 200550, Foundation Funding, for payments under that

division remain after first paying for students attributable to their local and client school districts, in accordance with divisions (B) and (E) of this section.

(D) Notwithstanding division (C) of section 3326.45 of the Revised Code, the Department shall pay educational service centers under division (H) of section 3317.11 of the Revised Code for services provided to STEM schools only if sufficient funds earmarked within appropriation item 200550, Foundation Funding, for payments under that division remain after first paying for students attributable to the local and client school districts of the service centers and for community school students in their service center ADMs, in accordance with divisions (B), (C), and (E) of this section.

(E) If insufficient funds are earmarked within appropriation item 200550, Foundation Funding, for the full amount of payments to educational service centers, as calculated under this section and section 3317.11 of the Revised Code, the Department shall allocate funding to the service centers in accordance with the same methodology the Department used for that purpose for fiscal year 2009.

SECTION 265.50.20. WAIVER OF PUPIL TO TEACHER RATIO

For the school year commencing July 1, 2009, or the school year commencing July 1, 2010, or both, the Superintendent of Public Instruction may waive for the board of education of any school district the ratio of teachers to pupils in kindergarten through fourth grade required under paragraph (A)(3) of rule 3301-35-05 of the Administrative Code if the following conditions apply:

(A) The board of education requests the waiver.

(B) After the Department of Education conducts an on-site evaluation of the district related to meeting the required ratio, the board of education demonstrates to the satisfaction of the Superintendent of Public Instruction that providing the facilities necessary to meet the required ratio during the district's regular school hours with pupils in attendance would impose an extreme hardship on the district.

(C) The board of education provides assurances that are satisfactory to the Superintendent of Public Instruction that the board will act in good faith to meet the required ratio as soon as possible.

SECTION 265.50.30. PRIVATE TREATMENT FACILITY PROJECT

(A) As used in this section:

(1) The following are "participating residential treatment centers":

(a) Private residential treatment facilities that have entered into a contract with the Department of Youth Services to provide services to children placed at the facility by the Department and which, in fiscal year 2010 or fiscal year 2011 or both, the Department pays through appropriation item 470401, RECLAIM Ohio;

- (b) Abraxas, in Shelby;
- (c) Paint Creek, in Bainbridge;
- (d) Act One, in Akron;
- (e) F.I.R.S.T., in Mansfield.

(2) "Education program" means an elementary or secondary education program or a special education program and related services.

(3) "Served child" means any child receiving an education program pursuant to division (B) of this section.

(4) "School district responsible for tuition" means a city, exempted village, or local school district that, if tuition payment for a child by a school district is required under law that existed in fiscal year 1998, is the school district required to pay that tuition.

(5) "Residential child" means a child who resides in a participating residential treatment center and who is receiving an educational program under division (B) of this section.

(B) A youth who is a resident of the state and has been assigned by a juvenile court or other authorized agency to a residential treatment facility specified in division (A) of this section shall be enrolled in an approved educational program located in or near the facility. Approval of the educational program shall be contingent upon compliance with the criteria established for such programs by the Department of Education. The educational program shall be provided by a school district or educational service center, or by the residential facility itself. Maximum flexibility shall be given to the residential treatment facility to determine the provider. In the event that a voluntary agreement cannot be reached and the residential facility does not choose to provide the educational program, the educational service center in the county in which the facility is located shall provide the educational program at the treatment center to children under twenty-two years of age residing in the treatment center.

(C) Any school district responsible for tuition for a residential child shall, notwithstanding any conflicting provision of the Revised Code regarding tuition payment, pay tuition for the child for fiscal year 2010 and fiscal year 2011 to the education program provider and in the amount specified in this division. If there is no school district responsible for tuition for a residential child and if the participating residential treatment center to

which the child is assigned is located in the city, exempted village, or local school district that, if the child were not a resident of that treatment center, would be the school district where the child is entitled to attend school under sections 3313.64 and 3313.65 of the Revised Code, that school district, notwithstanding any conflicting provision of the Revised Code, shall pay tuition for the child for fiscal year 2010 and fiscal year 2011 under this division unless that school district is providing the educational program to the child under division (B) of this section.

A tuition payment under this division shall be made to the school district, educational service center, or residential treatment facility providing the educational program to the child.

The amount of tuition paid shall be:

(1) The amount of tuition determined for the district under division (A) of section 3317.08 of the Revised Code;

(2) In addition, for any student receiving special education pursuant to an individualized education program as defined in section 3323.01 of the Revised Code, a payment for excess costs. This payment shall equal the actual cost to the school district, educational service center, or residential treatment facility of providing special education and related services to the student pursuant to the student's individualized education program, minus the tuition paid for the child under division (C)(1) of this section.

A school district paying tuition under this division shall not include the child for whom tuition is paid in the district's average daily membership certified under division (A) of section 3317.03 of the Revised Code.

(D) In each of fiscal years 2010 and 2011, the Department of Education shall reimburse, from appropriations made for the purpose, a school district, educational service center, or residential treatment facility, whichever is providing the service, that has demonstrated that it is in compliance with the funding criteria for each served child for whom a school district must pay tuition under division (C) of this section. The amount of the reimbursement shall be the amount appropriated for this purpose divided by the full-time equivalent number of children for whom reimbursement is to be made.

(E) Funds provided to a school district, educational service center, or residential treatment facility under this section shall be used to supplement, not supplant, funds from other public sources for which the school district, service center, or residential treatment facility is entitled or eligible.

(F) The Department of Education shall track the utilization of funds provided to school districts, educational service centers, and residential treatment facilities under this section and monitor the effect of the funding on the educational programs they provide in participating residential

treatment facilities. The Department shall monitor the programs for educational accountability.

SECTION 265.50.40. SCHOOL DISTRICT PARTICIPATION IN NATIONAL ASSESSMENT OF EDUCATION PROGRESS

The General Assembly intends for the Superintendent of Public Instruction to provide for school district participation in the administration of the National Assessment of Education Progress in accordance with section 3301.27 of the Revised Code. Each school and school district selected for participation by the Superintendent of Public Instruction shall participate.

SECTION 265.50.50. DEPARTMENT OF EDUCATION APPROPRIATION TRANSFERS FOR STUDENT ASSESSMENT

In fiscal year 2010 and fiscal year 2011, if the Superintendent of Public Instruction determines that additional funds are needed to fully fund the requirements of Am. Sub. H.B. 3 of the 125th General Assembly and this act for assessments of student performance, the Superintendent of Public Instruction may recommend the reallocation of unexpended and unencumbered General Revenue Fund appropriations within the Department of Education to appropriation item 200437, Student Assessment, to the Director of Budget and Management. If the Director of Budget and Management determines that such a reallocation is required, the Director of Budget and Management may transfer unexpended and unencumbered appropriations within the Department of Education as necessary to appropriation item 200437, Student Assessment. If these transferred appropriations are not sufficient to fully fund the assessment requirements in fiscal year 2010 or fiscal year 2011, the Superintendent of Public Instruction may request that the Controlling Board transfer up to \$9,000,000 cash from the Lottery Profits Education Reserve Fund (Fund 7018) to the General Revenue Fund. Upon approval of the Controlling Board, these transferred funds are hereby appropriated for the same purpose as appropriation item 200437, Student Assessment.

SECTION 265.50.53. DEPARTMENT OF EDUCATION APPROPRIATION TRANSFERS FOR SCHOOL MANAGEMENT ASSISTANCE

In fiscal year 2010 and fiscal year 2011, if the Superintendent of Public

Instruction determines that additional funds are needed to meet the reporting requirements of the federal American Recovery and Reinvestment Act, the Superintendent of Public Instruction may recommend the reallocation of unexpended and unencumbered General Revenue Fund appropriations within the Department of Education to appropriation item 200422, School Management Assistance, to the Director of Budget and Management. If the Director of Budget and Management determines that such a reallocation is required, the Director of Budget and Management may transfer unexpended and unencumbered appropriations within the Department of Education as necessary to appropriation item 200422, School Management Assistance.

SECTION 265.50.55. TRANSFER AND ADJUSTMENT OF ARRA STATE FISCAL STABILIZATION FUND APPROPRIATIONS

The Director of Budget and Management, with the approval of the Controlling Board, may transfer appropriation between appropriation items 200550, Foundation Funding, and 200551, Foundation Funding – Federal Stimulus, in each fiscal year, upon the written request of the Superintendent of Public Instruction, to meet the maintenance of effort and use of funds provisions of the American Recovery and Reinvestment Act, including transferring appropriation between fiscal year 2010 and fiscal year 2011.

SECTION 265.50.60. COMMUNITY SCHOOL FUNDING GUARANTEE FOR SBH STUDENTS

(A) As used in this section:

(1) "IEP" has the same meaning as in section 3323.01 of the Revised Code.

(2) "SBH student" means a student receiving special education and related services for severe behavior disabilities pursuant to an IEP.

(B) This section applies only to a community school established under Chapter 3314. of the Revised Code that in each of fiscal years 2010 and 2011 enrolls a number of SBH students equal to at least fifty per cent of the total number of students enrolled in the school in the applicable fiscal year.

(C) In addition to any state foundation payments made, in each of fiscal years 2010 and 2011, the Department of Education shall pay to a community school to which this section applies a subsidy equal to the difference between the aggregate amount calculated and paid in that fiscal year to the community school for special education and related services additional weighted costs for the SBH students enrolled in the school and the aggregate amount that would have been calculated for the school for special education

and related services additional weighted costs for those same students in fiscal year 2001. If the difference is a negative number, the amount of the subsidy shall be zero.

(D) The amount of any subsidy paid to a community school under this section shall not be deducted from the school district in which any of the students enrolled in the community school are entitled to attend school under section 3313.64 or 3313.65 of the Revised Code. The amount of any subsidy paid to a community school under this section shall be paid from funds appropriated to the Department of Education in appropriation item 200550, Foundation Funding.

SECTION 265.50.70. EARMARK ACCOUNTABILITY

At the request of the Superintendent of Public Instruction, any entity that receives a budget earmark under the Department of Education shall submit annually to the chairpersons of the committees of the House of Representatives and the Senate primarily concerned with education and to the Department of Education a report that includes a description of the services supported by the funds, a description of the results achieved by those services, an analysis of the effectiveness of the program, and an opinion as to the program's applicability to other school districts. For an earmarked entity that received state funds from an earmark in the prior fiscal year, no funds shall be provided by the Department of Education to an earmarked entity for a fiscal year until its report for the prior fiscal year has been submitted.

SECTION 265.50.80. PROHIBITION FROM OPERATING FROM HOME

No community school established under Chapter 3314. of the Revised Code that was not open for operation as of May 1, 2005, shall operate from a home, as defined in section 3313.64 of the Revised Code.

SECTION 265.50.90. EARLY COLLEGE START UP COMMUNITY SCHOOL

(A) As used in this section:

(1) "Big eight school district" has the same meaning as in section 3314.02 of the Revised Code.

(2) "Early college high school" means a high school that provides students with a personalized learning plan based on an accelerated

curriculum combining high school and college-level coursework.

(B) Any early college high school that is operated by a big eight school district in partnership with a private university may operate as a new start-up community school under Chapter 3314. of the Revised Code beginning in the 2007-2008 school year, if all of the following conditions are met:

(1) The governing authority and sponsor of the school enter into a contract in accordance with section 3314.03 of the Revised Code and, notwithstanding division (D) of section 3314.02 of the Revised Code, both parties adopt and sign the contract by July 9, 2007.

(2) Notwithstanding division (A) of section 3314.016 of the Revised Code, the school's governing authority enters into a contract with the private university under which the university will be the school's operator.

(3) The school provides the same educational program the school provided while part of the big eight school district.

SECTION 265.60.30. USE OF VOLUNTEERS

The Department of Education may utilize the services of volunteers to accomplish any of the purposes of the Department. The Superintendent of Public Instruction shall approve for what purposes volunteers may be used and for these purposes may recruit, train, and oversee the services of volunteers. The Superintendent may reimburse volunteers for necessary and appropriate expenses in accordance with state guidelines and may designate volunteers as state employees for the purpose of motor vehicle accident liability insurance under section 9.83 of the Revised Code, for immunity under section 9.86 of the Revised Code, and for indemnification from liability incurred in the performance of their duties under section 9.87 of the Revised Code.

SECTION 265.60.60. EDUCATOR STANDARDS BOARD

(A) The State Board of Education shall appoint two teachers under division (A)(1)(a) of section 3319.60 of the Revised Code, as amended by this act, not later than sixty days after the effective date of this section. The term of office of the new secondary school teacher member shall expire July 1, 2011, and the term of office of the new elementary school teacher member shall expire July 1, 2012. Thereafter, the term of the additional secondary and elementary school teachers appointed to the Educator Standards Board shall be for two years.

(B) The State Board of Education shall appoint a school district treasurer or business manager to the Educator Standards Board under

division (A)(1)(c) of section 3319.60 of the Revised Code, as amended by this act, not later than sixty days after the effective date of this section. The term of office of that member shall expire July 1, 2012. Thereafter, the term of the school district treasurer or business manager appointed to the Educator Standards Board shall be for two years.

(C) The State Board of Education shall appoint a parent to the Educator Standards Board under division (A)(1)(e) of section 3319.60 of the Revised Code, as amended by this act, not later than sixty days after the effective date of this section. The term of office of that member shall expire July 1, 2011. Thereafter, the term of the parent representative appointed to the Educator Standards Board shall be for two years.

(D) The higher education representatives appointed by the State Board of Education to the Educator Standards Board prior to the effective date of this section under former division (A)(5) of section 3319.60 of the Revised Code shall serve for the remainder of their terms. The Chancellor of the Ohio Board of Regents shall appoint higher education representatives to the Educator Standards Board under division (A)(2) of section 3319.60 of the Revised Code, as amended by this act, as the terms of the higher education representatives appointed under former division (A)(5) of that section expire, each for a term of two years. The Chancellor also shall fill any vacancies that occur during the term of a higher education representative appointed under former division (A)(5) of that section.

SECTION 265.60.70. RESTRICTION OF LIABILITY FOR CERTAIN REIMBURSEMENTS

(A) Except as expressly required under a court judgment not subject to further appeals, or a settlement agreement with a school district executed on or before June 1, 2009, in the case of a school district for which the formula ADM for fiscal year 2005, as reported for that fiscal year under division (A) of section 3317.03 of the Revised Code, was reduced based on enrollment reports for community schools, made under section 3314.08 of the Revised Code, regarding students entitled to attend school in the district, which reduction of formula ADM resulted in a reduction of foundation funding or transitional aid funding for fiscal year 2005, 2006, or 2007, no school district, except a district named in the court's judgment or the settlement agreement, shall have a legal claim for reimbursement of the amount of such reduction in foundation funding or transitional aid funding, and the state shall not have liability for reimbursement of the amount of such reduction in foundation funding or transitional aid funding.

(B) As used in this section:

(1) "Community school" means a community school established under Chapter 3314. of the Revised Code.

(2) "Entitled to attend school" means entitled to attend school in a school district under section 3313.64 or 3313.65 of the Revised Code.

(3) "Foundation funding" means payments calculated for the respective fiscal year under Chapter 3317. of the Revised Code.

(4) "Transitional aid funding" means payments calculated for the respective fiscal year under Section 41.37 of Am. Sub. H.B. 95 of the 125th General Assembly, as subsequently amended; Section 206.09.39 of Am. Sub. H.B. 66 of the 126th General Assembly, as subsequently amended; and Section 269.30.80 of Am. Sub. H.B. 119 of the 127th General Assembly.

SECTION 265.60.80. COMMITTEE TO UPDATE STANDARDS AND CURRICULA

Not later than September 15, 2009, the State Board of Education shall convene a committee of national experts, state experts, and local practitioners to provide advice and guidance in the design of the updated standards and curricula required by section 3301.079 of the Revised Code, as amended by this act.

SECTION 265.60.90. All duties, powers, obligations, and functions performed by, all rights exercised by, and the remaining unexpended, unencumbered balance of any money appropriated or reappropriated to the Department of Administrative Services with regard to the School Employees Health Care Board under section 9.901 of the Revised Code, whether obligated or unobligated, are transferred to the Department of Education on July 1, 2009. The Department of Education thereupon succeeds to, and shall assume, all duties, powers, obligations, and functions performed by, all rights exercised by, and the remaining unexpended, unencumbered balance of any money appropriated or reappropriated to the Department of Administrative Services with regard to the School Employees Health Care Board under section 9.901 of the Revised Code.

Any aspect of the board's operations commenced but not completed by the Department of Administrative Services on July 1, 2009, shall be completed by the Superintendent of Public Instruction or staff of the Department of Education in the same manner, and with the same effect, as if completed by the Department of Administrative Services or the staff of the Department of Administrative Services. Any validation, cure, right, privilege, remedy, obligation, or liability related to the board's operations is

neither lost nor impaired by reason of the transfer and shall be administered by the Department of Education.

All of the rules, orders, and determinations of the Department of Administrative Services in relation to the board's operations continue in effect as rules, orders, and determinations of the Superintendent of Public Instruction until modified or rescinded by the Superintendent. At the request of the Superintendent, and if necessary to ensure the integrity of the numbering of the Administrative Code, the Director of the Legislative Service Commission shall renumber the rules of the board to reflect the transfer to the Department of Education.

The Department of Administrative Services and the Superintendent shall identify the employees of the board to be transferred to the Department of Education. The employees shall be transferred on July 1, 2009, or as soon as possible thereafter.

Whenever the Department of Administrative Services is referred to in relation to the board in any law, contract, or other document, the reference shall be deemed to refer to the Department of Education in relation to the board.

Any action or proceeding that is related to the board's operations and that is pending on the effective date of this section is not affected by the transfer and shall be prosecuted or defended in the name of the Superintendent or the Department of Education. In all such actions and proceedings, the Superintendent or the Department of Education, upon application to the court or agency, shall be substituted as a party.

On or after July 1, 2009, notwithstanding any provision of law to the contrary, the Director of Budget and Management shall take any action with respect to budget changes made necessary by the transfer, including the creation of new funds and the consolidation of funds. The Director may transfer cash balances between funds. The Director may cancel encumbrances and re-establish encumbrances or parts of encumbrances as needed in the fiscal year in the appropriate fund and appropriation item for the same purpose and to the same vendor. As determined by the Director, encumbrances re-established in the fiscal year in a different fund or appropriation item used by an agency or between agencies are appropriated. The Director shall reduce each year's appropriation balances by the amount of the encumbrance canceled in their respective funds and appropriation item. Any unencumbered or unallocated appropriation balances from the previous fiscal year may be transferred to the appropriate appropriation item to be used for the same purposes, as determined by the Director.

SECTION 265.70.10. CENTER FOR EARLY CHILDHOOD DEVELOPMENT

(A) The Governor and the Superintendent of Public Instruction shall create the Center for Early Childhood Development in the Department of Education comprised of staff from the Department of Education, the Department of Job and Family Services, the Department of Health, and any other state agency as determined necessary by the Governor and the Superintendent. The Governor and the Superintendent also shall hire a Director of the Center who shall report to the Superintendent and the Governor. The Center, under the supervision of the Director, shall research and make recommendations about the coordination of early childhood programs and services for children, beginning with prenatal care and continuing until entry into kindergarten, and the eventual transfer of the authority to implement those programs and services from other state agencies to the Department of Education.

(B) The Center for Early Childhood Development shall promote family-centered programs and services that acknowledge and support the social, emotional, cognitive, intellectual, and physical development of children and the vital role of families in ensuring the well-being and success of children.

(C) The Director of the Center for Early Childhood Development, in partnership with staff from the Department of Education, the Department of Job and Family Services, the Department of Health, and any other state agency as determined necessary by the Governor and the Superintendent, and advised by the Early Childhood Advisory Council, shall submit an implementation plan to the Superintendent and the Governor not later than December 31, 2009. The implementation plan shall include research and recommendations regarding all of the following:

(1) The identification of programs, services, and funding sources to be transferred from other state agencies to the Department of Education;

(2) A new administrative structure within the Department of Education for the purpose of implementing early childhood programs and services;

(3) Statutory changes necessary to implement the new administrative structure within the Department of Education;

(4) A timeline for the transition from the current administrative structure within other state agencies to the new administrative structure within the Department of Education.

(D) The Director of Budget and Management may seek Controlling Board approval to do any of the following to support the preparation of an

implementation plan to create a new administrative structure for early childhood programs and services within the Department of Education:

- (1) Create new funds and non-GRF appropriation items;
- (2) Transfer cash between funds;
- (3) Transfer appropriations within the same fund used by the same state agency.

Any transfers of cash approved by the Controlling Board under this section are hereby appropriated.

SECTION 265.70.20. EARLY CHILDHOOD FINANCING WORKGROUP

The Early Childhood Advisory Council shall establish an Early Childhood Financing Workgroup. The chairperson of the Early Childhood Advisory Council shall serve as chairperson of the Early Childhood Financing Workgroup. The Early Childhood Financing Workgroup shall develop recommendations that explore the implementation of a single financing system for early care and education programs that includes aligned payment mechanisms and consistent eligibility and co-payment policies. Not later than December 31, 2009, the Early Childhood Financing Workgroup shall submit its recommendations to the Governor. Upon the order of the Early Childhood Advisory Council, the Early Childhood Financing Workgroup shall cease to exist.

SECTION 265.70.23. RECOMMENDATIONS FOR MINIMUM SCHOOL YEAR

Not later than December 31, 2010, the Superintendent of Public Instruction shall submit to the General Assembly, in accordance with section 101.68 of the Revised Code, a report of the Superintendent's findings and recommendations on extending the school year.

SECTION 265.70.40. MORATORIUM ON LOCAL SCHOOL DISTRICT RELOCATIONS TO DIFFERENT EDUCATIONAL SERVICE CENTERS

Notwithstanding section 3311.059 of the Revised Code, as amended by this act, and notwithstanding Section 265.70.41 of this act, no severance of the territory of a local school district from the educational service center to which it currently belongs and annexation of that district's territory to an adjacent educational service center, as otherwise authorized under that

section, shall be effective for the period beginning on the effective date of this section and ending July 1, 2011. All resolutions proposing such severance and annexation approved by the State Board of Education but not effective prior to July 1, 2009, are hereby void. All resolutions proposing such severance and annexation pending on the effective date of this section are hereby void and shall not be considered by the State Board. If the board of education of a local school district with such a severance and annexation action pending or approved on the effective date of this section that is void under this section desires to have the action considered after July 1, 2011, the board shall adopt after that date a new resolution in the manner prescribed by section 3311.059 of the Revised Code. No local school district shall adopt a severance and annexation resolution under that section during the period beginning on the effective date of this section and ending July 1, 2011.

SECTION 265.70.41. The amendments to section 3311.059 of the Revised Code enacted by this act shall apply to any resolution proposing the severance of a local school district from its current educational service center and annexation of the district to the territory of another service center pending before the State Board of Education on and after the effective date of this section.

SECTION 265.70.50. (A) Not later than December 31, 2010, the Department of Education, in consultation with the Educator Standards Board, shall develop a model peer assistance and review program and shall develop recommendations to expand the use of peer assistance and review programs in school districts throughout the state.

(B) In developing the model program required under this section, the Department shall review existing peer assistance and review programs in Ohio school districts and shall consult with the districts about the operation of those programs. The model program shall include the following elements:

(1) Releasing experienced classroom teachers from instructional duties for up to three years to focus full-time on mentoring and evaluating new teachers and underperforming veteran teachers through classroom observations and follow-up meetings;

(2) Professional development for new and underperforming teachers that is targeted at their instructional weaknesses;

(3) A committee comprised of representatives of teachers and the employer to review teacher evaluations and make recommendations

regarding the teachers' continued employment.

(C) The recommendations required under this section shall include the following:

(1) Identification of barriers to expansion of peer assistance and review programs, including financial constraints, labor-management relationships, and barriers unique to small school districts;

(2) Legislative changes that would eliminate barriers to expansion of the programs;

(3) Incentives to increase participation in the programs.

(D) The Department shall provide copies of its model program and recommendations to the Governor, the President and Minority Leader of the Senate, the Speaker and Minority Leader of the House of Representatives, and the chairpersons and ranking minority members of the standing committees on education. The Department also shall make the model program and recommendations available to school districts and shall post them on its web site.

SECTION 265.70.70. As used in this section, "all-day kindergarten" has the same meaning as in section 3321.05 of the Revised Code.

Any school district or community school established under Chapter 3314. of the Revised Code that, in fiscal year 2009, offered all-day kindergarten and charged fees or tuition for students enrolled in all-day kindergarten in accordance with section 3321.01 of the Revised Code, as it existed prior to the effective date of this section, may charge fees or tuition for students enrolled in all-day kindergarten in fiscal years 2010 and 2011, at a rate not higher than the per-student amount charged in fiscal year 2009 as specified in the sliding fee scale based on family incomes developed by the district or community school for that fiscal year. No district or community school shall charge fees or tuition for students enrolled in all-day kindergarten after fiscal year 2011.

SECTION 265.70.80. Notwithstanding section 3306.31 of the Revised Code, in fiscal year 2010, the Governor's Closing the Achievement Gap Initiative shall work with those districts that have a three-year overall average graduation rate of 80 per cent or less to assist them in planning for the implementation of the program in fiscal year 2011. Districts that are currently participating in the program and that continue to have a three-year overall graduation rate of 80 per cent or less are encouraged to maintain existing programs during this planning period.

SECTION 265.80.20. UNAUDITABLE COMMUNITY SCHOOL

(A) If the Auditor of State or a public accountant, pursuant to section 117.41 of the Revised Code, declares a community school established under Chapter 3314. of the Revised Code to be unauditabile, the Auditor of State shall provide written notification of that declaration to the school, the school's sponsor, and the Department of Education. The Auditor of State also shall post the notification on the Auditor of State's web site.

(B) Notwithstanding any provision to the contrary in Chapter 3314. of the Revised Code or any other provision of law, a sponsor of a community school that is notified by the Auditor of State under division (A) of this section that a community school it sponsors is unauditabile shall not enter into contracts with any additional community schools under section 3314.03 of the Revised Code until the Auditor of State or a public accountant has completed a financial audit of that school.

(C) Not later than forty-five days after receiving notification by the Auditor of State under division (A) of this section that a community school is unauditabile, the sponsor of the school shall provide a written response to the Auditor of State. The response shall include the following:

(1) An overview of the process the sponsor will use to review and understand the circumstances that led to the community school becoming unauditabile;

(2) A plan for providing the Auditor of State with the documentation necessary to complete an audit of the community school and for ensuring that all financial documents are available in the future;

(3) The actions the sponsor will take to ensure that the plan described in division (C)(2) of this section is implemented.

(D) If a community school fails to make reasonable efforts and continuing progress to bring its accounts, records, files, or reports into an auditabile condition within ninety days after being declared unauditabile, the Auditor of State, in addition to requesting legal action under sections 117.41 and 117.42 of the Revised Code, shall notify the Department of the school's failure. If the Auditor of State or a public accountant subsequently is able to complete a financial audit of the school, the Auditor of State shall notify the Department that the audit has been completed.

(E) Notwithstanding any provision to the contrary in Chapter 3314. of the Revised Code or any other provision of law, upon notification by the Auditor of State under division (D) of this section that a community school has failed to make reasonable efforts and continuing progress to bring its accounts, records, files, or reports into an auditabile condition following a

declaration that the school is unauditale, the Department shall immediately cease all payments to the school under Chapter 3314. of the Revised Code and any other provision of law. Upon subsequent notification from the Auditor of State under that division that the Auditor of State or a public accountant was able to complete a financial audit of the community school, the Department shall release all funds withheld from the school under this section.

SECTION 265.80.30. (A) This section applies only to the contract for vocational education services, under section 3313.90 of the Revised Code, between:

(1) A local school district receiving the services under the contract, which was created under section 3311.26 of the Revised Code and began operating in fiscal year 2005;

(2) Another local school district providing the services under the contract, the territory of which district had included the territory of the district described in division (A)(1) of this section prior to the creation of that district.

(B) Notwithstanding anything to the contrary in rule 3301-61-06 of the Administrative Code, a vocational education contract to which this section applies that expires on or before June 30, 2010, may be renewed one time for a term of less than five years.

SECTION 265.80.40. Not later than January 29, 2010, the State Board of Education shall develop a list of best practices for improving parental involvement in schools that public and nonpublic schools may use to increase parental participation. The Department of Education shall make the list available to schools on its web site.

SECTION 267.10. ELC OHIO ELECTIONS COMMISSION

General Revenue Fund

GRF 051321	Operating Expenses	\$	343,420	\$	343,420
TOTAL GRF General Revenue Fund		\$	343,420	\$	343,420

General Services Fund Group

4P20 051601	Ohio Elections Commission Fund	\$	250,000	\$	255,000
TOTAL GSF General Services Fund Group		\$	250,000	\$	255,000
TOTAL ALL BUDGET FUND GROUPS		\$	593,420	\$	598,420

SECTION 269.10. FUN STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS

General Services Fund Group

4K90 881609	Operating Expenses	\$	572,159	\$	572,159
TOTAL GSF General Services					
Fund Group					
		\$	572,159	\$	572,159
TOTAL ALL BUDGET FUND GROUPS					
		\$	572,159	\$	572,159

SECTION 271.10. PAY EMPLOYEE BENEFITS FUNDS

Accrued Leave Liability Fund Group

8060 995666	Accrued Leave Fund	\$	65,200,000	\$	67,200,000
8070 995667	Disability Fund	\$	27,400,000	\$	28,100,000
TOTAL ALF Accrued Leave Liability					
Fund Group					
		\$	92,600,000	\$	95,300,000

Agency Fund Group

1240 995673	Payroll Deductions	\$	881,573,000	\$	943,283,110
8080 995668	State Employee Health Benefit Fund	\$	551,795,580	\$	598,643,430
8090 995669	Dependent Care Spending Account	\$	2,969,635	\$	2,969,635
8100 995670	Life Insurance Investment Fund	\$	2,229,834	\$	2,229,834
8110 995671	Parental Leave Benefit Fund	\$	3,900,000	\$	4,000,000
8130 995672	Health Care Spending Account	\$	8,977,689	\$	12,000,000
8140 995674	Cost Savings Days	\$	200,000,000	\$	200,000,000
TOTAL AGY Agency Fund Group					
		\$	1,651,445,738	\$	1,763,126,009
TOTAL ALL BUDGET FUND GROUPS					
		\$	1,744,045,738	\$	1,858,426,009

PAYROLL WITHHOLDING FUND TRANSFER

On July 1, 2009, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$33,065.48 from the Payroll Withholding Fund (Fund 1240) to the General Revenue Fund. This amount represents the remaining balance in the Manual Emergency Payroll Account. After the transfer is completed, the Manual Emergency Payroll Account shall be closed.

ACCRUED LEAVE LIABILITY FUND

The foregoing appropriation item 995666, Accrued Leave Fund, shall be used to make payments from the Accrued Leave Liability Fund (Fund 8060) pursuant to section 125.211 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

STATE EMPLOYEE DISABILITY LEAVE BENEFIT FUND

The foregoing appropriation item 995667, Disability Fund, shall be used

to make payments from the State Employee Disability Leave Benefit Fund (Fund 8070) pursuant to section 124.83 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

PAYROLL WITHHOLDING FUND

The foregoing appropriation item 995673, Payroll Deductions, shall be used to make payments from the Payroll Withholding Fund (Fund 1240). If it is determined by the Director of Budget and Management that additional appropriation amounts are necessary, the amounts are hereby appropriated.

STATE EMPLOYEE HEALTH BENEFIT FUND

The foregoing appropriation item 995668, State Employee Health Benefit Fund, shall be used to make payments from the State Employee Health Benefit Fund (Fund 8080) pursuant to section 124.87 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

DEPENDENT CARE SPENDING FUND

The foregoing appropriation item 995669, Dependent Care Spending Account, shall be used to make payments from the Dependent Care Spending Fund (Fund 8090) to employees eligible for dependent care expenses. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

LIFE INSURANCE INVESTMENT FUND

The foregoing appropriation item 995670, Life Insurance Investment Fund, shall be used to make payments from the Life Insurance Investment Fund (Fund 8100) for the costs and expenses of the state's life insurance benefit program pursuant to section 125.212 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

PARENTAL LEAVE BENEFIT FUND

The foregoing appropriation item 995671, Parental Leave Benefit Fund, shall be used to make payments from the Parental Leave Benefit Fund (Fund 8110) to employees eligible for parental leave benefits pursuant to section 124.137 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

HEALTH CARE SPENDING ACCOUNT FUND

The foregoing appropriation item 995672, Health Care Spending Account, shall be used to make payments from the Health Care Spending Account Fund (Fund 8130) for payments pursuant to state employees' participation in a flexible spending account for non-reimbursed health care

expenses and section 124.821 of the Revised Code. If it is determined by the Director of Administrative Services that additional appropriation amounts are necessary, the Director of Administrative Services may request that the Director of Budget and Management increase such amounts. Such amounts are hereby appropriated.

At the request of the Director of Administrative Services, the Director of Budget and Management may transfer up to \$145,000 from the General Revenue Fund to the Health Care Spending Account Fund during fiscal years 2010 and 2011. This cash shall be transferred as needed to provide adequate cash flow for the Health Care Spending Account Fund during fiscal year 2010 and fiscal year 2011. If funds are available at the end of fiscal years 2010 and 2011, the Director of Budget and Management shall transfer cash up to the amount previously transferred in the respective year, plus interest income, from the Health Care Spending Account (Fund 8130) to the General Revenue Fund.

COST SAVINGS DAYS

The foregoing appropriation item, 995674, Cost Savings Days, shall be used by the Director of Budget and Management in accordance with division (E) of section 124.392 of the Revised Code to pay employees who participated in a mandatory cost savings program, or to reimburse employees who did not fully participate in a mandatory cost savings program by the close of each fiscal year. Notwithstanding any provision of law to the contrary, in fiscal year 2010 and fiscal year 2011, the Director may transfer agency savings achieved from the use of a mandatory cost savings program to the General Revenue Fund or any other fund as deemed necessary by the Director. The Director may make temporary transfers from the General Revenue Fund to ensure sufficient balances in the Cost Savings Fund and may reimburse the General Revenue Fund for such transfers. If the Director determines that additional amounts are necessary for these purposes, the amounts are hereby appropriated.

SECTION 273.10. ERB STATE EMPLOYMENT RELATIONS BOARD

General Revenue Fund

GRF 125321	Operating Expenses	\$	2,863,613	\$	2,863,613
TOTAL GRF General Revenue Fund		\$	2,868,613	\$	2,863,613

General Services Fund Group

5720 125603	Training and Publications	\$	87,075	\$	87,075
TOTAL GSF General Services Fund Group		\$	87,075	\$	87,075
TOTAL ALL BUDGET FUND GROUPS		\$	2,950,688	\$	2,950,688

SECTION 273.20. CONSOLIDATION OF SERVICES WITH STATE EMPLOYMENT RELATIONS BOARD

(A) Beginning on July 1, 2009, the Chairperson of the State Employment Relations Board is the appointing authority for all employees of the State Personnel Board of Review and the State Employment Relations Board. After conferring with the Chairperson of the State Personnel Board of Review, the Chairperson of the State Employment Relations Board shall identify the employees, equipment, assets, and records of the State Personnel Board of Review to be transferred to the State Employment Relations Board. The State Employment Relations Board and the State Personnel Board of Review shall enter into an interagency agreement to transfer to the State Employment Relations Board employees, equipment, assets, and records of the State Personnel Board of Review by July 1, 2009, or as soon as possible thereafter. The agreement may include provisions to transfer property and any other provisions necessary for the continued administration of program activities. The employees of the State Personnel Board of Review that the Chairperson of the State Employment Relations Board identifies for transfer, and any equipment assigned to those employees, are hereby transferred to the State Employment Relations Board. Any employees of the State Personnel Board of Review so transferred shall retain the rights specified in sections 124.321 to 124.328 of the Revised Code, and any employee transferred to the State Employment Relations Board retains the employee's respective classification, but the Chairperson of the State Employment Relations Board may reassign and reclassify the employee's position and compensation as the Chairperson determines to be in the interest of efficient office administration. Pursuant to division (B)(2)(b) of section 4117.02 of the Revised Code, as amended by this act, to the extent determined necessary by the Chairperson of the State Employment Relations Board, the State Personnel Board of Review shall utilize employees of the State Employment Relations Board in the exercise of the powers and the performance of the duties of the State Personnel Board of Review.

(B) Effective July 1, 2009, and pursuant to section 124.03 of the Revised Code, the State Personnel Board of Review shall exercise its duties and exist as a separate entity within the State Employment Relations Board. The costs of the State Personnel Board of Review shall be supported by the foregoing appropriation item 125321, Operating Expenses.

On July 1, 2009, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance of the Transcript

and Other Documents Fund (Fund 6360) used by the State Personnel Board of Review to the Training, Publications, and Grants Fund (Fund 5720) used by the State Employment Relations Board. Upon completion of the transfer, Fund 6360 is abolished. The Director shall cancel any existing encumbrances against appropriation item 124601, Records and Reporting Support, and re-establish them against appropriation item 125603, Training and Publications. The re-established encumbrance amounts are hereby appropriated.

Any business commenced but not completed under Fund 6360 by July 1, 2009, shall be completed under Fund 5720 in the same manner, and with the same effect, as if completed with regard to Fund 6360. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer and shall be administered with regard to Fund 5720.

On and after July 1, 2009, where the Transcript and Other Documents Fund is referred to in any statute, rule, contract, grant, or other document, the reference is hereby deemed to refer to the Training, Publications, and Grants Fund.

SECTION 275.10. ENG STATE BOARD OF ENGINEERS AND SURVEYORS

General Services Fund Group

4K90 892609	Operating Expenses	\$	902,772	\$	902,772
TOTAL GSF General Services					
Fund Group		\$	902,772	\$	902,772
TOTAL ALL BUDGET FUND GROUPS					
		\$	902,772	\$	902,772

SECTION 277.10. EPA ENVIRONMENTAL PROTECTION AGENCY

General Services Fund Group

1990 715602	Laboratory Services	\$	935,907	\$	983,929
2190 715604	Central Support Indirect	\$	15,718,301	\$	15,718,301
4A10 715640	Operating Expenses	\$	3,336,872	\$	3,336,872
TOTAL GSF General Services					
Fund Group		\$	19,991,081	\$	20,039,103

Federal Special Revenue Fund Group

3530 715612	Public Water Supply	\$	2,933,812	\$	2,941,282
3540 715614	Hazardous Waste Management - Federal	\$	4,193,000	\$	4,193,000
3570 715619	Air Pollution Control - Federal	\$	6,282,777	\$	6,310,203
3620 715605	Underground Injection Control - Federal	\$	111,874	\$	111,874
3BU0 715684	Water Quality Protection	\$	7,435,000	\$	6,489,000
3C50 715688	Federal NRD Settlements	\$	100,000	\$	100,000
3F20 715630	Revolving Loan Fund -	\$	1,129,696	\$	907,543

3F30	715632	Operating Federally Supported Cleanup and Response	\$	2,159,486	\$	2,159,551
3F50	715641	Nonpoint Source Pollution Management	\$	6,880,000	\$	6,095,000
3K40	715634	DOD Monitoring and Oversight	\$	729,130	\$	732,280
3N40	715657	DOE Monitoring and Oversight	\$	878,578	\$	884,050
3T30	715669	Drinking Water State Revolving Fund	\$	2,238,848	\$	2,273,323
3V70	715606	Agencywide Grants	\$	500,000	\$	500,000
TOTAL FED Federal Special Revenue Fund Group			\$	35,572,201	\$	33,697,106
State Special Revenue Fund Group						
4J00	715638	Underground Injection Control	\$	383,676	\$	383,676
4K20	715648	Clean Air - Non Title V	\$	3,456,261	\$	3,587,176
4K30	715649	Solid Waste	\$	14,282,845	\$	14,282,845
4K40	715650	Surface Water Protection	\$	7,965,000	\$	8,915,000
4K40	715686	Environmental Lab Service	\$	2,132,000	\$	2,132,000
4K50	715651	Drinking Water Protection	\$	7,487,198	\$	7,699,007
4P50	715654	Cozart Landfill	\$	100,000	\$	100,000
4R50	715656	Scrap Tire Management	\$	5,125,000	\$	5,125,000
4R90	715658	Voluntary Action Program	\$	852,141	\$	852,141
4T30	715659	Clean Air - Title V Permit Program	\$	16,699,500	\$	16,699,500
4U70	715660	Construction and Demolition Debris	\$	888,970	\$	885,554
5000	715608	Immediate Removal Special Account	\$	437,798	\$	437,798
5030	715621	Hazardous Waste Facility Management	\$	8,887,756	\$	8,887,756
5050	715623	Hazardous Waste Cleanup	\$	11,955,989	\$	11,955,989
5050	715674	Clean Ohio Environmental Review	\$	109,725	\$	109,725
5410	715670	Site Specific Cleanup	\$	25,359	\$	25,359
5420	715671	Risk Management Reporting	\$	135,964	\$	135,964
5920	715627	Anti Tampering Settlement	\$	5,654	\$	5,654
5BC0	715617	Clean Ohio	\$	741,000	\$	741,000
5BC0	715622	Local Air Pollution Control	\$	1,827,000	\$	2,035,000
5BC0	715624	Surface Water	\$	13,034,000	\$	13,198,000
5BC0	715667	Groundwater	\$	1,594,000	\$	1,594,000
5BC0	715672	Air Pollution Control	\$	7,269,000	\$	7,607,000
5BC0	715673	Drinking Water	\$	3,838,000	\$	3,838,000
5BC0	715675	Hazardous Waste	\$	116,000	\$	116,000
5BC0	715676	Assistance and Prevention	\$	775,000	\$	775,000
5BC0	715677	Laboratory	\$	1,454,000	\$	1,454,000
5BC0	715678	Corrective Actions	\$	1,180,000	\$	1,180,000
5BC0	715687	Areawide Planning Agencies	\$	450,000	\$	450,000
5BT0	715679	C&DD Groundwater Monitoring	\$	200,000	\$	203,800
5BY0	715681	Auto Emissions Test	\$	14,385,892	\$	14,803,470
5CD0	715682	Clean Diesel School Buses	\$	600,000	\$	600,000

2850

5H40	715664	Groundwater Support	\$	1,872,193	\$	1,884,247
5N20	715613	Dredge and Fill	\$	30,000	\$	30,000
5Y30	715685	Surface Water Improvement	\$	2,000,000	\$	500,000
6440	715631	ER Radiological Safety	\$	286,114	\$	286,114
6600	715629	Infectious Waste Management	\$	100,000	\$	100,000
6760	715642	Water Pollution Control Loan Administration	\$	4,610,529	\$	4,832,682
6780	715635	Air Toxic Release	\$	174,600	\$	179,746
6790	715636	Emergency Planning	\$	2,623,395	\$	2,628,647
6960	715643	Air Pollution Control Administration	\$	750,000	\$	750,000
6990	715644	Water Pollution Control Administration	\$	750,000	\$	750,000
6A10	715645	Environmental Education	\$	1,500,000	\$	1,500,000
TOTAL SSR State Special Revenue Fund Group			\$	143,091,559	\$	144,256,850
Clean Ohio Conservation Fund Group						
5S10	715607	Clean Ohio - Operating	\$	291,174	\$	291,174
TOTAL CLF Clean Ohio Conservation Fund Group			\$	291,174	\$	291,174
TOTAL ALL BUDGET FUND GROUPS			\$	198,946,015	\$	198,284,233

AUTOMOBILE EMISSIONS TESTING PROGRAM OPERATION AND OVERSIGHT

On July 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$14,385,892 in fiscal year 2010, and \$14,803,470 in fiscal year 2011 in cash from the General Revenue Fund to the Auto Emissions Test Fund (Fund 5BY0) for the operation and oversight of the auto emissions testing program.

Effective September 30, 2009, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance in the Motor Vehicle Inspection and Maintenance Fund (Fund 6020) to Fund 5BY0. Fund 6020 is abolished in division (D) of section 3704.14 of the Revised Code as amended by this act.

AREAWIDE PLANNING AGENCIES

The Director of Environmental Protection Agency shall award grants from appropriation item 715687, Areawide Planning Agencies, to areawide planning agencies engaged in areawide water quality management and planning activities in accordance with Section 208 of the "Federal Clean Water Act," 33 U.S.C. 1288.

ENVIRONMENTAL REVIEW AND APPEALS

The foregoing appropriation item 715690, Environmental Review Appeals, shall be used to support the Environmental Review Appeals Commission.

CORRECTIVE CASH TRANSFER FOR COPPERWELD BANKRUPTCY SETTLEMENT

On July 1, 2009, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$1,323,933.19 in cash, which the Agency received from the Copperweld bankruptcy settlement, that was mistakenly deposited in the Hazardous Waste Cleanup Fund (Fund 5050) to the Environmental Protection Remediation Fund (Fund 5410).

SECTION 279.10. EBR ENVIRONMENTAL REVIEW APPEALS COMMISSION

General Revenue Fund

GRF 172321	Operating Expenses	\$	487,000	\$	487,000
TOTAL GRF	General Revenue Fund	\$	487,000	\$	487,000
TOTAL ALL BUDGET FUND GROUPS		\$	487,000	\$	487,000

SECTION 281.10. ETC ETECH OHIO

General Revenue Fund

GRF 935401	Statehouse News Bureau	\$	219,960	\$	219,960
GRF 935402	Ohio Government Telecommunications Services	\$	716,417	\$	716,417
GRF 935408	General Operations	\$	1,505,642	\$	1,515,111
GRF 935409	Technology Operations	\$	3,516,153	\$	4,521,712
GRF 935410	Content Development, Acquisition, and Distribution	\$	2,896,114	\$	2,896,771
GRF 935411	Technology Integration and Professional Development	\$	4,874,258	\$	4,884,241
GRF 935412	Information Technology	\$	970,943	\$	945,276
TOTAL GRF	General Revenue Fund	\$	14,699,487	\$	15,699,488

General Services Fund Group

4F30 935603	Affiliate Services	\$	450,000	\$	50,000
4T20 935605	Government Television/Telecommunications Operating	\$	25,000	\$	25,000
TOTAL GSF	General Services Fund Group	\$	475,000	\$	75,000

Federal Special Revenue Fund Group

3S30 935606	Enhancing Education Technology	\$	163,000	\$	163,000
3X80 935604	IDEA	\$	18,892	\$	0
TOTAL FED	Federal Special Revenue Fund Group	\$	181,892	\$	163,000

State Special Revenue Fund Group

4W90 935630	Telecommunity	\$	25,000	\$	25,000
4X10 935634	Distance Learning	\$	23,734	\$	24,150
5D40 935640	Conference/Special Purposes	\$	1,471,396	\$	1,473,527
5FK0 935608	Media Services	\$	300,000	\$	300,000
5T30 935607	Gates Foundation Grants	\$	200,000	\$	200,000
TOTAL SSR	State Special Revenue Fund Group	\$	2,020,130	\$	2,022,677
TOTAL ALL BUDGET FUND GROUPS		\$	17,376,509	\$	17,960,165

SECTION 281.20. STATEHOUSE NEWS BUREAU

The foregoing appropriation item 935401, Statehouse News Bureau, shall be used solely to support the operations of the Ohio Statehouse News Bureau.

OHIO GOVERNMENT TELECOMMUNICATIONS SERVICES

The foregoing appropriation item 935402, Ohio Government Telecommunications Services, shall be used solely to support the operations of Ohio Government Telecommunications Services which include providing multimedia support to the state government and its affiliated organizations and broadcasting the activities of the legislative, judicial, and executive branches of state government, among its other functions.

TECHNOLOGY OPERATIONS

Of the foregoing appropriation item 935409, Technology Operations, \$2,000,000 in fiscal year 2010 shall be used by eTech Ohio to contract with an entity to provide a common statewide platform and online advanced placement courses to public school students in Ohio and, \$1,000,000 in fiscal year 2011 shall be used to maintain the clearinghouse established under section 3333.82 of the Revised Code for online advanced placement courses. School districts that have students participating in the program shall not be charged a fee in fiscal year 2010, but may be charged a fee in fiscal year 2011 through the clearinghouse. Students participating in the program shall receive services free of charge.

An amount equal to the unexpended, unencumbered portion of the foregoing appropriation item 935409, at the end of fiscal year 2010 is hereby reappropriated in fiscal year 2011 to continue to support the statewide platform and to maintain the clearinghouse.

The remainder of appropriation item 935409, Technology Operations, shall be used by eTech Ohio to pay expenses of eTech Ohio's network infrastructure, which includes the television and radio transmission infrastructure and infrastructure that shall link all public K-12 classrooms to each other and to the Internet, and provide access to voice, video, other communication services, and data educational resources for students and teachers.

CONTENT DEVELOPMENT, ACQUISITION, AND DISTRIBUTION

The foregoing appropriation 935410, Content Development, Acquisition, and Distribution, shall be used for the development, acquisition, and distribution of information resources by public media and radio reading services and for educational use in the classroom and online.

Of the foregoing appropriation item 935410, Content Development, Acquisition, and Distribution, up to \$731,055 in fiscal year 2010 and up to \$731,221 in fiscal year 2011 shall be allocated equally among the 12 Ohio educational television stations and used with the advice and approval of eTech Ohio. Funds shall be used for the production of interactive instructional programming series with priority given to resources aligned with state academic content standards in consultation with the Ohio Department of Education and for teleconferences to support eTech Ohio. The programming shall be targeted to the needs of the poorest two hundred school districts as determined by the district's adjusted valuation per pupil as defined in former section 3317.0213 of the Revised Code as that section existed prior to June 30, 2005.

Of the foregoing appropriation item 935410, Content Development, Acquisition, and Distribution, up to \$1,810,966 in fiscal year 2010 and up to \$1,811,376 in fiscal year 2011 shall be distributed by eTech Ohio to Ohio's qualified public educational television stations and educational radio stations to support their operations. The funds shall be distributed pursuant to an allocation formula used by the Ohio Educational Telecommunications Network Commission unless a substitute formula is developed by eTech Ohio in consultation with Ohio's qualified public educational television stations and educational radio stations.

Of the foregoing appropriation 935410, Content Development, Acquisition, and Distribution, up to \$221,902 in fiscal year 2010 and up to \$221,952 in fiscal year 2011 shall be distributed by eTech Ohio to Ohio's qualified radio reading services to support their operations. The funds shall be distributed pursuant to an allocation formula used by the Ohio Educational Telecommunications Network Commission unless a substitute formula is developed by eTech Ohio in consultation with Ohio's qualified radio reading services.

SECTION 281.30. TECHNOLOGY INTEGRATION AND PROFESSIONAL DEVELOPMENT

The foregoing appropriation item 935411, Technology Integration and Professional Development, shall be used by eTech Ohio for the provision of staff development, hardware, software, telecommunications services, and information resources to support educational uses of technology in the classroom and at a distance and for professional development for teachers, administrators, and technology staff on the use of educational technology in qualifying public schools, including the State School for the Blind, the State School for the Deaf, and the Department of Youth Services.

Of the foregoing appropriation item 935411, Technology Integration and Professional Development, up to \$1,875,826 in fiscal year 2010 and up to \$1,879,668 in fiscal year 2011, shall be used by eTech Ohio to contract with educational television to provide Ohio public schools with instructional resources and services with priority given to resources and services aligned with state academic content standards and such resources and services shall be based upon the advice and approval of eTech Ohio, based on a formula used by the Ohio SchoolNet Commission unless and until a substitute formula is developed by eTech Ohio in consultation with Ohio's educational technology agencies and noncommercial educational television stations.

SECTION 281.40. TELECOMMUNITY

The foregoing appropriation item 935630, Telecommunity, shall be distributed by eTech Ohio on a grant basis to eligible school districts to establish "distance learning" through interactive video technologies in the school district. Per agreements with eight Ohio local telephone companies, ALLTEL Ohio, CENTURY Telephone of Ohio, Chillicothe Telephone Company, Cincinnati Bell Telephone Company, Orwell Telephone Company, Sprint North Central Telephone, VERIZON, and Western Reserve Telephone Company, school districts are eligible for funds if they are within one of the listed telephone company service areas. Funds to administer the program shall be expended by eTech Ohio up to the amount specified in the agreements with the listed telephone companies.

Within thirty days after the effective date of this section, the Director of Budget and Management shall transfer to Fund 4W90 in the State Special Revenue Fund Group any investment earnings from moneys paid by any telephone company as part of any settlement agreement between the listed companies and the Public Utilities Commission in fiscal years 1996 and beyond.

DISTANCE LEARNING

The foregoing appropriation item 935634, Distance Learning, shall be distributed by eTech Ohio on a grant basis to eligible school districts to establish "distance learning" in the school district. Per an agreement with Ameritech, school districts are eligible for funds if they are within an Ameritech service area. Funds to administer the program shall be expended by eTech Ohio up to the amount specified in the agreement with Ameritech.

Within thirty days after the effective date of this section, the Director of Budget and Management shall transfer to Fund 4X10 in the State Special Revenue Fund Group any investment earnings from moneys paid by any telephone company as part of a settlement agreement between the company

and the Public Utilities Commission in fiscal year 1995.

GATES FOUNDATION GRANTS

The foregoing appropriation item 935607, Gates Foundation Grants, shall be used by eTech Ohio to provide professional development to school district principals, superintendents, and other administrative staff on the use of education technology.

SECTION 283.10. ETH OHIO ETHICS COMMISSION

General Revenue Fund

GRF 146321	Operating Expenses	\$	1,513,818	\$	1,513,908
TOTAL GRF General Revenue Fund		\$	1,513,818	\$	1,513,908

General Services Fund Group

4M60 146601	Operating Expenses	\$	544,543	\$	588,943
TOTAL GSF General Services Fund Group		\$	544,543	\$	588,943
TOTAL ALL BUDGET FUND GROUPS		\$	2,058,361	\$	2,102,851

SECTION 285.10. EXP OHIO EXPOSITIONS COMMISSION

General Revenue Fund

GRF 723403	Junior Fair Subsidy	\$	252,000	\$	252,000
TOTAL GRF General Revenue Fund		\$	252,000	\$	252,000

State Special Revenue Fund Group

4N20 723602	Ohio State Fair Harness Racing	\$	520,000	\$	520,000
5060 723601	Operating Expenses	\$	11,753,315	\$	11,753,315
TOTAL SSR State Special Revenue Fund Group		\$	12,273,315	\$	12,273,315
TOTAL ALL BUDGET FUND GROUPS		\$	12,525,315	\$	12,525,315

STATE FAIR RESERVE

The General Manager of the Expositions Commission may submit a request to the Controlling Board to use available amounts in the State Fair Reserve Fund (Fund 6400) if the following conditions apply:

(A) Admissions receipts for the 2009 or 2010 Ohio State Fair are less than \$1,982,000 because of inclement weather or extraordinary circumstances;

(B) The Ohio Expositions Commission declares a state of fiscal exigency; and

(C) The request contains a plan describing how the Expositions Commission will eliminate the cash shortage causing the request.

The amount approved by the Controlling Board is hereby appropriated.

SECTION 287.10. GOV OFFICE OF THE GOVERNOR

General Revenue Fund

GRF 040321	Operating Expenses	\$	2,674,751	\$	2,674,751
GRF 040403	Federal Relations	\$	181,081	\$	181,081
TOTAL GRF General Revenue Fund		\$	2,855,832	\$	2,855,832

General Services Fund Group

5AK0 040607	Federal Relations	\$	365,149	\$	365,149
TOTAL GSF General Services Fund Group		\$	365,149	\$	365,149
TOTAL ALL BUDGET FUND GROUPS		\$	3,220,981	\$	3,220,981

FEDERAL RELATIONS

A portion of the foregoing appropriation items 040403, Federal Relations, and 040607, Federal Relations, may be used to support Ohio's membership in national or regional associations.

The Office of the Governor may charge any state agency of the executive branch using an intrastate transfer voucher such amounts necessary to defray the costs incurred for the conduct of federal relations associated with issues that can be attributed to the agency. Amounts collected shall be deposited in the Federal Relations Fund (Fund 5AK0).

SECTION 289.10. DOH DEPARTMENT OF HEALTH**General Revenue Fund**

GRF440407	Animal Borne Disease and Prevention	\$	600,000	\$	642,291
GRF440412	Cancer Incidence Surveillance System	\$	774,234	\$	774,234
GRF440413	Local Health Department Support	\$	2,311,345	\$	2,311,345
GRF440416	Mothers and Children Safety Net Services	\$	4,338,449	\$	4,338,449
GRF440418	Immunizations	\$	7,239,432	\$	7,239,432
GRF440431	Free Clinics Safety Net Services	\$	437,326	\$	437,326
GRF440437	Healthy Ohio	\$	2,169,998	\$	2,169,998
GRF440438	Breast and Cervical Cancer Screening	\$	804,008	\$	739,171
GRF440444	AIDS Prevention and Treatment	\$	5,542,314	\$	5,542,314
GRF440446	Infectious Disease Protection and Surveillance	\$	915,883	\$	915,883
GRF440451	Public Health Laboratory	\$	2,899,138	\$	2,899,138
GRF440452	Child and Family Health Services Match	\$	645,131	\$	645,130
GRF440453	Health Care Quality Assurance	\$	9,902,795	\$	9,902,795
GRF440454	Local Environmental Health	\$	1,155,219	\$	1,155,219
GRF440459	Help Me Grow	\$	36,500,000	\$	36,500,000
GRF440465	Federally Qualified Health Centers	\$	2,686,688	\$	2,686,688
GRF440467	Access to Dental Care	\$	540,484	\$	540,484

GRF440468	Chronic Disease and Injury Prevention	\$	792,363	\$	792,363
GRF440505	Medically Handicapped Children	\$	8,762,451	\$	8,762,451
GRF440507	Targeted Health Care Services Over 21	\$	1,045,415	\$	1,045,414
TOTAL GRF General Revenue Fund		\$	90,062,673	\$	90,040,125
State Highway Safety Fund Group					
4T40 440603	Child Highway Safety	\$	233,894	\$	233,894
TOTAL HSF State Highway Safety Fund Group		\$		\$	
		\$	233,894	\$	233,894
General Services Fund Group					
1420 440646	Agency Health Services	\$	7,961,915	\$	7,961,915
2110 440613	Central Support Indirect Costs	\$	28,884,706	\$	28,884,706
4730 440622	Lab Operating Expenses	\$	4,954,045	\$	4,954,045
6830 440633	Employee Assistance Program	\$	1,204,905	\$	1,204,905
6980 440634	Nurse Aide Training	\$	100,000	\$	100,000
TOTAL GSF General Services Fund Group		\$	43,105,571	\$	43,105,571
Federal Special Revenue Fund Group					
3200 440601	Maternal Child Health Block Grant	\$	29,056,772	\$	29,068,886
3870 440602	Preventive Health Block Grant	\$	7,826,659	\$	7,826,659
3890 440604	Women, Infants, and Children	\$	298,672,689	\$	308,672,689
3910 440606	Medicaid/Medicare	\$	25,891,157	\$	26,826,242
3920 440618	Federal Public Health Programs	\$	136,778,215	\$	136,778,215
TOTAL FED Federal Special Revenue Fund Group		\$	498,225,492	\$	509,172,691
State Special Revenue Fund Group					
4700 440647	Fee Supported Programs	\$	23,923,382	\$	23,923,382
4710 440619	Certificate of Need	\$	898,000	\$	898,000
4770 440627	Medically Handicapped Children Audit	\$	3,693,016	\$	3,693,016
4D60 440608	Genetics Services	\$	3,317,000	\$	3,317,000
4F90 440610	Sickle Cell Disease Control	\$	1,035,344	\$	1,035,344
4G00 440636	Heirloom Birth Certificate	\$	5,000	\$	5,000
4G00 440637	Birth Certificate Surcharge	\$	5,000	\$	5,000
4L30 440609	Miscellaneous Expenses	\$	333,164	\$	333,164
4P40 440628	Ohio Physician Loan Repayment	\$	476,870	\$	476,870
4V60 440641	Save Our Sight	\$	2,260,880	\$	2,260,880
5B50 440616	Quality, Monitoring, and Inspection	\$	838,479	\$	838,479
5C00 440615	Alcohol Testing and Permit	\$	1,126,239	\$	1,126,239
5CJ0 440654	Sewage Treatment System Innovation	\$	250,000	\$	250,000
5CN0 440645	Choose Life	\$	75,000	\$	75,000
5D60 440620	Second Chance Trust	\$	1,054,951	\$	1,054,951
5ED0 440651	Smoke Free Indoor Air	\$	189,500	\$	190,452

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5G40	440639	Adoption Services	\$	20,000	\$	20,000
5L10	440623	Nursing Facility Technical Assistance Program	\$	698,595	\$	698,595
5Z70	440624	Ohio Dentist Loan Repayment	\$	140,000	\$	140,000
6100	440626	Radiation Emergency Response	\$	850,000	\$	850,000
6660	440607	Medically Handicapped Children - County Assessments	\$	17,320,687	\$	17,320,687
TOTAL SSR State Special Revenue Fund Group			\$	58,511,107	\$	58,512,059
Holding Account Redistribution Fund Group						
R014	440631	Vital Statistics	\$	44,986	\$	44,986
R048	440625	Refunds, Grants Reconciliation, and Audit Settlements	\$	20,000	\$	20,000
TOTAL 090 Holding Account Redistribution Fund Group			\$	64,986	\$	64,986
Tobacco Master Settlement Agreement Fund Group						
5BX0	440656	Tobacco Use Prevention	\$	6,000,000	\$	6,000,000
TOTAL TSF Tobacco Master Settlement Agreement Fund Group			\$	6,000,000	\$	6,000,000
TOTAL ALL BUDGET FUND GROUPS			\$	696,203,723	\$	707,129,326

SECTION 289.20. HIV/AIDS PREVENTION/TREATMENT

The foregoing appropriation item 440444, AIDS Prevention and Treatment, shall be used to assist persons with HIV/AIDS in acquiring HIV-related medications and to administer educational prevention initiatives.

INFECTIOUS DISEASE PREVENTION

The foregoing appropriation item 440446, Infectious Disease Protection and Surveillance, shall be used for coordination and management of prevention program operations and the purchase of drugs for sexually transmitted diseases.

HELP ME GROW

The foregoing appropriation item 440459, Help Me Grow, shall be used by the Department of Health to distribute subsidies to counties to implement the Help Me Grow Program. Appropriation item 440459, Help Me Grow, may be used in conjunction with Early Intervention funding from the Department of Developmental Disabilities, and in conjunction with other early childhood funds and services to promote the optimal development of young children and family-centered programs and services that acknowledge and support the social, emotional, cognitive, intellectual, and physical development of children and the vital role of families in ensuring

the well-being and success of children. The Department of Health shall enter into an interagency agreement with the Department of Education, Department of Developmental Disabilities, Department of Job and Family Services, and Department of Mental Health to ensure that all early childhood programs and initiatives are coordinated and school linked.

Of the foregoing appropriation item 440459, Help Me Grow, if a county Family and Children First Council selects home-visiting programs, the home-visiting program shall only be eligible for funding if it serves pregnant women, or parents or other primary caregivers and the parent or other primary caregiver's child or children under three years of age, through quality programs of early childhood home visitation and if the home visitations are performed by nurses, social workers, child development specialists or other well-trained and competent staff, as demonstrated by education or training and the provision of ongoing specific training and supervision in the model of service being delivered. The home-visiting program also shall be required to have outcome and research standards that demonstrate ongoing positive outcomes for children, parents, and other primary caregivers that enhance child health and development, and conform to a clear consistent home visitation model that has been in existence for at least three years. The home visitation model shall be research-based; grounded in relevant, empirically based knowledge; linked to program-determined outcomes; associated with a national organization or institution of higher education that has comprehensive home visitation program standards that ensure high quality service delivery and continuous program improvement; and have demonstrated significant positive outcomes when evaluated using well-designed and rigorous randomized, controlled, or quasi-experimental research designs, and the evaluation results have been published in a peer-reviewed journal.

The foregoing appropriation item 440459, Help Me Grow, may also be used for the Autism Diagnosis Education Pilot Program.

TARGETED HEALTH CARE SERVICES OVER 21

The foregoing appropriation item 440507, Targeted Health Care Services Over 21, shall be used to administer the Cystic Fibrosis Program and to implement the Hemophilia Insurance Premium Payment Program.

The foregoing appropriation item 440507, Targeted Health Care Services Over 21, shall also be used to provide essential medications and to pay the copayments for drugs approved by the Department of Health and covered by Medicare Part D that are dispensed to Bureau for Children with Medical Handicaps (BCMH) participants for the Cystic Fibrosis Program.

These funds also may be used, to the extent that funding is available, to

provide up to 18 in-patient hospital days for participants in the Cystic Fibrosis Program.

The Department shall expend all of these funds.

GENETICS SERVICES

The foregoing appropriation item 440608, Genetics Services (Fund 4D60), shall be used by the Department of Health to administer programs authorized by sections 3701.501 and 3701.502 of the Revised Code. None of these funds shall be used to counsel or refer for abortion, except in the case of a medical emergency.

MEDICALLY HANDICAPPED CHILDREN AUDIT

The Medically Handicapped Children Audit Fund (Fund 4770) shall receive revenue from audits of hospitals and recoveries from third-party payers. Moneys may be expended for payment of audit settlements and for costs directly related to obtaining recoveries from third-party payers and for encouraging Medically Handicapped Children's Program recipients to apply for third-party benefits. Moneys also may be expended for payments for diagnostic and treatment services on behalf of medically handicapped children, as defined in division (A) of section 3701.022 of the Revised Code, and Ohio residents who are twenty-one or more years of age and who are suffering from cystic fibrosis or hemophilia. Moneys may also be expended for administrative expenses incurred in operating the Medically Handicapped Children's Program.

CASH TRANSFER FROM LIQUOR CONTROL FUND TO ALCOHOL TESTING AND PERMIT FUND

The Director of Budget and Management, pursuant to a plan submitted by the Department of Health, or as otherwise determined by the Director of Budget and Management, shall set a schedule to transfer cash from the Liquor Control Fund (Fund 7043) to the Alcohol Testing and Permit Fund (Fund 5C00) to meet the operating needs of the Alcohol Testing and Permit Program.

The Director of Budget and Management may transfer to the Alcohol Testing and Permit Fund (Fund 5C00) from the Liquor Control Fund (Fund 7043) created in section 4301.12 of the Revised Code such amounts at such times as determined by the transfer schedule.

DENTIST LOAN REPAYMENT ADVISORY BOARD

As specified in the amendments made by this act to section 3702.92 of the Revised Code, the Governor, Speaker of the House of Representatives, and President of the Senate shall each appoint one additional member to the Dentist Loan Repayment Advisory Board. The appointments shall be made not later than sixty days after the effective date of section 3702.92 of the

Revised Code. The terms of office of the additional members shall end on January 27, 2011, except that a legislative member ceases to be a member of the Board on ceasing to be a member of the General Assembly. Vacancies occurring prior to January 27, 2011, shall be filled in the manner prescribed for original appointments under this section.

MEDICALLY HANDICAPPED CHILDREN - COUNTY ASSESSMENTS

The foregoing appropriation item 440607, Medically Handicapped Children - County Assessments (Fund 6660), shall be used to make payments under division (E) of section 3701.023 of the Revised Code.

CASH TRANSFER FROM THE SEWAGE INNOVATION FUND TO FEE SUPPORTED PROGRAMS FUND

On July 1, 2009, or as soon as possible thereafter, the Director of Health shall certify to the Director of Budget and Management the amount of cash to be transferred from the Sewage Innovation Fund (Fund 5CJ0) to the Fee Supported Program Fund (Fund 4700) to meet the needs of the Sewage Program. The Director of Budget and Management may transfer the amount certified. The amount certified is hereby appropriated.

NURSING FACILITY TECHNICAL ASSISTANCE PROGRAM

On July 1, 2009, or as soon as possible thereafter, the Director of Budget and Management may transfer, cash from the Resident Protection Fund (Fund 4E30), which is used by the Ohio Department of Job and Family Services, to the Nursing Facility Technical Assistance Program Fund (Fund 5L10), which is used by the Ohio Department of Health, to be used under section 3721.026 of the Revised Code. The transfers shall be up to \$698,595 in each fiscal year.

TOBACCO USE PREVENTION

The Department of Health shall seek Controlling Board approval prior to expending any moneys from appropriation item 440656, Tobacco Use Prevention. The Department shall submit a spending plan to the Controlling Board for each project for which they seek expenditure approval.

SECTION 289.30. DISEASE AND CANCER COMMISSION

(A) There is hereby established in the Department of Health the Disease and Cancer Commission. The Commission shall be composed of individuals selected by the Director of Health who are both of the following:

(1) Representatives of boards of health of city health districts or general health districts, or the authorities having the duties of a board of health under section 3709.05 of the Revised Code;

(2) Located in an area in which the Director of Health determines there

is a high prevalence of one of the following:

- (a) Colorectal cancer;
- (b) Prostate cancer;
- (c) Sickle cell anemia;
- (d) Triple negative breast cancer.

(B) The Governor shall designate from among the Commission members an individual to serve as the chairperson of the Commission who shall establish the meeting time and locations for the Commission.

(C) The Commission shall study colorectal cancer, prostate cancer, sickle cell anemia, and triple negative breast cancer in areas of the state in which the Director determines such conditions are prevalent. Not later than June 30, 2011, the Commission shall submit a report to the Governor, Speaker and Minority Leader of the House of Representatives, and President and Minority Leader of the Senate describing its findings on the prevalence of colorectal cancer, prostate cancer, sickle cell anemia, and triple negative breast cancer in the areas included in the study. The report shall include policy recommendations to combat the prevalence of these conditions in such areas.

(D) The Commission shall cease to exist on submission of the report under division (C) of this section.

SECTION 289.40. FUNDING FOR IMMUNIZATIONS

To the extent permitted under state and federal law, the Department of Health shall use state general revenue funds and federal funds appropriated for the purchase of vaccinations to provide immunizations to children and adults in Ohio.

SECTION 289.60. FEDERAL ABSTINENCE EDUCATION PROGRAM

The Director of Health shall apply to the United States Secretary of Health and Human Services for abstinence education funding under Title V of the "Social Security Act," 42 U.S.C. 710.

SECTION 289.70. LIMITED EXTENSION OF THE MORATORIUM UNDER THE CERTIFICATE OF NEED PROGRAM

(A) As used in this section, "certificate of need" and "long-term care bed" have the same meanings as in section 3702.51 of the Revised Code.

(B) Until the effective date of the actions taken by this act to amend, enact, and repeal sections included within the range consisting of sections

3702.51 to 3702.62 of the Revised Code, the Director of Health shall proceed as follows with respect to a certificate of need application proposing an increase in long-term care beds:

(1) If the application was received during the period beginning July 1, 2009, and ending on the day before the effective date of this section, the Director shall grant the certificate of need only if the proposed increase in long-term care beds is attributable solely to a replacement or relocation of existing long-term care beds within the same county.

(2) If the application is received on or after the effective date of this section, the Director shall accept the application, for review under section 3702.52 of the Revised Code, only if the proposed increase in long-term care beds is attributable solely to a replacement or relocation of existing long-term care beds within the same county.

(3) If a certificate of need is granted to the applicant, the Director shall not authorize additional beds beyond those being replaced or relocated.

(C) If pursuant to division (B)(1) of this section a certificate of need cannot be granted or pursuant to division (B)(2) of this section an application cannot be accepted, the Director shall return to the applicant both the application and the fee that accompanied the application. This division applies to all pending actions regarding applications received before the effective date of the actions taken by this act to amend, enact, and repeal sections included within the range consisting of sections 3702.51 to 3702.62 of the Revised Code.

(D) The provisions of this section are applicable to the Director and the Certificate of Need Program, notwithstanding any conflicting provision of sections 3702.51 to 3702.62 of the Revised Code.

SECTION 291.10. HEF HIGHER EDUCATIONAL FACILITY COMMISSION

Agency Fund Group

4610 372601	Operating Expenses	\$	16,819	\$	16,819
TOTAL AGY Agency Fund Group		\$	16,819	\$	16,819
TOTAL ALL BUDGET FUND GROUPS		\$	16,819	\$	16,819

SECTION 293.10. SPA COMMISSION ON HISPANIC/LATINO AFFAIRS

General Revenue Fund

GRF 148100	Personal Services	\$	229,847	\$	229,847
GRF 148200	Maintenance	\$	35,000	\$	35,000
GRF 148402	Community Projects	\$	90,485	\$	90,485
TOTAL GRF General Revenue Fund		\$	355,332	\$	355,332

General Services Fund Group

6010 148602	Gifts and Miscellaneous	\$	4,558	\$	4,558
TOTAL GSF General Services					
Fund Group					
		\$	4,558	\$	4,558
TOTAL ALL BUDGET FUND GROUPS					
		\$	359,890	\$	359,890

SECTION 295.10. OHS OHIO HISTORICAL SOCIETY**General Revenue Fund**

GRF 360501	Education and Collections	\$	2,304,228	\$	2,304,228
GRF 360502	Site and Museum Operations	\$	3,791,149	\$	3,791,149
GRF 360504	Ohio Preservation Office	\$	228,246	\$	228,246
GRF 360505	National Afro-American Museum	\$	414,798	\$	414,798
GRF 360506	Hayes Presidential Center	\$	281,043	\$	281,043
GRF 360508	Historical Grants	\$	420,420	\$	420,420
GRF 360509	Outreach and Partnership	\$	492,547	\$	492,547
TOTAL GRF General Revenue Fund					
		\$	7,932,431	\$	7,932,431
TOTAL ALL BUDGET FUND GROUPS					
		\$	7,932,431	\$	7,932,431

SUBSIDY APPROPRIATION

Upon approval by the Director of Budget and Management, the foregoing appropriation items shall be released to the Ohio Historical Society in quarterly amounts that in total do not exceed the annual appropriations. The funds and fiscal records of the society for fiscal year 2010 and fiscal year 2011 shall be examined by independent certified public accountants approved by the Auditor of State, and a copy of the audited financial statements shall be filed with the Office of Budget and Management. The society shall prepare and submit to the Office of Budget and Management the following:

(A) An estimated operating budget for each fiscal year of the biennium. The operating budget shall be submitted at or near the beginning of each calendar year.

(B) Financial reports, indicating actual receipts and expenditures for the fiscal year to date. These reports shall be filed at least semiannually during the fiscal biennium.

The foregoing appropriations shall be considered to be the contractual consideration provided by the state to support the state's offer to contract with the Ohio Historical Society under section 149.30 of the Revised Code.

STATE ARCHIVES

Of the foregoing appropriation item 360501, Education and Collections, \$910,459 in each fiscal year shall be used for the State Archives, Library, and Artifact Collections Program.

HAYES PRESIDENTIAL CENTER

If a United States government agency, including, but not limited to, the

National Park Service, chooses to take over the operations or maintenance of the Hayes Presidential Center, in whole or in part, the Ohio Historical Society shall make arrangements with the National Park Service or other United States government agency for the efficient transfer of operations or maintenance.

SECTION 301.10. REP OHIO HOUSE OF REPRESENTATIVES

General Revenue Fund

GRF 025321	Operating Expenses	\$	18,517,093	\$	18,517,093
TOTAL GRF General Revenue Fund		\$	18,517,093	\$	18,517,093

General Services Fund Group

1030 025601	House Reimbursement	\$	1,433,664	\$	1,433,664
4A40 025602	Miscellaneous Sales	\$	37,849	\$	37,849
TOTAL GSF General Services Fund Group		\$	1,471,513	\$	1,471,513
TOTAL ALL BUDGET FUND GROUPS		\$	19,988,606	\$	19,988,606

OPERATING EXPENSES

On July 1, 2009, or as soon as possible thereafter, the Clerk of the House of Representatives may certify to the Director of Budget and Management the amount of the unexpended, unencumbered balance of the foregoing appropriation item 025321, Operating Expenses, at the end of fiscal year 2009 to be reappropriated to fiscal year 2010. The amount certified is hereby reappropriated to the same appropriation item for fiscal year 2010.

On July 1, 2010, or as soon as possible thereafter, the Clerk of the House of Representatives may certify to the Director of Budget and Management the amount of the unexpended, unencumbered balance of the foregoing appropriation item 025321, Operating Expenses, at the end of fiscal year 2010 to be reappropriated to fiscal year 2011. The amount certified is hereby reappropriated to the same appropriation item for fiscal year 2011.

SECTION 303.10. HFA OHIO HOUSING FINANCE AGENCY

Agency Fund Group

5AZ0997601	Housing Finance Agency	\$	8,614,627	\$	8,614,627
	Personal Services				
TOTAL AGY Agency Fund Group		\$	8,614,627	\$	8,614,627
TOTAL ALL BUDGET FUND GROUPS		\$	8,614,627	\$	8,614,627

SECTION 305.10. IGO OFFICE OF THE INSPECTOR GENERAL

General Revenue Fund

GRF 965321	Operating Expenses	\$	1,214,218	\$	1,214,218
TOTAL GRF	General Revenue Fund	\$	1,214,218	\$	1,214,218
General Services Fund Group					
5FA0 965603	Deputy Inspector General for ODOT	\$	400,000	\$	400,000
5FT0 965604	Deputy Inspector General for BWC/OIC	\$	425,000	\$	425,000
TOTAL GSF	General Services Fund Group	\$	825,000	\$	825,000
TOTAL ALL BUDGET FUND GROUPS		\$	2,039,218	\$	2,039,218

VIDEO LOTTERY TERMINAL OVERSIGHT

Of the foregoing GRF appropriation item 965321, Operating Expenses, \$50,000 in each fiscal year may be used to defray any expenses associated with the review of the operation of video lottery terminal operations as specified in Chapter 3770. of the Revised Code.

SECTION 307.10. INS DEPARTMENT OF INSURANCE**Federal Special Revenue Fund Group**

3CX0 820608	State Coverage Initiative - Federal	\$	50,000,000	\$	100,000,000
3U50 820602	OSHIIP Operating Grant	\$	1,770,000	\$	1,790,000
TOTAL FED	Federal Special Revenue Fund Group	\$	51,770,000	\$	101,790,000

State Special Revenue Fund Group

5540 820601	Operating Expenses - OSHIIP	\$	200,000	\$	200,000
5540 820606	Operating Expenses	\$	22,884,736	\$	22,884,736
5540 820609	State Coverage Initiative Administration	\$	479,575	\$	479,575
5550 820605	Examination	\$	9,275,768	\$	9,294,668
5AG0 820603	Health Information Technology and Health Care Coverage and Quality Council	\$	10,116,272	\$	0

TOTAL SSR	State Special Revenue Fund Group	\$	42,956,351	\$	32,858,979
TOTAL ALL BUDGET FUND GROUPS		\$	94,726,351	\$	134,648,979

HEALTH INFORMATION TECHNOLOGY AND HEALTH CARE COVERAGE AND QUALITY COUNCIL

Notwithstanding section 3929.682 of the Revised Code, up to \$8,000,000 of the foregoing appropriation item 820603, Health Information Technology and Health Care Coverage and Quality Council, shall be used for health information technology initiatives: to provide the central tools and support the electronic exchange of health information, to work with industry associations to encourage and support providers in using electronic medical records, and to establish a loan program to help health care providers with the financial burden of buying and implementing electronic medical records.

Notwithstanding section 3929.682 of the Revised Code, up to

\$2,116,272 of the foregoing appropriation item 820603, Health Information Technology and Health Care Coverage and Quality Council, may be used to support the implementation of strategies recommended by the Health Care Coverage and Quality Council established in section 3923.90 of the Revised Code.

An amount equal to the unexpended, unencumbered portion of the foregoing appropriation item 820603, Health Information Technology and Health Care Coverage and Quality Council, at the end of fiscal year 2010 is hereby reappropriated for the same purpose for fiscal year 2011.

MARKET CONDUCT EXAMINATION

When conducting a market conduct examination of any insurer doing business in this state, the Superintendent of Insurance may assess the costs of the examination against the insurer. The superintendent may enter into consent agreements to impose administrative assessments or fines for conduct discovered that may be violations of statutes or rules administered by the superintendent. All costs, assessments, or fines collected shall be deposited to the credit of the Department of Insurance Operating Fund (Fund 5540).

EXAMINATIONS OF DOMESTIC FRATERNAL BENEFIT SOCIETIES

The Director of Budget and Management, at the request of the Superintendent of Insurance, may transfer funds from the Department of Insurance Operating Fund (Fund 5540), established by section 3901.021 of the Revised Code, to the Superintendent's Examination Fund (Fund 5550), established by section 3901.071 of the Revised Code, only for expenses incurred in examining domestic fraternal benefit societies as required by section 3921.28 of the Revised Code.

TRANSFER FROM FUND 5540 TO GENERAL REVENUE FUND

Not later than the thirty-first day of July each fiscal year, the Director of Budget and Management shall transfer \$5,000,000 from the Department of Insurance Operating Fund (Fund 5540) to the General Revenue Fund.

SECTION 307.20. HEALTH CARE COVERAGE AND QUALITY COUNCIL

(A) The Health Care Coverage and Quality Council created under section 3923.90 of the Revised Code, as enacted by this act, shall hold its first meeting not later than September 1, 2009.

(B) In addition to the Council's duties specified in section 3923.91 of the Revised Code, the Council shall evaluate and recommend strategies pursuant to the recommendations of the former Ohio Medicaid

Administrative Study Council to establish an initiative conducted by clinicians in the Office of Ohio Health Plans within the Department of Job and Family Services to do all of the following:

(1) Adopt evidence-based protocols for the prevention and management of disease;

(2) Develop a centralized system for payment of Medicaid claims;

(3) Provide physicians, nurses, and allied health professionals with training on Medicaid claims procedures and Medicaid payment reforms;

(4) Monitor results for preventive and primary care services.

(C) Not later than June 30, 2010, the Council shall submit a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

SECTION 309.10. JFS DEPARTMENT OF JOB AND FAMILY SERVICES

General Revenue Fund

GRF600321	Support Services				
	State	\$	40,291,316	\$	39,559,293
	Federal	\$	10,029,863	\$	9,848,154
	Support Services Total	\$	50,321,179	\$	49,407,447
GRF600410	TANF State	\$	155,494,648	\$	161,298,234
GRF600413	Child Care Match/Maintenance of Effort	\$	79,401,065	\$	84,732,730
GRF600416	Computer Projects				
	State	\$	73,314,812	\$	73,337,904
	Federal	\$	10,742,500	\$	9,039,372
	Computer Projects Total	\$	84,057,312	\$	82,377,276
GRF600417	Medicaid Provider Audits	\$	1,210,625	\$	1,191,010
GRF600420	Child Support Administration	\$	6,011,708	\$	5,908,839
GRF600421	Office of Family Stability	\$	3,796,625	\$	3,753,002
GRF600423	Office of Children and Families	\$	5,298,150	\$	5,232,561
GRF600425	Office of Ohio Health Plans				
	State	\$	11,811,384	\$	6,500,422
	Federal	\$	12,642,827	\$	12,083,374
	Office of Ohio Health Plans Total	\$	24,454,211	\$	18,583,796
GRF600502	Administration - Local	\$	20,706,497	\$	19,838,659
GRF600511	Disability Financial Assistance	\$	29,399,013	\$	30,759,074
GRF600521	Entitlement Administration - Local	\$	87,310,316	\$	80,223,023
GRF600523	Children and Families Services	\$	60,538,878	\$	59,005,915
GRF600525	Health Care/Medicaid				
	State	\$	2,483,515,766	\$	3,206,274,820
	Federal	\$	6,317,293,740	\$	7,144,647,402
	Health Care Total	\$	8,800,809,506	\$	10,350,922,222
GRF600526	Medicare Part D	\$	221,686,721	\$	228,356,466
GRF600528	Adoption Services				

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	State	\$	22,861,593	\$	24,126,683	
	Federal	\$	49,348,115	\$	46,254,540	
	Adoption Services Total	\$	72,209,708	\$	70,381,223	
GRF600533	Child, Family, and Adult Community & Protective Services	\$	15,000,000	\$	15,000,000	
GRF600534	Adult Protective Services	\$	425,872	\$	406,670	
GRF600535	Early Care and Education	\$	137,367,699	\$	134,269,120	
GRF600537	Children's Hospital	\$	6,000,000	\$	6,000,000	
GRF600540	Second Harvest Food Banks	\$	3,500,000	\$	3,500,000	
GRF600541	Kinship Permanency Incentive Program	\$	5,000,000	\$	5,000,000	
TOTAL GRF General Revenue Fund						
	State	\$	3,469,942,688	\$	4,194,274,425	
	Federal	\$	6,400,057,045	\$	7,221,872,842	
	GRF Total	\$	9,869,999,733	\$	11,416,147,267	
General Services Fund Group						
4A80	600658	Child Support Collections	\$	26,000,000	\$	26,000,000
4R40	600665	BCII Services/Fees	\$	36,974	\$	36,974
5BG0	600653	Managed Care Assessment	\$	168,914,857	\$	0
5C90	600671	Medicaid Program Support	\$	76,076,838	\$	77,563,238
5DL0	600639	Medicaid Revenue and Collections	\$	99,916,750	\$	63,600,000
5DM0	600633	Administration & Operating	\$	19,853,583	\$	19,928,733
5FX0	600638	Medicaid Payment Withholding	\$	26,000,000	\$	26,000,000
5N10	600677	County Technologies	\$	500,000	\$	500,000
5P50	600692	Health Care Services	\$	84,052,802	\$	226,469,478
TOTAL GSF General Services Fund Group						
			\$	501,351,804	\$	440,098,423
Federal Special Revenue Fund Group						
3270	600606	Child Welfare	\$	33,972,321	\$	33,984,200
3310	600686	Federal Operating	\$	60,672,731	\$	56,569,912
3840	600610	Food Assistance and State Administration	\$	159,109,776	\$	159,109,427
3850	600614	Refugee Services	\$	10,497,024	\$	11,265,511
3950	600616	Special Activities/Child and Family Services	\$	3,113,200	\$	2,813,200
3960	600620	Social Services Block Grant	\$	120,000,000	\$	120,000,000
3970	600626	Child Support	\$	305,830,981	\$	305,832,341
3980	600627	Adoption Maintenance/ Administration	\$	355,345,646	\$	352,184,668
3A20	600641	Emergency Food Distribution	\$	9,953,222	\$	4,970,000
3AW0	600675	Faith Based Initiatives	\$	544,140	\$	544,140
3D30	600648	Children's Trust Fund Federal	\$	2,040,524	\$	2,040,524
3F00	600623	Health Care Federal	\$	3,367,952,785	\$	2,729,816,014
3F00	600650	Hospital Care Assurance Match	\$	362,092,785	\$	367,826,196
3G50	600655	Interagency Reimbursement	\$	1,703,777,044	\$	1,666,905,912
3H70	600617	Child Care Federal	\$	241,862,780	\$	241,862,779
3N00	600628	IV-E Foster Care Maintenance	\$	169,324,768	\$	161,644,455
3S50	600622	Child Support Projects	\$	534,050	\$	534,050

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3V00	600688	Workforce Investment Act	\$	326,923,124	\$	327,145,616
3V40	600678	Federal Unemployment Programs	\$	167,478,790	\$	136,982,528
3V40	600679	Unemployment Compensation Review Commission - Federal	\$	3,487,473	\$	3,487,473
3V60	600689	TANF Block Grant	\$	819,207,893	\$	811,170,741
TOTAL FED Federal Special Revenue Fund Group			\$	8,223,721,057	\$	7,496,689,687
State Special Revenue Fund Group						
1980	600647	Children's Trust Fund	\$	5,881,011	\$	5,881,011
4A90	600607	Unemployment Compensation Administration Fund	\$	27,134,851	\$	37,772,416
4A90	600694	Unemployment Compensation Review Commission	\$	2,357,197	\$	2,431,133
4E30	600605	Nursing Home Assessments	\$	4,759,914	\$	4,759,914
4E70	600604	Child and Family Services Collections	\$	121,318	\$	121,318
4F10	600609	Foundation Grants/Child & Family Services	\$	250,000	\$	250,000
4J50	600613	Nursing Facility Bed Assessments	\$	36,713,984	\$	36,713,984
4J50	600618	Residential State Supplement Payments	\$	15,700,000	\$	15,700,000
4K10	600621	ICF/MR Bed Assessments	\$	29,696,029	\$	28,976,838
4R30	600687	Banking Fees	\$	700,000	\$	700,000
4Z10	600625	HealthCare Compliance	\$	10,000,000	\$	10,000,000
5AJ0	600631	Money Follows the Person	\$	6,286,485	\$	6,195,163
5DB0	600637	Military Injury Grants	\$	2,000,000	\$	2,000,000
5DP0	600634	Adoption Assistance Loan	\$	500,000	\$	500,000
5ES0	600630	Food Assistance	\$	500,000	\$	500,000
5GC0	600640	GOFBCI/Family Stability	\$	70,000	\$	70,000
5GF0	600656	Medicaid - Hospital	\$	338,505,284	\$	370,861,816
5Q90	600619	Supplemental Inpatient Hospital Payments	\$	56,125,998	\$	56,125,998
5R20	600608	Medicaid-Nursing Facilities	\$	359,332,500	\$	381,710,000
5S30	600629	MR/DD Medicaid Administration and Oversight	\$	2,070,707	\$	5,493,954
5U30	600654	Health Care Services Administration	\$	12,017,389	\$	14,393,903
5U60	600663	Children and Family Support	\$	4,719,470	\$	4,719,470
6510	600649	Hospital Care Assurance Program Fund	\$	220,612,051	\$	218,164,239
TOTAL SSR State Special Revenue Fund Group			\$	1,136,054,188	\$	1,204,041,157
Agency Fund Group						
1920	600646	Support Intercept - Federal	\$	130,000,000	\$	130,000,000
5830	600642	Support Intercept - State	\$	16,000,000	\$	16,000,000
5B60	600601	Food Assistance Intercept	\$	2,000,000	\$	2,000,000
TOTAL AGY Agency Fund Group			\$	148,000,000	\$	148,000,000
Holding Account Redistribution Fund Group						
R012	600643	Refunds and Audit Settlements	\$	2,200,000	\$	2,200,000

R013 600644	Forgery Collections	\$	10,000	\$	10,000
TOTAL 090 Holding Account Redistribution		\$	2,210,000	\$	2,210,000
Fund Group					
TOTAL ALL BUDGET FUND GROUPS		\$	19,881,336,782	\$	20,707,186,534

SECTION 309.20. SUPPORT SERVICES

SECTION 309.20.10. AGENCY FUND GROUP

The Agency Fund Group and Holding Account Redistribution Fund Group shall be used to hold revenues until the appropriate fund is determined or until the revenues are directed to the appropriate governmental agency other than the Department of Job and Family Services. If receipts credited to the Support Intercept – Federal Fund (Fund 1920), the Support Intercept – State Fund (Fund 5830), the Food Stamp Offset Fund (Fund 5B60), the Refunds and Audit Settlements Fund (Fund R012), or the Forgery Collections Fund (Fund R013) exceed the amounts appropriated from the fund, the Director of Job and Family Services may request the Director of Budget and Management to authorize expenditures from the fund in excess of the amounts appropriated. Upon the approval of the Director of Budget and Management, the additional amounts are hereby appropriated.

SECTION 309.30. MEDICAID

SECTION 309.30.10. HEALTH CARE/MEDICAID

The foregoing appropriation item 600525, Health Care/Medicaid, shall not be limited by section 131.33 of the Revised Code.

SECTION 309.30.12. MEDICAID COVERAGE OF OXYGEN SERVICES TO ICF/MR RESIDENTS

Of the foregoing appropriation item 600525, Health Care/Medicaid, \$30,000 in each fiscal year shall be used to reimburse medical suppliers of oxygen services in accordance with section 5111.236 of the Revised Code.

SECTION 309.30.15. CHILDREN'S HOSPITALS

(A) As used in this section:

(1) "Children's hospital" means a hospital that primarily serves patients

eighteen years of age and younger and is excluded from Medicare prospective payment in accordance with 42 C.F.R. 412.23(d).

(2) "Medicaid inpatient cost-to-charge ratio" means the historic Medicaid inpatient cost-to-charge ratio applicable to a hospital as described in rules adopted by the Director of Job and Family Services in paragraph (B)(2) of rule 5101:3-2-22 of the Administrative Code.

(B) Notwithstanding paragraph (C)(5) of rule 5101:3-2-07.9 of the Administrative Code and except as provided in division (C) of this section, the Director of Job and Family Services shall pay a children's hospital that meets the criteria in paragraphs (E)(1) and (2) of rule 5101:3-2-07.9 of the Administrative Code, for each cost outlier claim made in fiscal years 2010 and 2011, an amount that is the product of the hospital's allowable charges and the hospital's Medicaid inpatient cost-to-charge ratio.

(C) The Director of Job and Family Services shall cease paying a children's hospital for a cost outlier claim under the methodology in division (B) of this section and revert to paying the hospital for such a claim according to the methodology in paragraph (A)(6) or (C)(5) of rule 5101:3-2-07.9 of the Administrative Code, as applicable, when the difference between the total amount the Director has paid according to the methodology in division (B) of this section for such claims and the total amount the Director would have paid according to the methodology in paragraph (A)(6) or (C)(5) of rule 5101:3-2-07.9 of the Administrative Code for such claims, as the applicable paragraph existed on June 30, 2009, exceeds the amounts available under division (F) of this section.

(D) The Director of Job and Family Services shall make supplemental Medicaid payments to children's hospitals for inpatient services under a program modeled after the program the Department of Job and Family Services was required to create for fiscal years 2006 and 2007 in Section 206.66.79 of Am. Sub. H.B. 66 of the 126th General Assembly if the difference between the total amount the Director has paid according to the methodology in division (B) of this section for cost outlier claims and the total amount the Director would have paid according to the methodology in paragraph (A)(6) or (C)(5) of rule 5101:3-2-07.9 of the Administrative Code for such claims, as the applicable paragraph existed on June 30, 2009, does not require the expenditure of all state and federal funds available under division (F) of this section for the applicable fiscal year. The program may be the same as the program the Director used for making the payments to children's hospitals for fiscal years 2008 and 2009 under Section 309.30.13 of Am. Sub. H.B. 119 of the 127th General Assembly.

(E) The Director of Job and Family Services shall not adopt, amend, or

rescind any rules that would result in decreasing the amount paid to children's hospitals under division (B) of this section for cost outlier claims.

(F) Of the foregoing appropriation item, 600537, Children's Hospital, up to \$6 million (state share) in each fiscal year plus the corresponding federal match, if available, shall be used by the Department to pay the amounts described in divisions (B) and (D) of this section. Of the amounts deposited into the Hospital Assessment Fund created under section 5112.45 of the Revised Code, \$4.4 million in fiscal year 2010, plus the corresponding federal match, and \$4 million in fiscal year 2011, plus the corresponding federal match, also shall be used by the Department to pay the amounts described in divisions (B) and (D) of this section.

SECTION 309.30.17. HOSPITAL INPATIENT AND OUTPATIENT SUPPLEMENTAL UPPER PAYMENT LIMIT PROGRAM

(A) As used in this section:

(1) "Assessment program year" has the same meaning as in section 5112.40 of the Revised Code.

(2) "Hospital" has the same meaning as in Section 5112.40 of the Revised Code, except that "hospital" excludes a children's hospital as defined in Section 309.30.15 of this act.

(3) "Hospital Assessment Fund" means the fund created under section 5112.45 of the Revised Code.

(B) The Director of Job and Family Services shall submit a Medicaid state plan amendment to the United States Secretary of Health and Human Services to create the Hospital Inpatient and Outpatient Supplemental Upper Payment Limit Program. If the United States Secretary approves the Medicaid state plan amendment, the program shall, subject to division (D) of this section, make supplemental Medicaid payments to hospitals for medicaid-covered inpatient services and outpatient services with funds made available for the program under division (C) of this section and federal matching funds available for the program.

(C) Of the amounts deposited into the Hospital Assessment Fund for the first assessment program year beginning after the effective date of this section, nine and sixteen hundredths per cent shall be used for the Hospital Inpatient and Outpatient Supplemental Upper Payment Limit Program. Of the amounts deposited into the Hospital Assessment Fund for the second assessment program year beginning after the effective date of this section, ten and twenty-nine hundredths per cent shall be used for the Hospital Inpatient and Outpatient Supplemental Upper Payment Limit Program.

(D) The Director of Job and Family Services shall take all necessary

actions to cease implementation of this section if the United States Secretary of Health and Human Services determines that the assessment imposed under section 5112.41 of the Revised Code is an impermissible health care-related tax under 42 U.S.C. 1396b(w).

SECTION 309.30.18. POSTPONEMENT OF RECALIBRATION FOR HOSPITALS

The Director of Job and Family Services shall amend rule 5101:3-2-07.3 of the Administrative Code to postpone to January 1, 2012, the recalibration that otherwise would occur on January 1, 2010, under that rule and to postpone to January 1, 2013, the recalibration that otherwise would occur on January 1, 2011, under that rule.

SECTION 309.30.20. FISCAL YEAR 2010 MEDICAID REIMBURSEMENT SYSTEM FOR NURSING FACILITIES

(A) As used in this section:

"Franchise permit fee," "Medicaid days," "nursing facility," and "provider" have the same meanings as in section 5111.20 of the Revised Code.

"Nursing facility services" means nursing facility services covered by the Medicaid program that a nursing facility provides to a resident of the nursing facility who is a Medicaid recipient eligible for Medicaid-covered nursing facility services.

(B) Except as otherwise provided by this section, the provider of a nursing facility that has a valid Medicaid provider agreement on June 30, 2009, and a valid Medicaid provider agreement during fiscal year 2010 shall be paid, for nursing facility services the nursing facility provides during fiscal year 2010, the rate calculated for the nursing facility under sections 5111.20 to 5111.33 of the Revised Code with the following adjustments:

(1) The cost per case mix-unit calculated under section 5111.231 of the Revised Code, the rate for ancillary and support costs calculated under section 5111.24 of the Revised Code, the rate for tax costs calculated under section 5111.242 of the Revised Code, and the rate for capital costs calculated under section 5111.25 of the Revised Code shall each be adjusted as follows:

- (a) Increase the cost and rates so calculated by two per cent;
- (b) Increase the cost and rates determined under division (B)(1)(a) of this section by two per cent;
- (c) Increase the cost and rates determined under division (B)(1)(b) of

this section by one per cent.

(2) The mean payment used in the calculation of the quality incentive payment made under section 5111.244 of the Revised Code shall be, weighted by Medicaid days, three dollars and three cents per Medicaid day.

(3) The rate, after the adjustments under divisions (B)(1) and (2) of this section are made, shall be further adjusted by a percentage that the Department of Job and Family Services shall determine in consultation with the Ohio Health Care Association; Ohio Academy of Nursing Homes; and the Association of Ohio Philanthropic Homes, Housing, and Services for the Aging. The percentage shall be based on expending an amount equal to the amount determined as follows:

(a) Determine how much of the revenue to be generated under section 3721.51 of the Revised Code for fiscal year 2010 reflects the calculations made under divisions (A)(1) to (4) of section 3721.50 of the Revised Code;

(b) From the amount determined under division (B)(3)(a) of this section, subtract the portion of the amount to be expended under division (E) of this section that reflects the part of the calculation made under division (E)(2) of this section.

(C) If the rate determined for a nursing facility under division (B) of this section for nursing facility services provided during fiscal year 2010 is more than one hundred one and seventy-five hundredths per cent of the rate the provider is paid for nursing facility services the nursing facility provides on June 30, 2009, the Department of Job and Family Services shall reduce the nursing facility's rate determined under division (B) of this section for fiscal year 2010 so that the rate is not more than one hundred one and seventy-five hundredths per cent of the nursing facility's rate for June 30, 2009. If the rate determined for a nursing facility under division (B) of this section for nursing facility services provided during fiscal year 2010 is less than ninety-nine per cent of the rate the provider is paid for nursing facility services the nursing facility provides on June 30, 2009, the Department shall increase the nursing facility's rate determined under division (B) of this section for fiscal year 2010 so that the rate is not less than ninety-nine per cent of the nursing facility's rate for June 30, 2009.

(D) After the adjustments under divisions (B) and (C) of this section are made to a nursing facility's fiscal year 2010 rate, the Department of Job and Family Services shall increase the nursing facility's fiscal year 2010 rate by five dollars and seventy cents per Medicaid day. This increase shall be known as the workforce development incentive payment. The total amount of workforce development incentive payments paid to providers of nursing facilities shall be used to improve nursing facilities' employee retention and

direct care staffing levels, including by increasing wages paid to nursing facilities' direct care staff. Not later than September 30, 2011, the Department shall submit a report to the Governor and, in accordance with section 101.68 of the Revised Code, the General Assembly detailing the impact that the workforce development incentive payments have on nursing facilities' employee retention, direct care staffing levels, and direct care staff wages.

(E) After the adjustment under division (D) of this section is made to a nursing facility's fiscal year 2010 rate, the Department of Job and Family Services shall increase the nursing facility's fiscal year 2010 rate by the consolidated services rate per Medicaid day. The consolidated services rate shall equal the sum of the following:

(1) Three dollars and ninety-one cents;

(2) The amount calculated under divisions (A)(1) to (4) of section 3721.50 of the Revised Code for fiscal year 2010.

(F) If the fiscal year 2010 rate for a nursing facility as initially determined under division (B) of this section is not subject to an adjustment under division (C) of this section, the nursing facility's rate shall not be subject to an adjustment under that division for the remainder of fiscal year 2010 regardless of any other adjustment made to the nursing facility's fiscal year 2010 rate under sections 5111.20 to 5111.33 of the Revised Code.

(G) Not later than October 1, 2009, the Department of Job and Family Services shall determine the rates to be paid providers of nursing facilities under this section. Until the rates are determined, the Department shall continue to pay a provider the rate the provider is paid for nursing facility services the provider's nursing facility provides on June 30, 2009. When the Department determines the rates to be paid under this section, the Department shall pay the rates retroactive to July 1, 2009.

(H) If the United States Centers for Medicare and Medicaid Services requires that the franchise permit fee be reduced or eliminated, the Department of Job and Family Services shall reduce the amount it pays providers of nursing facility services under this section as necessary to reflect the loss to the state of the revenue and federal financial participation generated from the franchise permit fee.

(I) The Department of Job and Family Services shall follow this section in determining the rate to be paid to the provider of a nursing facility that has a valid Medicaid provider agreement on June 30, 2009, and a valid Medicaid provider agreement during fiscal year 2010 notwithstanding anything to the contrary in sections 5111.20 to 5111.33 of the Revised Code.

SECTION 309.30.25. FISCAL YEAR 2011 MEDICAID REIMBURSEMENT SYSTEM FOR NURSING FACILITIES

(A) As used in this section:

"Fiscal year 2010 partial rate" means the total rate a provider of a nursing facility is paid for nursing facility services the nursing facility provides on June 30, 2010, less the portion of that total rate that equals the sum of the workforce development incentive payment and consolidated services rate included in the total rate pursuant to divisions (D) and (E) of Section 309.30.20 of this act.

"Franchise permit fee," "Medicaid days," "nursing facility," and "provider" have the same meanings as in section 5111.20 of the Revised Code.

"Nursing facility services" means nursing facility services covered by the Medicaid program that a nursing facility provides to a resident of the nursing facility who is a Medicaid recipient eligible for Medicaid-covered nursing facility services.

(B) Except as otherwise provided by this section, the provider of a nursing facility that has a valid Medicaid provider agreement on June 30, 2010, and a valid Medicaid provider agreement during fiscal year 2011 shall be paid, for nursing facility services the nursing facility provides during fiscal year 2011, the rate calculated for the nursing facility under sections 5111.20 to 5111.33 of the Revised Code with the following adjustments:

(1) The cost per case mix-unit calculated under section 5111.231 of the Revised Code, the rate for ancillary and support costs calculated under section 5111.24 of the Revised Code, the rate for tax costs calculated under section 5111.242 of the Revised Code, and the rate for capital costs calculated under section 5111.25 of the Revised Code shall each be adjusted as follows:

(a) Increase the cost and rates so calculated by two per cent;

(b) Increase the cost and rates determined under division (B)(1)(a) of this section by two per cent;

(c) Increase the cost and rates determined under division (B)(1)(b) of this section by one per cent.

(2) The mean payment used in the calculation of the quality incentive payment made under section 5111.244 of the Revised Code shall be, weighted by Medicaid days, three dollars and three cents per Medicaid day.

(3) The rate, after the adjustments under divisions (B)(1) and (2) of this section are made, shall be further adjusted by a percentage that the Department of Job and Family Services shall determine in consultation with

the Ohio Health Care Association; Ohio Academy of Nursing Homes; and the Association of Ohio Philanthropic Homes, Housing, and Services for the Aging. The percentage shall be based on expending an amount equal to the amount determined as follows:

(a) Determine how much of the revenue to be generated under section 3721.51 of the Revised Code for fiscal year 2011 reflects the calculations made under divisions (A)(1) to (4) of section 3721.50 of the Revised Code;

(b) From the amount determined under division (B)(3)(a) of this section, subtract the portion of the amount to be expended under division (E) of this section that reflects the part of the calculation made under division (E)(2) of this section.

(C) Except as provided in division (F) of this section, if the rate determined for a nursing facility under division (B) of this section for nursing facility services provided during fiscal year 2011 is more than one hundred two and twenty-five hundredths per cent of the nursing facility's fiscal year 2010 partial rate, the Department of Job and Family Services shall reduce the nursing facility's rate determined under division (B) of this section for fiscal year 2011 so that the rate is not more than one hundred two and twenty-five hundredths per cent of the nursing facility's fiscal year 2010 partial rate. Except as provided in division (F) of this section, if the rate determined for a nursing facility under division (B) of this section for nursing facility services provided during fiscal year 2011 is less than ninety-nine per cent of the nursing facility's fiscal year 2010 partial rate, the Department shall increase the nursing facility's rate determined under division (B) of this section for fiscal year 2011 so that the rate is not less than ninety-nine per cent of the nursing facility's fiscal year 2010 partial rate.

(D) After the adjustments under divisions (B) and (C) of this section are made to a nursing facility's fiscal year 2011 rate, the Department of Job and Family Services shall increase the nursing facility's fiscal year 2011 rate by five dollars and seventy cents per Medicaid day. This increase shall be known as the workforce development incentive payment. The total amount of workforce development incentive payments paid to providers of nursing facilities shall be used to improve nursing facilities' employee retention and direct care staffing levels, including by increasing wages paid to nursing facilities' direct care staff. Not later than September 30, 2012, the Department shall submit a report to the Governor and, in accordance with section 101.68 of the Revised Code, the General Assembly detailing the impact that the workforce development incentive payments have on nursing facilities' employee retention, direct care staffing levels, and direct care staff

wages.

(E) After the adjustment under division (D) of this section is made to a nursing facility's fiscal year 2011 rate, the Department of Job and Family Services shall increase the nursing facility's fiscal year 2011 rate by the consolidated services rate per Medicaid day. The consolidated services rate shall equal the sum of the following:

(1) Three dollars and ninety-one cents;

(2) The amount calculated under divisions (A)(1) to (4) of section 3721.50 of the Revised Code for fiscal year 2011.

(F) If the fiscal year 2010 rate for a nursing facility as initially determined under division (B) of section 309.30.20 of this act is not subject to an adjustment under division (C) of that section, the nursing facility's fiscal year 2011 rate as initially determined under division (B) of this section shall not be subject to an adjustment under division (C) of this section regardless of whether the nursing facility's fiscal year 2011 rate as initially determined under division (B) of this section would, if not for this division, be subject to the adjustment.

If the fiscal year 2011 rate for a nursing facility as initially determined under division (B) of this section is not subject to an adjustment under division (C) of this section, the nursing facility's rate shall not be subject to an adjustment under that division for the remainder of fiscal year 2011 regardless of any other adjustment made to the nursing facility's fiscal year 2011 rate under sections 5111.20 to 5111.33 of the Revised Code.

(G) Not later than October 1, 2010, the Department of Job and Family Services shall determine the rates to be paid providers of nursing facilities under this section. Until the rates are determined, the Department shall continue to pay a provider the rate the provider is paid for nursing facility services the provider's nursing facility provides on June 30, 2010. When the Department determines the rates to be paid under this section, the Department shall pay the rates retroactive to July 1, 2010.

(H) If the United States Centers for Medicare and Medicaid Services requires that the franchise permit fee be reduced or eliminated, the Department of Job and Family Services shall reduce the amount it pays providers of nursing facility services under this section as necessary to reflect the loss to the state of the revenue and federal financial participation generated from the franchise permit fee.

(I) The Department of Job and Family Services shall follow this section in determining the rate to be paid to the provider of a nursing facility that has a valid Medicaid provider agreement on June 30, 2010, and a valid Medicaid provider agreement during fiscal year 2011 notwithstanding

anything to the contrary in sections 5111.20 to 5111.33 of the Revised Code.

SECTION 309.30.30. NURSING FACILITY CAPITAL COSTS STUDY

Not later than December 31, 2010, the Department of Job and Family Services shall submit a report to the Governor and, in accordance with section 101.68 of the Revised Code, the General Assembly with recommendations for developing a new system for reimbursing nursing facilities' capital costs under the Medicaid program. The report may include recommendations for changes to other parts of the Medicaid reimbursement system for nursing facilities. The Department shall prepare the report in consultation with the Ohio Academy of Nursing Homes; the Association of Ohio Philanthropic Homes, Housing, and Services for the Aging; and the Ohio Health Care Association. The recommendations regarding the new system for reimbursing nursing facilities for capital costs shall focus on both of the following:

(A) Resulting in a statewide average per diem rate, weighted by Medicaid days, for capital costs for the first fiscal year the system is implemented that is budget neutral compared to the statewide average per diem rate, weighted by Medicaid days, for capital costs under section 5111.25 of the Revised Code;

(B) Appropriately recognizing increased costs incurred by nursing facilities for capital improvements to, and replacement of, existing nursing facilities.

SECTION 309.30.60. FISCAL YEAR 2010 MEDICAID REIMBURSEMENT SYSTEM FOR ICFs/MR

(A) As used in this section:

"Change of operator," "entering operator," and "exiting operator" have the same meanings as in section 5111.65 of the Revised Code.

"Franchise permit fee" and "provider" have the same meanings as in section 5111.20 of the Revised Code.

"ICF/MR" means an intermediate care facility for the mentally retarded as defined in section 5111.20 of the Revised Code.

"ICF/MR services" means services covered by the Medicaid program that an ICF/MR provides to a Medicaid recipient eligible for the services.

"Medicaid days" means all days during which a resident who is a Medicaid recipient occupies a bed in an ICF/MR that is included in the ICF/MR's Medicaid-certified capacity. Therapeutic or hospital leave days for which payment is made under section 5111.33 of the Revised Code are

considered Medicaid days proportionate to the percentage of the ICF/MR's per resident per day rate paid for those days.

"Per diem rate" means the per diem rate calculated pursuant to sections 5111.20 to 5111.33 of the Revised Code.

(B) This section applies to providers of ICFs/MR to which either of the following applies:

(1) The provider has a valid Medicaid provider agreement for the ICF/MR on June 30, 2009, and a valid Medicaid provider agreement for the ICF/MR during fiscal year 2010.

(2) The ICF/MR undergoes a change of operator effective July 1, 2009, the exiting operator has a valid Medicaid provider agreement for the ICF/MR on June 30, 2009, and the entering operator has a valid Medicaid provider agreement for the ICF/MR during fiscal year 2010.

(C) Except as otherwise provided by this section, the provider of an ICF/MR to which this section applies shall be paid, for ICF/MR services the ICF/MR provides during fiscal year 2010, the rate calculated for the ICF/MR under sections 5111.20 to 5111.33 of the Revised Code.

(D) The provider of an ICF/MR to which this section applies shall be paid, for ICF/MR services the ICF/MR provides during the period beginning on the effective date of this section and ending July 31, 2009, the rate the provider was paid for ICF/MR services the ICF/MR provided on June 29, 2009.

(E) If the mean total per diem rate for all ICFs/MR in this state for the period beginning August 1, 2009, and ending June 30, 2010, weighted by May 2009 Medicaid days and calculated as of August 1, 2009, exceeds \$278.15, the Department shall reduce, for the period beginning August 1, 2009, and ending June 30, 2010, the total per diem rate for each ICF/MR to which this section applies by a percentage that is equal to the percentage by which the mean total per diem rate exceeds \$278.15.

(F) The rate of an ICF/MR set pursuant to this section shall not be subject to any adjustments authorized by sections 5111.20 to 5111.33 of the Revised Code, or any rule authorized by those sections, during the remainder of fiscal year 2010.

(G) If the United States Centers for Medicare and Medicaid Services requires that the franchise permit fee be reduced or eliminated, the Department of Job and Family Services shall reduce the amount it pays providers of ICF/MR services under this section as necessary to reflect the loss to the state of the revenue and federal financial participation generated from the franchise permit fee.

(H) The Department of Job and Family Services shall follow this section

in determining the rate to be paid providers of ICF/MR services subject to this section notwithstanding anything to the contrary in sections 5111.20 to 5111.33 of the Revised Code.

SECTION 309.30.70. FISCAL YEAR 2011 MEDICAID REIMBURSEMENT SYSTEM FOR ICFs/MR

(A) As used in this section:

"Change of operator," "entering operator," and "exiting operator" have the same meanings as in section 5111.65 of the Revised Code.

"Franchise permit fee" and "provider" have the same meanings as in section 5111.20 of the Revised Code.

"ICF/MR" means an intermediate care facility for the mentally retarded as defined in section 5111.20 of the Revised Code.

"ICF/MR services" means services covered by the Medicaid program that an ICF/MR provides to a Medicaid recipient eligible for the services.

"Medicaid days" means all days during which a resident who is a Medicaid recipient occupies a bed in an ICF/MR that is included in the ICF/MR's Medicaid-certified capacity. Therapeutic or hospital leave days for which payment is made under section 5111.33 of the Revised Code are considered Medicaid days proportionate to the percentage of the ICF/MR's per resident per day rate paid for those days.

"Per diem rate" means the per diem rate calculated pursuant to sections 5111.20 to 5111.33 of the Revised Code.

(B) This section applies to providers of ICFs/MR to which either of the following applies:

(1) The provider has a valid Medicaid provider agreement for the ICF/MR on June 30, 2010, and a valid Medicaid provider agreement for the ICF/MR during fiscal year 2011.

(2) The ICF/MR undergoes a change of operator effective July 1, 2010, the exiting operator has a valid Medicaid provider agreement for the ICF/MR on June 30, 2010, and the entering operator has a valid Medicaid provider agreement for the ICF/MR during fiscal year 2011.

(C) Except as otherwise provided by this section, the provider of an ICF/MR to which this section applies shall be paid, for ICF/MR services the ICF/MR provides during fiscal year 2011, the rate calculated for the ICF/MR under sections 5111.20 to 5111.33 of the Revised Code.

(D) If the mean total per diem rate for all ICFs/MR in this state for fiscal year 2011, weighted by May 2010 Medicaid days and calculated as of July 1, 2010, exceeds \$278.15, the Department shall reduce the total per diem rate for each ICF/MR to which this section applies by a percentage that is

equal to the percentage by which the mean total per diem rate exceeds \$278.15.

(E) The rate of an ICF/MR set pursuant to this section shall not be subject to any adjustments authorized by sections 5111.20 to 5111.33 of the Revised Code, or any rule authorized by those sections, during the remainder of fiscal year 2011.

(F) If the United States Centers for Medicare and Medicaid Services requires that the franchise permit fee be reduced or eliminated, the Department of Job and Family Services shall reduce the amount it pays providers of ICF/MR services under this section as necessary to reflect the loss to the state of the revenue and federal financial participation generated from the franchise permit fee.

(G) The Department of Job and Family Services shall follow this section in determining the rate to be paid providers of ICF/MR services subject to this section notwithstanding anything to the contrary in sections 5111.20 to 5111.33 of the Revised Code.

SECTION 309.30.71. ICF/MR REIMBURSEMENT STUDY COUNCIL

(A) There is hereby created the ICF/MR Reimbursement Study Council consisting of all of the following members:

- (1) The Director of Job and Family Services;
- (2) The Deputy Director of the Office of Ohio Health Plans of the Department of Job and Family Services;
- (3) The Director of Developmental Disabilities;
- (4) One representative of Medicaid recipients residing in intermediate care facilities for the mentally retarded, appointed by the Governor;
- (5) Two representatives of each of the following organizations, appointed by their respective governing bodies:
 - (a) The Ohio Provider Resource Association;
 - (b) The Ohio Health Care Association;
 - (c) The Ohio Association of County Boards of Mental Retardation and Developmental Disabilities.

Initial appointments of members described in divisions (A)(4) and (5) of this section shall be made not later than thirty days after the effective date of this section. Vacancies shall be filled in the same manner as the original appointments. Members described in those divisions shall serve at the pleasure of the official or governing body making the appointment of the member.

The Director of Job and Family Services shall serve as chairperson of the council. Members of the council shall serve without compensation,

except to the extent that serving on the council is part of their regular duties of employment.

(B) The council shall review the system established by sections 5111.20 to 5111.33 of the Revised Code for reimbursing intermediate care facilities for the mentally retarded under the Medicaid program. Not later than July 1, 2010, the council shall issue a report of its activities, findings, and recommendations to the Governor, the Speaker of the House of Representatives, and the President of the Senate.

(C) In its consideration of the system for reimbursing intermediate care facilities for the mentally retarded under division (B) of this section, the council shall use the following principles:

(1) The system should appropriately account for differences in acuity and service needs among individuals in intermediate care facilities for the mentally retarded.

(2) The system should support and encourage quality services, including both of the following elements:

(a) A high level of coverage of direct care costs;

(b) Pay for performance mechanisms.

(3) The system should reflect appropriate recognition that virtually all individuals served in intermediate care facilities for the mentally retarded are Medicaid recipients.

(4) The system should encourage cost-effective service delivery.

(5) The system should encourage innovation in service delivery.

(6) The system should encourage appropriate maintenance, improvement, and replacement of facilities.

(D) The council shall cease to exist on the submission of a report under division (B) of this section.

SECTION 309.30.73. INCREASE IN MEDICAID RATES FOR HOSPITAL INPATIENT AND OUTPATIENT SERVICES

The Director of Job and Family Services shall amend rules adopted under section 5111.02 of the Revised Code as necessary to increase, for the period beginning October 1, 2009, and ending June 30, 2011, the Medicaid reimbursement rates for Medicaid-covered hospital inpatient services and hospital outpatient services that are paid under the prospective payment system established in those rules to rates that result in an amount that is five per cent higher than the amount resulting from the rates in effect on September 30, 2009.

SECTION 309.30.75. REDUCTION IN COMMUNITY PROVIDER RATES

The Director of Job and Family Services shall amend rules adopted under section 5111.02 of the Revised Code as necessary to reduce, effective January 1, 2010, the Medicaid reimbursement rates for the following Medicaid-covered services to rates that result in an amount that is at least three per cent lower than the amount resulting from the rates in effect on December 31, 2009:

- (A) Advanced practice nursing services;
- (B) Ambulatory surgery center services;
- (C) Chiropractic services;
- (D) Durable medical equipment;
- (E) Home health services;
- (F) Ambulance and ambulette services;
- (G) Physician services;
- (H) Physical therapy services;
- (I) Podiatry services;
- (J) Private duty nursing services;
- (K) Vision services;
- (L) Clinic services, other than rural health clinics and federally qualified health centers;
- (M) Occupational therapy services;
- (N) Dental services;
- (O) Services provided under a home and community-based services Medicaid waiver component, as defined in section 5111.85 of the Revised Code, administered by the Department of Job and Family Services;
- (P) Other services the Director identifies, other than services for which a statute of this state sets the Medicaid reimbursement rate.

SECTION 309.30.76. DISPENSING FEE FOR NONCOMPOUNDED DRUGS

The Medicaid dispensing fee for each noncompounded drug covered by the Medicaid program shall be \$1.80 for the period beginning January 1, 2010, and ending June 30, 2011.

SECTION 309.30.80. RESIDENTIAL STATE SUPPLEMENT TRANSFER

The Department of Aging may transfer cash from the foregoing appropriation item 490412, Residential State Supplement, and the PASSPORT/Residential State Supplement Fund (Fund 4J40), to the Home and Community-Based Services for the Aged Fund (Fund 4J50), used by the Department of Job and Family Services to make benefit payments to Residential State Supplement recipients. The transfer shall be made using an intrastate transfer voucher.

SECTION 309.30.90. MONEY FOLLOWS THE PERSON

The Director of Budget and Management may seek Controlling Board approval to do any of the following in support of any home and community-based services Medicaid waiver component:

(A) Create new funds and appropriation items associated with a unified long-term care budget;

(B) Transfer cash between funds used by affected agencies;

(C) Transfer appropriation between appropriation items within a fund and used by the same state agency.

Any transfers of cash approved by the Controlling Board under this section are hereby appropriated.

SECTION 309.31.10. MONEY FOLLOWS THE PERSON ENHANCED REIMBURSEMENT FUND

The Money Follows the Person Enhanced Reimbursement Fund is hereby created in the state treasury. This is a continuation of the fund created by Section 751.20 of Am. Sub. H.B. 562 of the 127th General Assembly. The federal payments made to the state under subsection (e) of section 6071 of the "Deficit Reduction Act of 2005," Pub. L. No. 109-171, shall be deposited into the fund. The Department of Job and Family Services shall use money deposited into the fund for system reform activities related to the Money Follows the Person demonstration project.

SECTION 309.31.20. MEDICARE PART D

The foregoing appropriation item 600526, Medicare Part D, may be used by the Department of Job and Family Services for the implementation and operation of the Medicare Part D requirements contained in the "Medicare Prescription Drug, Improvement, and Modernization Act of 2003," Pub. L. No. 108-173, as amended. Upon the request of the Department of Job and Family Services, the Director of Budget and

Management may transfer the state share of appropriations between appropriation item 600525, Health Care/Medicaid, or appropriation item 600526, Medicare Part D. If the state share of appropriation item 600525, Health Care/Medicaid, is adjusted, the Director of Budget and Management shall adjust the federal share accordingly. The Department of Job and Family Services shall provide notification to the Controlling Board of any transfers at the next scheduled Controlling Board meeting.

SECTION 309.31.23. MEDICARE PART D APPROPRIATIONS

If the Centers for Medicare and Medicaid Services do not reduce the Medicaid grant award in lieu of state payments for Medicare Part D services as planned in state fiscal years 2010 and 2011, the appropriation in appropriation item 600526, Medicare Part D, shall be increased by the amount of the unanticipated GRF Medicaid grant award received. The unanticipated amounts are hereby appropriated.

SECTION 309.31.30. OHIO ACCESS SUCCESS PROJECT AND IDENTIFICATION OF OVERPAYMENTS

Notwithstanding any limitations in sections 3721.51 and 3721.56 of the Revised Code, in each fiscal year, cash from the Home and Community-Based Services for the Aged Fund (Fund 4J50), in excess of the amounts needed for the transfers to the PASSPORT/Residential State Supplement Fund (Fund 4J40) used by the Department of Aging, may be used by the Department of Job and Family Services for the following purposes: (A) up to \$3,000,000 in each fiscal year to fund the state share of audits or limited reviews of Medicaid providers; and (B) up to \$450,000 in each fiscal year to provide one-time transitional benefits under the Ohio Access Success Project that the Director of Job and Family Services may establish under section 5111.97 of the Revised Code.

SECTION 309.31.40. TRANSFER OF FUNDS TO THE DEPARTMENT OF AGING

The Department of Job and Family Services shall transfer \$33,263,984 cash in each fiscal year from the Home and Community-Based Services for the Aged Fund (Fund 4J50) to the PASSPORT/Residential State Supplement Fund (Fund 4J40), used by the Department of Aging. The transfer may occur on a quarterly basis or on a schedule developed and agreed to by both departments. The transfer shall be made using an intrastate

transfer voucher.

SECTION 309.31.50. PROVIDER FRANCHISE FEE OFFSETS

(A) At least quarterly, the Director of Job and Family Services shall certify to the Director of Budget and Management both of the following:

(1) The amount of offsets withheld under section 3721.541 of the Revised Code from payments made from the General Revenue Fund.

(2) The amount of offsets withheld under section 5112.341 of the Revised Code from payments made from the General Revenue Fund.

(B) The Director of Budget and Management may transfer cash from the General Revenue Fund to all of the following:

(1) The Home and Community Based Services for the Aged Fund (Fund 4J50), or the Nursing Facility Stabilization Fund (Fund 5R20), in accordance with sections 3721.56 and 3721.561 of the Revised Code;

(2) The ICF/MR Bed Assessments Fund (Fund 4K10).

(C) Amounts transferred pursuant to this section are hereby appropriated.

SECTION 309.31.55. REPORT ON PROVIDER FRANCHISE PERMIT FEES

If the Department of Job and Family Services conducts a study on the issue of funding the Medicaid program through franchise permit fees on providers of health-care services, the Department shall submit a copy of a report regarding the study to the General Assembly in accordance with section 101.68 of the Revised Code.

SECTION 309.31.60. TRANSFER OF FUNDS TO THE DEPARTMENT OF DEVELOPMENTAL DISABILITIES

The Department of Job and Family Services shall transfer \$12,000,000 cash in each fiscal year from the ICF/MR Bed Assessments Fund (Fund 4K10) to the Home and Community-Based Services Fund (Fund 4K80), used by the Department of Developmental Disabilities. The transfer may occur on a quarterly basis or on a schedule developed and agreed to by both departments. The transfer shall be made using an intrastate transfer voucher.

SECTION 309.31.70. FUNDING FOR TRANSITION WAIVER SERVICES

Notwithstanding any limitations contained in sections 5112.31 and

5112.37 of the Revised Code, in each fiscal year, cash from the ICF/MR Bed Assessments Fund (Fund 4K10) in excess of the amounts needed for transfers to the Home and Community-Based Services Fund (Fund 4K80), used by the Department of Developmental Disabilities, may be used by the Department of Job and Family Services to cover costs of care provided to participants in a waiver with an ICF/MR level of care requirement administered by the Department of Job and Family Services.

SECTION 309.31.80. HOSPITAL CARE ASSURANCE MATCH

The foregoing appropriation item 600650, Hospital Care Assurance Match, shall be used by the Department of Job and Family Services solely for distributing funds to hospitals under section 5112.08 of the Revised Code.

SECTION 309.31.90. HEALTH CARE SERVICES ADMINISTRATION FUND

Of the amount received by the Department of Job and Family Services during fiscal year 2010 and fiscal year 2011 from the first installment of assessments paid under section 5112.06 of the Revised Code and intergovernmental transfers made under section 5112.07 of the Revised Code, the Director of Job and Family Services shall deposit \$350,000 in each fiscal year into the state treasury to the credit of the Health Care Services Administration Fund (Fund 5U30).

SECTION 309.32.10. MEDICAID PROGRAM SUPPORT FUND - STATE

The foregoing appropriation item 600671, Medicaid Program Support, shall be used by the Department of Job and Family Services to pay for Medicaid services and contracts. The Department may also deposit to Fund 5C90 revenues received from other state agencies for Medicaid services under the terms of interagency agreements between the Department and other state agencies.

SECTION 309.32.20. TRANSFERS OF IMD/DSH CASH TO THE DEPARTMENT OF MENTAL HEALTH

The Department of Job and Family Services shall transfer cash from the Medicaid Program Support Fund (Fund 5C90), to the Behavioral Health Medicaid Services Fund (Fund 4X50), used by the Department of Mental

Health, in accordance with an interagency agreement that delegates authority from the Department of Job and Family Services to the Department of Mental Health to administer specified Medicaid services. The transfer shall be made using an intrastate transfer voucher.

The Department of Job and Family Services shall transfer \$14,700,000 cash, during the FY 2010-FY 2011 biennium, from the Medicaid Program Support Fund (Fund 5C90), to the Sale of Goods and Services Fund (Fund 1490), used by the Department of Mental Health. The transfer shall be made using an intrastate transfer voucher.

The Director of Budget and Management shall transfer \$4,700,000 cash in fiscal year 2010 and \$3,200,000 cash in fiscal year 2011 from the Medicaid Program Support Fund (Fund 5C90) to the Nursing Facility Stabilization Fund (Fund 5R20).

SECTION 309.32.30. PRESCRIPTION DRUG REBATE FUND

The foregoing appropriation item 600692, Health Care Services, shall be used by the Department of Job and Family Services to pay for Medicaid services and contracts.

SECTION 309.32.40. FEDERAL MATCH FOR ADAMHS BOARDS' ADMINISTRATIVE COSTS

As used in this section, "community behavioral health boards" means boards of alcohol, drug addiction, and mental health services, community mental health boards, and alcohol and drug addiction services boards.

Not later than October 1, 2009, the Director of Job and Family Services shall seek federal approval to establish a system under which community behavioral health boards obtain federal financial participation for the allowable administrative activities the boards perform in the administration of the Medicaid program. The Director shall implement the system on receipt of federal approval. The Director shall work with the Directors of Alcohol and Drug Addiction Services and Mental Health and representatives of community behavioral health boards when implementing this section.

SECTION 309.32.43. FUNDING OF MEDICAID-COVERED COMMUNITY BEHAVIORAL HEALTH SERVICES

(A) As used in this section:

"Community behavioral health boards" means boards of alcohol, drug addiction, and mental health services; community mental health boards; and

alcohol and drug addiction services boards.

"Community mental health facility" has the same meaning as in section 5111.023 of the Revised Code.

(B) Notwithstanding any conflicting provision of sections 5111.912 and 5111.913 of the Revised Code, both of the following apply to community behavioral health boards with respect to payments made under those sections for the nonfederal share of Medicaid payments to providers for services under a Medicaid component, or aspect of a component, the Department of Mental Health or Department of Alcohol and Drug Addiction Services administers:

(1) A community behavioral health board shall use state funds provided to the board for the purpose of funding community mental health services to make the payments.

(2) In addition to the funds used under division (B)(1) of this section, a community behavioral health board may use money available to the board that is raised by a county tax levy to make the payments if using the money for that purpose is consistent with the purpose for which the tax was levied.

(C) Notwithstanding division (C) of section 5111.023 of the Revised Code, the comprehensive annual plan specified in that division may certify the availability of unencumbered community mental health local funds to match federal Medicaid reimbursement funds earned by community mental health facilities.

(D) This section expires on July 1, 2011.

SECTION 309.32.45. MEDICAID NONEMERGENCY MEDICAL TRANSPORTATION MANAGEMENT PILOT PROGRAM

(A) The Department of Job and Family Services shall establish a Medicaid nonemergency medical transportation management pilot program. The pilot program shall be operated for two years.

(B) A county department of job and family services serving a county with a population greater than two hundred thousand persons may participate in the pilot program. A county department participating in the pilot program shall identify which groups of Medicaid recipients residing in the county shall be required to participate in the pilot program. The county department shall also contract with one or more medical transportation management organizations to have the organizations manage nonemergency medical transportation services provided under the Medicaid program to the groups required to participate in the pilot program. To be eligible to contract with a county department, a medical transportation management organization must have experience in coordinating nonemergency medical

transportation services.

(C) A medical transportation management organization that contracts with a county department shall report monthly to the county department. Each report shall contain all of the following information:

(1) A description of the transportation services provided to Medicaid recipients participating in the pilot program, including details on the varying modes of transportation used in providing the services and the frequency at which the services were provided;

(2) The number of times nonemergency medical transportation providers failed to arrive for an appointment to transport a participant in the pilot program;

(3) The number of times nonemergency medical transportation providers were late for an appointment to transport a participant in the pilot program and the lengths of the delays;

(4) The cost of the nonemergency medical transportation services provided to participants in the pilot program;

(5) Other indicators of the quality of nonemergency transportation services provided to participants in the pilot program that the county department requests to be included in the reports.

(D) On conclusion of the pilot program, the Department, with assistance from each county department that participated in the pilot program, shall submit a report regarding the pilot program to the Governor, and in accordance with section 101.68 of the Revised Code, the General Assembly. The report shall specify the amount of savings, if any, the Medicaid program realized as a result of the pilot program.

SECTION 309.32.70. DURABLE MEDICAL EQUIPMENT STUDY

The Department of Job and Family Services shall prepare and submit to the Speaker and Minority Leader of the House of Representatives and the President and Minority Leader of the Senate a report on expenditures for durable medical equipment by the Medicaid program. In preparing the report, the Department shall do all of the following:

(A) Identify the types of durable medical equipment that represent, in total, greater than fifty per cent of the state's total Medicaid expenditures for durable medical equipment;

(B) Consult with durable medical equipment suppliers to identify cost-saving strategies;

(C) Evaluate opportunities for competitive purchasing procedures for durable medical equipment.

The report prepared under this section shall include recommendations

on strategies to reduce the Medicaid program's costs for durable medical equipment. The report shall be submitted not later than July 1, 2010.

SECTION 309.40. FAMILY STABILITY

SECTION 309.40.10. FOOD STAMPS TRANSFER

On July 1, 2009, or as soon as possible thereafter, the Director of Budget and Management may transfer up to \$1,000,000 cash from the Food Stamp Program Fund (Fund 3840), to the Food Assistance Fund (Fund 5ES0).

SECTION 309.40.20. NAME OF FOOD STAMP PROGRAM

The Director of Job and Family Services is not required to amend rules regarding the Food Stamp Program to change the name of the program to the Supplemental Nutrition Assistance Program. The Director may refer to the program as the Food Stamp Program or the Food Assistance Program in rules and documents of the Department of Job and Family Services.

SECTION 309.40.30. OHIO ASSOCIATION OF SECOND HARVEST FOOD BANKS

The foregoing appropriation item 600540, Second Harvest Food Banks, shall be used to provide funds to the Ohio Association of Second Harvest Food Banks to purchase and distribute food products.

Notwithstanding section 5101.46 of the Revised Code and any other provision in this bill, in addition to funds designated for the Ohio Association of Second Harvest Food Banks in this section, in fiscal years 2010 and 2011, the Director of Job and Family Services shall provide assistance from eligible funds to the Ohio Association of Second Harvest Food Banks in an amount equal to the assistance provided in state fiscal year 2009.

SECTION 309.40.50. CHILD SUPPORT COLLECTIONS/TANF MOE

The foregoing appropriation item 600658, Child Support Collections, shall be used by the Department of Job and Family Services to meet the TANF maintenance of effort requirements of 42 U.S.C. 609(a)(7). When the state is assured that it will meet the maintenance of effort requirement, the Department of Job and Family Services may use funds from appropriation

item 600658, Child Support Collections, to support public assistance activities.

SECTION 309.40.55. KINSHIP PERMANENCY INCENTIVE PROGRAM

The foregoing appropriation item 600541, Kinship Permanency Incentive Program, shall be used to support the Kinship Permanency Incentive Program created under section 5101.802 of the Revised Code.

SECTION 309.40.60. EARLY LEARNING INITIATIVE

(A) As used in this section:

(1) "Title IV-A services" means benefits and services that are allowable under Title IV-A of the "Social Security Act," as specified in 42 U.S.C. 604(a), except that they shall not be benefits and services included in the term "assistance" as defined in 45 C.F.R. 260.31(a) and shall be benefits and services that are excluded from the definition of the term "assistance" under 45 C.F.R. 260.31(b).

(2) "Eligible child" means a child who is at least three years of age but not of compulsory school age or enrolled in kindergarten, is eligible for Title IV-A services, and whose family income at the time of application does not exceed two hundred per cent of the federal poverty guidelines.

(3) "Early learning program" means a program for eligible children that provides Title IV-A services, according to the purposes listed in 45 C.F.R. 260.20(c), that are early learning services, as defined by pursuant to division (D)(1) of this section.

(4) "Early learning provider" means an entity that operates an early learning program.

(5) "Early learning agency" means an early learning provider or an entity that has entered into an agreement with an early learning provider requiring the early learning provider to operate an early learning program on behalf of the entity.

(6) "Federal poverty line" has the same meaning as in section 5104.01 of the Revised Code.

(7) "Of compulsory school age" has the same meaning as in section 3321.01 of the Revised Code.

(B) The Early Learning Initiative is hereby established. The Department of Education and the Department of Job and Family Services shall administer the Initiative in accordance with sections 5101.80 and 5101.801 of the Revised Code. The Initiative shall provide early learning services to

eligible children. Early learning services may be provided on a full-day basis, a part-day basis, or both a full-day and part-day basis.

(C) The Department of Job and Family Services shall do both of the following:

(1) Reimburse early learning agencies for services provided to eligible children according to the terms of the contract and the rules adopted under division (C)(2) of this section;

(2) In consultation with the Department of Education, adopt rules in accordance with Chapter 119. of the Revised Code to implement the Early Learning Initiative. The rules shall include all of the following:

(a) Provisions regarding the establishment of co-payments for families of eligible children whose family income is more than one hundred per cent of the federal poverty guidelines but equal to or less than the maximum amount of family income authorized for an eligible child as defined in division (A)(2) of this section;

(b) An exemption from co-payment requirements for families whose family income is equal to or less than one hundred per cent of the federal poverty guideline;

(c) A definition of "enrollment" for the purpose of compensating early learning agencies;

(d) Provisions that establish compensation rates for early learning agencies based on the enrollment of eligible children;

(e) Provisions for the completion of criminal record checks for employees of early learning agencies and early learning providers whereby sections 109.572(A)(8), (A)(9), and (B)(2) of the Revised Code are considered applicable to these employees;

(f) Provisions for the timeline of eligibility determination;

(g) A requirement that early learning programs licensed by the Department of Education under sections 3301.52 to 3301.59 of the Revised Code participate in the quality-rating program established under section 5104.30 of the Revised Code.

(D) The Department of Education shall do all of the following:

(1) Define the early learning services that will be provided to eligible children through the Early Learning Initiative;

(2) In consultation with the Department of Job and Family Services, develop an application form and criteria for the selection of early learning agencies. The criteria shall require an early learning agency, or each early learning provider with which the agency has entered into an agreement for the operation of an early learning program on the agency's behalf, to be licensed by the Department of Education under sections 3301.52 to 3301.59

of the Revised Code or by the Department of Job and Family Services under Chapter 5104. of the Revised Code;

(3) Establish early learning program guidelines for school readiness to assess the operation of early learning programs.

(E) Any entity that seeks to be an early learning agency shall apply to the Department of Education by a deadline established by the Department. The Department of Education shall select entities that meet the criteria established under division (D)(2) of this section to be early learning agencies. Upon selection of an entity to be an early learning agency, the Department of Education shall designate the number of eligible children the agency may enroll. The Department of Education shall notify the Department of Job and Family Services of the number so designated.

(F) The Department of Education and the Department of Job and Family Services shall enter into a contract with each early learning agency selected under division (E) of this section. The requirements of section 127.16 of the Revised Code do not apply to contracts entered into under this section. The contract shall outline the terms and conditions applicable to the provision of Title IV-A services for eligible children and shall include at least the following:

(1) The respective duties of the early learning agency, the Department of Education, and the Department of Job and Family Services;

(2) Requirements applicable to the allowable use of and accountability for compensation paid under the contract;

(3) Reporting requirements, including a requirement that the early learning provider inform the Department of Education when the provider learns that a kindergarten eligible child will not be enrolled in kindergarten;

(4) The compensation schedule payable under the contract;

(5) Audit requirements;

(6) Provisions for suspending, modifying, or terminating the contract.

(G) If an early learning agency, or an early learning provider operating an early learning program on the agency's behalf, substantially fails to meet the early learning program guidelines for school readiness or exhibits substandard performance, as determined by the Department of Education, the agency shall develop and implement a corrective action plan. The Department of Education shall approve the corrective action plan prior to implementation.

(H) If an early learning agency fails to implement a corrective action plan under division (G) of this section, the Department of Education may direct the Department of Job and Family Services to either withhold funding or request that the Department of Job and Family Services suspend or

terminate the contract with the agency.

(I) Each early learning program shall do all of the following:

(1) Meet teacher qualification requirements prescribed by section 3301.311 of the Revised Code;

(2) Align curriculum to the early learning content standards;

(3) Meet any assessment requirements prescribed by section 3301.0715 of the Revised Code that apply to the program;

(4) Require teachers, except teachers enrolled and working to obtain a degree pursuant to section 3301.311 of the Revised Code, to attend a minimum of twenty hours per biennium of professional development as prescribed by the Department of Education regarding the implementation of early learning program guidelines for school readiness;

(5) Document and report child progress;

(6) Meet and report compliance with the early learning program guidelines for school success;

(7) Participate in early language and literacy classroom observation evaluation studies.

(J) Each county Department of Job and Family Services shall determine eligibility for Title IV-A services for children seeking to enroll in an early learning program within fifteen days after receipt of a completed application in accordance with rules adopted under this section.

(K) The provision of early learning services in an early learning program shall not prohibit or otherwise prevent an individual from obtaining certificates for payment under division (C) of section 5104.32 of the Revised Code.

(L) Notwithstanding section 126.07 of the Revised Code:

(1) Any fiscal year 2010 contract executed prior to July 1, 2009, between the Departments of Job and Family Services and Education and an early learning agency that was not an early learning agency as of June 30, 2009, shall be deemed to be effective as of July 1, 2009, upon issuance of a state purchase order, even if the purchase order is approved at some later date.

(2) Any fiscal year 2010 contract executed between the Departments of Job and Family Services and Education and an early learning agency that had a valid contract for early learning services on June 30, 2009, shall be deemed to be effective as of July 1, 2009, upon the issuance of a state purchase order, even if the purchase order is approved at some later date.

(3) Any fiscal year 2011 contract executed prior to July 1, 2010, between the Departments of Job and Family Services and Education and an early learning agency that was not an early learning agency as of June 30,

2010, shall be deemed to be effective as of July 1, 2010, upon issuance of a state purchase order, even if the purchase order is approved at some later date.

(4) Any fiscal year 2011 contract executed between the Departments of Job and Family Services and Education and an early learning agency that had a valid contract for early learning services on June 30, 2010, shall be deemed to be effective as of July 1, 2010, upon the issuance of a state purchase order, even if the purchase order is approved at some later date.

(M) The Departments of Job and Family Services and Education shall contract for up to 12,000 enrollment slots for eligible children in each fiscal year through the Early Learning Initiative.

(N) Eligible expenditures for the Early Learning Initiative shall be claimed each fiscal year to help meet the state's TANF maintenance of effort requirement. The Superintendent of Public Instruction and the Director of Job and Family Services shall enter into an interagency agreement to carry out the requirements under this division, which shall include developing reporting guidelines for these expenditures.

SECTION 309.40.70. COMMITTEE TO STUDY PUBLICLY FUNDED CHILD CARE SERVICES

(A) A committee is hereby created to study publicly funded child care services, including the Early Learning Initiative enacted pursuant to this act and pursuant to changes in the administrative rules governing reimbursement and eligibility for publicly funded child day-care. The study shall include the following subjects:

(1) The effects of changing the definitions of full-time and part-time care on the following:

(a) Children, families, and providers of care, including the effects on the quality of care;

(b) Number of children served and the availability and accessibility of subsidized care to caregivers with full-time and part-time jobs;

(c) Availability of full-time and part-time care in areas with a high incidence of poverty;

(d) Private pay rates;

(e) Closure of centers and center programs;

(f) Loss of jobs in the child care industry.

(2) The effects of changes to the Early Learning Initiative on families and children including the following:

(a) Distribution and use of program slots across the state;

(b) Effect of mandatory participation in the voluntary child day-care

center quality-rating program as described in section 5104.30 of the Revised Code on program quality;

(c) Outcomes in terms of school readiness and other related factors for children who participate in the program.

(B) The committee shall consist of the following members:

(1) Three members of the House of Representatives, two appointed by the Speaker of the House of Representatives and one appointed by the Minority Leader of the House of Representatives;

(2) Three members of the Senate, two appointed by the President of the Senate and one appointed by the Minority Leader of the Senate;

(3) One parent of a child receiving publicly funded child care services, appointed by the President of the Senate;

(4) Two representatives of licensed child care centers serving low-income areas, one appointed by the Speaker of the House of Representatives and one appointed by the President of the Senate;

(5) One representative from the Ohio Association of Child Care Providers, appointed by the President of the Senate;

(6) One representative from the Ohio State Alliance of Young Men's Christian Associations, appointed by the Speaker of the House of Representatives;

(7) One representative from the Department of Job and Family Services, appointed by the Speaker of the House of Representatives;

(8) One representative from the Department of Education, appointed by the President of the Senate.

(C) The Department of Education shall provide the committee meeting space and clerical assistance. The committee shall prepare a report of its findings by June 30, 2010, and shall provide a copy of the report to the Governor, the Speaker of the House of Representatives, and the President of the Senate, at which time the committee shall cease to exist.

SECTION 309.45. CHILD WELFARE

SECTION 309.45.10. ALTERNATIVE RESPONSE

The Department of Job and Family Services shall develop, implement, oversee, and evaluate a pilot program based on an "Alternative Response" approach to reports of child abuse, neglect, and dependency. The pilot program shall be implemented in not more than ten counties that are selected by the Department and that agree to participate in the pilot program. The pilot program shall last eighteen months, not including time expended

in preparation for the implementation of the pilot program and any post-pilot program evaluation activity. After the eighteen-month period, the ten sites may continue to administer the Alternative Response approach uninterrupted, unless the Department determines otherwise.

The Department shall assure that the Alternative Response pilot program is independently evaluated with respect to outcomes for children and families, costs, worker satisfaction, and any other criteria the Department determines will be useful in the consideration of statewide implementation of an Alternative Response approach to child protection. The measure associated with the eighteen-month pilot program shall, for the purposes of the evaluation, be compared with those same measures in the pilot counties during the eighteen-month period immediately preceding the beginning of the pilot program period. If the independent evaluation of the pilot program recommends statewide implementation of an Alternative Response approach to child protection, the Department may expand the Alternative Response approach statewide through a schedule determined by the Department. Prior to statewide implementation, the Department shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary to carry out the purposes of this section. Until that time, the Department may adopt rules in accordance with section 111.15 of the Revised Code, as if they were internal management rules, as necessary to carry out the purposes of this section.

SECTION 309.45.15. INDEPENDENT LIVING SERVICES

Of the foregoing appropriation item 600523, Children and Families Services, up to \$1,500,000 in each fiscal year shall be used to provide independent living services to foster youth and former foster youth between 16 and 21 years of age.

SECTION 309.45.21. CHILD, FAMILY, AND ADULT COMMUNITY AND PROTECTIVE SERVICES

(A) The foregoing appropriation item 600533, Child, Family, and Adult Community & Protective Services, shall be distributed to each county department of job and family services using the formula the Department of Job and Family Services uses when distributing Title XX funds to county departments of job and family services under section 5101.46 of the Revised Code. County departments shall use the funds distributed to them under this section as follows, in accordance with the written plan of cooperation entered into under section 307.983 of the Revised Code:

(1) To assist individuals achieve or maintain self-sufficiency, including by reducing or preventing dependency among individuals with family income not exceeding two hundred per cent of the federal poverty guidelines;

(2) Subject to division (B) of this section, to respond to reports of abuse, neglect, or exploitation of children and adults, including through the alternative approach pilot program developed under Section 309.40.40 of this act;

(3) To provide outreach and referral services regarding home and community-based services to individuals at risk of placement in a group home or institution, regardless of the individuals' family income and without need for a written application;

(4) To provide outreach, referral, application assistance, and other services to assist individuals receive assistance, benefits, or services under Medicaid; Title IV-A programs, as defined in section 5101.80 of the Revised Code; the Supplemental Nutrition Assistance Program; and other public assistance programs.

(B) Protective services may be provided to a child or adult as part of a response, under division (A)(2) of this section, to a report of abuse, neglect, or exploitation without regard to a child or adult's family income and without need for a written application. The protective services may be provided if the case record documents circumstances of actual or potential abuse, neglect, or exploitation.

SECTION 309.45.25. ADOPTION ASSISTANCE LOAN

Of the foregoing appropriation item 600634, Adoption Assistance Loan, the Department of Job and Family Services may use up to ten per cent for administration of adoption assistance loans pursuant to section 3107.018 of the Revised Code.

SECTION 309.45.90. REALLOCATION OF UNUSED COUNTY ALLOCATIONS

(A) As used in this section:

(1) "Income maintenance funds" means funds the Department of Job and Family Services allocates to a county to meet matching fund requirements or reimburse a county for administrative expenditures incurred in the administration of the Disability Financial Assistance Program, Medicaid Program, or Supplemental Nutrition Assistance Program.

(2) "TANF funds" means funds the Department of Job and Family

Services allocates to a county for Title IV-A programs, as defined in section 5101.80 of the Revised Code.

(3) "TANF Title XX transfer funds" means funds the Department of Job and Family Services allocates to a county for purposes of section 5101.461 of the Revised Code.

(4) "Title XX social services funds" means funds the Department of Job and Family Services allocates to a county department of job and family services for purposes of section 5101.46 of the Revised Code.

(B) If a county informs the Department of Job and Family Services that the county will not use the entire amount of the income maintenance funds, TANF funds, TANF Title XX transfer funds, or Title XX social services funds allocated to the county for fiscal year 2010 or fiscal year 2011 or the Department determines through an annual close out or reconciliation of funds that a county did not use the entire amount of any of those funds allocated to the county for fiscal year 2010 or 2011, the Department shall reallocate the portion of the funds the county will or did not use to other counties for the remainder of the fiscal year in which the funds are reallocated or the next fiscal year. In reallocating the funds, the Department shall do both of the following:

(1) For each of the funds separately, rank each county by the percentage reduction in allocations of the funds from the fiscal year preceding the fiscal year in which the reallocation is made to the fiscal year in which the reallocation is made, with the county that has the greatest reduction percentage placed at the top of the ranking;

(2) Reallocate each of the funds separately to counties in the order in which counties are ranked under division (B)(1) of this section in a manner that provides, to the extent funds are available for reallocation, for each county to be, as a result of the reallocation, allocated the same amount of the funds that the county was allocated the previous fiscal year, other than the counties that will or did not use the full amount of their allocation of the funds.

SECTION 309.50. UNEMPLOYMENT COMPENSATION

SECTION 309.50.10. EMPLOYER SURCHARGE

The surcharge and the interest on the surcharge amounts due for calendar years 1988, 1989, and 1990 as required by Am. Sub. H.B. 171 of the 117th General Assembly, Am. Sub. H.B. 111 of the 118th General Assembly, and section 4141.251 of the Revised Code as it existed prior to

its repeal by Sub. H.B. 478 of the 122nd General Assembly, again shall be assessed and collected by, accounted for, and made available to the Department of Job and Family Services in the same manner as set forth in section 4141.251 of the Revised Code as it existed prior to its repeal by Sub. H.B. 478 of the 122nd General Assembly, notwithstanding the repeal of the surcharge for calendar years after 1990, pursuant to Sub. H.B. 478 of the 122nd General Assembly, except that amounts received by the Director on or after July 1, 2001, shall be deposited into the Unemployment Compensation Special Administrative Fund (Fund 4A90) established pursuant to section 4141.11 of the Revised Code.

SECTION 309.50.20. FEDERAL UNEMPLOYMENT PROGRAMS

All unexpended funds remaining at the end of fiscal year 2009 that were appropriated and made available to the state under section 903(d) of the Social Security Act, as amended, in the foregoing appropriation item 600678, Federal Unemployment Programs (Fund 3V40), are hereby appropriated to the Department of Job and Family Services. Upon the request of the Director of Job and Family Services, the Director of Budget and Management may increase the appropriation for fiscal year 2010 by the amount remaining unspent from the fiscal year 2009 appropriation and may increase the appropriation for fiscal year 2011 by the amount remaining unspent from the fiscal year 2010 appropriation. The appropriation shall be used under the direction of the Department of Job and Family Services to pay for administrative activities for the Unemployment Insurance Program, employment services, and other allowable expenditures under section 903(d) of the Social Security Act, as amended.

The amounts obligated pursuant to this section shall not exceed at any time the amount by which the aggregate of the amounts transferred to the account of the state under section 903(d) of the Social Security Act, as amended, exceeds the aggregate of the amounts obligated for administration and paid out for benefits and required by law to be charged against the amounts transferred to the account of the state.

SECTION 309.50.30. REMOVAL OF UNEMPLOYMENT COMPENSATION ADVISORY COUNCIL MEMBERS

The intent of the General Assembly in the amendments made in this act to section 145.012 is to provide that service as a member of the Unemployment Compensation Advisory Council on or after the effective date of this section shall not be service as a public employee for purposes of

Chapter 145. of the Revised Code. The amendments are not intended to prohibit the use of such service for calculation of benefits under Chapter 145. of the Revised Code for service prior to the effective date of this section.

SECTION 310.10. JCR JOINT COMMITTEE ON AGENCY RULE REVIEW

General Revenue Fund

GRF 029321 Operating Expenses	\$	435,168	\$	435,168
TOTAL GRF General Revenue Fund	\$	435,168	\$	435,168
TOTAL ALL BUDGET FUND GROUPS	\$	435,168	\$	435,168

OPERATING

The Chief Administrative Officer of the House of Representatives and the Clerk of the Senate shall determine, by mutual agreement, which of them shall act as fiscal agent for the Joint Committee on Agency Rule Review. Members of the Committee shall be paid in accordance with section 101.35 of the Revised Code.

OPERATING EXPENSES

On July 1, 2009, or as soon as possible thereafter, the Executive Director of the Joint Committee on Agency Rule Review may certify to the Director of Budget and Management the amount of the unexpended, unencumbered balance of the foregoing appropriation item 029321, Operating Expenses, at the end of fiscal year 2009 to be reappropriated to fiscal year 2010. The amount certified is hereby reappropriated to the same appropriation item for fiscal year 2010.

On July 1, 2010, or as soon as possible thereafter, the Executive Director of the Joint Committee on Agency Rule Review may certify to the Director of Budget and Management the amount of the unexpended, unencumbered balance of the foregoing appropriation item 029321, Operating Expenses, at the end of fiscal year 2010 to be reappropriated to fiscal year 2011. The amount certified is hereby reappropriated to the same appropriation item for fiscal year 2011.

SECTION 311.10. JCO JUDICIAL CONFERENCE OF OHIO

General Revenue Fund

GRF 018321 Operating Expenses	\$	800,000	\$	800,000
TOTAL GRF General Revenue Fund	\$	800,000	\$	800,000

General Services Fund Group

4030 018601 Ohio Jury Instructions	\$	350,000	\$	350,000
TOTAL GSF General Services Fund Group	\$	350,000	\$	350,000
TOTAL ALL BUDGET FUND GROUPS	\$	1,150,000	\$	1,150,000

OHIO JURY INSTRUCTIONS FUND

The Ohio Jury Instructions Fund (Fund 4030) shall consist of grants, royalties, dues, conference fees, bequests, devises, and other gifts received for the purpose of supporting costs incurred by the Judicial Conference of Ohio in dispensing educational and informational data to the state's judicial system. Fund 4030 shall be used by the Judicial Conference of Ohio to pay expenses incurred in dispensing educational and informational data to the state's judicial system. All moneys accruing to Fund 4030 in excess of \$350,000 in fiscal year 2010 and in excess of \$350,000 in fiscal year 2011 are hereby appropriated for the purposes authorized.

No money in Fund 4030 shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board.

SECTION 313.10. JSC THE JUDICIARY/SUPREME COURT**General Revenue Fund**

GRF 005321	Operating Expenses - Judiciary/Supreme Court	\$ 131,055,370	\$ 131,055,370
GRF 005401	State Criminal Sentencing Council	\$ 206,770	\$ 206,770
GRF 005406	Law Related Education	\$ 236,172	\$ 236,172
GRF 005409	Ohio Courts Technology Initiative	\$ 4,000,000	\$ 4,250,000
TOTAL GRF General Revenue Fund		\$ 135,498,312	\$ 135,748,312

General Services Fund Group

6720 005601	Continuing Judicial Education	\$ 300,000	\$ 300,000
TOTAL GSF General Services Fund Group		\$ 300,000	\$ 300,000

Federal Special Revenue Fund Group

3J00 005603	Federal Grants	\$ 2,137,866	\$ 1,917,081
TOTAL FED Federal Special Revenue Fund Group		\$ 2,137,866	\$ 1,917,081

State Special Revenue Fund Group

4C80 005605	Attorney Services	\$ 3,704,659	\$ 3,704,659
5T80 005609	Grants and Awards	\$ 50,000	\$ 50,000
6A80 005606	Supreme Court Admissions	\$ 1,284,142	\$ 1,284,142
TOTAL SSR State Special Revenue Fund Group		\$ 5,038,801	\$ 5,038,801
TOTAL ALL BUDGET FUND GROUPS		\$ 142,974,979	\$ 143,004,194

LAW-RELATED EDUCATION

The foregoing appropriation item 005406, Law-Related Education, shall be distributed directly to the Ohio Center for Law-Related Education for the purposes of providing continuing citizenship education activities to primary and secondary students, expanding delinquency prevention programs, increasing activities for at-risk youth, and accessing additional public and private money for new programs.

OHIO COURTS TECHNOLOGY INITIATIVE

The foregoing appropriation item 005409, Ohio Courts Technology Initiative, shall be used to fund an initiative by the Supreme Court to facilitate the exchange of information and warehousing of data by and between Ohio courts and other justice system partners through the creation of an Ohio Courts Network, the delivery of technology services to courts throughout the state, including the provision of hardware, software, and the development and implementation of educational and training programs for judges and court personnel, and operation of the Commission on Technology and the Courts by the Supreme Court for the promulgation of statewide rules, policies, and uniform standards, and to aid in the orderly adoption and comprehensive use of technology in Ohio courts.

CONTINUING JUDICIAL EDUCATION

The Continuing Judicial Education Fund (Fund 6720) shall consist of fees paid by judges and court personnel for attending continuing education courses and other gifts and grants received for the purpose of continuing judicial education. The foregoing appropriation item 005601, Continuing Judicial Education, shall be used to pay expenses for continuing education courses for judges and court personnel. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No money in Fund 6720 shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on moneys in Fund 6720 shall be credited to the fund.

FEDERAL GRANTS

The Federal Grants Fund (Fund 3J00) shall consist of grants and other moneys awarded to the Supreme Court (The Judiciary) by the United States Government or other entities that receive the moneys directly from the United States Government and distribute those moneys to the Supreme Court (The Judiciary). The foregoing appropriation item 005603, Federal Grants, shall be used in a manner consistent with the purpose of the grant or award. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No money in Fund 3J00 shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. However, interest earned on moneys in Fund 3J00 shall be credited or transferred to the General Revenue Fund.

ATTORNEY SERVICES

The Attorney Services Fund (Fund 4C80), formerly known as the

Attorney Registration Fund, shall consist of moneys received by the Supreme Court (The Judiciary) pursuant to the Rules for the Government of the Bar of Ohio. In addition to funding other activities considered appropriate by the Supreme Court, the foregoing appropriation item 005605, Attorney Services, may be used to compensate employees and to fund appropriate activities of the following offices established by the Supreme Court: the Office of Disciplinary Counsel, the Board of Commissioners on Grievances and Discipline, the Clients' Security Fund, and the Attorney Services Division. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No moneys in Fund 4C80 shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on moneys in Fund 4C80 shall be credited to the fund.

GRANTS AND AWARDS

The Grants and Awards Fund (Fund 5T80) shall consist of grants and other moneys awarded to the Supreme Court (The Judiciary) by the State Justice Institute, the Division of Criminal Justice Services, or other entities. The foregoing appropriation item 005609, Grants and Awards, shall be used in a manner consistent with the purpose of the grant or award. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No moneys in Fund 5T80 shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. However, interest earned on moneys in Fund 5T80 shall be credited or transferred to the General Revenue Fund.

SUPREME COURT ADMISSIONS

The foregoing appropriation item 005606, Supreme Court Admissions, shall be used to compensate Supreme Court employees who are primarily responsible for administering the attorney admissions program under the Rules for the Government of the Bar of Ohio, and to fund any other activities considered appropriate by the court. Moneys shall be deposited into the Supreme Court Admissions Fund (Fund 6A80) under the Supreme Court Rules for the Government of the Bar of Ohio. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No moneys in Fund 6A80 shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on moneys in Fund 6A80 shall be credited to the fund.

SECTION 313.20. SUPREME COURT FILING FEE

The General Assembly hereby respectfully requests the Supreme Court to modify Rule XV of the Rules of Practice of the Supreme Court of Ohio pursuant to its authority under the Ohio Constitution to make that Rule consistent with the amendments made by this act to section 2503.17 of the Revised Code.

SECTION 315.10. LEC LAKE ERIE COMMISSION**State Special Revenue Fund Group**

4C00	780601	Lake Erie Protection Fund	\$	450,000	\$	450,000
5D80	780602	Lake Erie Resources Fund	\$	380,000	\$	383,000
TOTAL SSR State Special Revenue						
Fund Group			\$	830,000	\$	833,000
TOTAL ALL BUDGET FUND GROUPS			\$	830,000	\$	833,000

SECTION 317.10. LRS LEGAL RIGHTS SERVICE**General Revenue Fund**

GRF	054321	Support Services	\$	99,830	\$	99,830
GRF	054401	Ombudsman	\$	146,789	\$	146,789
TOTAL GRF General Revenue Fund						
			\$	246,619	\$	246,619

General Services Fund Group

5M00	054610	Settlements	\$	81,352	\$	81,352
TOTAL GSF General Services						
Fund Group			\$	81,352	\$	81,352

Federal Special Revenue Fund Group

3050	054602	Protection and Advocacy - Developmentally Disabled	\$	1,500,000	\$	1,500,000
3AG0	054613	Protection and Advocacy - Voter Accessibility	\$	135,000	\$	135,000
3B80	054603	Protection and Advocacy - Mentally Ill	\$	1,100,000	\$	1,100,000
3CA0	054615	Work Incentives Planning and Assistance	\$	355,000	\$	355,000
3N30	054606	Protection and Advocacy - Individual Rights	\$	570,000	\$	570,000
3N90	054607	Assistive Technology	\$	160,000	\$	160,000
3R90	054604	Family Support Collaborative	\$	12,500	\$	0
3R90	054616	Developmental Disability Publications	\$	130,000	\$	130,000
3T20	054609	Client Assistance Program	\$	435,000	\$	435,000
3X10	054611	Protection and Advocacy - Beneficiaries of Social Security	\$	235,000	\$	235,000
3Z60	054612	Protection and Advocacy - Traumatic Brain Injury	\$	70,000	\$	70,000

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TOTAL FED Federal Special Revenue Fund Group	\$	4,702,500	\$	4,690,000
State Special Revenue Fund Group				
5AE0 054614 Grants and Contracts	\$	24,600	\$	24,600
TOTAL SSR State Special Revenue Fund Group	\$	24,600	\$	24,600
TOTAL ALL BUDGET FUND GROUPS	\$	5,055,071	\$	5,042,571

SECTION 317.20. LEGAL RIGHTS SERVICE NONPROFIT TRANSITION STUDY

(A) The Legal Rights Service Commission shall conduct a study concerning a potential transition from a public entity to a nonprofit organization effective July 1, 2011. The study shall include an analysis of all of the following:

- (1) The feasibility of a transition to a nonprofit organization;
- (2) The potential effects on service delivery, including client service and access to required resources, and any other service delivery advantages or disadvantages that might result from the transition to a nonprofit organization;
- (3) Potential organizational effects, including cost savings and non-state funding sources, and any other organizational advantages or disadvantages that might result from the transition to a nonprofit organization;
- (4) The approximate amount of time necessary to achieve a transition to nonprofit status.

(B) The Legal Rights Service Commission shall develop a process plan by which a transition to a nonprofit organization could be implemented not later than July 1, 2011.

(C) Not later than six months after the effective date of this section, a written report of the results of the study and a copy of the process plan shall be submitted to the Governor, the Speaker and the Minority Leader of the House of Representatives, and the President and the Minority Leader of the Senate.

SECTION 319.10. JLE JOINT LEGISLATIVE ETHICS COMMITTEE

General Revenue Fund

GRF 028321 Legislative Ethics Committee	\$	550,000	\$	550,000
TOTAL GRF General Revenue Fund	\$	550,000	\$	550,000

General Services Fund Group

4G70028601 Joint Legislative Ethics Committee	\$	100,000	\$	100,000
TOTAL GSF General Services Fund Group	\$	100,000	\$	100,000

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TOTAL ALL BUDGET FUND GROUPS	\$	650,000	\$	650,000
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SECTION 321.10. LSC LEGISLATIVE SERVICE COMMISSION

General Revenue Fund

GRF 035321	Operating Expenses	\$	15,117,700	\$	15,117,700
GRF 035402	Legislative Interns	\$	1,022,120	\$	1,022,120
GRF 035405	Correctional Institution Inspection Committee	\$	438,900	\$	438,900
GRF 035407	Legislative Task Force on Redistricting	\$	750,000	\$	750,000
GRF 035409	National Associations	\$	460,560	\$	460,560
GRF 035410	Legislative Information Systems	\$	3,661,250	\$	3,661,250
TOTAL GRF General Revenue Fund		\$	21,450,530	\$	21,450,530

General Services Fund Group

4100 035601	Sale of Publications	\$	10,000	\$	10,000
4F60 035603	Legislative Budget Services	\$	200,000	\$	200,000
5EF0 035607	Legislative Agency Telephone Usage	\$	30,000	\$	30,000

TOTAL GSF General Services

Fund Group		\$	240,000	\$	240,000
TOTAL ALL BUDGET FUND GROUPS		\$	21,690,530	\$	21,690,530

The Legislative Agency Telephone Usage Fund (Fund 5EF0), created by section 103.24 of the Revised Code, is the same fund, with a new name, as the House and Senate Telephone Usage Fund created by the Controlling Board in 2007.

SECTION 323.10. LIB STATE LIBRARY BOARD

General Revenue Fund

GRF 350321	Operating Expenses	\$	5,477,369	\$	5,477,369
GRF 350401	Ohioana Rental Payments	\$	128,560	\$	128,560
GRF 350502	Regional Library Systems	\$	582,469	\$	582,469
TOTAL GRF General Revenue Fund		\$	6,188,398	\$	6,188,398

General Services Fund Group

1390 350602	Intra-Agency Service Charges	\$	9,000	\$	9,000
4590 350603	Library Service Charges	\$	2,708,092	\$	2,708,092
4S40 350604	Ohio Public Library Information Network	\$	5,702,150	\$	5,702,150
5GB0 350605	Library for the Blind	\$	1,274,194	\$	1,274,194
5GG0 350606	Gates Foundation Grants	\$	500,000	\$	0

TOTAL GSF General Services

Fund Group		\$	10,193,436	\$	9,693,436
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Federal Special Revenue Fund Group

3130 350601	LSTA Federal	\$	5,543,747	\$	5,543,747
TOTAL FED Federal Special Revenue Fund Group		\$	5,543,747	\$	5,543,747

TOTAL ALL BUDGET FUND GROUPS \$ 21,925,581 \$ 21,425,581

OHIOANA RENTAL PAYMENTS

The foregoing appropriation item 350401, Ohioana Rental Payments, shall be used to pay the rental expenses of the Martha Kinney Cooper Ohioana Library Association under section 3375.61 of the Revised Code.

REGIONAL LIBRARY SYSTEMS

The foregoing appropriation item 350502, Regional Library Systems, shall be used to support regional library systems eligible for funding under sections 3375.83 and 3375.90 of the Revised Code.

OHIO PUBLIC LIBRARY INFORMATION NETWORK

(A) The foregoing appropriation item 350604, Ohio Public Library Information Network, shall be used for an information telecommunications network linking public libraries in the state and such others as may participate in the Ohio Public Library Information Network (OPLIN).

The Ohio Public Library Information Network Board of Trustees created under section 3375.65 of the Revised Code may make decisions regarding use of the foregoing appropriation item 350604, Ohio Public Library Information Network.

(B) Of the foregoing appropriation item 350604, Ohio Public Library Information Network, up to \$81,000 in each fiscal year shall be used to help local libraries use filters to screen out obscene and illegal internet materials.

The OPLIN Board shall research and assist or advise local libraries with regard to emerging technologies and methods that may be effective means to control access to obscene and illegal materials. The OPLIN Executive Director shall provide biannual written reports to the Governor, the Speaker and Minority Leader of the House of Representatives, and the President and Minority Leader of the Senate on any steps being taken by OPLIN and public libraries in the state to limit and control such improper usage as well as information on technological, legal, and law enforcement trends nationally and internationally affecting this area of public access and service.

(C) The Ohio Public Library Information Network, INFOhio, and OhioLINK shall, to the extent feasible, coordinate and cooperate in their purchase or other acquisition of the use of electronic databases for their respective users and shall contribute funds in an equitable manner to such effort.

LIBRARY FOR THE BLIND

The foregoing appropriation item 350605, Library for the Blind, shall be used for the statewide Talking Book Program to assist the blind and disabled.

TRANSFER TO OPLIN TECHNOLOGY FUND

Notwithstanding sections 5747.03 and 5747.47 of the Revised Code and any other provision of law to the contrary, in accordance with a schedule established by the Director of Budget and Management, the Director of Budget and Management shall transfer \$3,702,150 cash in each fiscal year from the Public Library Fund (Fund 7065) to the OPLIN Technology Fund (Fund 4S40).

TRANSFER TO LIBRARY FOR THE BLIND FUND

Notwithstanding sections 5747.03 and 5747.47 of the Revised Code and any other provision of law to the contrary, in accordance with a schedule established by the Director of Budget and Management, the Director of Budget and Management shall transfer \$1,274,194 cash in each fiscal year from the Public Library Fund (Fund 7065) to the Library for the Blind Fund (Fund 5GB0).

SECTION 325.10. LCO LIQUOR CONTROL COMMISSION

Liquor Control Fund Group

7043 970321	Operating Expenses	\$	728,162	\$	772,524
TOTAL LCF Liquor Control Fund Group		\$	728,162	\$	772,524
TOTAL ALL BUDGET FUND GROUPS		\$	728,162	\$	772,524

SECTION 327.10. LOT STATE LOTTERY COMMISSION

State Lottery Fund Group

2310 950604	Charitable Gaming Oversight	\$	2,378,000	\$	2,378,000
7044 950100	Personal Services	\$	24,378,979	\$	24,378,979
7044 950200	Maintenance	\$	14,578,155	\$	14,652,155
7044 950300	Equipment	\$	4,058,420	\$	3,603,920
7044 950402	Advertising Contracts	\$	21,756,000	\$	21,756,000
7044 950403	Gaming Contracts	\$	47,978,749	\$	48,756,010
7044 950500	Problem Gambling Subsidy	\$	350,000	\$	350,000
7044 950601	Direct Prize Payments	\$	124,426,168	\$	124,884,039
8710 950602	Annuity Prizes	\$	89,935,565	\$	89,415,976
TOTAL SLF State Lottery Fund Group		\$	329,840,036	\$	330,175,079
TOTAL ALL BUDGET FUND GROUPS		\$	329,840,036	\$	330,175,079

OPERATING EXPENSES

Notwithstanding sections 127.14 and 131.35 of the Revised Code, the Controlling Board may, at the request of the State Lottery Commission, authorize expenditures from the State Lottery Fund in excess of the amounts appropriated, up to a maximum of 15 per cent of anticipated total revenue accruing from the sale of lottery tickets. Upon the approval of the Controlling Board, the additional amounts are hereby appropriated.

DIRECT PRIZE PAYMENTS

Any amounts, in addition to the amounts appropriated in appropriation

item 950601, Direct Prize Payments, that the Director of the State Lottery Commission determines to be necessary to fund prizes, bonuses, and commissions are hereby appropriated.

ANNUITY PRIZES

Upon request of the State Lottery Commission, the Director of Budget and Management may transfer cash from the State Lottery Fund (Fund 7044) to the Deferred Prizes Trust Fund (Fund 8710) in an amount sufficient to fund deferred prizes. The Treasurer of State, from time to time, shall credit the Deferred Prizes Trust Fund (Fund 8710) the pro rata share of interest earned by the Treasurer of State on invested balances.

Any amounts, in addition to the amounts appropriated in appropriation item 950602, Annuity Prizes, that the Director of the State Lottery Commission determines to be necessary to fund deferred prizes and interest earnings are hereby appropriated.

TRANSFERS TO THE LOTTERY PROFITS EDUCATION FUND

The Director of Budget and Management shall transfer an amount greater than or equal to \$705,000,000 in fiscal year 2010 and \$711,000,000 in fiscal year 2011 from the State Lottery Fund to the Lottery Profits Education Fund (Fund 7017). Transfers from the State Lottery Fund to the Lottery Profits Education Fund shall represent the estimated net income from operations for the Commission in fiscal year 2010 and fiscal year 2011. Transfers by the Director of Budget and Management to the Lottery Profits Education Fund shall be administered as the statutes direct.

SECTION 329.10. MHC MANUFACTURED HOMES COMMISSION

General Services Fund Group

4K90 996609 Operating Expenses	\$	400,000	\$	400,000
TOTAL GSF General Services				
Fund Group	\$	400,000	\$	400,000
TOTAL ALL BUDGET FUND GROUPS	\$	400,000	\$	400,000

SECTION 331.10. MED STATE MEDICAL BOARD

General Services Fund Group

5C60 883609 Operating Expenses	\$	8,100,000	\$	8,100,000
TOTAL GSF General Services				
Fund Group	\$	8,100,000	\$	8,100,000
TOTAL ALL BUDGET FUND GROUPS	\$	8,100,000	\$	8,100,000

SECTION 333.10. AMB MEDICAL TRANSPORTATION BOARD

General Services Fund Group

4K90 915604	Operating Expenses	\$	450,734	\$	450,734
TOTAL GSF General Services					
Fund Group		\$	450,734	\$	450,734
TOTAL ALL BUDGET FUND GROUPS					
		\$	450,734	\$	450,734

SECTION 335.10. DMH DEPARTMENT OF MENTAL HEALTH

General Revenue Fund

GRF 332401	Forensic Services	\$	3,089,969	\$	3,244,251
GRF 333321	Central Administration	\$	17,204,000	\$	17,204,000
GRF 333402	Resident Trainees	\$	504,416	\$	529,602
GRF 333403	Pre-Admission Screening Expenses	\$	514,446	\$	540,132
GRF 333415	Lease-Rental Payments	\$	21,333,500	\$	21,951,800
GRF 333416	Research Program Evaluation	\$	554,763	\$	582,462
GRF 334408	Community and Hospital Mental Health Services	\$	371,742,870	\$	369,982,336
GRF 334506	Court Costs	\$	618,253	\$	649,122
GRF 335404	Behavioral Health Services-Children	\$	7,460,800	\$	7,460,800
GRF 335405	Family & Children First	\$	1,430,654	\$	1,502,086
GRF 335419	Community Medication Subsidy	\$	9,959,798	\$	9,959,798
GRF 335505	Local Mental Health Systems of Care	\$	11,650,000	\$	20,644,308
TOTAL GRF General Revenue Fund		\$	446,063,469	\$	454,250,697

General Services Fund Group

1490 333609	Central Office Operating	\$	1,200,000	\$	1,200,000
1490 334609	Hospital - Operating Expenses	\$	36,050,000	\$	36,050,000
1500 334620	Special Education	\$	150,000	\$	150,000
4P90 335604	Community Mental Health Projects	\$	250,000	\$	250,000
1510 336601	Office of Support Services	\$	148,998,000	\$	159,279,140
TOTAL GSF General Services Fund Group		\$	186,648,000	\$	196,929,140

Federal Special Revenue Fund Group

3240 333605	Medicaid/Medicare	\$	154,500	\$	154,500
3A60 333608	Community and Hospital Services	\$	140,000	\$	140,000
3A70 333612	Social Services Block Grant	\$	25,000	\$	25,000
3A80 333613	Federal Grant - Administration	\$	4,888,105	\$	4,888,105
3A90 333614	Mental Health Block Grant - Administration	\$	748,470	\$	748,470
3B10 333635	Community Medicaid Expansion	\$	13,691,682	\$	13,691,682
3240 334605	Medicaid/Medicare	\$	25,200,000	\$	30,200,000
3A60 334608	Federal Miscellaneous	\$	586,224	\$	586,224
3A80 334613	Federal Letter of Credit	\$	200,000	\$	200,000
3B00 334617	Elementary/Secondary Education Act	\$	182,334	\$	182,334
3A60 335608	Federal Miscellaneous	\$	2,178,699	\$	2,178,699

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3A70	335612	Social Services Block Grant	\$	8,632,288	\$	8,632,288
3A80	335613	Federal Grant - Community Mental Health Board Subsidy	\$	2,595,040	\$	2,595,040
3A90	335614	Mental Health Block Grant	\$	14,220,930	\$	14,220,930
3B10	335635	Community Medicaid Expansion	\$	382,835,386	\$	361,335,572
TOTAL FED Federal Special Revenue Fund Group			\$	456,278,658	\$	439,778,844
State Special Revenue Fund Group						
2320	333621	Family and Children First Administration	\$	725,000	\$	725,000
4850	333632	Mental Health Operating	\$	134,233	\$	134,233
4X50	333607	Behavioral Health Medicaid Services	\$	3,000,624	\$	3,000,624
5V20	333611	Non-Federal Miscellaneous	\$	560,000	\$	560,000
4850	334632	Mental Health Operating	\$	2,400,000	\$	2,400,000
6920	334636	Community Mental Health Board Risk Fund	\$	80,000	\$	80,000
5AU0	335615	Behavioral Healthcare	\$	6,690,000	\$	6,690,000
5CH0	335622	Residential Support Service	\$	1,500,000	\$	1,500,000
6320	335616	Community Capital Replacement	\$	350,000	\$	350,000
TOTAL SSR State Special Revenue Fund Group			\$	15,439,857	\$	15,439,857
TOTAL ALL BUDGET FUND GROUPS			\$	1,104,429,984	\$	1,106,398,538

SECTION 335.10.10. FORENSIC SERVICES

The foregoing appropriation item 332401, Forensic Services, shall be used to provide psychiatric services to courts of common pleas. The appropriation shall be allocated through community mental health boards to certified community agencies and shall be distributed according to the criteria delineated in rule 5122:32-01 of the Administrative Code. These community forensic funds may also be used to provide forensic training to community mental health boards and to forensic psychiatry residency programs in hospitals operated by the Department of Mental Health and to provide evaluations of patients of forensic status in facilities operated by the Department of Mental Health prior to conditional release to the community.

In addition, appropriation item 332401, Forensic Services, may be used to support projects involving mental health or substance abuse, to assist courts and law enforcement to identify and develop appropriate alternative services to incarceration for nonviolent mentally ill offenders, and to provide specialized re-entry services to offenders leaving prisons and jails. Funds may also be used to provide forensic monitoring and tracking in addition to community programs serving persons of forensic status on conditional release or probation.

SECTION 335.20.10. RESIDENCY TRAINEESHIP PROGRAMS

The foregoing appropriation item 333402, Resident Trainees, shall be used to fund training agreements entered into by the Director of Mental Health for the development of curricula and the provision of training programs to support public mental health services.

SECTION 335.20.20. PRE-ADMISSION SCREENING EXPENSES

The foregoing appropriation item 333403, Pre-Admission Screening Expenses, shall be used to ensure that uniform statewide methods for pre-admission screening are in place for persons who have severe mental illness and are referred for long-term Medicaid certified nursing facility placement. Pre-admission screening includes the following activities: pre-admission assessment, consideration of continued stay requests, discharge planning and referral, and adjudication of appeals and grievance procedures.

SECTION 335.20.30. LEASE-RENTAL PAYMENTS

The foregoing appropriation item 333415, Lease-Rental Payments, shall be used to meet all payments during the period from July 1, 2009, to June 30, 2011, by the Department of Mental Health under leases and agreements made under section 154.20 of the Revised Code. These appropriations are the source of funds pledged for bond service charges on obligations issued pursuant to Chapter 154. of the Revised Code.

SECTION 335.20.40. BEHAVIORAL HEALTH MEDICAID SERVICES

The Department of Mental Health shall administer specified Medicaid services as delegated by the Department of Job and Family Services in an interagency agreement. The foregoing appropriation item 333607, Behavioral Health Medicaid Services, may be used to make payments for free-standing psychiatric hospital inpatient services as defined in an interagency agreement with the Department of Job and Family Services.

SECTION 335.30.10. COMMUNITY MENTAL HEALTH BOARD RISK FUND

The foregoing appropriation item 334636, Community Mental Health Board Risk Fund, shall be used to make payments under section 5119.62 of

the Revised Code.

SECTION 335.40.10. BEHAVIORAL HEALTH SERVICES - CHILDREN

The foregoing appropriation item 335404, Behavioral Health Services-Children, shall be used to provide behavioral health services for children and their families. At least \$1,000,000 in each fiscal year shall be used to provide behavioral health treatment services for children under the age of seven and their families. Behavioral health services include mental health and alcohol and other drug treatment services and other necessary supports.

The foregoing appropriation item 335404, Behavioral Health Services-Children, shall be distributed to boards of alcohol, drug addiction, and mental health services, including community mental health boards and alcohol and drug addiction boards, based upon a distribution formula approved by the Director of Mental Health, except that the amount earmarked for children under the age of seven shall be distributed to the local boards based on community-need as determined by the Director of Mental Health. These moneys shall be used in accordance with the board's applicable plan or plans developed under sections 340.03 and 340.033 of the Revised Code and in collaboration with the local family and children first council. Collaboration with the local council shall be conducted through a process defined by a system of care guidance as approved by the Ohio Family and Children First Cabinet Council.

SECTION 335.40.20. COMMUNITY MEDICATION SUBSIDY

The foregoing appropriation item 335419, Community Medication Subsidy, shall be used to provide subsidized support for psychotropic medication needs of indigent citizens in the community to reduce unnecessary hospitalization because of lack of medication and to provide subsidized support for methadone costs.

SECTION 335.40.30. LOCAL MENTAL HEALTH SYSTEMS OF CARE

The foregoing appropriation item 335505, Local Mental Health Systems of Care, shall be used for mental health services provided by community mental health boards in accordance with a community mental health plan submitted under section 340.03 of the Revised Code and as approved by the

Department of Mental Health.

SECTION 337.10. DMR DEPARTMENT OF DEVELOPMENTAL
DISABILITIES

General Revenue Fund

GRF	320321	Central Administration	\$	4,662,675	\$	4,662,675
GRF	320412	Protective Services	\$	2,174,826	\$	2,174,826
GRF	320415	Lease-Rental Payments	\$	21,333,500	\$	21,951,800
GRF	322413	Residential and Support Services	\$	5,854,555	\$	4,854,555
GRF	322416	Medicaid Waiver - State Match	\$	76,940,156	\$	96,995,649
GRF	322451	Family Support Services	\$	6,591,953	\$	6,591,953
GRF	322501	County Boards Subsidies	\$	66,986,448	\$	62,259,252
GRF	322503	Tax Equity	\$	14,000,000	\$	14,000,000
GRF	322504	Martin Settlement	\$	26,799,300	\$	31,234,500
GRF	322647	ICF/MR Franchise Fee - Developmental Centers	\$	5,953,391	\$	7,146,609
GRF	323321	Developmental Center and Residential Facilities Operation Expenses	\$	72,091,333	\$	79,364,778
TOTAL GRF General Revenue Fund			\$	303,388,137	\$	331,236,597

General Services Fund Group

4880	322603	Provider Audit Refunds	\$	10,000	\$	10,000
1520	323609	Developmental Center and Residential Operating Services	\$	912,176	\$	912,176
TOTAL GSF General Services Fund Group			\$	922,176	\$	922,176

Federal Special Revenue Fund Group

3A50	320613	DD Council	\$	2,891,473	\$	2,963,760
3250	322612	Community Social Service Programs	\$	10,494,451	\$	10,494,451
3G60	322639	Medicaid Waiver - Federal	\$	759,888,829	\$	745,540,748
3M70	322650	CAFS Medicaid	\$	28,465,980	\$	29,349,502
3A40	323605	Developmental Center and Residential Facility Services and Support	\$	167,503,941	\$	162,857,712
TOTAL FED Federal Special Revenue Fund Group			\$	969,244,674	\$	951,206,173

State Special Revenue Fund Group

5GE0	320606	Operating and Services	\$	3,760,504	\$	7,521,008
2210	322620	Supplement Service Trust	\$	150,000	\$	150,000
4K80	322604	Medicaid Waiver - State Match	\$	12,000,000	\$	12,000,000
5CT0	322632	Intensive Behavioral Needs	\$	1,000,000	\$	1,000,000
5DJ0	322625	Targeted Case Management Match	\$	13,716,454	\$	13,716,454
5DJ0	322626	Targeted Case Management Services	\$	29,926,640	\$	29,926,640
5DK0	322629	Capital Replacement	\$	750,000	\$	750,000

		Facilities			
5E00	322627	Program Fees	\$	500,000	\$ 500,000
5H00	322619	Medicaid Repayment	\$	15,000	\$ 15,000
5Z10	322624	County Board Waiver Match	\$	158,648,995	\$ 169,754,424
4890	323632	Developmental Center Direct Care Support	\$	15,395,774	\$ 15,395,684
5S20	590622	Medicaid Administration & Oversight	\$	15,000,000	\$ 15,000,000
TOTAL SSR State Special Revenue Fund Group			\$	250,863,367	\$ 265,729,210
TOTAL ALL BUDGET FUND GROUPS			\$	1,524,418,354	\$ 1,549,094,156

SECTION 337.20.10. LEASE-RENTAL PAYMENTS

The foregoing appropriation item 320415, Lease-Rental Payments, shall be used to meet all payments at the time they are required to be made during the period from July 1, 2009, to June 30, 2011, by the Department of Developmental Disabilities under leases and agreements made under section 154.20 of the Revised Code. These appropriations are the source of funds pledged for bond service charges or obligations issued pursuant to Chapter 154. of the Revised Code.

SECTION 337.30.10. RESIDENTIAL AND SUPPORT SERVICES

The Department of Developmental Disabilities may designate a portion of appropriation item 322413, Residential and Support Services, for Sermak Class Services used to implement the requirements of the agreement settling the consent decree in *Sermak v. Manuel*, Case No. c-2-80-220, United States District Court for the Southern District of Ohio, Eastern Division.

SECTION 337.30.20. OTHER RESIDENTIAL AND SUPPORT SERVICE PROGRAMS

The foregoing appropriation item 322413, Residential Support Services, may be used for residential and support service programs, developed by the Department of Developmental Disabilities, that enable persons with mental retardation and developmental disabilities to live in the community.

SECTION 337.30.30. MEDICAID WAIVER - STATE MATCH (GRF)

Except as otherwise provided in section 5123.0416 of the Revised Code, the purposes for which the foregoing appropriation item 322416, Medicaid Waiver - State Match, shall be used include the following:

(A) Home and community-based waiver services under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

(B) To pay the nonfederal share of the cost of one or more new intermediate care facilities for the mentally retarded certified beds, if the Director of Developmental Disabilities is required by this act to transfer to the Director of Job and Family Services funds to pay such nonfederal share.

SECTION 337.30.40. FISCAL PLAN FOR HOME AND COMMUNITY-BASED WAIVER SERVICES

Not later than December 31, 2009, the Director of Developmental Disabilities shall submit a plan to the Director of Job and Family Services with recommendations for actions to be taken addressing the fiscal sustainability of home and community-based services as defined in section 5123.01 of the Revised Code. The plan may include recommendations for all of the following:

(A) Changing the ranges in the amount the Medicaid program will pay per individual for the home and community-based services;

(B) Establishing one or more maximum amounts that the Medicaid program will pay per individual for the home and community-based services;

(C) Modifying the methodology used in establishing payment rates for providers, including the methodology's component that reflects wages and benefits for persons providing direct care and the component that reflects training and direct supervision of those persons.

SECTION 337.30.50. STATE SUBSIDY TO COUNTY MR/DD BOARDS

Except as otherwise provided in the section of this act titled "Nonfederal Share of New ICF/MR Beds," the Director of Developmental Disabilities, in consultation with the county boards of developmental disabilities, shall develop a formula for allocating the foregoing appropriation item 322501, County Boards Subsidies, to each board. The Department shall distribute this subsidy to county boards in quarterly installments.

Except as otherwise provided in section 5126.0511 of the Revised Code, county boards shall use the subsidy for early childhood services and adult services provided under section 5126.05 of the Revised Code, service and support administration provided under section 5126.15 of the Revised Code, and supported living as defined in section 5126.01 of the Revised Code.

SECTION 337.30.60. COUNTY BOARD SHARE OF WAIVER

SERVICES

As used in this section, "home and community-based services" has the same meaning as in section 5123.01 of the Revised Code.

The Director of Developmental Disabilities shall establish a methodology to be used in state fiscal years 2010 and 2011 to estimate the quarterly amount each county board of developmental disabilities is to pay of the nonfederal share of home and community-based services that section 5126.0510 of the Revised Code requires county boards to pay. Each quarter, the Director shall submit to a county board written notice of the amount the county board is to pay for that quarter. The notice shall specify when the payment is due.

If a county board fails to make the full payment by the time it is due, the Director of Developmental Disabilities may withhold the amount the county board fails to pay from one or more of the state subsidies that the Department of Developmental Disabilities would otherwise provide to the county board. Each quarter, the Director may use one or more of the following appropriation items to transfer cash from the General Revenue Fund to the County Board Waiver Match Fund (Fund 5Z10) equal to the amount the county board failed to pay:

- (A) Appropriation item 322413, Residential and Support Services;
- (B) Appropriation item 322451, Family Support Services;
- (C) Appropriation item 322501, County Boards Subsidies;
- (D) Appropriation item 322503, Tax Equity.

Transfers shall be made using an intrastate transfer voucher.

SECTION 337.30.70. TAX EQUITY

Notwithstanding section 5126.18 of the Revised Code, if the Director of Developmental Disabilities determines that there is sufficient appropriation available, the foregoing appropriation item 322503, Tax Equity, shall be used to pay each county board of developmental disabilities an amount that is equal to the amount the board received for fiscal year 2009. If the Director determines that there is not sufficient appropriation available for this purpose, the Department shall pay to each county board an amount that is proportionate to the amount the board received for fiscal year 2009. Proportionality shall be determined by dividing the total tax equity payments distributed to county boards for fiscal year 2009 by the tax equity payment a county board received for fiscal year 2009.

SECTION 337.30.80. MEDICAID WAIVER - STATE MATCH (FUND 4K80)

The foregoing appropriation item 322604, Medicaid Waiver - State Match (Fund 4K80), shall be used as state matching funds for home and community-based waivers.

SECTION 337.30.85. ICF/MR CONVERSION

(A) As used in this section, "home and community-based services" has the same meaning as in section 5123.01 of the Revised Code.

(B) For each quarter of the biennium, the Director of Developmental Disabilities shall certify to the Director of Budget and Management the estimated amount needed to fund the provision of home and community-based services made available by the slots sought under section 5111.877 of the Revised Code. On receipt of certification, the Director of Budget and Management shall transfer the estimated amount in cash from the General Revenue Fund to the Home and Community-Based Services Fund (Fund 4K80), used by the Department of Developmental Disabilities. Upon completion of the transfer, appropriation item 600525, Health Care/Medicaid, is hereby reduced by the amount transferred under this section plus the corresponding federal share. The amount transferred to Fund 4K80 is hereby appropriated to appropriation item 322604, Medicaid Waiver – State Match.

(C) If receipts credited to the Medicaid Waiver Fund (Fund 3G60) exceed the amounts appropriated from the fund, the Director of Developmental Disabilities may request the Director of Budget and Management to authorize expenditures from the fund in excess of the amounts appropriated. Upon the approval of the Director of Budget and Management, the additional amounts are hereby appropriated.

(D) If receipts credited to the Interagency Reimbursement Fund (Fund 3G50) exceed the amounts appropriated from the fund, the Director of Job and Family Services may request the Director of Budget and Management to authorize expenditures from the fund in excess of the amounts appropriated. Upon approval of the Director of Budget and Management, the additional amounts are hereby appropriated.

SECTION 337.30.90. TARGETED CASE MANAGEMENT SERVICES

County boards of developmental disabilities shall pay the nonfederal

portion of targeted case management costs to the Department of Developmental Disabilities. The Director of Developmental Disabilities shall withhold any amount owed to the Department from subsequent payments from any appropriation item or money otherwise due to a nonpaying county.

The Directors of Developmental Disabilities and Job and Family Services may enter into an interagency agreement under which the Department of Developmental Disabilities shall transfer cash to the Department of Job and Family Services equal to the nonfederal portion of the cost of targeted case management services paid by county boards and the Department of Job and Family Services shall pay the total cost of targeted case management claims. The transfer shall be made using an intrastate transfer voucher.

SECTION 337.31.10. TRANSFER TO PROGRAM FEE FUND

On July 1, 2009, or as soon as possible thereafter, the Director of Developmental Disabilities shall request that the Director of Budget and Management transfer the cash balance in the Conference/Training Fund (Fund 4B50) to the Program Fee Fund (Fund 5EV0). Upon completion of the transfer, Fund 4B50 is abolished. The Director of Developmental Disabilities shall cancel any existing encumbrances against appropriation item 320640, Training and Service Development, and re-establish them against appropriation item 322627, Program Fees. The re-established encumbrances are hereby appropriated.

SECTION 337.31.20. DEVELOPMENTAL CENTER BILLING FOR SERVICES

Developmental centers of the Department of Developmental Disabilities may provide services to persons with mental retardation or developmental disabilities living in the community or to providers of services to these persons. The Department may develop a method for recovery of all costs associated with the provisions of these services.

SECTION 337.40.10. TRANSFER OF FUNDS FOR DEVELOPMENTAL CENTER PHARMACY PROGRAMS

The Director of Developmental Disabilities shall transfer cash to the Department of Job and Family Services quarterly, in an amount equal to the nonfederal share of Medicaid prescription drug claim costs for all

developmental centers paid by the Department of Job and Family Services. The quarterly transfer shall be made using an intrastate transfer voucher.

SECTION 337.40.20. NONFEDERAL MATCH FOR ACTIVE TREATMENT SERVICES

Any county funds received by the Department of Developmental Disabilities from county boards for active treatment shall be deposited in the Developmental Disabilities Operating Fund (Fund 4890).

SECTION 337.40.30. NONFEDERAL SHARE OF NEW ICF/MR BEDS

(A) As used in this section, "intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

(B) Except as provided in division (D) of this section, if one or more new beds obtain certification as an intermediate care facility for the mentally retarded bed on or after July 1, 2009, the Director of Developmental Disabilities shall transfer cash to the Department of Job and Family Services to pay the nonfederal share of the cost under the Medicaid Program for those beds. The transfer shall be made using an intrastate transfer voucher. Except as otherwise provided in section 5123.0416 of the Revised Code, the Director shall use only the following appropriation items for the transfer:

- (1) Appropriation item 322416, Medicaid Waiver - State Match;
- (2) Appropriation item 322501, County Boards Subsidies.

(C) If the beds are located in a county served by a county board of developmental disabilities that initiates or supports the beds' certification, the cash that the Director transfers under division (B) of this section shall be moneys that the Director has allocated to the county board serving the county in which the beds are located unless the amount of the allocation is insufficient to pay the entire nonfederal share of the cost under the Medicaid Program for those beds. If the allocation is insufficient, the Director shall use as much of such moneys allocated to other counties as is needed to make up the difference.

(D) Division (B) of this section shall not apply in the case of beds in an intermediate care facility for the mentally retarded if, under section 5123.193 or 5123.197 of the Revised Code, a residential facility license was obtained or modified for the facility without obtaining approval of a plan for the proposed residential facility pursuant to section 5123.042 of the Revised Code.

SECTION 339.10. MIH COMMISSION ON MINORITY HEALTH

General Revenue Fund

GRF 149321	Operating Expenses	\$	490,998	\$	449,998
GRF 149501	Minority Health Grants	\$	1,064,833	\$	1,105,833
GRF 149502	Lupus Program	\$	114,632	\$	114,632
TOTAL GRF General Revenue Fund		\$	1,670,463	\$	1,670,463

Federal Special Revenue Fund Group

3J90 149602	Federal Grants	\$	179,250	\$	179,250
TOTAL FED Federal Special Revenue Fund Group		\$	179,250	\$	179,250

State Special Revenue Fund Group

4C20 149601	Minority Health Conference	\$	30,000	\$	30,000
TOTAL SSR State Special Revenue Fund Group		\$	30,000	\$	30,000
TOTAL ALL BUDGET FUND GROUPS		\$	1,879,713	\$	1,879,713

SECTION 341.10. CRB MOTOR VEHICLE COLLISION REPAIR REGISTRATION BOARD

General Services Fund Group

4K90 865601	Operating Expenses	\$	288,745	\$	288,745
TOTAL GSF General Services Fund Group		\$	288,745	\$	288,745
TOTAL ALL BUDGET FUND GROUPS		\$	288,745	\$	288,745

SECTION 343.10. DNR DEPARTMENT OF NATURAL RESOURCES

General Revenue Fund

GRF 725401	Wildlife-GRF Central Support	\$	1,950,000	\$	2,000,000
GRF 725413	Lease Rental Payments	\$	20,760,600	\$	21,556,500
GRF 725456	Canal Lands	\$	150,000	\$	150,000
GRF 725502	Soil and Water Districts	\$	6,900,000	\$	2,900,000
GRF 725903	Natural Resources General	\$	25,438,000	\$	26,549,400
Obligation Debt Service					
GRF 727321	Division of Forestry	\$	5,906,376	\$	5,420,376
GRF 728321	Division of Geological Survey	\$	1,100,000	\$	0
GRF 730321	Division of Parks and Recreation	\$	31,806,918	\$	32,693,791
GRF 733321	Division of Water	\$	2,300,000	\$	2,546,000
GRF 736321	Division of Engineering	\$	2,300,000	\$	2,572,000
GRF 737321	Division of Soil and Water Resources	\$	2,828,562	\$	3,128,562
GRF 738321	Division of Real Estate and Land Management	\$	1,475,000	\$	1,546,000
GRF 741321	Division of Natural Areas and Preserves	\$	1,739,873	\$	0
GRF 744321	Division of Mineral Resources Management	\$	2,800,000	\$	1,000,000

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TOTAL GRF General Revenue Fund	\$	107,455,329	\$	102,062,629
General Services Fund Group				
1550 725601 Departmental Projects	\$	2,100,000	\$	2,100,000
1570 725651 Central Support Indirect	\$	6,000,000	\$	6,000,000
2040 725687 Information Services	\$	4,200,000	\$	4,400,448
2070 725690 Real Estate Services	\$	130,000	\$	132,000
2230 725665 Law Enforcement Administration	\$	2,062,410	\$	2,062,410
2270 725406 Parks Projects Personnel	\$	150,000	\$	150,000
4300 725671 Canal Lands	\$	916,541	\$	922,424
4D50 725618 Recycled Materials	\$	50,000	\$	50,000
4S90 725622 NatureWorks Personnel	\$	412,740	\$	412,740
4X80 725662 Water Resources Council	\$	138,900	\$	138,900
5080 725684 Natural Resources Publications	\$	150,000	\$	150,000
5100 725631 Maintenance - State-owned Residences	\$	258,919	\$	258,919
5160 725620 Water Management	\$	2,500,000	\$	2,500,000
6350 725664 Fountain Square Facilities Management	\$	3,500,000	\$	3,500,000
6970 725670 Submerged Lands	\$	1,072,011	\$	772,011
TOTAL GSF General Services Fund Group	\$	23,641,521	\$	23,549,852
Federal Special Revenue Fund Group				
3320 725669 Federal Mine Safety Grant	\$	258,102	\$	258,102
3B30 725640 Federal Forest Pass-Thru	\$	600,000	\$	600,000
3B40 725641 Federal Flood Pass-Thru	\$	700,000	\$	700,000
3B50 725645 Federal Abandoned Mine Lands	\$	14,307,667	\$	14,307,667
3B60 725653 Federal Land and Water Conservation Grants	\$	2,000,000	\$	2,000,000
3B70 725654 Reclamation - Regulatory	\$	2,394,565	\$	2,388,775
3P00 725630 Natural Areas and Preserves - Federal	\$	215,000	\$	215,000
3P10 725632 Geological Survey - Federal	\$	689,506	\$	692,401
3P20 725642 Oil and Gas-Federal	\$	231,456	\$	234,509
3P30 725650 Coastal Management - Federal	\$	1,711,237	\$	1,711,237
3P40 725660 Federal - Soil and Water Resources	\$	316,734	\$	316,734
3R50 725673 Acid Mine Drainage Abatement/Treatment	\$	2,025,001	\$	2,025,001
3Z50 725657 Federal Recreation and Trails	\$	1,850,000	\$	1,850,000
TOTAL FED Federal Special Revenue Fund Group	\$	27,299,268	\$	27,299,426
State Special Revenue Fund Group				
4J20 725628 Injection Well Review	\$	68,933	\$	68,933
4M70 725686 Wildfire Suppression	\$	75,000	\$	75,000
4U60 725668 Scenic Rivers Protection	\$	100,000	\$	100,000
5090 725602 State Forest	\$	7,200,000	\$	7,200,000
5110 725646 Ohio Geological Mapping	\$	724,310	\$	723,515
5120 725605 State Parks Operations	\$	31,885,528	\$	31,885,528
5140 725606 Lake Erie Shoreline	\$	1,074,113	\$	974,113

5180	725643	Oil and Gas Permit Fees	\$	2,974,378	\$	2,974,378
5180	725677	Oil and Gas Well Plugging	\$	800,000	\$	800,000
5210	725627	Off-Road Vehicle Trails	\$	143,490	\$	143,490
5220	725656	Natural Areas and Preserves	\$	1,400,000	\$	1,400,000
5260	725610	Strip Mining Administration Fee	\$	3,267,587	\$	3,364,361
5270	725637	Surface Mining Administration	\$	1,946,591	\$	1,946,591
5290	725639	Unreclaimed Land Fund	\$	2,021,713	\$	2,023,831
5310	725648	Reclamation Forfeiture	\$	1,500,000	\$	1,500,000
5320	725644	Litter Control and Recycling	\$	6,280,681	\$	6,280,681
5860	725633	Scrap Tire Program	\$	1,000,000	\$	1,000,000
5B30	725674	Mining Regulation		28,850		28,850
5BV0	725658	Heidelberg Water Quality Lab	\$	250,000	\$	250,000
5BV0	725683	Soil and Water Districts	\$	10,875,577	\$	18,104,906
5CU0	725647	Mine Safety	\$	3,053,843	\$	3,199,923
5EJ0	725608	Forestry Law Enforcement	\$	1,000	\$	1,000
5EK0	725611	Natural Areas & Preserves Law Enforcement	\$	1,000	\$	1,000
5EL0	725612	Wildlife Law Enforcement	\$	12,000	\$	12,000
5EM0	725613	Park Law Enforcement	\$	34,000	\$	34,000
5EN0	725614	Watercraft Law Enforcement	\$	2,500	\$	2,500
6150	725661	Dam Safety	\$	807,403	\$	807,403
TOTAL SSR State Special Revenue Fund Group			\$	77,528,497	\$	84,902,003
Clean Ohio Conservation Fund Group						
7061	725405	Clean Ohio Operating	\$	310,000	\$	310,000
TOTAL CLF Clean Ohio Conservation Fund Group			\$	310,000	\$	310,000
Wildlife Fund Group						
5P20	725634	Wildlife Boater Angler Administration	\$	2,000,000	\$	2,000,000
7015	740401	Division of Wildlife Conservation	\$	58,614,436	\$	54,906,000
8150	725636	Cooperative Management Projects	\$	120,449	\$	120,449
8160	725649	Wetlands Habitat	\$	966,885	\$	966,885
8170	725655	Wildlife Conservation Checkoff Fund	\$	2,800,000	\$	2,800,000
8180	725629	Cooperative Fisheries Research	\$	1,500,000	\$	1,500,000
8190	725685	Ohio River Management	\$	128,584	\$	128,584
TOTAL WLF Wildlife Fund Group			\$	66,130,354	\$	62,421,918
Waterways Safety Fund Group						
7086	725414	Waterways Improvement	\$	4,265,575	\$	4,265,575
7086	725418	Buoy Placement	\$	52,182	\$	52,182
7086	725501	Waterway Safety Grants	\$	137,867	\$	137,867
7086	725506	Watercraft Marine Patrol	\$	576,153	\$	576,153
7086	725513	Watercraft Educational Grants	\$	366,643	\$	366,643
7086	739401	Division of Watercraft	\$	19,949,181	\$	19,949,181
TOTAL WSF Waterways Safety Fund						

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Group	\$	25,347,601	\$	25,347,601
Accrued Leave Liability Fund Group				
4M80 725675 FOP Contract	\$	20,844	\$	20,844
TOTAL ALF Accrued Leave				
Liability Fund Group	\$	20,844	\$	20,844
Holding Account Redistribution Fund Group				
R017 725659 Performance Cash Bond	\$	296,263	\$	296,263
Refunds				
R043 725624 Forestry	\$	2,000,000	\$	2,000,000
TOTAL 090 Holding Account				
Redistribution Fund Group	\$	2,296,263	\$	2,296,263
TOTAL ALL BUDGET FUND GROUPS	\$	330,029,677	\$	328,210,536

SECTION 343.20. CENTRAL SUPPORT INDIRECT

With the exception of the Division of Wildlife, whose direct and indirect central support charges shall be paid out of the General Revenue Fund from the foregoing appropriation item 725401, Wildlife-GRF Central Support, the Department of Natural Resources, with approval of the Director of Budget and Management, shall utilize a methodology for determining each division's payments into the Central Support Indirect Fund (Fund 1570). The methodology used shall contain the characteristics of administrative ease and uniform application in compliance with federal grant requirements. It may include direct cost charges for specific services provided. Payments to Fund 1570 shall be made using an intrastate transfer voucher.

SECTION 343.20.20. WELL LOG FILING FEES

The Chief of the Division of Water shall deposit fees forwarded to the Division pursuant to section 1521.05 of the Revised Code into the Departmental Services – Intrastate Fund (Fund 1550) for the purposes described in that section.

SECTION 343.30. LEASE RENTAL PAYMENTS

The foregoing appropriation item 725413, Lease Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2009, to June 30, 2011, by the Department of Natural Resources pursuant to leases and agreements made under section 154.22 of the Revised Code. These appropriations are the source of funds pledged for bond service charges or obligations issued pursuant to Chapter 154. of the Revised Code.

CANAL LANDS

The foregoing appropriation item 725456, Canal Lands, shall be used to transfer funds to the Canal Lands Fund (Fund 4300) to provide operating expenses for the State Canal Lands Program. The transfer shall be made using an intrastate transfer voucher and shall be subject to the approval of the Director of Budget and Management.

NATURAL RESOURCES GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 725903, Natural Resources General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period July 1, 2009, to June 30, 2011, on obligations issued under sections 151.01 and 151.05 of the Revised Code.

SECTION 343.30.10. FOUNTAIN SQUARE

The foregoing appropriation item 725664, Fountain Square Facilities Management, shall be used for payment of repairs, renovation, utilities, property management, and building maintenance expenses for the Fountain Square complex. Cash transferred by intrastate transfer vouchers from various department funds and rental income received by the Department of Natural Resources shall be deposited into the Fountain Square Facilities Management Fund (Fund 6350).

SECTION 343.40. SOIL AND WATER DISTRICTS

In addition to state payments to soil and water conservation districts authorized by section 1515.10 of the Revised Code, the Department of Natural Resources may use appropriation item 725502, Soil and Water Districts, to pay any soil and water conservation district an annual amount not to exceed \$30,000, upon receipt of a request and justification from the district and approval by the Ohio Soil and Water Conservation Commission. The county auditor shall credit the payments to the special fund established under section 1515.10 of the Revised Code for the local soil and water conservation district. Moneys received by each district shall be expended for the purposes of the district.

The foregoing appropriation item 725683, Soil and Water Districts, shall be expended for the purposes described above, except that the funding source for this appropriation shall be fees applied on the disposal of construction and demolition debris and municipal solid waste as provided in section 1515.14 of the Revised Code.

OIL AND GAS WELL PLUGGING

The foregoing appropriation item 725677, Oil and Gas Well Plugging,

shall be used exclusively for the purposes of plugging wells and to properly restore the land surface of idle and orphan oil and gas wells pursuant to section 1509.071 of the Revised Code. No funds from the appropriation item shall be used for salaries, maintenance, equipment, or other administrative purposes, except for those costs directly attributed to the plugging of an idle or orphan well. This appropriation item shall not be used to transfer cash to any other fund or appropriation item.

LITTER CONTROL AND RECYCLING

Of the foregoing appropriation item 725644, Litter Control and Recycling, up to \$1,500,000 may be used in each fiscal year for the administration of the Recycling and Litter Prevention Program.

SECTION 343.40.10. CLEAN OHIO OPERATING EXPENSES

The foregoing appropriation item 725405, Clean Ohio Operating, shall be used by the Department of Natural Resources in administering section 1519.05 of the Revised Code.

SECTION 343.50. WATERCRAFT MARINE PATROL

Of the foregoing appropriation item 739401, Division of Watercraft, up to \$200,000 in each fiscal year shall be expended for the purchase of equipment for marine patrols qualifying for funding from the Department of Natural Resources pursuant to section 1547.67 of the Revised Code. Proposals for equipment shall accompany the submission of documentation for receipt of a marine patrol subsidy pursuant to section 1547.67 of the Revised Code and shall be loaned to eligible marine patrols pursuant to a cooperative agreement between the Department of Natural Resources and the eligible marine patrol.

SCENIC RIVERS PROGRAM

On July 1 of each fiscal year or as soon as possible thereafter, the Director of Budget and Management shall transfer \$500,000 cash from the Waterways Safety Fund (Fund 7086) to the Scenic Rivers Protection Fund (Fund 4U60) for use by the Division of Watercraft in administering the Wild, Scenic, and Recreational Rivers Program pursuant to Chapter 1547. of the Revised Code. The amount transferred is hereby appropriated in appropriation item 725668, Scenic Rivers Protection.

SECTION 343.60. PARKS CAPITAL EXPENSES FUND

The Director of Natural Resources shall submit to the Director of

Budget and Management the estimated design, engineering, and planning costs of capital-related work to be done by Department of Natural Resources staff for parks projects. If the Director of Budget and Management approves the estimated costs, the Director may release appropriations from appropriation item C725E6, Project Planning, in the Parks and Recreation Improvement Fund (Fund 7035), for those purposes. Upon release of the appropriations, the Department of Natural Resources shall pay for these expenses from the Parks Capital Expenses Fund (Fund 2270). Expenses paid from Fund 2270 shall be reimbursed by Fund 7035 using an intrastate transfer voucher.

NATUREWORKS CAPITAL EXPENSES FUND

The Department of Natural Resources shall periodically prepare and submit to the Director of Budget and Management the estimated design, planning, and engineering costs of capital-related work to be done by Department of Natural Resources staff for each capital improvement project within the Ohio Parks and Natural Resources Fund (Fund 7031). If the Director of Budget and Management approves the estimated costs, the Director may release appropriations from appropriation item C725E5, Project Planning, in fund 7031, for those purposes. Upon release of the appropriations, the Department of Natural Resources shall pay for these expenses from the Capital Expenses Fund (Fund 4S90). Expenses paid from Fund 4S90 shall be reimbursed by Fund 7031 by using an intrastate transfer voucher.

SECTION 345.10. NUR STATE BOARD OF NURSING

General Services Fund Group

4K90	884609	Operating Expenses	\$	5,661,280	\$	5,661,280
5AC0	884602	Nurse Education Grant Program	\$	1,000,000	\$	1,000,000
5P80	884601	Nursing Special Issues	\$	5,000	\$	5,000
TOTAL GSF General Services Fund Group			\$	6,666,280	\$	6,666,280
TOTAL ALL BUDGET FUND GROUPS			\$	6,666,280	\$	6,666,280

NURSING SPECIAL ISSUES

The foregoing appropriation item 884601, Nursing Special Issues (Fund 5P80), shall be used to pay the costs the Board of Nursing incurs in implementing section 4723.062 of the Revised Code.

SECTION 347.10. PYT OCCUPATIONAL THERAPY, PHYSICAL THERAPY, AND ATHLETIC TRAINERS BOARD

General Services Fund Group

Am. Sub. H. B. No. 1

128th G.A.

2932

4K90 890609	Operating Expenses	\$	900,000	\$	900,000
TOTAL GSF	General Services Fund Group	\$	900,000	\$	900,000
TOTAL ALL BUDGET FUND GROUPS		\$	900,000	\$	900,000

SECTION 348.10. OLA OHIOANA LIBRARY ASSOCIATION

General Revenue Fund

GRF 355501	Library Subsidy	\$	125,000	\$	125,000
TOTAL GRF	General Revenue Fund	\$	125,000	\$	125,000
TOTAL ALL BUDGET FUND GROUPS		\$	125,000	\$	125,000

SECTION 349.10. ODB OHIO OPTICAL DISPENSERS BOARD

General Services Fund Group

4K90 894609	Operating Expenses	\$	316,664	\$	316,664
TOTAL GSF	General Services Fund Group	\$	316,664	\$	316,664
TOTAL ALL BUDGET FUND GROUPS		\$	316,664	\$	316,664

SECTION 351.10. OPT STATE BOARD OF OPTOMETRY

General Services Fund Group

4K90 885609	Operating Expenses	\$	325,185	\$	325,185
TOTAL GSF	General Services Fund Group	\$	325,185	\$	325,185
TOTAL ALL BUDGET FUND GROUPS		\$	325,185	\$	325,185

SECTION 353.10. OPP STATE BOARD OF ORTHOTICS, PROSTHETICS, AND PEDORTHICS

General Services Fund Group

4K90973609	Operating Expenses	\$	105,000	\$	105,000
TOTAL GSF	General Services Fund Group	\$	105,000	\$	105,000
TOTAL ALL BUDGET FUND GROUPS		\$	105,000	\$	105,000

SECTION 355.10. UST PETROLEUM UNDERGROUND STORAGE TANK

Agency Fund Group

6910 810632	PustrCB Staff	\$	1,050,000	\$	1,050,000
TOTAL AGY	Agency Fund Group	\$	1,050,000	\$	1,050,000
TOTAL ALL BUDGET FUND GROUPS		\$	1,050,000	\$	1,050,000

SECTION 357.10. PRX STATE BOARD OF PHARMACY

General Services Fund Group

4A50 887605	Drug Law Enforcement	\$	75,500	\$	75,500
4K90 887609	Operating Expenses	\$	5,000,000	\$	5,000,000
TOTAL GSF General Services Fund Group		\$	5,075,500	\$	5,075,500

Federal Special Revenue Fund Group

3BC0 887604	Dangerous Drugs Database	\$	493,164	\$	500,891
TOTAL FED Federal Special Revenue Fund Group		\$	493,164	\$	500,891
TOTAL ALL BUDGET FUND GROUPS		\$	5,568,664	\$	5,576,391

SECTION 359.10. PSY STATE BOARD OF PSYCHOLOGY**General Services Fund Group**

4K90 882609	Operating Expenses	\$	525,000	\$	525,000
TOTAL GSF General Services Fund Group		\$	525,000	\$	525,000
TOTAL ALL BUDGET FUND GROUPS		\$	525,000	\$	525,000

SECTION 361.10. PUB OHIO PUBLIC DEFENDER COMMISSION**General Revenue Fund**

GRF 019321	Public Defender Administration	\$	772,500	\$	612,600
GRF 019401	State Legal Defense Services	\$	4,377,500	\$	3,471,400
GRF 019403	Multi-County: State Share	\$	1,308,201	\$	1,456,835
GRF 019404	Trumbull County - State Share	\$	430,217	\$	467,727
GRF 019405	Training Account	\$	50,000	\$	50,000
GRF 019501	County Reimbursement	\$	13,855,879	\$	10,711,478
TOTAL GRF General Revenue Fund		\$	20,794,297	\$	16,770,040

General Services Fund Group

4070 019604	County Representation	\$	196,650	\$	207,143
4080 019605	Client Payments	\$	600,000	\$	600,000
5CX0 019617	Civil Case Filing Fee	\$	743,076	\$	772,121
TOTAL GSF General Services Fund Group		\$	1,539,726	\$	1,579,264

Federal Special Revenue Fund Group

3S80 019608	Federal Representation	\$	202,347	\$	212,303
TOTAL FED Federal Special Revenue Fund Group		\$	202,347	\$	212,303

State Special Revenue Fund Group

4C70 019601	Multi-County: County Share	\$	2,227,056	\$	2,384,210
4X70 019610	Trumbull County - County Share	\$	732,393	\$	765,467
5740 019606	Civil Legal Aid	\$	35,000,000	\$	35,000,000
5DY0 019618	Indigent Defense Support - County Share	\$	27,783,000	\$	37,044,000
5DY0 019619	Indigent Defense Support Fund - State Office	\$	3,087,000	\$	4,116,000
TOTAL SSR State Special Revenue Fund Group		\$	68,829,449	\$	79,309,677

TOTAL ALL BUDGET FUND GROUPS \$ 91,365,819 \$ 97,871,284

INDIGENT DEFENSE OFFICE

The foregoing appropriation items 019404, Trumbull County - State Share, and 019610, Trumbull County - County Share, shall be used to support an indigent defense office for Trumbull County.

MULTI-COUNTY OFFICE

The foregoing appropriation items 019403, Multi-County: State Share, and 019601, Multi-County: County Share, shall be used to support the Office of the Ohio Public Defender's Multi-County Branch Office Program.

TRAINING ACCOUNT

The foregoing appropriation item 019405, Training Account, shall be used by the Ohio Public Defender to provide legal training programs at no cost for private appointed counsel who represent at least one indigent defendant at no cost and for state and county public defenders and attorneys who contract with the Ohio Public Defender to provide indigent defense services.

FEDERAL REPRESENTATION

The foregoing appropriation item 019608, Federal Representation, shall be used to receive reimbursements from the federal courts when the Ohio Public Defender provides representation in federal court cases and to support representation in such cases.

SECTION 363.10. PUC PUBLIC UTILITIES COMMISSION OF OHIO

General Services Fund Group

5F60	870622	Utility and Railroad Regulation	\$	34,455,627	\$	34,455,627
5F60	870624	NARUC/NRRI Subsidy	\$	158,000	\$	158,000
5F60	870625	Motor Transportation Regulation	\$	6,071,829	\$	6,071,829
5Q50	870626	Telecommunications Relay Service	\$	5,000,000	\$	5,000,000
TOTAL GSF General Services Fund Group			\$	45,685,456	\$	45,685,456

Federal Special Revenue Fund Group

3330	870601	Gas Pipeline Safety	\$	597,959	\$	597,959
3500	870608	Motor Carrier Safety	\$	7,351,660	\$	7,351,660
3V30	870604	Commercial Vehicle Information Systems/Networks	\$	100,000	\$	100,000
TOTAL FED Federal Special Revenue Fund Group			\$	8,049,619	\$	8,049,619

State Special Revenue Fund Group

4A30	870614	Grade Crossing Protection Devices-State	\$	1,349,757	\$	1,349,757
4L80	870617	Pipeline Safety-State	\$	187,621	\$	187,621

2935

4S60	870618	Hazardous Material Registration	\$	464,325	\$	464,325
4S60	870621	Hazardous Materials Base State Registration	\$	373,346	\$	373,346
4U80	870620	Civil Forfeitures	\$	284,986	\$	284,986
5590	870605	Public Utilities Territorial Administration	\$	4,000	\$	4,000
5600	870607	Special Assessment	\$	100,000	\$	100,000
5610	870606	Power Siting Board	\$	647,893	\$	647,893
5BP0	870623	Wireless 9-1-1 Administration	\$	34,417,000	\$	36,443,000
6380	870611	Biofuels/Municipal Waste Technology	\$	40,000	\$	40,000
6610	870612	Hazardous Materials Transportation	\$	900,000	\$	900,000
TOTAL SSR State Special Revenue Fund Group			\$	38,768,928	\$	40,794,928
TOTAL ALL BUDGET FUND GROUPS			\$	92,504,003	\$	94,530,003

SECTION 365.10. PWC PUBLIC WORKS COMMISSION

General Revenue Fund

GRF	150904	Conservation General Obligation Debt Service	\$	20,252,100	\$	25,225,900
GRF	150907	State Capital Improvements General Obligation Debt Service	\$	118,011,500	\$	130,569,700
TOTAL GRF General Revenue Fund			\$	138,263,600	\$	155,795,600

Clean Ohio Conservation Fund Group

7056	150403	Clean Ohio Operating Expenses	\$	304,332	\$	311,509
TOTAL 056 Clean Ohio Conservation Fund Group			\$	304,332	\$	311,509

Local Infrastructure Improvements Fund Group

7039	150909	Local Infrastructure Development	\$	261,027	\$	269,555
TOTAL LIF Local Infrastructure Improvements Fund Group			\$	261,027	\$	269,555
TOTAL ALL BUDGET FUND GROUPS			\$	138,828,959	\$	156,376,664

CONSERVATION GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 150904, Conservation General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period from July 1, 2009, through June 30, 2011, at the times they are required to be made for obligations issued under sections 151.01 and 151.09 of the Revised Code.

STATE CAPITAL IMPROVEMENTS GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 150907, State Capital Improvements General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period from July 1, 2009, to June 30,

2011, at the times they are required to be made for obligations issued under sections 151.01 and 151.08 of the Revised Code.

CLEAN OHIO OPERATING EXPENSES

The foregoing appropriation item 150403, Clean Ohio Operating Expenses, shall be used by the Ohio Public Works Commission in administering sections 164.20 to 164.27 of the Revised Code.

REIMBURSEMENT TO THE GENERAL REVENUE FUND

(A) On or before July 15, 2011, the Director of the Public Works Commission shall certify to the Director of Budget and Management the following:

(1) The total amount disbursed from appropriation item 700409, Farmland Preservation, during the FY 2010-FY 2011 biennium; and

(2) The amount of interest earnings that have been credited to the Clean Ohio Conservation Fund (Fund 7056) that are in excess of the amount needed for other purposes as calculated by the Director of the Public Works Commission.

(B) If the Director of Budget and Management determines under division (A)(2) of this section that there are excess interest earnings, the Director of Budget and Management shall, on or before July 15, 2011, transfer the excess interest earnings to the General Revenue Fund in an amount equal to the total amount disbursed under division (A)(1) of this section from the Clean Ohio Conservation Fund.

SECTION 367.10. RAC STATE RACING COMMISSION

State Special Revenue Fund Group

5620	875601	Thoroughbred Race Fund	\$	2,300,000	\$	2,300,000
5630	875602	Standardbred Development Fund	\$	1,900,000	\$	1,900,000
5640	875603	Quarter Horse Development Fund	\$	1,000	\$	1,000
5650	875604	Racing Commission Operating	\$	3,742,342	\$	3,758,818
5C40	875607	Simulcast Horse Racing Purse	\$	14,000,000	\$	14,000,000
TOTAL SSR State Special Revenue Fund Group			\$	21,943,342	\$	21,959,818

Holding Account Redistribution Fund Group

R021	875605	Bond Reimbursements	\$	145,000	\$	145,000
TOTAL 090 Holding Account Redistribution Fund Group			\$	145,000	\$	145,000
TOTAL ALL BUDGET FUND GROUPS			\$	22,088,342	\$	22,104,818

SECTION 371.10. BOR BOARD OF REGENTS

General Revenue Fund

GRF 235321	Operating Expenses	\$	2,366,640	\$	2,366,640
GRF 235401	Lease Rental Payments	\$	124,461,100	\$	107,897,100
GRF 235402	Sea Grants	\$	300,000	\$	300,000
GRF 235406	Articulation and Transfer	\$	2,531,700	\$	2,531,700
GRF 235408	Midwest Higher Education Compact	\$	95,000	\$	95,000
GRF 235409	Information System	\$	937,800	\$	937,800
GRF 235414	State Grants and Scholarship Administration	\$	1,414,366	\$	1,414,366
GRF 235417	Ohio Learning Network	\$	2,723,320	\$	2,723,320
GRF 235428	Appalachian New Economy Partnership	\$	819,295	\$	819,295
GRF 235433	Economic Growth Challenge	\$	511,715	\$	511,715
GRF 235438	Choose Ohio First Scholarship	\$	12,927,304	\$	15,845,591
GRF 235442	Teacher Fellowship	\$	0	\$	2,500,000
GRF 235443	Adult Basic and Literacy Education - State	\$	7,302,416	\$	7,302,416
GRF 235444	Post-Secondary Adult Career-Technical Education	\$	15,317,549	\$	15,317,547
GRF 235474	Area Health Education Centers Program Support	\$	1,059,078	\$	1,059,078
GRF 235501	State Share of Instruction	\$	1,677,708,351	\$	1,689,554,971
GRF 235502	Student Support Services	\$	692,974	\$	692,974
GRF 235504	War Orphans Scholarships	\$	4,331,089	\$	4,331,089
GRF 235507	OhioLINK	\$	6,433,313	\$	6,433,313
GRF 235508	Air Force Institute of Technology	\$	1,785,439	\$	1,785,439
GRF 235510	Ohio Supercomputer Center	\$	3,719,354	\$	3,719,354
GRF 235511	Cooperative Extension Service	\$	23,518,608	\$	22,467,678
GRF 235513	Ohio University Voinovich School	\$	326,000	\$	326,000
GRF 235514	Central State Supplement	\$	12,109,106	\$	12,109,106
GRF 235515	Case Western Reserve University School of Medicine	\$	2,525,003	\$	2,525,003
GRF 235519	Family Practice	\$	3,724,923	\$	3,724,923
GRF 235520	Shawnee State Supplement	\$	2,577,393	\$	2,577,393
GRF 235521	The Ohio State University John Glenn School of Public Affairs	\$	277,500	\$	277,500
GRF 235524	Police and Fire Protection	\$	119,793	\$	119,793
GRF 235525	Geriatric Medicine	\$	614,295	\$	614,295
GRF 235526	Primary Care Residencies	\$	1,839,083	\$	1,839,083
GRF 235535	Ohio Agricultural Research and Development Center	\$	34,000,000	\$	34,000,000
GRF 235536	The Ohio State University Clinical Teaching	\$	11,375,225	\$	11,375,225
GRF 235537	University of Cincinnati Clinical Teaching	\$	9,355,968	\$	9,355,968
GRF 235538	University of Toledo Clinical Teaching	\$	7,292,471	\$	7,292,471
GRF 235539	Wright State University Clinical Teaching	\$	3,542,823	\$	3,542,823
GRF 235540	Ohio University Clinical	\$	3,424,956	\$	3,424,956

GRF 235541	Teaching Northeastern Ohio Universities College of Medicine Clinical Teaching	\$	3,522,563	\$	3,522,563
GRF 235552	Capital Component	\$	20,382,568	\$	20,382,568
GRF 235555	Library Depositories	\$	1,477,274	\$	1,477,274
GRF 235556	Ohio Academic Resources Network	\$	3,253,866	\$	3,253,866
GRF 235558	Long-term Care Research	\$	217,000	\$	217,000
GRF 235563	Ohio College Opportunity Grant	\$	95,000,000	\$	76,000,000
GRF 235567	Central State University Speed to Scale	\$	1,775,254	\$	0
GRF 235572	The Ohio State University Clinic Support	\$	901,703	\$	901,703
GRF 235579	Bliss Institute	\$	257,474	\$	257,474
GRF 235596	Hazardous Materials Program	\$	373,858	\$	373,858
GRF 235599	National Guard Scholarship Program	\$	14,912,271	\$	14,912,271
GRF 235644	State Share of Instruction - Federal Stimulus - Education	\$	309,874,026	\$	308,802,662
GRF 235909	Higher Education General Obligation Debt Service	\$	105,392,500	\$	86,937,900
TOTAL GRF General Revenue Fund		\$	2,541,401,307	\$	2,500,750,064
General Services Fund Group					
2200 235614	Program Approval and Reauthorization	\$	1,000,000	\$	1,000,000
4560 235603	Sales and Services	\$	200,000	\$	200,000
TOTAL GSF General Services Fund Group		\$	1,200,000	\$	1,200,000
Federal Special Revenue Fund Group					
3120 235609	Tech Prep	\$	183,849	\$	183,849
3120 235611	Gear-up Grant	\$	3,900,000	\$	3,900,000
3120 235612	Carl D. Perkins Grant/Plan Administration	\$	912,961	\$	912,961
3120 235617	Improving Teacher Quality Grant	\$	3,200,000	\$	3,200,000
3120 235641	Adult Basic Literacy Education - Federal	\$	17,869,546	\$	17,869,546
3BE0 235636	Adult Education and Family Literacy Act Incentive Grant	\$	1,783,583	\$	1,783,583
3BG0 235626	Star Schools	\$	250,000	\$	0
3H20 235608	Human Services Project	\$	3,500,000	\$	3,500,000
3N60 235605	State Student Incentive Grants	\$	2,533,339	\$	2,533,339
3N60 235638	College Access Challenge Grant	\$	2,268,044	\$	2,268,044
TOTAL FED Federal Special Revenue Fund Group		\$	36,401,322	\$	36,151,322
State Special Revenue Fund Group					
4E80 235602	Higher Educational Facility Commission Administration	\$	30,000	\$	30,000
6490 235607	The Ohio State University	\$	500,000	\$	500,000

		Highway/Transportation Research			
6820	235606	Nursing Loan Program	\$	893,000	\$ 893,000
TOTAL SSR State Special Revenue Fund Group			\$	1,423,000	\$ 1,423,000
Third Frontier Research & Development Fund Group					
7011	235634	Research Incentive Third Frontier Fund	\$	8,000,000	\$ 8,000,000
TOTAL 011 Third Frontier Research & Development Fund Group			\$	8,000,000	\$ 8,000,000
TOTAL ALL BUDGET FUND GROUPS			\$	2,588,425,629	\$ 2,547,524,386

SECTION 371.10.10. LEASE RENTAL PAYMENTS

The foregoing appropriation item 235401, Lease Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2009, to June 30, 2011, by the Chancellor of the Board of Regents under leases and agreements made under section 154.21 of the Revised Code. These appropriations are the source of funds pledged for bond service charges or obligations issued pursuant to Chapter 154. of the Revised Code.

SECTION 371.10.15. SEA GRANTS

The foregoing appropriation item 235402, Sea Grants, shall be disbursed to The Ohio State University and shall be used to conduct research on fish in Lake Erie.

SECTION 371.10.20. ARTICULATION AND TRANSFER

The foregoing appropriation item 235406, Articulation and Transfer, shall be used by the Chancellor of the Board of Regents to maintain and expand the work of the Articulation and Transfer Council to develop a system of transfer policies to ensure that students at state institutions of higher education can transfer and have coursework apply to their majors and degrees at any other state institution of higher education without unnecessary duplication or institutional barriers under sections 3333.16, 3333.161, and 3333.162 of the Revised Code.

SECTION 371.10.30. MIDWEST HIGHER EDUCATION COMPACT

The foregoing appropriation item 235408, Midwest Higher Education Compact, shall be distributed by the Chancellor of the Board of Regents under section 3333.40 of the Revised Code.

SECTION 371.10.40. INFORMATION SYSTEM

The foregoing appropriation item 235409, Information System, shall be used by the Chancellor of the Board of Regents to support the development and implementation of information technology solutions designed to improve the performance and services of the Chancellor of the Board of Regents and the University System of Ohio. Information technology solutions shall be provided by the Ohio Academic Research Network (OARnet).

SECTION 371.10.50. STATE GRANTS AND SCHOLARSHIP ADMINISTRATION

The foregoing appropriation item 235414, State Grants and Scholarship Administration, shall be used by the Chancellor of the Board of Regents to administer the following student financial aid programs: Ohio College Opportunity Grant, Ohio War Orphans' Scholarship, Nurse Education Assistance Loan Program, Ohio Safety Officers College Memorial Fund, and any other student financial aid programs created by the General Assembly. The appropriation item also shall be used to administer the federal Leveraging Educational Assistance Partnership (LEAP) program, Special Leveraging Educational Assistance Partnership (SLEAP) program, the federal College Access Challenge Grant (CACG), and other student financial aid programs created by Congress and to provide fiscal services for the Ohio National Guard Scholarship Program.

SECTION 371.10.70. OHIO LEARNING NETWORK

The foregoing appropriation item 235417, Ohio Learning Network, shall be used by the Chancellor of the Board of Regents to support the continued implementation of the Ohio Learning Network, a consortium organized under division (U) of section 3333.04 of the Revised Code to expand access to adult and higher education opportunities through technology. The funds shall be used by the Ohio Learning Network to develop and promote learning and assessment through the use of technology, to test and provide advice on emerging learning-directed technologies, and to facilitate cost-effectiveness through shared educational technology investments.

SECTION 371.10.80. APPALACHIAN NEW ECONOMY

PARTNERSHIP

The foregoing appropriation item 235428, Appalachian New Economy Partnership, shall be distributed to Ohio University to continue a multi-campus and multi-agency coordinated effort to link Appalachia to the new economy. Ohio University shall use these funds to provide leadership in the development and implementation of initiatives in the areas of entrepreneurship, management, education, and technology.

SECTION 371.10.83. ECONOMIC GROWTH CHALLENGE

The foregoing appropriation item 235433, Economic Growth Challenge, shall be used for administrative expenses of the Research Incentive Program and other economic advancement initiatives undertaken by the Chancellor of the Board of Regents.

The Chancellor of the Board of Regents shall use any appropriation transfer to the foregoing appropriation item 235433, Economic Growth Challenge, to enhance the basic research capabilities of public colleges and universities and accredited Ohio institutions of higher education holding certificates of authorization issued under section 1713.02 of the Revised Code, in order to strengthen academic research for pursuing Ohio's economic development goals. The Chancellor shall give priority consideration to projects that are eligible to receive federal stimulus funds.

SECTION 371.20.10. CHOOSE OHIO FIRST SCHOLARSHIP

The foregoing appropriation item 235438, Choose Ohio First Scholarship, shall be used to operate the program prescribed in sections 3333.60 to 3333.70 of the Revised Code. Amounts disbursed to institutions shall be paid on a reimbursement basis.

An amount equal to the unexpended, unencumbered portion of the foregoing appropriation item 235438, Choose Ohio First Scholarship, at the end of fiscal year 2010 is hereby reappropriated to the Board of Regents for the same purpose for fiscal year 2011.

SECTION 371.20.30. ADULT BASIC AND LITERACY EDUCATION

Except as provided in the Sections of this act entitled "Statewide Workforce Development Initiatives" and "Fiscal Year 2011 Plan for Adult Workforce Training Programs", the foregoing appropriation item 235443, Adult Basic and Literacy Education - State, shall be used to support adult basic and literacy education instructional programs and for the operation of

an adult basic and literacy education instructional grant program. The supported programs shall satisfy the state match and maintenance of effort requirements for the state-administered grant program.

Of the foregoing appropriation item 235443, Adult Basic and Literacy Education - State, up to \$507,558 in fiscal year 2010 shall be used for the support and operation of the State Literacy Resource Center Program.

On or before August 31, 2009, the Chancellor of the Board of Regents shall submit a funding formula to the Controlling Board for the allocation of the foregoing appropriation item 235443, Adult Basic and Literacy Education - State, in fiscal year 2010.

SECTION 371.20.40. POST-SECONDARY ADULT
CAREER-TECHNICAL EDUCATION

Except as provided in the Sections of this act entitled "Statewide Workforce Development Initiatives" and "Fiscal Year 2011 Plan for Adult Workforce Training Programs", the foregoing appropriation item 235444, Post-Secondary Adult Career-Technical Education, shall be used by the Chancellor of the Board of Regents in each fiscal year to provide post-secondary adult career-technical education under sections 3313.52 and 3313.53 of the Revised Code.

On or before August 31, 2009, the Chancellor of the Board of Regents shall submit a funding formula to the Controlling Board for the allocation of funds in fiscal year 2010.

SECTION 371.20.50. STATEWIDE WORKFORCE DEVELOPMENT
INITIATIVES

The Chancellor may identify amounts of the foregoing appropriation items 235443, Adult Basic and Literacy Education - State, and 235444, Post-Secondary Adult Career-Technical Education, to be used to support the Ohio Skills Bank Program and the Stackable Certificates Program. The Ohio Skills Bank Program seeks to align the education of Ohio's workforce with industry needs. The Stackable Certificates Program consists of competency-based, low-cost, noncredit and credit-bearing modules and courses in communications, mathematics, information technology, and other fields selected by the Chancellor. The program culminates in a certificate and provides recipients with a foundation for additional post-secondary education.

SECTION 371.20.60. FISCAL YEAR 2011 PLAN FOR ADULT WORKFORCE TRAINING PROGRAMS

Notwithstanding the Sections of this act entitled "Adult Basic and Literacy Education," and "Post-Secondary Adult Career-Technical Education," not later than June 1, 2010, the Chancellor of the Board of Regents shall submit for approval of the Controlling Board a plan for the integration of funding support for the state's adult workforce training and development programs, beginning in fiscal year 2011. Funding support in the plan shall include appropriation items 235443, Adult Basic and Literacy Education - State, and 235444, Post-Secondary Adult Career-Technical Education.

The plan shall clearly define the formulas, or competitive process, to be used for funding the activities of adult basic and literacy education program providers, state literacy resource centers, post-secondary adult career-technical education providers, and community colleges. The plan may propose the creation of new appropriation items as necessary to support its implementation.

SECTION 371.20.70. AREA HEALTH EDUCATION CENTERS

The foregoing appropriation item 235474, Area Health Education Centers Program Support, shall be used by the Chancellor of the Board of Regents to support the medical school regional area health education centers' educational programs for the continued support of medical and other health professions education and for support of the Area Health Education Center Program.

SECTION 371.20.80. STATE SHARE OF INSTRUCTION FORMULAS

The Chancellor of the Board of Regents shall establish procedures to allocate the foregoing appropriation items 235501, State Share of Instruction, and 235644, State Share of Instruction - Federal Stimulus - Education, based on the formulas, enrollment, course completion, degree attainment, and student access factors in the instructional models set out in this section.

The foregoing appropriation items 235501, State Share of Instruction, and 235644, State Share of Instruction – Federal Stimulus – Education, shall be combined for the purposes of allocating the state share of instruction subsidy.

(A) FULL-TIME EQUIVALENT (FTE) ENROLLMENTS AND COMPLETIONS

(1) As soon as possible during each fiscal year of the biennium ending June 30, 2011, in accordance with instructions of the Board of Regents, each state-assisted institution of higher education shall report its actual enrollment, consistent with the definitions in the Higher Education Information (HEI) system's enrollment files, to the Chancellor of the Board of Regents.

(2) In defining the number of full-time equivalent students for state subsidy purposes, the Chancellor of the Board of Regents shall exclude all undergraduate students who are not residents of Ohio, except those charged in-state fees in accordance with reciprocity agreements made under section 3333.17 of the Revised Code or employer contracts entered into under section 3333.32 of the Revised Code.

(3) In calculating the core subsidy entitlements for university branch and main campuses, the Chancellor of the Board of Regents shall use the following count of FTE students:

(a) The subsidy eligible enrollments by model shall equal only those FTE students who successfully complete the course as defined and reported through the Higher Education Information (HEI) system course enrollment file;

(b) For those FTE students with successful course completions, identified in division (3)(a) of this section, completions that were achieved by a student that was eligible to receive Ohio need-based financial aid shall have their enrollments weighted by the following:

(i) Campus-specific course completion rates by discipline area and level; and

(ii) A statewide average OIG/OCOG course completion weight determined for each discipline area and level. The statewide average OIG/OCOG course completion weight shall be determined by calculating the difference between the percentage of traditional students who complete a course and the percentage of Ohio Instructional Grant and Ohio College Opportunity Grant recipients who complete the same course.

(4) In calculating the core subsidy entitlements for Medical II models only, the Board of Regents shall use the following count of FTE students:

(a) For those medical schools whose current year enrollment, including students repeating terms, is below the base enrollment, the Medical II FTE enrollment shall equal: 65 per cent of the base enrollment plus 35 per cent of the current year enrollment including students repeating terms, where the base enrollment is:

The Ohio State University	1010
University of Cincinnati	833
University of Toledo	650
Wright State University	433
Ohio University	433
Northeastern Ohio Universities College of Medicine	433

(b) For those medical schools whose current year enrollment, excluding students repeating terms, is equal to or greater than the base enrollment, the Medical II FTE enrollment shall equal the base enrollment plus the FTE for repeating students.

(c) Students repeating terms may be no more than five per cent of current year enrollment.

(5) The state share of instruction to state-supported universities for students enrolled in law schools in fiscal year 2010 and fiscal year 2011 shall be calculated by using the number of subsidy-eligible FTE law school students funded by state subsidy in fiscal year 1995 or the actual number of subsidy-eligible FTE law school students at the institution in the fiscal year, whichever is less.

(B) TOTAL COSTS PER FULL-TIME EQUIVALENT STUDENT

For purposes of calculating state share of instruction allocations, the total instructional costs per full-time equivalent student shall be:

Model	Fiscal Year 2010	Fiscal Year 2011
ARTS AND HUMANITIES 1	\$7,658	\$7,891
ARTS AND HUMANITIES 2	\$10,117	\$10,425
ARTS AND HUMANITIES 3	\$13,067	\$13,464
ARTS AND HUMANITIES 4	\$19,194	\$19,778
ARTS AND HUMANITIES 5	\$29,994	\$30,906
ARTS AND HUMANITIES 6	\$35,991	\$37,085
BUSINESS, EDUCATION & SOCIAL SCIENCES 1	\$6,732	\$6,937
BUSINESS, EDUCATION & SOCIAL SCIENCES 2	\$7,803	\$8,041
BUSINESS, EDUCATION & SOCIAL SCIENCES 3	\$9,619	\$9,911
BUSINESS, EDUCATION & SOCIAL SCIENCES 4	\$11,607	\$11,959
BUSINESS, EDUCATION & SOCIAL SCIENCES 5	\$18,044	\$18,592

BUSINESS, EDUCATION & SOCIAL SCIENCES 6	\$22,615	\$23,303
BUSINESS, EDUCATION & SOCIAL SCIENCES 7	\$27,528	\$28,365
MEDICAL 1	\$47,494	\$48,938
MEDICAL 2	\$45,420	\$46,801
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 1	\$6,943	\$7,154
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 2	\$9,792	\$10,090
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 3	\$11,963	\$12,327
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 4	\$15,282	\$15,747
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 5	\$19,471	\$20,063
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 6	\$21,771	\$22,433
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 7	\$27,906	\$28,755
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 8	\$36,547	\$37,658
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 9	\$51,283	\$52,842

Doctoral I and Doctoral II models shall be allocated in accordance with division (D)(2) of this section.

(C) SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICAL, AND GRADUATE WEIGHTS

For the purpose of implementing the recommendations of the State Share of Instruction Consultation and the Higher Education Funding Study Council that priority be given to maintaining state support for science, technology, engineering, mathematics, medicine, and graduate programs, the costs in division (B) of this section shall be weighted by the amounts provided below:

Model	Fiscal Year 2010	Fiscal Year 2011
ARTS AND HUMANITIES 1	1.0000	1.0000
ARTS AND HUMANITIES 2	1.0000	1.0000
ARTS AND HUMANITIES 3	1.0000	1.0000
ARTS AND HUMANITIES 4	1.0000	1.0000

ARTS AND HUMANITIES 5	1.0425	1.0425
ARTS AND HUMANITIES 6	1.0425	1.0425
BUSINESS, EDUCATION & SOCIAL SCIENCES 1	1.0000	1.0000
BUSINESS, EDUCATION & SOCIAL SCIENCES 2	1.0000	1.0000
BUSINESS, EDUCATION & SOCIAL SCIENCES 3	1.0000	1.0000
BUSINESS, EDUCATION & SOCIAL SCIENCES 4	1.0000	1.0000
BUSINESS, EDUCATION & SOCIAL SCIENCES 5	1.0425	1.0425
BUSINESS, EDUCATION & SOCIAL SCIENCES 6	1.0425	1.0425
BUSINESS, EDUCATION & SOCIAL SCIENCES 7	1.0425	1.0425
MEDICAL 1	1.6456	1.6456
MEDICAL 2	1.7462	1.7462
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 1	1.0000	1.0000
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 2	1.0017	1.0017
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 3	1.6150	1.6150
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 4	1.6920	1.6920
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 5	1.4222	1.4222
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 6	1.8798	1.8798
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 7	1.4380	1.4380
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 8	1.5675	1.5675
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICINE 9	1.1361	1.1361

(D) CALCULATION OF STATE SHARE OF INSTRUCTION
FORMULA ENTITLEMENTS AND ADJUSTMENTS

(1) Of the foregoing appropriation items 235501, State Share of Instruction, and 235644, State Share of Instruction - Federal Stimulus -

Education, 5 per cent of the appropriation for state-supported community colleges, state community colleges, and technical colleges in fiscal year 2011 shall be allocated to colleges in proportion to their share of college student success factors. In fiscal year 2011, student success factors shall include all measureable student outcomes that contribute to student achievement as determined by the Chancellor of the Board of Regents based on the recommendation of the consultation created in the Section of this act entitled "Studies to Determine Weights for Fiscal Year 2011 State Share of Instruction Formula."

(2) Of the foregoing appropriation items 235501, State Share of Instruction, and 235644, State Share of Instruction - Federal Stimulus - Education, up to 12.89 per cent of the appropriation for university main campuses in each fiscal year shall be reserved for support of doctoral programs to implement the funding recommendations made by representatives of the universities. The amount so reserved shall be referred to as the doctoral set-aside.

The doctoral set-aside shall be allocated to universities as follows:

(a) 90 per cent of the doctoral set-aside in fiscal year 2010 and 80 per cent of the doctoral set-aside in fiscal year 2011 shall be allocated to universities in proportion to their share of the total number of Doctoral I equivalent FTEs as calculated on an institutional basis using the greater of the two-year or five-year FTEs for the period fiscal year 1994 through fiscal year 1998 with annualized FTEs for fiscal years 1994 through 1997 and all-term FTEs for fiscal year 1998 as adjusted to reflect the effects of doctoral review and subsequent changes in Doctoral I equivalent enrollments. For the purposes of this calculation, Doctoral I equivalent FTEs shall equal the sum of Doctoral I FTEs plus 1.5 times the sum of Doctoral II FTEs.

(b) 5 per cent of the doctoral set-aside in fiscal year 2010 and 10 per cent of the doctoral set-aside in fiscal year 2011 shall be allocated to universities in proportion to each campus's share of the total statewide doctoral degrees, weighted by the cost of the doctoral discipline. In calculating each campus's doctoral degrees the Chancellor of the Board of Regents shall use the three-year average doctoral degrees awarded for the three-year period ending in the prior year.

(c) 2.5 per cent of the doctoral set-aside in fiscal year 2010 and 5 per cent of the doctoral set-aside in fiscal year 2011 shall be allocated to universities in proportion to their share of research grant activity, using data collected and published by the National Science Foundation. Grant awards from the National Health Institute shall be weighted at 50 per cent.

(d) 2.5 per cent of the doctoral set-aside in fiscal year 2010 and 5 per cent of the doctoral set-aside in fiscal year 2011 shall be allocated to universities based on other quality measures that contribute to the advancement of the Chancellor's strategic plan. These other quality measures shall be identified by the Chancellor in consultation with universities. If for any reason metrics for distributing the quality component of the doctoral set-aside are not identified prior to the fiscal year allocation process, this portion of the doctoral set-aside funds shall be allocated to universities based on division (D)(2)(a) of this section.

(3) Of the foregoing appropriation items 235501, State Share of Instruction, and 235644, State Share of Instruction - Federal Stimulus - Education, 6.96 per cent of the appropriation for university main campuses in each fiscal year shall be reserved for support of Medical II FTEs. The amount so reserved shall be referred to as the medical II set-aside.

The medical II set-aside shall be allocated to universities in proportion to their share of the total number of Medical II FTEs as calculated in division (A) of this section, weighted by model cost.

(4) Of the foregoing appropriation items 235501, State Share of Instruction, and 235644, State Share of Instruction - Federal Stimulus - Education, 1.61 per cent of the appropriation for university main campuses in each fiscal year shall be reserved for support of Medical I FTEs. The amount so reserved shall be referred to as the medical I set-aside.

The medical I set-aside shall be allocated to universities in proportion to their share of the total number of Medical I FTEs as calculated in division (A) of this section.

(5) Of the foregoing appropriation items 235501, State Share of Instruction, and 235644, State Share of Instruction - Federal Stimulus - Education, 5 per cent of the fiscal year 2010 appropriation for university main campuses and 10 per cent of the fiscal year 2011 appropriation for university main campuses shall be reserved for support of associate, baccalaureate, master's, and professional level degree attainment.

The degree attainment funding shall be allocated to universities in proportion to each campus's share of the total statewide degrees granted, weighted by the cost of the degree programs.

In calculating the subsidy entitlements for degree attainment at university main campuses, the Chancellor of the Board of Regents shall use the following count of degrees and degree costs:

(a) For those associate degrees awarded by a state-supported university, the subsidy eligible degrees granted are defined as only those earned by students attending a university that received funding under GRF

appropriation item 235418, Access Challenge, in fiscal year 2009.

In calculating each campus's count of degrees, the Chancellor of the Board of Regents shall use the three-year average associate, baccalaureate, master's, and professional degrees awarded for the three-year period ending in the prior year.

Eligible associate degrees defined in division (D)(5)(a) of this section and all bachelor's degrees earned by a student that was eligible to receive Ohio need-based financial aid shall have their associate's degree cost weighted by a statewide OIG/OCOG degree completion weight.

The statewide average OIG/OCOG degree completion weight shall be determined by calculating the difference between the percentage of traditional students who earned a degree and the percentage of Ohio Instructional Grant and Ohio College Opportunity Grant recipients who earned a degree during the same time period.

(6) Each campus's state share of instruction base formula earnings shall be determined as follows:

(a) For each campus in each fiscal year, the instructional costs shall be determined by multiplying the amounts listed above in divisions (B) and (C) of this section by (i) average subsidy-eligible FTEs for the two-year period ending in the prior year for all models except Doctoral I and Doctoral II; and (ii) average subsidy-eligible FTEs for the five-year period ending in the prior year for all models except Doctoral I and Doctoral II.

(b) The Chancellor of the Board of Regents shall compute the two calculations listed in division (D)(6)(a) of this section and use the greater amount as each campus's instructional costs.

(c) The Chancellor of the Board of Regents shall compute a uniform state share of instructional costs for each sector.

(i) For the state supported community colleges, state community colleges, and technical colleges, the Chancellor of the Board of Regents shall compute the uniform state share of institutional costs by dividing the earmark in division (C)(1) of Section 371.20.90 of this act, less the student college success allocation as described in division (D)(1) of this section, by the sum of all eligible campuses' instructional costs as calculated in division (D)(6)(b) of this section.

(ii) For the state supported university branch campuses, the Chancellor of the Board of Regents shall compute the uniform state share of institutional costs by dividing the earmark in division (C)(2) of Section 371.20.90 of this act by the sum of all campuses' instructional costs as calculated in division (D)(6)(b) of this section.

(iii) For the state supported university main campuses, the Chancellor of

the Board of Regents shall compute the uniform state share of institutional costs by dividing the earmark in division (C)(3) of Section 371.20.90 of this act, less the doctoral set-aside, less the medical I set-aside, less the medical II set-aside, and less the degree attainment funding as calculated in divisions (D)(2) to (5) of this section, by the sum of all campuses' instructional costs as calculated in division (D)(6)(b) of this section.

(d) The formula entitlement for each sector's campuses shall be determined by multiplying the uniform state share of costs calculated in division (D)(6)(c) of this section by the campus's instructional cost determined in division (D)(6)(b) of this section.

(7) In addition to the student success allocation, doctoral set-aside, medical I set-aside, medical II set-aside, and the degree attainment allocation determined in division (D)(1) to (D)(5) of this section and the formula entitlement determined in division (D)(6) of this section, an allocation based on facility-based plant operations and maintenance (POM) subsidy shall be made. For each eligible campus, the amount of the POM allocation in each fiscal year shall be distributed based on what each campus received in the fiscal year 2009 POM allocation.

Any POM allocations required by this division shall be funded by proportionately reducing formula entitlement earnings, including the POM allocations, for all campuses in that sector.

(8) STABILITY IN STATE SHARE OF INSTRUCTION FUNDING

In addition to and after the adjustments noted above, in fiscal year 2010, no campus shall receive a state share of instruction allocation that is less than 99 per cent of the prior year's combined state share of instruction, access challenge, and success challenge amounts. Funds shall be made available to support this allocation by proportionately reducing formula entitlement earnings from those campuses, within each sector, that are not receiving stability funding.

In fiscal year 2011, in addition to and after the adjustments noted above, no campus shall receive a state share of instruction allocation that is less than 98 per cent of the prior year's combined state share of instruction, access challenge, and success challenge amounts. Funds shall be made available to support this allocation by proportionately reducing formula entitlement earnings from those campuses, within each sector, that do not receive stability funding.

(9) CAPITAL COMPONENT DEDUCTION

After all other adjustments have been made, state share of instruction earnings shall be reduced for each campus by the amount, if any, by which debt service charged in Am. H.B. 748 of the 121st General Assembly, Am.

Sub. H.B. 850 of the 122nd General Assembly, Am. Sub. H.B. 640 of the 123rd General Assembly, H.B. 675 of the 124th General Assembly, Am. Sub. H.B. 16 of the 126th General Assembly, and Am. Sub. H.B. 699 of the 126th General Assembly, Am. Sub. H.B. 496 of the 127th General Assembly, and Am. Sub. H.B. 562 of the 127th General Assembly for that campus exceeds that campus's capital component earnings. The sum of the amounts deducted shall be transferred to appropriation item 235552, Capital Component, in each fiscal year.

(E) EXCEPTIONAL CIRCUMSTANCES

Adjustments may be made to the state share of instruction payments and other subsidies distributed by the Chancellor of the Board of Regents to state-assisted colleges and universities for exceptional circumstances. No adjustments for exceptional circumstances may be made without the recommendation of the Chancellor and the approval of the Controlling Board.

(F) APPROPRIATION REDUCTIONS TO THE STATE SHARE OF INSTRUCTION

The standard provisions of the state share of instruction calculation as described in the preceding sections of temporary law shall apply to any reductions made to appropriation items 235501, State Share of Instruction, and 235644, State Share of Instruction - Federal Stimulus - Education, before the Board of Regents has formally approved the final allocation of the state share of instruction funds for any fiscal year.

Any reductions made to appropriation items 235501, State Share of Instruction, and 235644, State Share of Instruction - Federal Stimulus - Education, after the Board of Regents has formally approved the final allocation of the state share of instruction funds for any fiscal year, shall be uniformly applied to each campus in proportion to its share of the final allocation.

(G) DISTRIBUTION OF STATE SHARE OF INSTRUCTION

The state share of instruction payments to the institutions shall be in substantially equal monthly amounts during the fiscal year, unless otherwise determined by the Director of Budget and Management pursuant to section 126.09 of the Revised Code. Payments during the first six months of the fiscal year shall be based upon the state share of instruction appropriation estimates made for the various institutions of higher education according to the Chancellor of the Board of Regents enrollment estimates. Payments during the last six months of the fiscal year shall be distributed after approval of the Controlling Board upon the request of the Board of Regents.

SECTION 371.20.90. STATE SHARE OF INSTRUCTION FOR FISCAL YEARS 2010 AND 2011

The boards of trustees of state-assisted institutions of higher education shall restrain increases in in-state undergraduate instructional and general fees. Each state-assisted institution shall not increase its in-state undergraduate instructional and general fees more than 3.5 per cent over what the institution charged for the preceding academic year.

These limitations shall not apply to increases required to comply with institutional covenants related to their obligations or to meet unfunded legal mandates or legally binding obligations incurred or commitments made prior to the effective date of this section with respect to which the institution had identified such fee increases as the source of funds. Any increase required by such covenants and any such mandates, obligations, or commitments shall be reported by the Chancellor of the Board of Regents to the Controlling Board. These limitations may also be modified by the Chancellor of the Board of Regents, with the approval of the Controlling Board, to respond to exceptional circumstances as identified by the Chancellor of the Board of Regents.

Of the combined appropriations of the foregoing appropriation items 235501, State Share of Instruction, and 235644, State Share of Instruction - Federal Stimulus - Education, \$60,996,059 in each fiscal year shall be distributed to eligible colleges and universities based on each campus's share of the appropriation item 235418, Access Challenge, in fiscal year 2009.

Of the combined appropriations of the foregoing appropriation items 235501, State Share of Instruction, and 235644, State Share of Instruction - Federal Stimulus - Education, \$10,323,056 in each fiscal year shall be distributed among state-supported community colleges, state community colleges, and technical colleges in an amount equal to the amount each institution received in fiscal year 2009 from the supplemental tuition subsidy earmarked under Section 375.30.25 of H.B. 119 of the 127th General Assembly.

(C) The remainder of the combined appropriations of appropriation items 235501, State Share of Instruction, and 235644, State Share of Instruction - Federal Stimulus - Education, shall be distributed according to Section 371.20.80 of this act. Sector allocations shall be determined using the following earmarks in accordance with the tuition policy described in division (A) of this section.

(1) Of the combined appropriations of the foregoing appropriation items 235501, State Share of Instruction, and 235644, State Share of Instruction -

Federal Stimulus - Education, \$396,965,932 in fiscal year 2010 and \$419,030,691 in fiscal year 2011 shall be distributed to state-supported community colleges, state community colleges, and technical colleges.

(2) Of the combined appropriations of the foregoing appropriation items 235501, State Share of Instruction, and 235644, State Share of Instruction - Federal Stimulus - Education, \$125,682,220 in fiscal year 2010 and \$129,739,380 in fiscal year 2011 shall be distributed to state-supported university branch campuses.

(3) Of the combined appropriations of the foregoing appropriation items 235501, State Share of Instruction, and 235644, State Share of Instruction - Federal Stimulus - Education, \$1,481,570,810 in each fiscal year shall be distributed to state-supported university main campuses.

(D) The state share of instruction payments to the institutions shall be in substantially equal monthly amounts during the fiscal year, unless otherwise determined by the Director of Budget and Management pursuant to section 126.09 of the Revised Code. Payments during the last six months of the fiscal year shall be distributed after approval of the Controlling Board upon the request of the Chancellor of the Board of Regents.

(E)(1) After making the computations required by Sections 371.20.80 and 371.20.90 of this act for fiscal year 2010, the Chancellor of the Board of Regents shall make reductions totaling \$87,955,700 to the amounts computed before determining the amounts actually paid to campuses during fiscal year 2010 from the foregoing appropriation items 235501, State Share of Instruction, and 235644, State Share of Instruction - Federal Stimulus - Education.

(2) Notwithstanding any provision of law to the contrary, in fiscal year 2011, from the combined appropriations of the foregoing appropriation items 235501, State Share of Instruction, and 235644, State Share of Instruction - Federal Stimulus - Education, the Chancellor of the Board of Regents shall first pay to each campus an amount equal to the amount each campus's allocation in fiscal year 2010 was reduced under division (E)(1) of this section.

(3) In addition to the payments made under division (E)(2) of this section, after making the computations required by Sections 371.20.80 and 371.20.90 of this act for fiscal year 2011, the Chancellor of the Board of Regents shall make reductions totaling \$20,000,000 to the amounts computed for state-assisted university branch campuses, community colleges, state community colleges, and technical colleges. The Chancellor shall then make additional reductions totaling \$170,000,000 to the amounts computed for all campuses. Such additional reductions shall be made

proportionally to the allocations originally computed for the following three sectors: (1) university main campuses, (2) university branch campuses, and (3) community colleges, state community colleges, and technical colleges combined. Within each sector, each campus's allocation shall be reduced proportionally, except that the Chancellor, in consultation with representatives of state-assisted institutions of higher education, may establish a percentage below which no campus's allocation is to fall when compared with the campus's payment in the preceding year and proportionally reduce the allocations of all other campuses to support that percentage.

SECTION 371.20.95. STUDIES TO DETERMINE WEIGHTS FOR FISCAL YEAR 2011 STATE SHARE OF INSTRUCTION FORMULA

(A) STUDY ON IDENTIFYING "AT RISK" STUDENTS

In fiscal year 2010, the Chancellor of the Board of Regents, in consultation with representatives of state colleges and universities, shall conduct a study to identify the socio-economic, demographic, academic, personal, and other factors that identify a student as being "at-risk" of academic failure, and recommend how these factors may be used to determine allocations of the State Share of Instruction after fiscal year 2010. The study shall be completed by April 15, 2010. Notwithstanding any provision of law to the contrary, the Chancellor may use the results of the study to recommend additional weights to be used in the determination of the fiscal year 2011 State Share of Instruction allocations. The Chancellor shall report any such formula changes to the Controlling Board by August 30, 2010.

(B) STUDY ON FUNDING DOCTORAL PROGRAMS THROUGH THE STATE SHARE OF INSTRUCTION FORMULA

The Chancellor of the Board of Regents, in consultation with representatives of state universities, shall conduct a study on the effectiveness and appropriateness of funding for doctoral programs through the doctoral set-aside as allocated in appropriation items 235501, State Share of Instruction, and 235644, State Share of Instruction - Federal Stimulus - Education. The study may examine alternative funding methodologies to improve the alignment between university doctoral programs and the goals of the strategic plan for the University System of Ohio. The study shall be completed by April 15, 2010. Notwithstanding any provision of law to the contrary, the Chancellor may use the results of the study to recommend changes in the determination of the distribution of the doctoral set-aside beginning in fiscal year 2011. The Chancellor shall report

any such formula changes to the Controlling Board by August 30, 2010.

(C) STUDY ON THE USE OF SUCCESS POINTS FOR COMMUNITY COLLEGES

The Chancellor of the Board of Regents, in consultation with representatives of state community colleges, shall conduct a study on the use of "success points" in the allocation of appropriations to community colleges in appropriation items 235501, State Share of Instruction, and 235644, State Share of Instruction - Federal Stimulus - Education, in fiscal year 2011. The study shall identify success points that occur during the academic career of community college students and recommend a method to fund achievement of the success points beginning in fiscal year 2011. The study shall be completed by April 15, 2010. Notwithstanding any provision of law to the contrary, the Chancellor shall use the results of the study to recommend changes in the determination of the distribution of the community college allocations beginning in fiscal year 2011. The Chancellor shall report any such formula changes to the Controlling Board by August 30, 2010.

SECTION 371.30.10. HIGHER EDUCATION - BOARD OF TRUSTEES

(A) Funds appropriated for instructional subsidies at colleges and universities may be used to provide such branch or other off-campus undergraduate courses of study and such master's degree courses of study as may be approved by the Chancellor of the Board of Regents.

(B) In providing instructional and other services to students, boards of trustees of state-assisted institutions of higher education shall supplement state subsidies with income from charges to students. Except as otherwise provided in this Section, each board shall establish the fees to be charged to all students, including an instructional fee for educational and associated operational support of the institution and a general fee for noninstructional services, including locally financed student services facilities used for the benefit of enrolled students. The instructional fee and the general fee shall encompass all charges for services assessed uniformly to all enrolled students. Each board may also establish special purpose fees, service charges, and fines as required; such special purpose fees and service charges shall be for services or benefits furnished individual students or specific categories of students and shall not be applied uniformly to all enrolled students. A tuition surcharge shall be paid by all students who are not residents of Ohio.

The board of trustees of a state-assisted institution of higher education shall not authorize a waiver or nonpayment of instructional fees or general

fees for any particular student or any class of students other than waivers specifically authorized by law or approved by the Chancellor. This prohibition is not intended to limit the authority of boards of trustees to provide for payments to students for services rendered the institution, nor to prohibit the budgeting of income for staff benefits or for student assistance in the form of payment of such instructional and general fees.

Each state-assisted institution of higher education in its statement of charges to students shall separately identify the instructional fee, the general fee, the tuition charge, and the tuition surcharge. Fee charges to students for instruction shall not be considered to be a price of service but shall be considered to be an integral part of the state government financing program in support of higher educational opportunity for students.

(C) The boards of trustees of state-assisted institutions of higher education shall ensure that faculty members devote a proper and judicious part of their work week to the actual instruction of students. Total class credit hours of production per quarter per full-time faculty member is expected to meet the standards set forth in the budget data submitted by the Chancellor of the Board of Regents.

(D) The authority of government vested by law in the boards of trustees of state-assisted institutions of higher education shall in fact be exercised by those boards. Boards of trustees may consult extensively with appropriate student and faculty groups. Administrative decisions about the utilization of available resources, about organizational structure, about disciplinary procedure, about the operation and staffing of all auxiliary facilities, and about administrative personnel shall be the exclusive prerogative of boards of trustees. Any delegation of authority by a board of trustees in other areas of responsibility shall be accompanied by appropriate standards of guidance concerning expected objectives in the exercise of such delegated authority and shall be accompanied by periodic review of the exercise of this delegated authority to the end that the public interest, in contrast to any institutional or special interest, shall be served.

SECTION 371.30.20. STUDENT SUPPORT SERVICES

The foregoing appropriation item 235502, Student Support Services, shall be distributed by the Chancellor of the Board of Regents to Ohio's state-assisted colleges and universities that incur disproportionate costs in the provision of support services to disabled students.

SECTION 371.30.30. WAR ORPHANS SCHOLARSHIPS

The foregoing appropriation item 235504, War Orphans Scholarships, shall be used to reimburse state-assisted institutions of higher education for waivers of instructional fees and general fees provided by them, to provide grants to institutions that have received a certificate of authorization from the Chancellor of the Board of Regents under Chapter 1713. of the Revised Code, in accordance with the provisions of section 5910.04 of the Revised Code, and to fund additional scholarship benefits provided by section 5910.032 of the Revised Code.

An amount equal to the unexpended, unencumbered portion of the foregoing appropriation item 235504, War Orphans Scholarships, at the end of fiscal year 2010 is hereby reappropriated to the Board of Regents for the same purpose for fiscal year 2011.

SECTION 371.30.40. OHIOLINK

The foregoing appropriation item 235507, OhioLINK, shall be used by the Chancellor of the Board of Regents to support OhioLINK, a consortium organized under division (U) of section 3333.04 of the Revised Code to serve as the state's electronic library information and retrieval system, which provides access statewide to an extensive set of electronic databases and resources and the library holdings of Ohio's public and participating private nonprofit colleges and universities, and the State Library of Ohio.

SECTION 371.30.50. AIR FORCE INSTITUTE OF TECHNOLOGY

The foregoing appropriation item 235508, Air Force Institute of Technology, shall be used to strengthen the research and educational linkages between the Wright Patterson Air Force Base and institutions of higher education in Ohio.

SECTION 371.30.60. OHIO SUPERCOMPUTER CENTER

The foregoing appropriation item 235510, Ohio Supercomputer Center, shall be used by the Chancellor of the Board of Regents to support the operation of the Ohio Supercomputer Center, a consortium organized under division (U) of section 3333.04 of the Revised Code, located at The Ohio State University. The Ohio Supercomputer Center is a statewide resource available to Ohio research universities both public and private. It is also intended that the center be made accessible to private industry as appropriate.

Funds shall be used, in part, to support the Ohio Supercomputer Center's

Computational Science Initiative, which includes its industrial outreach program, Blue Collar Computing, and its School of Computational Science. These collaborations between the Ohio Supercomputer Center and Ohio's colleges and universities shall be aimed at making Ohio a leader in using computer modeling to promote economic development.

SECTION 371.30.70. COOPERATIVE EXTENSION SERVICE

The foregoing appropriation item 235511, Cooperative Extension Service, shall be disbursed through the Chancellor of the Board of Regents to The Ohio State University in monthly payments, unless otherwise determined by the Director of Budget and Management under section 126.09 of the Revised Code.

SECTION 371.30.80. OHIO UNIVERSITY VOINOVICH SCHOOL

The foregoing appropriation item 235513, Ohio University Voinovich School, shall be used by the Chancellor of the Board of Regents to support the operations of Ohio University's Voinovich School.

SECTION 371.30.90. CENTRAL STATE SUPPLEMENT

The foregoing appropriation item 235514, Central State Supplement, shall be used by Central State University to keep undergraduate fees below the statewide average, consistent with its mission of service to many first-generation college students from groups historically underrepresented in higher education and from families with limited incomes.

SECTION 371.40.10. CASE WESTERN RESERVE UNIVERSITY SCHOOL OF MEDICINE

The foregoing appropriation item 235515, Case Western Reserve University School of Medicine, shall be disbursed to Case Western Reserve University through the Chancellor of the Board of Regents in accordance with agreements entered into under section 3333.10 of the Revised Code, provided that the state support per full-time medical student shall not exceed that provided to full-time medical students at state universities.

SECTION 371.40.20. FAMILY PRACTICE

The Chancellor of the Ohio Board of Regents shall develop plans consistent with existing criteria and guidelines as may be required for the

distribution of appropriation item 235519, Family Practice.

SECTION 371.40.30. SHAWNEE STATE SUPPLEMENT

The foregoing appropriation item 235520, Shawnee State Supplement, shall be used by Shawnee State University as detailed by both of the following:

(A) To allow Shawnee State University to keep its undergraduate fees below the statewide average, consistent with its mission of service to an economically depressed Appalachian region;

(B) To allow Shawnee State University to employ new faculty to develop and teach in new degree programs that meet the needs of Appalachians.

SECTION 371.40.40. OSU JOHN GLENN SCHOOL OF PUBLIC AFFAIRS

The foregoing appropriation item 235521, The Ohio State University John Glenn School of Public Affairs, shall be used by the Chancellor of the Board of Regents to support the operations of The Ohio State University's John Glenn School of Public Affairs.

SECTION 371.40.50. POLICE AND FIRE PROTECTION

The foregoing appropriation item 235524, Police and Fire Protection, shall be used for police and fire services in the municipalities of Kent, Athens, Oxford, Fairborn, Bowling Green, Portsmouth, Xenia Township (Greene County), Rootstown Township, and the City of Nelsonville that may be used to assist these local governments in providing police and fire protection for the central campus of the state-affiliated university located therein.

SECTION 371.40.60. GERIATRIC MEDICINE

The Chancellor of the Ohio Board of Regents shall develop plans consistent with existing criteria and guidelines as may be required for the distribution of appropriation item 235525, Geriatric Medicine.

SECTION 371.40.70. PRIMARY CARE RESIDENCIES

The Chancellor of the Ohio Board of Regents shall develop plans consistent with existing criteria and guidelines as may be required for the

distribution of appropriation item 235526, Primary Care Residencies.

The foregoing appropriation item 235526, Primary Care Residencies, shall be distributed in each fiscal year of the biennium, based on whether or not the institution has submitted and gained approval for a plan. If the institution does not have an approved plan, it shall receive five per cent less funding per student than it would have received from its annual allocation. The remaining funding shall be distributed among those institutions that meet or exceed their targets.

SECTION 371.40.80. OHIO AGRICULTURAL RESEARCH AND DEVELOPMENT CENTER

The foregoing appropriation item 235535, Ohio Agricultural Research and Development Center, shall be disbursed through the Chancellor of the Board of Regents to The Ohio State University in monthly payments, unless otherwise determined by the Director of Budget and Management under section 126.09 of the Revised Code. The Ohio Agricultural Research and Development Center shall not be required to remit payment to The Ohio State University during the biennium ending June 30, 2011, for cost reallocation assessments. The cost reallocation assessments include, but are not limited to, any assessment on state appropriations to the Center.

The Ohio Agricultural Research and Development Center, an entity of the College of Food, Agricultural, and Environmental Sciences of The Ohio State University, shall further its mission of enhancing Ohio's economic development and job creation by continuing to internally allocate on a competitive basis appropriated funding of programs based on demonstrated performance. Academic units, faculty, and faculty-driven programs shall be evaluated and rewarded consistent with agreed-upon performance expectations as called for in the College's Expectations and Criteria for Performance Assessment.

SECTION 371.40.90. STATE UNIVERSITY CLINICAL TEACHING

The foregoing appropriation items 235536, The Ohio State University Clinical Teaching; 235537, University of Cincinnati Clinical Teaching; 235538, University of Toledo Clinical Teaching; 235539, Wright State University Clinical Teaching; 235540, Ohio University Clinical Teaching; and 235541, Northeastern Ohio Universities College of Medicine Clinical Teaching, shall be distributed through the Chancellor of the Board of Regents.

SECTION 371.50.10. CAPITAL COMPONENT

The foregoing appropriation item 235552, Capital Component, shall be used by the Chancellor of the Board of Regents to implement the capital funding policy for state-assisted colleges and universities established in Am. H.B. 748 of the 121st General Assembly. Appropriations from this item shall be distributed to all campuses for which the estimated campus debt service attributable to new qualifying capital projects is less than the campus's formula-determined capital component allocation. Campus allocations shall be determined by subtracting the estimated campus debt service attributable to new qualifying capital projects from the campus's formula-determined capital component allocation. Moneys distributed from this appropriation item shall be restricted to capital-related purposes.

Any campus for which the estimated campus debt service attributable to qualifying capital projects is greater than the campus's formula-determined capital component allocation shall have the difference subtracted from its State Share of Instruction allocation in each fiscal year. Appropriation equal to the sum of all such amounts except that of the Ohio Agricultural Research and Development Center shall be transferred from appropriation item 235501, State Share of Instruction, to appropriation item 235552, Capital Component. Appropriation equal to any estimated Ohio Agricultural Research and Development Center debt service attributable to qualifying capital projects that is greater than the Center's formula-determined capital component allocation shall be transferred from appropriation item 235535, Ohio Agricultural Research and Development Center, to appropriation item 235552, Capital Component.

SECTION 371.50.20. LIBRARY DEPOSITORIES

The foregoing appropriation item, 235555, Library Depositories, shall be distributed to the state's five regional depository libraries for the cost-effective storage of and access to lesser-used materials in university library collections. The depositories shall be administrated by the Chancellor of the Board of Regents.

SECTION 371.50.30. OHIO ACADEMIC RESOURCES NETWORK (OARNET)

The foregoing appropriation item 235556, Ohio Academic Resources Network, shall be used by the Chancellor of the Board of Regents to support

the operations of the Ohio Academic Resources Network, a consortium organized under division (U) of section 3333.04 of the Revised Code, which shall include support for Ohio's colleges and universities in maintaining and enhancing network connections, using new network technologies to improve research, education, and economic development programs, and sharing information technology services. The network shall give priority to supporting the Third Frontier Network and allocating bandwidth to programs directly supporting Ohio's economic development.

SECTION 371.50.40. LONG-TERM CARE RESEARCH

The foregoing appropriation item 235558, Long-term Care Research, shall be disbursed to Miami University for long-term care research.

SECTION 371.50.50. OHIO COLLEGE OPPORTUNITY GRANT

(A) Except as provided in division (D) of this section:

Of the foregoing appropriation item 235563, Ohio College Opportunity Grant, \$41,000,000 in each fiscal year shall be used by the Chancellor of the Board of Regents to award need-based financial aid to students enrolled in eligible private nonprofit institutions of higher education.

The remainder of the foregoing appropriation item 235563, Ohio College Opportunity Grant, shall be used by the Chancellor of the Board of Regents to award needs-based financial aid to students enrolled in eligible public institutions of higher education, excluding early college high school and post-secondary enrollment option participants.

An amount equal to the unexpended, unencumbered portion of the foregoing appropriation item 235563, Ohio College Opportunity Grant, at the end of fiscal year 2010 is hereby reappropriated to the Board of Regents for the same purpose for fiscal year 2011.

(B)(1) As used in this section:

(a) "At-risk component" may include, but is not limited to:

- (i) A first-generation college student;
- (ii) A non-traditionally aged adult student;
- (iii) A graduate of a low-achieving high school;
- (iv) Any other factors the Chancellor may determine.

(b) "Eligible institution" means any institution described in divisions (B)(2)(a) to (c) of section 3333.122 of the Revised Code.

(c) "Type of institution" means state college or university, community college, state community college, university branch, technical college, or eligible private nonprofit institution of higher education.

(d) The two "sectors" of institutions of higher education consist of the following:

(i) State colleges and universities, community colleges, state community colleges, university branches, and technical colleges;

(ii) Eligible private nonprofit institutions of higher education.

(2) If the Chancellor determines that the amounts appropriated for support of the Ohio College Opportunity Grant program are inadequate to provide grants to all eligible students as calculated under division (D) of section 3333.122 of the Revised Code, the Chancellor shall create a formula, subject to the approval of the Controlling Board, for the distribution of available funds. This formula shall be complete and established before the start of the 2010-2011 academic year.

The formula shall be based on division (C)(1) of section 3333.122 of the Revised Code, but also include an at-risk component and academic performance component in determining distribution priority. The Chancellor may use the academic performance component to increase an award for credit or course completion or other factors as determined by the Chancellor.

(3) Each eligible institution shall collect at-risk and performance data for each student eligible for a grant and report that information, including a recommendation of eligible students considered most at-risk, to the Chancellor by the deadline set by the Chancellor.

(4) The Chancellor shall determine which at-risk and performance components are most appropriate to use for each type of institution and devise a formula for each type of institution accordingly.

(C) Notwithstanding any other law to the contrary, the Chancellor may require an eligible institution to provide matching funds for students receiving Ohio College Opportunity Grants. The Chancellor shall recommend a required match for each eligible institution, taking into account the capacity of each institution to meet the match. The Chancellor shall include the recommendation as part of the formula submitted to the Controlling Board for approval under division (B)(2) of this section.

(D) Prior to determining the amount of funds available to award under this section and section 3333.122 of the Revised Code, the Chancellor shall use the foregoing appropriation item 235563, Ohio College Opportunity Grant, to pay the prior year's Ohio College Opportunity Grant/Ohio Instructional Grant obligations in fiscal year 2010. The Chancellor may also use the foregoing appropriation item to pay for renewals or partial renewals of scholarships students receive under the Ohio Academic Scholarship Program under sections 3333.21 and 3333.22 of the Revised Code. In

paying for prior obligations and scholarships under this division, the Chancellor shall deduct funds from the allocations made under division (A) of this section proportionate to the amounts allocated to each sector from the total appropriation.

In each fiscal year, the Chancellor shall not distribute or obligate or commit to be distributed an amount greater than what is appropriated under the foregoing appropriation item 235563, Ohio College Opportunity Grant.

(E) The Chancellor shall establish, and post on the Ohio Board of Regents' web site, award tables based on the formulas created under division (B) of this section. The Chancellor shall notify students and institutions of any reductions in awards under this section.

On or before August 31, 2009, the Chancellor of the Board of Regents shall submit award tables to the Controlling Board for the 2009-2010 academic year and allocations of Ohio College Opportunity Grant awards not already specified in section 3333.122 of the Revised Code.

(F) Notwithstanding section 3333.122 of the Revised Code, no student shall be eligible to receive an Ohio College Opportunity Grant for more than ten semesters, fifteen quarters, or the equivalent of five academic years, less the number of semesters or quarters in which the student received an Ohio Instructional Grant.

SECTION 371.50.60. CENTRAL STATE UNIVERSITY SPEED TO SCALE

The foregoing appropriation 235567, Central State University Speed to Scale, shall be used to achieve the goals of the Speed to Scale Plan, which include increasing student enrollment through freshman recruitment and transferred students, increasing the proportion of in-state students to 80 per cent of the total student population, and increasing the student retention rates between the first and second year of college by two per cent each year. The goals shall be accomplished by the targeting of student retention, improved articulation agreements with two-year campuses, increased use of alternative course options, including online coursework and Ohio Learning Network resources, College Tech Prep, Post Secondary Enrollment Options, and other dual-credit programs, and strategic partnerships with research institutions to improve the quality of Central State University's offering of science, technology, engineering, mathematics, and medical instruction. In fiscal year 2010, the disbursement of these funds shall be contingent upon Central State University meeting the annual goals for the student enrollment and retention rate increases.

The Speed to Scale Task Force shall meet not less than quarterly to

discuss progress of the plan, including performance on accountability metrics and issues experienced in planned efforts, and to monitor and support the creation of partnerships with other state institutions of higher education. The Task Force shall consist of the president of Central State University or the president's designee, the president of Sinclair Community College or the president's designee, the president of Cincinnati State Technical and Community College or the president's designee, the president of Cuyahoga Community College or the president's designee, the president of The Ohio State University or the president's designee, the president of the University of Cincinnati or the president's designee, the president of Wright State University or the president's designee, one representative from the Board of Regents, one member of the House of Representatives appointed by the Speaker of the House of Representatives, one member of the Senate appointed by the President of the Senate, the Director of Budget and Management or the director's designee, and a representative of the Governor's Office appointed by the Governor.

On the thirtieth day of June of each fiscal year, Central State University and the Speed to Scale Task Force shall jointly submit to the Governor, the Director of Budget and Management, the Speaker of the House of Representatives, the President of the Senate, and the Board of Regents a report describing the status of their progress on the accountability metrics included in the Speed to Scale Plan.

SECTION 371.50.70. THE OHIO STATE UNIVERSITY CLINIC SUPPORT

The foregoing appropriation item 235572, The Ohio State University Clinic Support, shall be distributed through the Chancellor of the Board of Regents to The Ohio State University for support of dental and veterinary medicine clinics.

SECTION 371.50.83. BLISS INSTITUTE

The foregoing appropriation item 235579, Bliss Institute, shall be used to support the Bliss Institute of Applied Politics at the University of Akron.

SECTION 371.50.90. HAZARDOUS MATERIALS PROGRAM

The foregoing appropriation item 235596, Hazardous Materials Program, shall be used by the Chancellor of the Board of Regents to make awards for the establishment or continued development and support of

hazardous materials education, studies, or programs at Ohio institutions of higher education.

SECTION 371.60.10. NATIONAL GUARD SCHOLARSHIP PROGRAM

The Chancellor of the Board of Regents shall disburse funds from appropriation item 235599, National Guard Scholarship Program, at the direction of the Adjutant General. During each fiscal year, the Chancellor of the Board of Regents, within ten days of cancellation, may certify to the Director of Budget and Management the amount of canceled prior-year encumbrances in appropriation item 235599, National Guard Scholarship Program. Upon receipt of the certification, the Director of Budget and Management may transfer cash in an amount up to the amount certified from the General Revenue Fund to the National Guard Scholarship Reserve Fund (Fund 5BM0). Upon the request of the Adjutant General, the Chancellor of the Board of Regents shall seek Controlling Board approval to authorize additional expenditures for appropriation item 235623, National Guard Scholarship Reserve Fund. Upon approval of the Controlling Board, the additional amounts are hereby appropriated. The Chancellor of the Board of Regents shall disburse funds from appropriation item 235623, National Guard Scholarship Reserve Fund, at the direction of the Adjutant General.

SECTION 371.60.20. PLEDGE OF FEES

Any new pledge of fees, or new agreement for adjustment of fees, made in the biennium ending June 30, 2011, to secure bonds or notes of a state-assisted institution of higher education for a project for which bonds or notes were not outstanding on the effective date of this section shall be effective only after approval by the Chancellor of the Board of Regents, unless approved in a previous biennium.

SECTION 371.60.30. HIGHER EDUCATION GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 235909, Higher Education General Obligation Debt Service, shall be used to pay all debt service and related financing costs at the times they are required to be made for obligations issued during the period from July 1, 2009, to June 30, 2011, under sections 151.01 and 151.04 of the Revised Code.

SECTION 371.60.40. SALES AND SERVICES

The Chancellor of the Board of Regents is authorized to charge and accept payment for the provision of goods and services. Such charges shall be reasonably related to the cost of producing the goods and services. No charges may be levied for goods or services that are produced as part of the routine responsibilities or duties of the Chancellor. All revenues received by the Chancellor of the Board of Regents shall be deposited into Fund 4560, and may be used by the Chancellor of the Board of Regents to pay for the costs of producing the goods and services.

SECTION 371.60.50. HIGHER EDUCATIONAL FACILITY COMMISSION ADMINISTRATION

The foregoing appropriation item 235602, Higher Educational Facility Commission Administration, shall be used by the Chancellor of the Board of Regents for operating expenses related to the Chancellor of the Board of Regents' support of the activities of the Ohio Higher Educational Facility Commission. Upon the request of the Chancellor, the Director of Budget and Management shall transfer up to \$45,000 cash in fiscal year 2010 and up to \$45,000 cash in fiscal year 2011 from the HEFC Operating Expenses Fund (Fund 4610) to the HEFC Administration Fund (Fund 4E80).

SECTION 371.60.60. NURSING LOAN PROGRAM

The foregoing appropriation item 235606, Nursing Loan Program, shall be used to administer the nurse education assistance program. Up to \$167,580 in each fiscal year may be used for operating expenses associated with the program. Any additional funds needed for the administration of the program are subject to Controlling Board approval.

SECTION 371.60.70. VETERANS PREFERENCES

The Chancellor of the Board of Regents shall work with the Department of Veterans Services to develop specific veterans preference guidelines for higher education institutions. These guidelines shall ensure that the institutions' hiring practices are in accordance with the intent of Ohio's veterans preference laws.

SECTION 371.60.80. STATE NEED-BASED FINANCIAL AID

RECONCILIATION

By the first day of August in each fiscal year, or as soon as possible thereafter, the Chancellor of the Ohio Board of Regents shall certify to the Director of Budget and Management the amount necessary to pay any outstanding prior year obligations to higher education institutions for the state's need-based financial aid programs. The amounts certified are hereby appropriated to appropriation item 235618, State Need-based Financial Aid Reconciliation, from revenues received in the State Need-based Financial Aid Reconciliation Fund (Fund 5Y50).

SECTION 371.60.95. TRANSFER AND ADJUSTMENT OF ARRA STATE FISCAL STABILIZATION FUND APPROPRIATIONS

The Director of Budget and Management, with the approval of the Controlling Board, may transfer appropriation between appropriation items 235501, State Share of Instruction, and 235644, State Share of Instruction – Federal Stimulus – Education, in each fiscal year, upon the written request of the Chancellor of the Board of Regents, to meet the maintenance of effort and use of funds provisions of the American Recovery and Reinvestment Act, including transferring appropriation between fiscal year 2010 and fiscal year 2011.

SECTION 371.70.10. EFFICIENCY SAVINGS

Each state-assisted institution of higher education, as defined in section 3345.011 of the Revised Code, shall demonstrate at least a three per cent savings through internal efficiencies in each fiscal year. Institutions shall identify savings to the Chancellor of the Board of Regents, who shall certify the amount of savings of each institution.

SECTION 371.70.20. (A) As used in this section:

(1) "Board of trustees" includes the managing authority of a university branch district.

(2) "State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

(B) The board of trustees of any state institution of higher education, notwithstanding any rule of the institution to the contrary, may adopt a policy providing for mandatory furloughs of employees, including faculty, to achieve spending reductions necessitated by institutional budget deficits.

**SECTION 375.10. DRC DEPARTMENT OF REHABILITATION AND
CORRECTION**

General Revenue Fund			
GRF 501321	Institutional Operations	\$ 780,936,383	\$ 667,111,335
GRF 501403	Prisoner Compensation	\$ 8,599,255	\$ 8,599,255
GRF 501405	Halfway House	\$ 41,054,799	\$ 42,286,443
GRF 501406	Lease Rental Payments	\$ 101,578,100	\$ 98,080,200
GRF 501407	Community Nonresidential Programs	\$ 21,925,802	\$ 22,431,567
GRF 501408	Community Misdemeanor Programs	\$ 11,092,468	\$ 11,380,242
GRF 501501	Community Residential Programs - CBCF	\$ 62,517,256	\$ 64,281,774
GRF 501620	Institutional Operations - Federal Stimulus	\$ 111,177,531	\$ 214,488,988
GRF 502321	Mental Health Services	\$ 80,844,321	\$ 84,462,467
GRF 503321	Parole and Community Operations	\$ 75,785,243	\$ 77,326,155
GRF 504321	Administrative Operations	\$ 23,659,745	\$ 21,811,756
GRF 505321	Institution Medical Services	\$ 239,839,373	\$ 239,140,143
GRF 506321	Institution Education Services	\$ 22,730,539	\$ 23,183,959
GRF 507321	Institution Recovery Services	\$ 5,025,028	\$ 5,899,110
TOTAL GRF	General Revenue Fund	\$ 1,586,765,843	\$ 1,580,483,394
General Services Fund Group			
1480 501602	Services and Agricultural	\$ 105,000,000	\$ 105,000,000
2000 501607	Ohio Penal Industries	\$ 35,000,000	\$ 35,000,000
4830 501605	Property Receipts	\$ 255,015	\$ 261,315
4B00 501601	Sewer Treatment Services	\$ 2,310,188	\$ 2,310,188
4D40 501603	Prisoner Programs	\$ 14,600,000	\$ 14,800,000
4L40 501604	Transitional Control	\$ 1,900,000	\$ 1,900,000
4S50 501608	Education Services	\$ 2,500,000	\$ 2,500,000
5710 501606	Training Academy Receipts	\$ 50,000	\$ 50,000
5930 501618	Laboratory Services	\$ 6,100,000	\$ 6,300,000
5AF0 501609	State and Non-Federal Awards	\$ 150,000	\$ 150,000
5H80 501617	Offender Financial Responsibility	\$ 1,500,000	\$ 1,500,000
5L60 501611	Information Technology Services	\$ 800,000	\$ 800,000
TOTAL GSF	General Services Fund Group	\$ 170,165,203	\$ 170,571,503
Federal Special Revenue Fund Group			
3230 501619	Federal Grants	\$ 12,198,353	\$ 12,198,353
3S10 501615	Truth-In-Sentencing Grants	\$ 8,251,241	\$ 0
TOTAL FED	Federal Special Revenue Fund Group	\$ 20,449,594	\$ 12,198,353
TOTAL ALL BUDGET FUND GROUPS		\$ 1,777,380,640	\$ 1,763,253,250

**TRANSFER OF OPERATING APPROPRIATIONS TO IMPLEMENT
CRIMINAL SENTENCING REFORMS**

For the purposes of implementing criminal sentencing reforms, and

notwithstanding any other provision of law to the contrary, the Director of Budget and Management, at the request of the Director of Rehabilitation and Correction, shall transfer up to \$14,000,000 in appropriations, in each of fiscal years 2010 and 2011, from appropriation item 501321, Institutional Operations, to any combination of appropriation items 501405, Halfway House; 501407, Community Residential Programs; 501408, Community Misdemeanor Programs; and 501501, Community Residential Programs - CBCF.

OHIO BUILDING AUTHORITY LEASE PAYMENTS

The foregoing appropriation item 501406, Lease Rental Payments, shall be used to meet all payments during the period from July 1, 2009, to June 30, 2011, under the primary leases and agreements for those buildings made under Chapter 152. of the Revised Code. These appropriations are the source of funds pledged for bond service charges or obligations issued pursuant to Chapter 152. of the Revised Code.

PRISONER COMPENSATION

Money from the foregoing appropriation item 501403, Prisoner Compensation, shall be transferred on a quarterly basis by intrastate transfer voucher to the Services and Agricultural Fund (Fund 1480) for the purposes of paying prisoner compensation.

OSU MEDICAL CHARGES

Notwithstanding section 341.192 of the Revised Code, at the request of the Department of Rehabilitation and Correction, The Ohio State University Medical Center, including the James Cancer Hospital and Solove Research Institute and the Richard M. Ross Heart Hospital, shall provide necessary care to persons who are confined in state adult correctional facilities. The provision of necessary care shall be billed to the Department at a rate not to exceed the authorized reimbursement rate for the same service established by the Department of Job and Family Services under the Medical Assistance Program.

SECTION 375.20. PILOT PROJECT FOR THE CONTRACTUAL PROVISION OF INMATE HEALTHCARE

The Department of Rehabilitation and Correction may develop, oversee, and evaluate a pilot project for the provision of comprehensive correctional health care services through private correctional health care contractors to complement the current system for the provision of health care services to inmates of state correctional facilities. If the Department develops a pilot project, private correctional health care contractors shall be selected through a request for proposal process. The department shall determine the method

for requesting proposals, the form of the request-for-proposal, and criteria for the provision of comprehensive correctional health care services under the pilot project. Comprehensive correctional health care services are medical, dental, and mental health care services comparable to those provided by the Department of Rehabilitation and Correction to inmates at and outside of state correctional facilities. The department shall determine the award of contracts based upon written criteria prepared by the department.

A pilot project for the provision of comprehensive correctional health care services must include a minimum of 20 per cent of the current inmate population and be designed to include a representative sample of the inmate population in order to promote a realistic comparison of services and costs. The department shall control inmate participation in the pilot project based on current standard operating procedures and the need to maintain the representative sample of the inmate population. The department shall determine the locations for the pilot project and in making that determination shall give consideration to the geographic proximity of medical facilities to promote economies of scale. The locations shall include a representative sample of current facilities, the facilities' missions, and medical acuity. The mix of facilities shall remain consistent throughout the pilot project in order to promote a realistic comparison of costs and services.

If the Department develops the pilot project, it shall be developed and implemented by January 1, 2010, for a period of two years and shall be conditioned upon a private contractor offering a minimum of 10 per cent savings from the department's projected costs for comprehensive correctional health care services during the period of the project. The cost comparison shall include all on-site and off-site healthcare costs, including all personnel, benefit, administrative, overhead, and transportation costs.

SECTION 377.10. RSC REHABILITATION SERVICES COMMISSION

General Revenue Fund

GRF 415402	Independent Living Council	\$	252,000	\$	252,000
GRF 415406	Assistive Technology	\$	26,618	\$	26,618
GRF 415431	Office for People with Brain Injury	\$	126,567	\$	126,567
GRF 415506	Services for People with Disabilities	\$	13,116,630	\$	13,116,630
GRF 415508	Services for the Deaf	\$	28,000	\$	28,000
TOTAL GRF General Revenue Fund		\$	13,549,815	\$	13,549,815

General Services Fund Group

4670 415609	Business Enterprise Operating Expenses	\$	1,393,002	\$	1,389,851
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TOTAL GSF General Services					
Fund Group			\$	1,393,002	\$ 1,389,851
Federal Special Revenue Fund Group					
3170	415620	Disability Determination	\$	81,685,226	\$ 83,498,461
3790	415616	Federal - Vocational Rehabilitation	\$	130,057,624	\$ 131,132,654
3L10	415601	Social Security Personal Care Assistance	\$	3,000,000	\$ 2,700,000
3L10	415605	Social Security Community Centers for the Deaf	\$	750,000	\$ 750,000
3L10	415608	Social Security Special Programs/Assistance	\$	1,752,714	\$ 1,884,714
3L40	415612	Federal Independent Living Centers or Services	\$	620,880	\$ 620,880
3L40	415615	Federal - Supported Employment	\$	883,214	\$ 839,054
3L40	415617	Independent Living/Vocational Rehabilitation Programs	\$	1,951,862	\$ 1,953,293
TOTAL FED Federal Special					
Revenue Fund Group			\$	220,701,520	\$ 223,379,056
State Special Revenue Fund Group					
4680	415618	Third Party Funding	\$	5,008,974	\$ 5,008,974
4L10	415619	Services for Rehabilitation	\$	4,067,773	\$ 3,994,154
4W50	415606	Program Management Expenses	\$	15,620,782	\$ 15,767,803
TOTAL SSR State Special					
Revenue Fund Group			\$	24,697,529	\$ 24,770,931
TOTAL ALL BUDGET FUND GROUPS			\$	260,341,866	\$ 263,089,653

INDEPENDENT LIVING COUNCIL

The foregoing appropriation item 415402, Independent Living Council, shall be used to fund the operations of the State Independent Living Council and shall be used to support state independent living centers and independent living services under Title VII of the Independent Living Services and Centers for Independent Living of the Rehabilitation Act Amendments of 1992, 106 Stat. 4344, 29 U.S.C. 796d.

ASSISTIVE TECHNOLOGY

The foregoing appropriation item 415406, Assistive Technology, shall be provided to Assistive Technology of Ohio and used to provide grants and assistive technology services under the program for people with disabilities in the State of Ohio.

OFFICE FOR PEOPLE WITH BRAIN INJURY

The foregoing appropriation item 415431, Office for People with Brain Injury, shall be used to plan and coordinate head-injury-related services provided by state agencies and other government or private entities, to assess the needs for such services, and to set priorities in this area.

VOCATIONAL REHABILITATION SERVICES

The foregoing appropriation item 415506, Services for People with Disabilities, shall be used as state matching funds to provide vocational rehabilitation services to eligible consumers.

At the request of the Chancellor of the Board of Regents, the Director of Budget and Management may transfer any unexpended, unencumbered appropriation in fiscal year 2010 or fiscal year 2011 from appropriation item 235502, Student Support Services, to appropriation item 415506, Services for People with Disabilities. Any appropriation so transferred shall be used by the Ohio Rehabilitation Services Commission to obtain additional federal matching funds to serve disabled students.

SERVICES FOR THE DEAF

The foregoing appropriation item 415508, Services for the Deaf, shall be used to provide grants to community centers for the deaf. These funds shall not be provided in lieu of Social Security reimbursement funds.

INDEPENDENT LIVING/VOCATIONAL REHABILITATION PROGRAMS

The foregoing appropriation item 415617, Independent Living/Vocational Rehabilitation Programs, shall be used to support vocational rehabilitation programs.

SOCIAL SECURITY REIMBURSEMENT FUNDS

Reimbursement funds received from the Social Security Administration, United States Department of Health and Human Services, for the costs of providing services and training to return disability recipients to gainful employment shall be expended from the Social Security Reimbursement Fund (Fund 3L10), to the extent funds are available, as follows:

(A) Appropriation item 415601, Social Security Personal Care Assistance, to provide personal care services in accordance with section 3304.41 of the Revised Code;

(B) Appropriation item 415605, Social Security Community Centers for the Deaf, to provide grants to community centers for the deaf in Ohio for services to individuals with hearing impairments; and

(C) Appropriation item 415608, Social Security Special Programs/Assistance, to provide vocational rehabilitation services to individuals with severe disabilities who are Social Security beneficiaries, to enable them to achieve competitive employment. This appropriation item shall also be used to pay a portion of indirect costs of the Personal Care Assistance Program and the Independent Living Programs as mandated by federal OMB Circular A-87.

PROGRAM MANAGEMENT EXPENSES

The foregoing appropriation item 415606, Program Management

Expenses, shall be used to support the administrative functions of the commission related to the provision of vocational rehabilitation, disability determination services, and ancillary programs.

SECTION 379.10. RCB RESPIRATORY CARE BOARD

General Services Fund Group

4K90 872609	Operating Expenses	\$	488,142	\$	488,142
TOTAL GSF General Services					
Fund Group					
		\$	488,142	\$	488,142
TOTAL ALL BUDGET FUND GROUPS					
		\$	488,142	\$	488,142

SECTION 381.10. RDF REVENUE DISTRIBUTION FUNDS

Volunteer Firefighters' Dependents Fund

7085 800985	Volunteer Firemen's Dependents Fund	\$	300,000	\$	300,000
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TOTAL 085 Volunteer Firefighters' Dependents Fund					
		\$	300,000	\$	300,000

Agency Fund Group

4P80 001698	Cash Management Improvement Fund	\$	3,100,000	\$	3,100,000
6080 001699	Investment Earnings	\$	250,000,000	\$	250,000,000
7062 110962	Resort Area Excise Tax	\$	1,000,000	\$	1,000,000
7063 110963	Permissive Tax Distribution	\$	1,849,000,000	\$	1,849,000,000
7067 110967	School District Income Tax	\$	350,000,000	\$	350,000,000
TOTAL AGY Agency Fund Group					
		\$	2,453,100,000	\$	2,453,100,000

Holding Account Redistribution

R045 110617	International Fuel Tax Distribution	\$	50,000,000	\$	50,000,000
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TOTAL 090 Holding Account Redistribution Fund					
		\$	50,000,000	\$	50,000,000

Revenue Distribution Fund Group

7049 038900	Indigent Drivers Alcohol Treatment	\$	2,200,000	\$	2,200,000
7050 762900	International Registration Plan Distribution	\$	30,000,000	\$	30,000,000
7051 762901	Auto Registration Distribution	\$	539,000,000	\$	539,000,000
7054 110954	Local Government Property Tax Replacement - Utility	\$	95,125,000	\$	95,125,000
7060 110960	Gasoline Excise Tax Fund	\$	375,000,000	\$	375,000,000
7065 110965	Public Library Fund	\$	406,100,000	\$	407,400,000
7066 800966	Undivided Liquor Permits	\$	13,500,000	\$	13,500,000
7068 110968	State and Local Government Highway Distribution	\$	242,500,000	\$	242,500,000
7069 110969	Local Government Fund	\$	673,700,000	\$	676,000,000
7081 110981	Local Government Property Tax Replacement-Business	\$	366,800,000	\$	378,000,000
7082 110982	Horse Racing Tax	\$	130,000	\$	130,000
7083 700900	Ohio Fairs Fund	\$	2,325,000	\$	2,325,000

TOTAL RDF Revenue Distribution			
Fund Group	\$	2,746,380,000	\$ 2,761,180,000
TOTAL ALL BUDGET FUND GROUPS	\$	5,249,780,000	\$ 5,264,580,000

ADDITIONAL APPROPRIATIONS

Appropriation items in this section shall be used for the purpose of administering and distributing the designated revenue distribution funds according to the Revised Code. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated.

GENERAL REVENUE FUND TRANSFERS

Notwithstanding any provision of law to the contrary, in fiscal year 2010 and fiscal year 2011, the Director of Budget and Management may transfer from the General Revenue Fund to the Local Government Tangible Property Tax Replacement Fund (Fund 7081) in the Revenue Distribution Fund Group, those amounts necessary to reimburse local taxing units under section 5751.22 of the Revised Code. Also, in fiscal year 2010 and fiscal year 2011, the Director of Budget and Management may make temporary transfers from the General Revenue Fund to ensure sufficient balances in the Local Government Tangible Property Tax Replacement Fund (Fund 7081) and to replenish the General Revenue Fund for such transfers.

On July 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$5,000,000 cash from the General Revenue Fund to the Public Library Fund (Fund 7065).

On July 1, 2010, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$11,200,000 cash from the General Revenue Fund to the Local Government Property Tax Replacement-Business Fund (Fund 7081).

SECTION 381.20. PUBLIC LIBRARY FUND ALLOCATION

Notwithstanding any provision of law to the contrary, for the period August 1, 2009, to June 30, 2011, the monthly allocation made to the Public Library Fund under section 131.51 of the Revised Code shall be one and ninety-seven one hundredths per cent of the total tax revenue credited to the General Revenue Fund in the preceding month. In determining the total tax revenue credited to the General Revenue Fund during the preceding month, the Director of Budget and Management shall include amounts transferred from that fund during the preceding month pursuant to this section and divisions (A) and (B) of section 131.51 of the Revised Code.

SECTION 383.10. SAN BOARD OF SANITARIAN REGISTRATION

General Services Fund Group

4K90 893609	Operating Expenses	\$	130,000	\$	130,000
TOTAL GSF General Services					
Fund Group		\$	130,000	\$	130,000
TOTAL ALL BUDGET FUND GROUPS					

SECTION 384.10. OSB OHIO STATE SCHOOL FOR THE BLIND**General Revenue Fund**

GRF 226100	Personal Services	\$	6,593,540	\$	6,593,540
GRF 226200	Maintenance	\$	619,527	\$	619,527
GRF 226300	Equipment	\$	65,505	\$	65,505
TOTAL GRF General Revenue Fund					

General Services Fund Group

4H80 226602	Education Reform Grants	\$	61,000	\$	61,000
TOTAL GSF General Services					
Fund Group		\$	61,000	\$	61,000

Federal Special Revenue Fund Group

3100 226626	Coordinating Unit	\$	2,527,105	\$	2,527,105
3P50 226643	Medicaid Professional Services Reimbursement	\$	50,000	\$	50,000
TOTAL FED Federal Special					
Revenue Fund Group		\$	2,577,105	\$	2,577,105

State Special Revenue Fund Group

4M50 226601	Work Study and Technology Investment	\$	250,000	\$	250,000
TOTAL SSR State Special Revenue					
Fund Group		\$	250,000	\$	250,000
TOTAL ALL BUDGET FUND GROUPS					

SECTION 384.50. OSD OHIO SCHOOL FOR THE DEAF**General Revenue Fund**

GRF 221100	Personal Services	\$	7,842,334	\$	7,842,334
GRF 221200	Maintenance	\$	814,532	\$	814,532
GRF 221300	Equipment	\$	70,785	\$	70,785
TOTAL GRF General Revenue Fund					

General Services Fund Group

4M10 221602	Education Reform Grants	\$	76,000	\$	76,000
TOTAL GSF General Services					
Fund Group		\$	76,000	\$	76,000

Federal Special Revenue Fund Group

3110 221625	Coordinating Unit	\$	2,460,135	\$	2,460,135
3AD0 221604	VREAL Ohio	\$	25,000	\$	25,000
3R00 221684	Medicaid Professional Services Reimbursement	\$	35,000	\$	35,000
3Y10 221686	Early Childhood Grant	\$	300,000	\$	300,000
TOTAL FED Federal Special					
Revenue Fund Group		\$	2,820,135	\$	2,820,135

State Special Revenue Fund Group

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4M00 221601	Educational Program Expenses	\$	190,000	\$	190,000
5H60 221609	Even Start Fees and Gifts	\$	250,716	\$	250,716
TOTAL SSR State Special Revenue Fund Group		\$	440,716	\$	440,716
TOTAL ALL BUDGET FUND GROUPS		\$	12,064,502	\$	12,064,502

SECTION 385.10. SFC SCHOOL FACILITIES COMMISSION

General Revenue Fund

GRF 230908	Common Schools General Obligation Debt Service	\$	157,065,800	\$	167,038,700
TOTAL GRF General Revenue Fund		\$	157,065,800	\$	167,038,700

State Special Revenue Fund Group

5E30 230644	Operating Expenses	\$	9,250,000	\$	9,750,000
TOTAL SSR State Special Revenue Fund Group		\$	9,250,000	\$	9,750,000

School Building Assistance Fund Group

5S60 230602	Community School Loan Guarantee	\$	102,000	\$	102,000
TOTAL SBA School Building Assistance Fund Group		\$	102,000	\$	102,000
TOTAL ALL BUDGET FUND GROUPS		\$	166,417,800	\$	176,890,700

SECTION 385.20. COMMON SCHOOLS GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 230908, Common Schools General Obligation Debt Service, shall be used to pay all debt service and related financing costs at the times they are required to be made for obligations issued during the period from July 1, 2009, through June 30, 2011, under sections 151.01 and 151.03 of the Revised Code.

OPERATING EXPENSES

The foregoing appropriation item 230644, Operating Expenses, shall be used by the Ohio School Facilities Commission to carry out its responsibilities under this section and Chapter 3318. of the Revised Code.

In both fiscal years 2010 and 2011, the Executive Director of the Ohio School Facilities Commission shall certify on a quarterly basis to the Director of Budget and Management the amount of cash from interest earnings to be transferred from the School Building Assistance Fund (Fund 7032), the Public School Building Fund (Fund 7021), and the Educational Facilities Trust Fund (Fund N087) to the Ohio School Facilities Commission Fund (Fund 5E30). The amount transferred from the School Building Assistance Fund (Fund 7032) may not exceed investment earnings credited to the fund, less any amount required to be paid for federal

arbitrage rebate purposes.

If the Executive Director of the Ohio School Facilities Commission determines that transferring cash from interest earnings is insufficient to support operations and carry out its responsibilities under this section and Chapter 3318. of the Revised Code, the Commission may, with the approval of the Controlling Board, transfer cash not generated from interest from the Public School Building Fund (Fund 7021) and the Educational Trust Fund (Fund N087) to the Ohio School Facilities Commission Fund (Fund 5E30).

SCHOOL FACILITIES ENCUMBRANCES AND REAPPROPRIATION

At the request of the Executive Director of the Ohio School Facilities Commission, the Director of Budget and Management may cancel encumbrances for school district projects from a previous biennium if the district has not raised its local share of project costs within one year of receiving Controlling Board approval under section 3318.05 of the Revised Code. The Executive Director of the Ohio School Facilities Commission shall certify the amounts of the canceled encumbrances to the Director of Budget and Management on a quarterly basis. The amounts of the canceled encumbrances are hereby appropriated.

SECTION 385.30. AMENDMENT TO PROJECT AGREEMENT FOR MAINTENANCE LEVY

The Ohio School Facilities Commission shall amend the project agreement between the Commission and a school district that is participating in the Accelerated Urban School Building Assistance Program on the effective date of this section, if the Commission determines that it is necessary to do so in order to comply with division (B)(3)(c) of section 3318.38 of the Revised Code, as amended by this act.

SECTION 385.40. SURVEY OF COMMUNITY SPACE

The Executive Director of the Ohio School Facilities Commission shall survey classroom facilities projects financed by the Commission under Chapter 3318. of the Revised Code and compile descriptions of how spaces within those facilities are used for activities, services, and programs shared between schools and other public and private entities in their communities. The Executive Director shall identify and describe such spaces included in current or completed projects and shall recommend best practices for enhancing opportunities for including shared community spaces in future projects. The Executive Director shall submit the survey and

recommendations to the Commission not later than December 31, 2009.

SECTION 385.50. EXTREME ENVIRONMENTAL
CONTAMINATION OF SCHOOL FACILITIES

Notwithstanding any other provision of law to the contrary, the Ohio School Facilities Commission may provide assistance under the Exceptional Needs School Facilities Program established in section 3318.37 of the Revised Code to any school district, and not exclusively to a school district in the lowest seventy-five per cent of adjusted valuation per pupil on the current ranking of school districts established under section 3318.011 of the Revised Code, for the purpose of the relocation or replacement of school facilities required as a result of extreme environmental contamination.

The school district's portion of a project to replace a contaminated facility undertaken pursuant to this section shall not exceed fifty per cent of the cost of the project. This paragraph does not affect the district's portion of the cost of subsequent classroom facilities projects the district may undertake under Chapter 3318. of the Revised Code.

The Ohio School Facilities Commission shall contract with an independent environmental consultant to conduct a study and to report to the Commission as to the seriousness of the environmental contamination, whether the contamination violates applicable state and federal standards, and whether the facilities are no longer suitable for use as school facilities. The Commission then shall make a determination regarding funding for the relocation or replacement of the school facilities. If the federal government or other public or private entity provides funds for restitution of costs incurred by the state or school district in the relocation or replacement of the school facilities, the school district shall use such funds in excess of the school district's share to refund the state for the state's contribution to the environmental contamination portion of the project. The school district may apply an amount of such restitution funds up to an amount equal to the school district's portion of the project, as defined by the Commission, toward paying its portion of that project to reduce the amount of bonds the school district otherwise must issue to receive state assistance under sections 3318.01 to 3318.20 of the Revised Code.

SECTION 385.60. CANTON CITY SCHOOL DISTRICT PROJECT

(A) The Ohio School Facilities Commission may commit up to thirty-five million dollars to the Canton City School District for construction of a facility described in this section, in lieu of a high school that would

otherwise be authorized under Chapter 3318. of the Revised Code. The Commission shall not commit funds under this section unless all of the following conditions are met:

(1) The District has entered into a cooperative agreement with a state-assisted technical college;

(2) The District has received an irrevocable commitment of additional funding from nonpublic sources; and

(3) The facility is intended to serve both secondary and postsecondary instructional purposes.

(B) The Commission shall enter into an agreement with the District for the construction of the facility authorized under this section that is separate from and in addition to the agreement required for the District's participation in the Classroom Facilities Assistance Program under section 3318.08 of the Revised Code. Notwithstanding that section and sections 3318.03, 3318.04, and 3318.083 of the Revised Code, the additional agreement shall provide, but not be limited to, the following:

(1) The Commission shall not have any oversight responsibilities over the construction of the facility.

(2) The facility need not comply with the specifications for plans and materials for high schools adopted by the Commission.

(3) The Commission may decrease the basic project cost that would otherwise be calculated for a high school under Chapter 3318. of the Revised Code.

(4) The state shall not share in any increases in the basic project cost for the facility above the amount authorized under this section.

All other provisions of Chapter 3318. of the Revised Code apply to the approval and construction of a facility authorized under this section.

The state funds committed to the facility authorized by this section shall be part of the total amount the state commits to the Canton City School District under Chapter 3318. of the Revised Code. All additional state funds committed to the Canton City School District for classroom facilities assistance shall be subject to all provisions of Chapter 3318. of the Revised Code.

SECTION 385.70. Notwithstanding section 3318.05 of the Revised Code, for each school district whose project under sections 3318.01 to 3318.20 of the Revised Code was conditionally approved by the Ohio School Facilities Commission in July 2008, that conditional approval shall lapse and the amount reserved and encumbered for the project shall be released on December 31, 2009.

SECTION 385.80. Notwithstanding any provision of Chapter 3318. of the Revised Code to the contrary, and notwithstanding the agreement between the Cincinnati City School District and the Ohio School Facilities Commission under section 3318.08 of the Revised Code, the Commission shall encumber and pay state funds to the District in the amount of \$4,000,000, in addition to the amount prescribed in that agreement, for the purpose of dedicating additional state funding toward the acquisition of the School for the Creative and Performing Arts, as that building is included in the District's project under section 3318.38 of the Revised Code. The District shall use the funds paid under this section solely for that purpose. The School for the Creative and Performing Arts need not comply with the specifications included in the Ohio Design Manual adopted by the Commission to implement classroom facilities projects under Chapter 3318. of the Revised Code. This section shall not affect any other building included in the District's project under section 3318.38 of the Revised Code, nor shall it affect the state's portion of funding for the remainder of that project.

The Commission shall use funds appropriated to it for classroom facilities projects to pay the funds required under this section. The Commission shall encumber the funds required under this section in accordance with section 3318.11 of the Revised Code.

SECTION 385.85. In fiscal year 2010, the Ohio School Facilities Commission may approve a project under the Exceptional Needs School Facilities Assistance Program established under that section for any school district that meets the following conditions:

(A) The district initially applied for the Exceptional Needs Program in fiscal year 2008.

(B) The district's position on the rankings certified under section 3318.011 of the Revised Code for fiscal year 2009 is higher than three hundred sixty.

SECTION 385.90. (A) As used in this section:

(1) "Basic project cost," "percentile," and "project" have the same meanings as in section 3318.01 of the Revised Code.

(2) "Equity list" means the school district percentile rankings calculated under section 3318.011 of the Revised Code.

(3) A school district's "portion of the basic project cost" means the amount calculated under section 3318.032 of the Revised Code.

(B) Notwithstanding any provision of Chapter 3318. of the Revised Code to the contrary, in the case of a school district that received in fiscal year 2008 elector approval for a bond issue for its portion of the basic project cost of a project under sections 3318.01 to 3318.20 of the Revised Code, based on a preliminary estimated equity list projecting rankings of school districts if amendments to section 3318.011 of the Revised Code enacted by Am. Sub. H.B. 119 of the 127th General Assembly had been effective for projects in that fiscal year, and which district on the alternate equity list for fiscal year 2009 funding required by Section 733.13 of Am. Sub. H.B. 562 of the 127th General Assembly, retroactively applying those amendments, was ranked one percentile higher than on the preliminary estimated equity list, resulting in the district's calculated portion being one per cent higher than the amount projected at the time of the bond issue election, the Ohio School Facilities Commission shall reduce the district's portion to that projected on the preliminary estimated equity list.

SECTION 385.93. (A) As used in this section, "equity list" means the school district percentile rankings calculated under section 3318.011 of the Revised Code.

(B) Not later than thirty days after the effective date of this section, the Department of Education shall create an alternate equity list for fiscal year 2009, for use in fiscal year 2010, by recalculating each school district's percentile ranking under section 3318.011 of the Revised Code and shall certify the alternate equity list to the Ohio School Facilities Commission. For this purpose, the Department shall recalculate each school district's percentile ranking using the district's "average taxable value" as that term is defined in the version of section 3318.011 of the Revised Code, as it results from the amendments to that section enacted by this act.

(C) The Commission shall use the alternate equity list certified under division (B) of this section to determine the priority for assistance under sections 3318.01 to 3318.20 of the Revised Code in fiscal year 2010 for each school district that has not previously been offered funding under those sections. However, no district that already has been offered assistance under those sections for fiscal year 2010 prior to the Commission's receipt of the alternate equity list shall be denied the opportunity for assistance under those sections for that fiscal year.

(D) Notwithstanding any provision of Chapter 3318. of the Revised Code to the contrary, for each school district that receives the Commission's

conditional approval of the district's project under sections 3318.01 to 3318.20 of the Revised Code in fiscal year 2010, the district's portion of the basic project cost shall be the lesser of the following:

(1) The amount required under section 3318.032 of the Revised Code calculated using the percentile in which the district ranks on the alternate equity list certified under division (B) of this section;

(2) The amount required under section 3318.032 of the Revised Code calculated using the percentile in which the district ranks on the original equity list for fiscal year 2009.

PAYMENT OF DEBT FOR STATEHOUSE RESTORATION

There is hereby appropriated from the Public School Building Fund (Fund 7021) in fiscal year 2010 the amount necessary to pay any outstanding debt obligations issued for the restoration of the Ohio Statehouse that was completed in 1996.

SECTION 387.10. SOS SECRETARY OF STATE

General Revenue Fund

GRF 050321	Operating Expenses	\$	2,290,508	\$	2,290,508
GRF 050407	Pollworkers Training	\$	250,197	\$	250,197
TOTAL GRF General Revenue Fund		\$	2,540,705	\$	2,540,705

General Services Fund Group

4120 050609	Notary Commission	\$	500,000	\$	500,000
4130 050601	Information Systems	\$	75,000	\$	50,000
4140 050602	Citizen Education Fund	\$	55,712	\$	55,712
4S80 050610	Board of Voting Machine Examiners	\$	7,200	\$	7,200
5FG0 050620	BOE Reimbursement and Education	\$	100,000	\$	100,000
5FH0 050621	Statewide Ballot Advertising	\$	300,000	\$	300,000
5FJ0 050622	County Voting Machine Revolving Lease/Loan Fund	\$	500,000	\$	500,000
TOTAL General Services Fund Group		\$	1,537,912	\$	1,512,912

Federal Special Revenue Fund Group

3AH0 050614	Election Reform/Health and Human Services	\$	800,000	\$	800,000
3AS0 050616	2005 HAVA Voting Machines	\$	3,000,000	\$	3,000,000
TOTAL FED Federal Special Revenue Fund Group		\$	3,800,000	\$	3,800,000

State Special Revenue Fund Group

5990 050603	Business Services Operating Expenses	\$	14,086,100	\$	14,245,400
5N90 050607	Technology Improvements	\$	180,000	\$	180,000
TOTAL SSR State Special Revenue					

2985

Fund Group		\$	14,266,100	\$	14,425,400
Holding Account Redistribution Fund Group					
R001	050605	Uniform Commercial Code Refunds	\$	30,000	\$ 30,000
R002	050606	Corporate/Business Filing Refunds	\$	85,000	\$ 85,000
TOTAL 090 Holding Account Redistribution Fund Group					
			\$	115,000	\$ 115,000
TOTAL ALL BUDGET FUND GROUPS					
			\$	22,259,717	\$ 22,394,017

BOARD OF VOTING MACHINE EXAMINERS

The foregoing appropriation item 050610, Board of Voting Machine Examiners, shall be used to pay for the services and expenses of the members of the Board of Voting Machine Examiners, and for other expenses that are authorized to be paid from the Board of Voting Machine Examiners Fund, which is created in section 3506.05 of the Revised Code. Moneys not used shall be returned to the person or entity submitting equipment for examination. If it is determined that additional appropriations are necessary, such amounts are hereby appropriated.

HAVA FUNDS

An amount equal to the unexpended, unencumbered portion of appropriation item 050616, 2005 HAVA Voting Machines, at the end of fiscal year 2010 is reappropriated for the same purpose in fiscal year 2011.

An amount equal to the unexpended, unencumbered portion of appropriation item 050614, Election Reform/Health and Human Services, at the end of fiscal year 2010 is reappropriated for the same purpose in fiscal year 2011.

On July 1, 2009, or as soon as possible thereafter, the Director of Budget and Management shall transfer from the General Revenue Fund to the credit of the Election Data Collection Grant Fund (Fund 3AC0), all investment earnings and amounts equal to the interest earnings attributable to Fund 3AC0 in each quarter of fiscal year 2009 to Fund 3AC0. An amount equal to the unexpended, unencumbered portion of appropriation item 050619, Election Data Collection Grant, at the end of fiscal year 2009 is reappropriated in fiscal year 2010 for the same purpose.

The Director of Budget and Management shall credit the ongoing interest earnings from the Election Reform/Health and Human Services Fund (Fund 3AH0), the 2005 HAVA Voting Machines Fund (Fund 3AS0), and the Election Data Collection Grant Fund (Fund 3AC0) to the respective funds and distribute these earnings in accordance with the terms of the grant under which the money is received.

HOLDING ACCOUNT REDISTRIBUTION GROUP

The foregoing appropriation items 050605, Uniform Commercial Code

Refunds, and 050606, Corporate/Business Filing Refunds, shall be used to hold revenues until they are directed to the appropriate accounts or until they are refunded. If it is determined that additional appropriations are necessary, such amounts are hereby appropriated.

CASH TRANSFER TO THE CORPORATE AND UNIFORM COMMERCIAL CODE FILING FUND

On July 1, 2009, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$53,915.40 cash from the Public Utility Territorial Administration Fund (Fund 5590) to the Corporate and Uniform Commercial Code Filing Fund (Fund 5990).

SECTION 389.10. SEN THE OHIO SENATE

General Revenue Fund

GRF 020321	Operating Expenses	\$	10,911,095	\$	10,911,095
TOTAL GRF General Revenue Fund		\$	10,911,095	\$	10,911,095

General Services Fund Group

1020 020602	Senate Reimbursement	\$	852,001	\$	852,001
4090 020601	Miscellaneous Sales	\$	34,497	\$	34,497
TOTAL GSF General Services Fund Group		\$	886,498	\$	886,498
TOTAL ALL BUDGET FUND GROUPS		\$	11,797,593	\$	11,797,593

OPERATING EXPENSES

On July 1, 2009, or as soon as possible thereafter, the Clerk of the Senate may certify to the Director of Budget and Management the amount of the unexpended, unencumbered balance of the foregoing appropriation item 020321, Operating Expenses, at the end of fiscal year 2009 to be reappropriated to fiscal year 2010. The amount certified is hereby reappropriated to the same appropriation item for fiscal year 2010.

On July 1, 2010, or as soon as possible thereafter, the Clerk of the Senate may certify to the Director of Budget and Management the amount of the unexpended, unencumbered balance of the foregoing appropriation item 020321, Operating Expenses, at the end of fiscal year 2010 to be reappropriated to fiscal year 2011. The amount certified is hereby reappropriated to the same appropriation item for fiscal year 2011.

SECTION 391.10. CSF COMMISSIONERS OF THE SINKING FUND

Debt Service Fund Group

7070 155905	Third Frontier Research and Development Bond Retirement Fund	\$	20,948,300	\$	29,011,600
7072 155902	Highway Capital Improvement Bond	\$	202,074,000	\$	203,434,200

	Retirement Fund					
7073	155903	Natural Resources Bond Retirement Fund	\$	26,334,400	\$	26,549,400
7074	155904	Conservation Projects Bond Service Fund	\$	20,711,100	\$	25,684,900
7076	155906	Coal Research and Development Bond Retirement Fund	\$	9,968,400	\$	10,947,000
7077	155907	State Capital Improvement Bond Retirement Fund	\$	148,331,900	\$	163,443,500
7078	155908	Common Schools Bond Retirement Fund	\$	192,559,200	\$	165,510,500
7079	155909	Higher Education Bond Retirement Fund	\$	85,317,700	\$	89,480,300
7090	155912	Job Ready Site Development Bond Retirement Fund	\$	5,685,400	\$	10,601,900
		TOTAL DSF Debt Service Fund Group	\$	711,930,400	\$	724,663,300
		TOTAL ALL BUDGET FUND GROUPS	\$	711,930,400	\$	724,663,300

ADDITIONAL APPROPRIATIONS

Appropriation items in this section are for the purpose of paying debt service and financing costs on bonds or notes of the state issued under the Ohio Constitution and acts of the General Assembly. If it is determined that additional amounts are necessary for this purpose, such amounts are hereby appropriated.

SECTION 393.10. SOA SOUTHERN OHIO AGRICULTURAL AND COMMUNITY DEVELOPMENT FOUNDATION**Tobacco Master Settlement Agreement Fund Group**

5M90	945601	Operating Expenses	\$	450,000	\$	450,000
		TOTAL TMF Tobacco Master Settlement Agreement Fund Group	\$	450,000	\$	450,000
		TOTAL ALL BUDGET FUND GROUPS	\$	450,000	\$	450,000

SECTION 395.10. SPE BOARD OF SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY**General Services Fund Group**

4K90	886609	Operating Expenses	\$	425,000	\$	425,000
		TOTAL GSF General Services Fund Group	\$	425,000	\$	425,000
		TOTAL ALL BUDGET FUND GROUPS	\$	425,000	\$	425,000

SECTION 397.10. BTA BOARD OF TAX APPEALS**General Revenue Fund**

GRF	116321	Operating Expenses	\$	1,149,715	\$	1,149,715
		TOTAL GRF General Revenue Fund	\$	1,149,715	\$	1,149,715
		TOTAL ALL BUDGET FUND GROUPS	\$	1,149,715	\$	1,149,715

SECTION 399.10. TAX DEPARTMENT OF TAXATION

General Revenue Fund

GRF 110321	Operating Expenses	\$	87,841,056	\$	89,941,055
GRF 110404	Tobacco Settlement Enforcement	\$	265,708	\$	265,708
GRF 110412	Child Support Administration	\$	17,561	\$	17,561
GRF 110901	Property Tax Allocation - Taxation	\$	598,917,420	\$	577,463,014
TOTAL GRF General Revenue Fund		\$	687,041,745	\$	667,687,338

General Services Fund Group

2280 110628	Tax Reform System Implementation	\$	13,600,000	\$	13,600,000
4330 110602	Tape File Account	\$	125,000	\$	125,000
5AP0 110632	Discovery Project	\$	2,000,000	\$	2,000,000
5CZ0 110631	Vendor's License Application	\$	250,000	\$	250,000
5N50 110605	Municipal Income Tax Administration	\$	600,000	\$	600,000
5N60 110618	Kilowatt Hour Tax Administration	\$	100,000	\$	100,000
5V80 110623	Property Tax Administration	\$	12,000,000	\$	12,000,000
5W40 110625	Centralized Tax Filing and Payment	\$	200,000	\$	200,000
5W70 110627	Exempt Facility Administration	\$	60,000	\$	60,000
TOTAL GSF General Services Fund Group		\$	28,935,000	\$	28,935,000

State Special Revenue Fund Group

4350 110607	Local Tax Administration	\$	18,000,000	\$	18,000,000
4360 110608	Motor Vehicle Audit	\$	1,000,000	\$	1,000,000
4370 110606	Income Tax Contribution Administration	\$	200,000	\$	200,000
4380 110609	School District Income Tax	\$	5,500,000	\$	5,500,000
4C60 110616	International Registration Plan	\$	706,855	\$	706,855
4R60 110610	Tire Tax Administration	\$	200,000	\$	200,000
5V70 110622	Motor Fuel Tax Administration	\$	4,700,000	\$	4,700,000
6390 110614	Cigarette Tax Enforcement	\$	1,900,000	\$	1,900,000
6420 110613	Ohio Political Party Distributions	\$	500,000	\$	500,000
6880 110615	Local Excise Tax Administration	\$	800,000	\$	800,000
TOTAL SSR State Special Revenue Fund Group		\$	33,506,855	\$	33,506,855

Agency Fund Group

4250 110635	Tax Refunds	\$	1,546,800,000	\$	1,546,800,000
7095 110995	Municipal Income Tax	\$	21,000,000	\$	21,000,000
TOTAL AGY Agency Fund Group		\$	1,567,800,000	\$	1,567,800,000

Holding Account Redistribution Fund Group

R010 110611	Tax Distributions	\$	50,000	\$	50,000
R011 110612	Miscellaneous Income Tax	\$	50,000	\$	50,000

Receipts			
TOTAL 090 Holding Account			
Redistribution Fund Group	\$	100,000	\$ 100,000
TOTAL ALL BUDGET FUND GROUPS	\$	2,317,383,600	\$ 2,298,029,193

HOMESTEAD EXEMPTION, PROPERTY TAX ROLLBACK, AND TANGIBLE TAX EXEMPTION

The foregoing appropriation item 110901, Property Tax Allocation - Taxation, is hereby appropriated to pay for the state's costs incurred due to the Homestead Exemption, the Manufactured Home Property Tax Rollback, and the Property Tax Rollback. The Tax Commissioner shall distribute these funds directly to the appropriate local taxing districts, except for school districts, notwithstanding the provisions in sections 321.24 and 323.156 of the Revised Code, which provide for payment of the Homestead Exemption, the Manufactured Home Property Tax Rollback, and Property Tax Rollback by the Tax Commissioner to the appropriate county treasurer and the subsequent redistribution of these funds to the appropriate local taxing districts by the county auditor.

Upon receipt of these amounts, each local taxing district shall distribute the amount among the proper funds as if it had been paid as real property taxes. Payments for the costs of administration shall continue to be paid to the county treasurer and county auditor as provided for in sections 319.54, 321.26, and 323.156 of the Revised Code.

Any sums, in addition to the amounts specifically appropriated in appropriation item 110901, Property Tax Allocation - Taxation, for the Homestead Exemption, the Manufactured Home Property Tax Rollback, and the Property Tax Rollback payments, which are determined to be necessary for these purposes, are hereby appropriated.

MUNICIPAL INCOME TAX

The foregoing appropriation item 110995, Municipal Income Tax, shall be used to make payments to municipal corporations under section 5745.05 of the Revised Code. If it is determined that additional appropriations are necessary to make such payments, such amounts are hereby appropriated.

TAX REFUNDS

The foregoing appropriation item 110635, Tax Refunds, shall be used to pay refunds under section 5703.052 of the Revised Code. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated.

INTERNATIONAL REGISTRATION PLAN AUDIT

The foregoing appropriation item 110616, International Registration Plan, shall be used under section 5703.12 of the Revised Code for audits of persons with vehicles registered under the International Registration Plan.

TRAVEL EXPENSES FOR THE STREAMLINED SALES TAX PROJECT

Of the foregoing appropriation item 110607, Local Tax Administration, the Tax Commissioner may disburse funds, if available, for the purposes of paying travel expenses incurred by members of Ohio's delegation to the Streamlined Sales Tax Project, as appointed under section 5740.02 of the Revised Code. Any travel expense reimbursement paid for by the Department of Taxation shall be done in accordance with applicable state laws and guidelines.

CENTRALIZED TAX FILING AND PAYMENT FUND

The Director of Budget and Management, under a plan submitted by the Tax Commissioner, or as otherwise determined by the Director of Budget and Management, shall set a schedule to transfer cash from the General Revenue Fund to the credit of the Centralized Tax Filing and Payment Fund (Fund 5W40). The transfers of cash shall not exceed \$400,000 in the biennium.

TOBACCO SETTLEMENT ENFORCEMENT

The foregoing appropriation item 110404, Tobacco Settlement Enforcement, shall be used by the Tax Commissioner to pay costs incurred in the enforcement of divisions (F) and (G) of section 5743.03 of the Revised Code.

LOCAL GOVERNMENT PROPERTY TAX REPLACEMENT - BUSINESS

Notwithstanding section 5751.22(A)(1)(b) of the Revised Code, payments to local taxing units by May 31, 2011, required by section 5751.22(C) of the Revised Code shall be in an amount equal to each of the losses determined under division (D) of section 5751.20 of the Revised Code multiplied by one hundred per cent.

SECTION 399.20. COMMERCIAL ACTIVITY TAX

(A) Any term used in this section has the same meaning as in section 5751.01 of the Revised Code.

(B)(1) A person is not required to pay the annual minimum commercial activity tax due for calendar year 2005 or 2006 under Chapter 5751. of the Revised Code if the person satisfies all of the following:

(a) The person was not subject to the tax for those years because the person did not have nexus with this state or was an excluded person under division (E)(1) of section 5751.01 of the Revised Code;

(b) The person erroneously registered for the tax and failed to cancel the registration before May 10, 2006;

(c) The person canceled its commercial activity tax registration before February 10, 2007, and was not required to file the returns and pay the annual minimum tax due February 9, 2007, February 9, 2008, or February 9, 2009.

(2) Notwithstanding division (E) of section 5751.08 of the Revised Code, if a person satisfying divisions (B)(1)(a), (b), and (c) of this section paid the tax due for calendar year 2005 or 2006 after being contacted by the Department of Taxation, the person may request a refund of the amount paid for that year under that section.

(C) The Tax Commissioner shall cancel the registration of each such person for which the registration has not yet been canceled.

SECTION 401.10. DOT DEPARTMENT OF TRANSPORTATION

General Revenue Fund

GRF 775451	Public Transportation - State	\$	10,870,642	\$	10,870,642
GRF 776465	Ohio Rail Development Commission	\$	2,287,950	\$	2,287,950
GRF 777471	Airport Improvements - State	\$	923,064	\$	923,064
TOTAL GRF General Revenue Fund		\$	14,081,656	\$	14,081,656
TOTAL ALL BUDGET FUND GROUPS		\$	14,081,656	\$	14,081,656

SECTION 403.10. TOS TREASURER OF STATE

General Revenue Fund

GRF 090321	Operating Expenses	\$	8,281,875	\$	8,281,875
GRF 090401	Office of the Sinking Fund	\$	537,223	\$	537,223
GRF 090402	Continuing Education	\$	403,959	\$	403,959
GRF 090524	Police and Fire Disability Pension Fund	\$	8,000	\$	7,500
GRF 090534	Police and Fire Ad Hoc Cost of Living	\$	95,000	\$	90,000
GRF 090554	Police and Fire Survivor Benefits	\$	720,000	\$	680,000
GRF 090575	Police and Fire Death Benefits	\$	20,000,000	\$	20,000,000
TOTAL GRF General Revenue Fund		\$	30,046,057	\$	30,000,557

General Services Fund Group

4E90 090603	Securities Lending Income	\$	4,200,000	\$	4,200,000
5770 090605	Investment Pool Reimbursement	\$	550,000	\$	550,000
5C50 090602	County Treasurer Education	\$	150,000	\$	150,000
6050 090609	Treasurer of State Administrative Fund	\$	185,000	\$	185,000
TOTAL GSF General Services Fund Group		\$	5,085,000	\$	5,085,000

Agency Fund Group

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4250 090635 Tax Refunds	\$	31,000,000	\$	31,000,000
TOTAL Agency Fund Group	\$	31,000,000	\$	31,000,000
TOTAL ALL BUDGET FUND GROUPS	\$	66,131,057	\$	66,085,557

SECTION 403.20. OFFICE OF THE SINKING FUND

The foregoing appropriation item 090401, Office of the Sinking Fund, shall be used for costs incurred by or on behalf of the Commissioners of the Sinking Fund and the Ohio Public Facilities Commission with respect to State of Ohio general obligation bonds or notes, and the Treasurer of State with respect to State of Ohio general obligation and special obligation bonds or notes, including, but not limited to, printing, advertising, delivery, rating fees and the procurement of ratings, professional publications, membership in professional organizations, and other services referred to in division (D) of section 151.01 of the Revised Code. The General Revenue Fund shall be reimbursed for such costs relating to the issuance and administration of Highway Capital Improvement bonds or notes authorized under Ohio Constitution, Article VIII, Section 2m and Chapter 151. of the Revised Code. That reimbursement shall be made from appropriation item 155902, Highway Capital Improvement Bond Retirement Fund, by intrastate transfer voucher pursuant to a certification by the Office of the Sinking Fund of the actual amounts used. The amounts necessary to make such a reimbursement are hereby appropriated from the Highway Capital Improvement Bond Retirement Fund created in section 151.06 of the Revised Code.

POLICE AND FIRE DEATH BENEFIT FUND

The foregoing appropriation item 090575, Police and Fire Death Benefits, shall be disbursed quarterly by the Treasurer of State at the beginning of each quarter of each fiscal year to the Board of Trustees of the Ohio Police and Fire Pension Fund. The Treasurer of State shall certify such amounts quarterly to the Director of Budget and Management. By the twentieth day of June of each fiscal year, the Board of Trustees of the Ohio Police and Fire Pension Fund shall certify to the Treasurer of State the amount disbursed in the current fiscal year to make the payments required by section 742.63 of the Revised Code and shall return to the Treasurer of State moneys received from this appropriation item but not disbursed.

TAX REFUNDS

The foregoing appropriation item 090635, Tax Refunds, shall be used to pay refunds under section 5703.052 of the Revised Code. If the Director of Budget and Management determines that additional amounts are necessary for this purpose, such amounts are hereby appropriated.

SECTION 405.10. TTA OHIO TUITION TRUST

State Special Revenue Fund Group

5P30	095602	Variable Savings Plans	\$	6,175,707	\$	6,156,515
6450	095601	Guaranteed Savings Plan	\$	842,959	\$	862,150
TOTAL SSR State Special Revenue						
Fund Group			\$	7,018,666	\$	7,018,665
TOTAL ALL BUDGET FUND GROUPS			\$	7,018,666	\$	7,018,665

FUND ABOLITION

On July 1, 2009, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance in the Index Savings Plan Fund (Fund 5AM0) to the Variable Savings Fund (Fund 5P30). The Director shall cancel any existing encumbrances against appropriation item 095603, Index Savings Plan, and re-establish them against appropriation item 095602, Variable Savings Plans. The re-established encumbrance amounts are hereby appropriated. Upon completion of these transfers, Fund 5AM0 is hereby abolished.

On July 1, 2009, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance in the Banking Products Fund (Fund 5DC0) to the Variable College Savings Fund (Fund 5P30). The Director shall cancel any existing encumbrances against appropriation item 095604, Banking Products, and re-establish them against appropriation item 095602, Variable Savings Plans. The re-established encumbrance amounts are hereby appropriated. Upon completion of these transfers, Fund 5DC0 is hereby abolished.

SECTION 407.10. VTO VETERANS' ORGANIZATIONS

General Revenue Fund

VAP AMERICAN EX-PRISONERS OF WAR						
GRF	743501	State Support	\$	27,533	\$	27,533
VAN ARMY AND NAVY UNION, USA, INC.						
GRF	746501	State Support	\$	60,513	\$	60,513
VKW KOREAN WAR VETERANS						
GRF	747501	State Support	\$	54,398	\$	54,398
VJW JEWISH WAR VETERANS						
GRF	748501	State Support	\$	32,687	\$	32,687
VCW CATHOLIC WAR VETERANS						
GRF	749501	State Support	\$	63,789	\$	63,789
VPH MILITARY ORDER OF THE PURPLE HEART						
GRF	750501	State Support	\$	62,015	\$	62,015
VVV VIETNAM VETERANS OF AMERICA						
GRF	751501	State Support	\$	204,549	\$	204,549

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VAL AMERICAN LEGION OF OHIO					
GRF	752501	State Support	\$	332,561	\$ 332,561
VII AMVETS					
GRF	753501	State Support	\$	316,711	\$ 316,711
VAV DISABLED AMERICAN VETERANS					
GRF	754501	State Support	\$	237,939	\$ 237,939
VMC MARINE CORPS LEAGUE					
GRF	756501	State Support	\$	127,569	\$ 127,569
V37 37TH DIVISION AEF VETERANS' ASSOCIATION					
GRF	757501	State Support	\$	6,541	\$ 6,541
VFW VETERANS OF FOREIGN WARS					
GRF	758501	State Support	\$	271,277	\$ 271,277
TOTAL GRF General Revenue Fund			\$	1,798,082	\$ 1,798,082
TOTAL ALL BUDGET FUND GROUPS			\$	1,798,082	\$ 1,798,082

RELEASE OF FUNDS

The Director of Budget and Management may release the foregoing appropriation items 743501, 746501, 747501, 748501, 749501, 750501, 751501, 752501, 753501, 754501, 756501, 757501, and 758501, State Support.

SECTION 409.10. DVS DEPARTMENT OF VETERANS SERVICES**General Revenue Fund**

GRF	900100	Personal Services	\$	25,219,282	\$ 25,219,282
GRF	900200	Maintenance	\$	4,427,264	\$ 4,427,264
GRF	900402	Hall of Fame	\$	118,750	\$ 118,750
GRF	900403	Veteran Record Conversion	\$	40,631	\$ 40,631
GRF	900408	Department of Veterans Services	\$	2,054,790	\$ 2,054,790
TOTAL GRF General Revenue Fund			\$	31,860,717	\$ 31,860,717

General Services Fund Group

4840	900603	Veterans Home Services	\$	770,000	\$ 850,000
TOTAL GSF General Services Fund Group			\$	770,000	\$ 850,000

Federal Special Revenue Fund Group

3680	900614	Veterans Training	\$	745,892	\$ 745,892
3740	900606	Troops to Teachers	\$	100,000	\$ 100,000
3BX0	900609	Medicare Services	\$	2,000,000	\$ 2,200,000
3L20	900601	Veterans Home Operations - Federal	\$	16,979,245	\$ 17,454,046
TOTAL FED Federal Special Revenue Fund Group			\$	19,825,137	\$ 20,499,938

State Special Revenue Fund Group

4E20	900602	Veterans Home Operating	\$	9,314,438	\$ 9,780,751
6040	900604	Veterans Home Improvement	\$	1,541,020	\$ 1,700,000
TOTAL SSR State Special Revenue Fund Group			\$	10,855,458	\$ 11,480,751
TOTAL ALL BUDGET FUND GROUPS			\$	63,311,312	\$ 64,691,406

SECTION 411.10. DVM STATE VETERINARY MEDICAL BOARD

General Services Fund Group

4K90 888609	Operating Expenses	\$	319,407	\$	319,407
TOTAL GSF General Services					
Fund Group		\$	319,407	\$	319,407
TOTAL ALL BUDGET FUND GROUPS		\$	319,407	\$	319,407

SECTION 413.10. DYS DEPARTMENT OF YOUTH SERVICES

General Revenue Fund

GRF 470401	RECLAIM Ohio	\$	196,288,874	\$	184,026,374
GRF 470412	Lease Rental Payments	\$	22,863,300	\$	26,043,900
GRF 470510	Youth Services	\$	16,702,728	\$	16,702,728
GRF 472321	Parole Operations	\$	11,400,020	\$	11,400,020
GRF 477321	Administrative Operations	\$	13,342,557	\$	13,580,057
TOTAL GRF General Revenue Fund		\$	260,597,479	\$	251,753,079

General Services Fund Group

1750 470613	Education Reimbursement	\$	11,000,000	\$	11,000,000
4790 470609	Employee Food Service	\$	200,000	\$	150,000
4A20 470602	Child Support	\$	450,000	\$	450,000
4G60 470605	General Operational Funds	\$	250,000	\$	250,000
5BN0 470629	E-Rate Program	\$	35,000	\$	35,000
TOTAL GSF General Services		\$	11,935,000	\$	11,885,000

Federal Special Revenue Fund Group

3210 470601	Education	\$	6,531,076	\$	5,455,413
3210 470603	Juvenile Justice Prevention	\$	300,000	\$	300,000
3210 470606	Nutrition	\$	2,750,000	\$	2,750,000
3210 470610	Rehabilitation Programs	\$	36,000	\$	36,000
3210 470614	Title IV-E Reimbursements	\$	6,000,000	\$	6,000,000
3BH0 470630	Federal Juvenile Programs FFY 06	\$	50,000	\$	0
3BT0 470634	Federal Juvenile Programs	\$	50,000	\$	0
3BY0 470635	Federal Juvenile Programs FFY 07	\$	334,000	\$	335,000
3BZ0 470636	Federal Juvenile Programs FFY 08	\$	653,350	\$	570,700
3CP0 470638	Federal Juvenile Programs FFY 09	\$	500,000	\$	500,000
3CR0 470639	Federal Juvenile Programs FFY 10	\$	0	\$	500,000
3V50 470604	Juvenile Justice/Delinquency Prevention	\$	1,935,300	\$	2,361,000
3Z80 470625	Federal Juvenile Programs FFY 04	\$	2,000	\$	0
3Z90 470626	Federal Juvenile Programs FFY 05	\$	2,000	\$	0
TOTAL FED Federal Special Revenue		\$	19,143,726	\$	18,808,113

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State Special Revenue Fund Group

1470	470612	Vocational Education	\$	2,166,296	\$	2,788,906
5BH0	470628	Partnerships for Success	\$	1,500,000	\$	1,500,000
TOTAL SSR State Special Revenue						
Fund Group			\$	3,666,296	\$	4,288,906
TOTAL ALL BUDGET FUND GROUPS			\$	295,342,501	\$	286,735,098

OHIO BUILDING AUTHORITY LEASE PAYMENTS

The foregoing appropriation item 470412, Lease Rental Payments, shall be used to meet all payments to the Ohio Building Authority for the period from July 1, 2009, to June 30, 2011, under the leases and agreements for facilities made under Chapter 152. of the Revised Code. This appropriation is the source of funds pledged for bond service charges on related obligations issued pursuant to Chapter 152. of the Revised Code.

EDUCATION REIMBURSEMENT

The foregoing appropriation item 470613, Education Reimbursement, shall be used to fund the operating expenses of providing educational services to youth supervised by the Department of Youth Services. Operating expenses include, but are not limited to, teachers' salaries, maintenance costs, and educational equipment. This appropriation item may be used for capital expenses related to the education program.

EMPLOYEE FOOD SERVICE AND EQUIPMENT

Notwithstanding section 125.14 of the Revised Code, the foregoing appropriation item 470609, Employee Food Service, may be used to purchase any food operational items with funds received into the fund from reimbursements for state surplus property.

SECTION 503.10. PERSONAL SERVICE EXPENSES

Unless otherwise prohibited by law, any appropriation from which personal service expenses are paid shall bear the employer's share of public employees' retirement, workers' compensation, disabled workers' relief, and all group insurance programs; the costs of centralized accounting, centralized payroll processing, and related personnel reports and services; the cost of the Office of Collective Bargaining; the cost of the Employee Assistance Program; the cost of the affirmative action and equal employment opportunity programs administered by the Department of Administrative Services; the costs of interagency information management infrastructure; and the cost of administering the state employee merit system as required by section 124.07 of the Revised Code. These costs shall be determined in conformity with the appropriate sections of law and paid in accordance with procedures specified by the Office of Budget and Management. Expenditures from appropriation item 070601, Public Audit

Expense - Local Government, may be exempted from the requirements of this section.

SECTION 503.20. SATISFACTION OF JUDGMENTS AND SETTLEMENTS AGAINST THE STATE

Except as otherwise provided in this section, an appropriation in this act or any other act may be used for the purpose of satisfying judgments, settlements, or administrative awards ordered or approved by the Court of Claims or by any other court of competent jurisdiction in connection with civil actions against the state. This authorization does not apply to appropriations to be applied to or used for payment of guarantees by or on behalf of the state, or for payments under lease agreements relating to, or debt service on, bonds, notes, or other obligations of the state. Notwithstanding any other statute to the contrary, this authorization includes appropriations from funds into which proceeds of direct obligations of the state are deposited only to the extent that the judgment, settlement, or administrative award is for, or represents, capital costs for which the appropriation may otherwise be used and is consistent with the purpose for which any related obligations were issued or entered into. Nothing contained in this section is intended to subject the state to suit in any forum in which it is not otherwise subject to suit, and is not intended to waive or compromise any defense or right available to the state in any suit against it.

SECTION 503.30. CAPITAL PROJECT SETTLEMENTS

This section specifies an additional and supplemental procedure to provide for payments of judgments and settlements if the Director of Budget and Management determines, pursuant to division (C)(4) of section 2743.19 of the Revised Code, that sufficient unencumbered moneys do not exist in the fund to support a particular appropriation to pay the amount of a final judgment rendered against the state or a state agency, including the settlement of a claim approved by a court, in an action upon and arising out of a contractual obligation for the construction or improvement of a capital facility if the costs under the contract were payable in whole or in part from a state capital projects appropriation. In such a case, the Director may either proceed pursuant to division (C)(4) of section 2743.19 of the Revised Code or apply to the Controlling Board to increase an appropriation or create an appropriation out of any unencumbered moneys in the state treasury to the credit of the capital projects fund from which the initial state appropriation was made. The amount of an increase in appropriation or new appropriation

approved by the Controlling Board is hereby appropriated from the applicable capital projects fund and made available for the payment of the judgment or settlement.

If the Director does not make the application authorized by this section or the Controlling Board disapproves the application, and the Director does not make application under division (C)(4) of section 2743.19 of the Revised Code, the Director shall for the purpose of making that payment make a request to the General Assembly as provided for in division (C)(5) of that section.

SECTION 503.40. RE-ISSUANCE OF VOIDED WARRANTS

In order to provide funds for the reissuance of voided warrants under section 126.37 of the Revised Code, there is hereby appropriated, out of moneys in the state treasury from the fund credited as provided in section 126.37 of the Revised Code, that amount sufficient to pay such warrants when approved by the Office of Budget and Management.

SECTION 503.50. REAPPROPRIATION OF UNEXPENDED ENCUMBERED BALANCES OF OPERATING APPROPRIATIONS

(A) An unexpended balance of an operating appropriation or reappropriation that a state agency lawfully encumbered prior to the close of a fiscal year is hereby reappropriated on the first day of July of the following fiscal year from the fund from which it was originally appropriated or reappropriated for the following period and shall remain available only for the purpose of discharging the encumbrance:

(1) For an encumbrance for personal services, maintenance, equipment, or items for resale, other than an encumbrance for an item of special order manufacture not available on term contract or in the open market or for reclamation of land or oil and gas wells, for a period of not more than five months from the end of the fiscal year;

(2) For an encumbrance for an item of special order manufacture not available on term contract or in the open market, for a period of not more than five months from the end of the fiscal year or, with the written approval of the Director of Budget and Management, for a period of not more than twelve months from the end of the fiscal year;

(3) For an encumbrance for reclamation of land or oil and gas wells, for a period ending when the encumbered appropriation is expended or for a period of two years, whichever is less;

(4) For an encumbrance for any other expense, for such period as the

Director approves, provided such period does not exceed two years.

(B) Any operating appropriations for which unexpended balances are reappropriated beyond a five-month period from the end of the fiscal year by division (A)(2) of this section shall be reported to the Controlling Board by the Director of Budget and Management by the thirty-first day of December of each year. The report on each such item shall include the item, the cost of the item, and the name of the vendor. The report shall be updated on a quarterly basis for encumbrances remaining open.

(C) Upon the expiration of the reappropriation period set out in division (A) of this section, a reappropriation made by this section lapses, and the Director of Budget and Management shall cancel the encumbrance of the unexpended reappropriation not later than the end of the weekend following the expiration of the reappropriation period.

(D) Notwithstanding division(C) of this section, with the approval of the Director of Budget and Management, an unexpended balance of an encumbrance that was reappropriated on the first day of July by this section for a period specified in division (A)(3) or (4) of this section and that remains encumbered at the close of the fiscal biennium is hereby reappropriated on the first day of July of the following fiscal biennium from the fund from which it was originally appropriated or reappropriated for the applicable period specified in division (A)(3) or (4) of this section and shall remain available only for the purpose of discharging the encumbrance.

(E) The Director of Budget and Management may correct accounting errors committed by the staff of the Office of Budget and Management, such as re-establishing encumbrances or appropriations cancelled in error, during the cancellation of operating encumbrances in November and of nonoperating encumbrances in December.

(F) If the Controlling Board approved a purchase, that approval remains in effect so long as the appropriation used to make that purchase remains encumbered.

SECTION 503.60. APPROPRIATIONS RELATED TO CASH TRANSFERS AND RE-ESTABLISHMENT OF ENCUMBRANCES

Any cash transferred by the Director of Budget and Management under section 126.15 of the Revised Code is hereby appropriated. Any amounts necessary to re-establish appropriations or encumbrances under section 126.15 of the Revised Code are hereby appropriated.

SECTION 503.70. INCOME TAX DISTRIBUTION TO COUNTIES

There are hereby appropriated out of any moneys in the state treasury to the credit of the General Revenue Fund, which are not otherwise appropriated, funds sufficient to make any payment required by division (B)(2) of section 5747.03 of the Revised Code.

SECTION 503.80. EXPENDITURES AND APPROPRIATION INCREASES APPROVED BY THE CONTROLLING BOARD

Any money that the Controlling Board approves for expenditure or any increase in appropriation that the Controlling Board approves under sections 127.14, 131.35, and 131.39 of the Revised Code or any other provision of law is hereby appropriated for the period ending June 30, 2011.

SECTION 503.90. FUNDS RECEIVED FOR USE OF GOVERNOR'S RESIDENCE

If the Governor's Residence Fund (Fund 4H20) receives payment for use of the residence pursuant to section 107.40 of the Revised Code, the amounts so received are hereby appropriated to appropriation item 100604, Governor's Residence Gift.

SECTION 503.95. The Director of Transportation shall permit the construction of a curb cut on State Route 91, near Vine Street, in Lake County.

SECTION 506.10. UTILITY RADIOLOGICAL SAFETY BOARD ASSESSMENTS

Unless the agency and nuclear electric utility mutually agree to a higher amount by contract, the maximum amounts that may be assessed against nuclear electric utilities under division (B)(2) of section 4937.05 of the Revised Code and deposited into the specified funds are as follows:

<u>Fund</u>	<u>User</u>	<u>FY 2010</u>	<u>FY 2011</u>
Utility Radiological Safety Fund (Fund 4E40)	Department of Agriculture	\$ 134,631	\$ 134,631
Radiation Emergency Response Fund (Fund 6100)	Department of Health	\$ 887,445	\$ 920,372
ER Radiological Safety Fund (Fund 6440)	Environmental Protection Agency	\$ 286,114	\$ 286,114

Emergency Response Plan Fund (Fund 6570)	Department of Public Safety	\$1,413,889 \$ 1,415,945
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SECTION 506.20. On July 1, 2009, and on the first day of the month for each month thereafter, the Treasurer of State, before making any of the distributions specified in sections 5735.23, 5735.26, 5735.291, and 5735.30 of the Revised Code, shall deposit the first 2 per cent of the amount of motor fuel tax received for the preceding calendar month to the credit of the Highway Operating Fund (Fund 7002). Upon the written request of the Director of Public Safety, the Director of Budget and Management may make periodic transfers of cash totaling \$16,220,000 in each fiscal year from the Highway Operating Fund (Fund 7002) to the State Highway Safety Fund (Fund 7036).

SECTION 509.10. (A) There is hereby created the Budget Planning and Management Commission, consisting of six members. The Speaker of the House of Representatives shall appoint three members of the House of Representatives, not more than two of whom shall be members of the same political party, and the President of the Senate shall appoint three members of the Senate, not more than two of whom shall be members of the same political party. The initial appointments shall be made not later than ninety days after the effective date of this section. Vacancies shall be filled in the manner provided for original appointments.

(B) The commission shall complete a study and make recommendations that are designed to provide relief to the state during the current difficult fiscal and economic period. In developing the recommendations, the commission shall develop a strategy for balancing the state budget for fiscal years 2012 and 2013.

(C) The commission shall appoint two of its members to serve as co-chairpersons for the commission. One co-chairperson shall be a member of the majority party of the House of Representatives, and one co-chairperson shall be a member of the majority party of the Senate. Commission meetings shall take place at the call of the co-chairpersons of the commission. The commission shall conduct meetings during the period of July 1, 2009, through November 30, 2010.

(D) Not later than November 30, 2010, the commission shall submit a written report of its recommendations to the Speaker of the House of Representatives, the President of the Senate, and the Governor. The commission ceases to exist upon submission of its report.

(E) The Legislative Service Commission shall provide technical, professional, and clerical support necessary for the Budget Planning and Management Commission to perform its duties.

SECTION 512.10. TRANSFERS TO THE GENERAL REVENUE FUND OF INTEREST EARNED

Notwithstanding any provision of law to the contrary, the Director of Budget and Management, through June 30, 2011, may transfer interest earned by any state fund to the General Revenue Fund. This section does not apply to funds whose source of revenue is restricted or protected by the Ohio Constitution, federal tax law, or the "Cash Management Improvement Act of 1990," 104 Stat. 1058 (1990), 31 U.S.C. 6501 et seq., as amended.

SECTION 512.30. GRF TRANSFER TO THE OAKS PROJECT IMPLEMENTATION FUND

On July 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management shall transfer an amount not to exceed \$2,100,000 cash from the General Revenue Fund to the OAKS Project Implementation Fund (Fund 5N40).

SECTION 512.40. TRANSFERS FROM THE BUDGET STABILIZATION FUND

Notwithstanding any provision of law to the contrary, the Director of Budget and Management, in either year of the biennium, may transfer cash from the Budget Stabilization Fund to the General Revenue Fund in order to balance General Revenue Fund revenues with General Revenue Fund expenditures. Before any such transfer, the Director shall notify the Governor, the Speaker of the House of Representatives, the President of the Senate, and the Minority Leaders of the House of Representatives and the Senate of the date and amount of the transfer and the cash balance remaining in the Budget Stabilization Fund.

SECTION 512.50. TRANSFERS FROM EDUCATION FACILITIES TRUST AND PUBLIC SCHOOL BUILDING FUNDS TO GRF

Notwithstanding any provision of law to the contrary, the Director of Budget and Management shall transfer a total of \$250,000,000 cash in either fiscal year 2010 or fiscal year 2011 from the Education Facilities Trust Fund (Fund N087) and the Public School Building Fund (Fund 7021), which are

used by the School Facilities Commission, to the General Revenue Fund. Not later than June 30, 2013, \$250,000,000 cash shall be deposited into a fund of the Commission, for the purpose of constructing or renovating school facilities pursuant to Chapter 3318. of the Revised Code.

SECTION 512.60. CASH TRANSFERS TO THE GENERAL REVENUE FUND FROM NON-GRF FUNDS

Notwithstanding any provision of law to the contrary, during fiscal years 2010 and 2011, the Director of Budget and Management may transfer cash from non-General Revenue Funds that are not constitutionally restricted to the General Revenue Fund in order to ensure that available General Revenue Fund receipts and balances are sufficient to support General Revenue Fund appropriations in each fiscal year.

Before September 1 of each fiscal year, the Director of Budget and Management shall prepare quarterly estimates identifying funds in the state treasury from which cash transfers are to be made and the anticipated amount of these cash transfers. Beginning with the quarter ending September 30, 2009, and on a quarterly basis thereafter, the Director of Budget and Management shall prepare a summary comparing the estimated and actual amounts of these cash transfers by fund. This quarterly summary shall be included in the report required under section 126.05 of the Revised Code.

SECTION 512.80. GRF TRANSFER TO THE PUBLIC AUDIT EXPENSE INTRA-STATE FUND

On July 1, 2009, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$400,900 cash from the General Revenue Fund to the Public Audit Expense Intra-State Fund (Fund 1090). The amounts transferred are hereby appropriated to help pay for expenses incurred in the Auditor of State's role relating to fiscal caution, fiscal watch, and fiscal emergency activities as defined in Chapter 3316. of the Revised Code and for performance audits for school districts in fiscal distress.

SECTION 512.85. TRANSFER AND ADJUSTMENT OF ARRA STATE FISCAL STABILIZATION FUND APPROPRIATIONS

The Director of Budget and Management, with the approval of Controlling Board, may transfer appropriation between GRF appropriation items within the budgets and between the budgets of agencies receiving

funding from the State Fiscal Stabilization Fund – Government Services in each fiscal year upon the written request of the relevant agency, including transferring appropriation between fiscal year 2010 and fiscal year 2011, if necessary to meet the maintenance of effort and use of funds provisions in the American Recovery and Reinvestment Act.

SECTION 512.90. CASH TRANSFERS FROM THE TOBACCO USE PREVENTION AND CONTROL FOUNDATION ENDOWMENT FUND

The Director of Budget and Management may request the Treasurer of State to transfer \$258,622,890 cash from moneys in the custody of the Treasurer of State that were formerly to the credit of the Tobacco Use Prevention and Control Foundation Endowment Fund, to the General Health and Human Service Pass-Through Fund (Fund 5HC0). If any cash is transferred to the General Health and Human Service Pass-Through Fund (Fund 5HC0) the Director of Budget and Management shall transfer the cash as follows:

(A) Up to \$46,000,000 cash in each fiscal year to the Child and Adult Protective Services Fund (Fund 5GV0), used by the Department of Job and Family Services, to support child and adult protective services under Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended. The amount transferred is hereby appropriated.

(B) Up to \$31,808,863 cash in fiscal year 2010 to the Health Care Services – Other Fund (Fund 5HA0), used by the Department of Job and Family Services and up to \$129,814,027 cash in fiscal year 2011 to Fund 5HA0, to support health care services under the state Medicaid plan. The amount transferred is hereby appropriated.

(C) Up to \$2,500,000 cash in each fiscal year to the Breast and Cervical Cancer Fund (Fund 5HB0), used by the Department of Health, to support breast and cervical cancer screenings. The amount transferred is hereby appropriated.

SECTION 515.10. On and after the effective date of section 3354.24 of the Revised Code as enacted by Sub. H.B. 1 of the 128th General Assembly:

(A) The board of trustees of the Eastern Gateway Community College District (the District) shall have the powers and duties formerly prescribed as powers and duties of the board of trustees of the Jefferson County Community College District and any additional powers and duties granted or imposed by law.

(B) The board of trustees of the District assumes the obligations of, and

is the successor to and continuation of, the board of trustees of the Jefferson County Community College District.

(C) Any business commenced but not completed by the board of trustees of the Jefferson County Community College District shall be completed by the board of trustees of the District in the same manner, and with the same effect, as if completed by the board of trustees of the Jefferson County Community College District. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the enactment by this act of this section and section 3354.24 of the Revised Code.

(D) Rules of the board of trustees of the Jefferson County Community College District shall continue as rules for the board of trustees of the District until amended or rescinded by the board of trustees of the District.

(E) Any reference in statute, rule, contract, grant, or other document to the board of trustees of the Jefferson County Community College District shall be construed to refer to the board of trustees of the District.

(F) No judicial, administrative, or other proceeding to which the board of trustees of the Jefferson County Community College District is a party and that is pending on the effective date of this section shall be affected by the enactment by this act of this section and section 3354.24 of the Revised Code. Upon application to the court or other tribunal, the board of trustees of the District shall be substituted for the board of trustees of the Jefferson County Community College District as a party to the action or proceeding, and the action shall be prosecuted or defended in the name of the board of trustees of the District.

(G) All books, records, documents, files, transcripts, equipment, furniture, supplies, and other materials assigned to or possessed by the board of trustees of the Jefferson County Community College District shall be transferred to the board of trustees of the District.

(H) The employees of the board of trustees of the Jefferson County Community College District shall be employees of the board of trustees of the District.

SECTION 515.20. On the effective date of this section, the duties, responsibilities, and functions of the Ohio Board of Regents under sections 4741.41, 4741.44, 4741.45, and 4741.46 of the Revised Code and its assets and liabilities under those sections are transferred to the State Veterinary Medical Licensing Board. The State Veterinary Medical Licensing Board assumes the obligations and authority of the Ohio Board of Regents with regard to sections 4741.41, 4741.44, 4741.45, and 4741.46 of the Revised

Code. No right, privilege, or remedy, and no duty, liability, or obligation, accrued by the Ohio Board of Regents under sections 4741.41, 4741.44, 4741.45, and 4741.46 of the Revised Code is impaired or lost by reason of the transfer and shall be recognized, administered, performed, or enforced by the State Veterinary Medical Licensing Board.

Business commenced but not completed by the Ohio Board of Regents with regard to sections 4741.41, 4741.44, 4741.45, and 4741.46 of the Revised Code shall be completed by the State Veterinary Medical Licensing Board in the same manner, and with the same effect, as if completed by the Ohio Board of Regents.

All determinations of the Ohio Board of Regents that are made pursuant to sections 4741.41, 4741.44, 4741.45, and 4741.46 of the Revised Code continue in effect as determinations of the State Veterinary Medical Licensing Board until modified or rescinded by the State Veterinary Medical Licensing Board.

Whenever the Ohio Board of Regents is referred to in statute, contract, or other instrument for the purposes of sections 4741.41, 4741.44, 4741.45, and 4741.46 of the Revised Code, the reference is deemed to refer to the State Veterinary Medical Licensing Board.

No pending action or proceeding being prosecuted or defended in court or before any agency by the Ohio Board of Regents for the purposes of sections 4741.41, 4741.44, 4741.45, and 4741.46 of the Revised Code is affected by the transfer and shall be prosecuted or defended in the name of the State Veterinary Medical Licensing Board. Upon application to the court or agency, the State Veterinary Medical Licensing Board shall be substituted as a party.

SECTION 515.30. On the effective date of this section, the Division of Soil and Water Conservation in the Department of Natural Resources is renamed the Division of Soil and Water Resources. The Division of Soil and Water Conservation's functions, and its assets and liabilities, are transferred to the Division of Soil and Water Resources. The Division of Soil and Water Resources is successor to, assumes the obligations and authority of, and otherwise continues the Division of Soil and Water Conservation. No right, privilege, or remedy, and no duty, liability, or obligation, accrued under the Division of Soil and Water Conservation is impaired or lost by reason of the renaming and shall be recognized, administered, performed, or enforced by the Division of Soil and Water Resources.

Business commenced but not completed by the Division of Soil and Water Conservation or by the Chief of the Division of Soil and Water Conservation shall be completed by the Division of Soil and Water Resources or the Chief of the Division of Soil and Water Resources in the same manner, and with the same effect, as if completed by the Division of Soil and Water Conservation or the Chief of the Division of Soil and Water Conservation.

All of the Division of Soil and Water Conservation's rules, orders, and determinations continue in effect as rules, orders, and determinations of the Division of Soil and Water Resources until modified or rescinded by the Division of Soil and Water Resources.

Subject to the layoff provisions of sections 124.321 to 124.382 of the Revised Code, all employees of the Division of Soil and Water Conservation continue with the Division of Soil and Water Resources and retain their positions and all benefits accruing thereto.

The Director of Budget and Management shall determine the amount of unexpended balances in the appropriation accounts that pertain to the Division of Soil and Water Conservation and shall recommend to the Controlling Board their transfer to the appropriation accounts that pertain to the Division of Soil and Water Resources. The Chief of the Division of Soil and Water Conservation shall provide full and timely information to the Controlling Board to facilitate the transfer.

Whenever the Division of Soil and Water Conservation or the Chief of the Division of Soil and Water Conservation is referred to in a statute, contract, or other instrument, the reference is deemed to refer to the Division of Soil and Water Resources or to the Chief of the Division of Soil and Water Resources, whichever is appropriate in context.

No pending action or proceeding being prosecuted or defended in court or before an agency by the Division of Soil and Water Conservation or the Chief of the Division of Soil and Water Conservation is affected by the renaming and shall be prosecuted or defended in the name of the Division of Soil and Water Resources or the Chief of the Division of Soil and Water Resources, whichever is appropriate. Upon application to the court or agency, the Division of Soil and Water Resources or the Chief of the Division of Soil and Water Resources shall be substituted.

SECTION 515.40. On the effective date of this section, the Division of Water in the Department of Natural Resources is abolished and its functions, and its assets and liabilities, are transferred to the Division of Soil and Water Resources and the Division of Parks and Recreation, as applicable, in the

Department of Natural Resources. The Division of Soil and Water Resources and the Division of Parks and Recreation, as applicable, are successors to, assume the obligations and authority of, and otherwise continue the Division of Water. No right, privilege, or remedy, and no duty, liability, or obligation, accrued under the Division of Water is impaired or lost by reason of the abolishment and shall be recognized, administered, performed, or enforced by the Division of Soil and Water Resources or the Division of Parks and Recreation, whichever is applicable.

Business commenced but not completed by the Division of Water or by the Chief of the Division of Water shall be completed by the Division of Soil and Water Resources or the Chief of the Division of Soil and Water Resources or by the Division of Parks and Recreation or the Chief of the Division of Parks and Recreation, whichever is applicable, in the same manner, and with the same effect, as if completed by the Division of Water or the Chief of the Division of Water.

All of the Division of Water's rules, orders, and determinations continue in effect as rules, orders, and determinations of the Division of Soil and Water Resources or the Division of Parks and Recreation, whichever is applicable, until modified or rescinded by the Division of Soil and Water Resources or the Division of Parks and Recreation, as applicable. If necessary to ensure the integrity of the numbering of the Administrative Code, the Director of the Legislative Service Commission shall renumber the Division of Water's rules to reflect their transfer to the Division of Soil and Water Resources or to the Division of Parks and Recreation, as applicable.

Subject to the layoff provisions of sections 124.321 to 124.382 of the Revised Code, all employees of the Division of Water are transferred to the Division of Soil and Water Resources or to the Division of Parks and Recreation, as applicable, and retain their positions and all benefits accruing thereto.

The Director of Budget and Management shall determine the amount of unexpended balances in the appropriation accounts that pertain to the Division of Water and shall recommend to the Controlling Board their transfer to the appropriation accounts that pertain to the Division of Soil and Water Resources or the Division of Parks and Recreation, as applicable. The Chief of the Division of Water shall provide full and timely information to the Controlling Board to facilitate the transfer.

Whenever the Division of Water or the Chief of the Division of Water is referred to in a statute, contract, or other instrument, the reference is deemed

to refer to the Division of Soil and Water Resources or to the Chief of the Division of Soil and Water Resources or to the Division of Parks and Recreation or to the Chief of the Division of Parks and Recreation, whichever is appropriate in context.

No pending action or proceeding being prosecuted or defended in court or before an agency by the Division of Water or the Chief of the Division of Water is affected by the abolishment and shall be prosecuted or defended in the name of the Division of Soil and Water Resources or the Chief of the Division of Soil and Water Resources or of the Division of Parks and Recreation or the Chief of the Division of Parks and Recreation, whichever is appropriate. Upon application to the court or agency, the Division of Soil and Water Resources or the Chief of the Division of Soil and Water Resources or the Division of Parks and Recreation or the Chief of the Division of Parks and Recreation, whichever is applicable, shall be substituted.

SECTION 515.50. On the effective date of this section, the Division of Real Estate and Land Management in the Department of Natural Resources is abolished and its functions, and its assets and liabilities, are transferred to the Director of Natural Resources, to the Division of Engineering, and to the Division of Parks and Recreation, as applicable, in the Department of Natural Resources. The Director of Natural Resources, the Division of Engineering, and the Division of Parks and Recreation are successors to, assume the obligations and authority of, and otherwise continue the Division of Real Estate and Land Management. No right, privilege, or remedy, and no duty, liability, or obligation, accrued under the Division of Real Estate and Land Management is impaired or lost by reason of the abolishment and shall be recognized, administered, performed, or enforced by the Director of Natural Resources, the Division of Engineering, and the Division of Parks and Recreation, whichever is applicable.

Business commenced but not completed by the Division of Real Estate and Land Management or by the Chief of the Division of Real Estate and Land Management shall be completed by the Director of Natural Resources, by the Division of Engineering or the Chief Engineer, or by the Division of Parks and Recreation or the Chief of the Division of Parks and Recreation, whichever is applicable, in the same manner, and with the same effect, as if completed by the Division of Real Estate and Land Management or the Chief of the Division of Real Estate and Land Management.

All of the Division of Real Estate and Land Management's rules, orders, and determinations continue in effect as rules, orders, and determinations of

the Director of Natural Resources, the Division of Engineering, or the Division of Parks and Recreation, whichever is applicable, until modified or rescinded by the Director of Natural Resources, the Division of Engineering, or the Division of Parks and Recreation, as applicable. If necessary to ensure the integrity of the numbering of the Administrative Code, the Director of the Legislative Service Commission shall renumber the Division of Real Estate and Land Management's rules to reflect their transfer to the Director of Natural Resources, to the Division of Engineering, or to the Division of Parks and Recreation, as applicable.

Subject to the layoff provisions of sections 124.321 to 124.382 of the Revised Code, all employees of the Division of Real Estate and Land Management are transferred to the office of the Director of Natural Resources, the Division of Engineering, or the Division of Parks and Recreation, as applicable, and retain their positions and all benefits accruing thereto.

The Director of Budget and Management shall determine the amount of unexpended balances in the appropriation accounts that pertain to the Division of Real Estate and Land Management and shall recommend to the Controlling Board their transfer to the appropriation accounts that pertain to the Director of Natural Resources, the Division of Engineering, or the Division of Parks and Recreation, as applicable. The Chief of the Division of Real Estate and Land Management shall provide full and timely information to the Controlling Board to facilitate the transfer.

Whenever the Division of Real Estate and Land Management or the Chief of the Division of Real Estate and Land Management is referred to in a statute, contract, or other instrument, the reference is deemed to refer to the Director of Natural Resources, to the Division of Engineering or the Chief Engineer, or to the Division of Parks and Recreation or the Chief of the Division of Parks and Recreation, whichever is appropriate in context.

No pending action or proceeding being prosecuted or defended in court or before an agency by the Division of Real Estate and Land Management or the Chief of the Division of Real Estate and Land Management is affected by the abolishment and shall be prosecuted or defended in the name of the Department of Natural Resources or the Director of Natural Resources, of the Division of Engineering or the Chief Engineer, or of the Division of Parks and Recreation or the Chief of the Division of Parks and Recreation, whichever is appropriate. Upon application to the court or agency, the Department of Natural Resources or the Director of Natural Resources, the Division of Engineering or the Chief Engineer, or the Division of Parks and Recreation or the Chief of the Division of Parks and Recreation, whichever

is applicable, shall be substituted.

SECTION 515.70. The Division of Labor and Worker Safety in the Department of Commerce and the Division of Industrial Compliance in the Department of Commerce are hereby abolished on the effective date of section 121.04 of the Revised Code, as amended by this act. The Division of Labor shall supersede the Division of Labor and Worker Safety and Division of Industrial Compliance, and the Superintendent of Labor shall supersede the Superintendent of Labor and Worker Safety and the Superintendent of Industrial Compliance. The Superintendent of Labor or Division of Labor, as applicable, shall succeed to and have and perform all the duties, powers, and obligations pertaining to the duties, powers, and obligations of the Superintendent and Division of Labor and Worker Safety and the Superintendent and Division of Industrial Compliance. For the purpose of the institution, conduct, and completion of matters relating to its succession, the Superintendent of Labor or the Division of Labor, as applicable, is deemed to be the continuation of and successor under law to the Superintendent and Division of Labor and Worker Safety or the Superintendent and Division of Industrial Compliance, as applicable. All rules, actions, determinations, commitments, resolutions, decisions, and agreements pertaining to those duties, powers, obligations, functions, and rights in force or in effect on the effective date of section 121.04 of the Revised Code, as amended by this act, shall continue in force and effect subject to any further lawful action thereon by the Superintendent or Division of Labor. Wherever the Superintendent of Labor and Worker Safety, Division of Labor and Worker Safety, Superintendent of Industrial Compliance, or Division of Industrial Compliance are referred to in any provision of law, or in any agreement or document that pertains to those duties, powers, obligations, functions, and rights, the reference is to the Superintendent of Labor or Division of Labor, as appropriate.

All authorized obligations and supplements thereto of the Superintendent and Division of Labor and Worker Safety and the Superintendent and Division of Industrial Compliance pertaining to the duties, powers, and obligations transferred are binding on the Superintendent or Division of Labor, as applicable, and nothing in this act impairs the obligations or rights thereunder or under any contract. The abolition of the Division of Labor and Worker Safety and the Division of Industrial Compliance and the transfer of the duties, powers, and obligations of the Superintendent and Division of Labor and Worker Safety and the Superintendent and Division of Industrial Compliance do not affect the

validity of agreements or obligations made by those superintendents or divisions pursuant to Chapters 121., 3703., 3781., 3791., 4104., 4105., and 4740. of the Revised Code or any other provisions of law.

In connection with the transfer of duties, powers, obligations, functions, and rights and abolition of the Division of Labor and Worker Safety and the Division of Industrial Compliance, all real property and interest therein, documents, books, money, papers, records, machinery, furnishings, office equipment, furniture, and all other property over which the Superintendent and Division of Labor and Worker Safety or the Superintendent and Division of Industrial Compliance has control pertaining to the duties, powers, and obligations transferred and the rights of the Superintendent and Division of Labor and Worker Safety and the Superintendent and Division of Industrial Compliance to enforce or receive any of the aforesaid is automatically transferred to the Superintendent and Division of Labor without necessity for further action on the part of the Superintendent, Division of Labor, or the Director of Commerce. Additionally, all appropriations or reappropriations made to the Superintendent and Division of Labor and Worker Safety and the Superintendent and Division of Industrial Compliance for the purposes of the performance of their duties, powers, and obligations, are transferred to the Superintendent and Division of Labor to the extent of the remaining unexpended or unencumbered balance thereof, whether allocated or unallocated, and whether obligated or unobligated.

SECTION 518.10. GENERAL OBLIGATION DEBT SERVICE PAYMENTS

Certain appropriations are in this act for the purpose of paying debt service and financing costs on general obligation bonds or notes of the state issued pursuant to the Ohio Constitution and acts of the General Assembly. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated.

SECTION 518.20. LEASE PAYMENTS TO OPFC, OBA, AND TREASURER OF STATE

Certain appropriations are in this act for the purpose of making lease rental payments pursuant to leases and agreements relating to bonds or notes issued by the Ohio Building Authority or the Treasurer of State or, previously, by the Ohio Public Facilities Commission, pursuant to the Ohio Constitution and acts of the General Assembly. If it is determined that

additional appropriations are necessary for this purpose, such amounts are hereby appropriated.

SECTION 518.30. AUTHORIZATION FOR TREASURER OF STATE AND OBM TO EFFECTUATE CERTAIN DEBT SERVICE PAYMENTS

The Office of Budget and Management shall process payments from general obligation and lease rental payment appropriation items during the period from July 1, 2009, to June 30, 2011, relating to bonds or notes issued under Sections 2i, 2k, 2l, 2m, 2n, 2o, 2p, 2q, and 15 of Article VIII, Ohio Constitution, and Chapters 151. and 154. of the Revised Code. Payments shall be made upon certification by the Treasurer of State, Office of the Sinking Fund, of the dates and the amounts due on those dates.

SECTION 518.40. AUTHORIZATION FOR OHIO BUILDING AUTHORITY AND OBM TO EFFECTUATE CERTAIN LEASE RENTAL PAYMENTS

The Office of Budget and Management shall process payments from lease rental payment appropriation items during the period from July 1, 2009, to June 30, 2011, pursuant to the lease agreements entered into relating to bonds or notes issued under Section 2i of Article VIII, Ohio Constitution, and Chapter 152. of the Revised Code. Payments shall be made upon certification by the Ohio Building Authority of the dates and the amounts due on those dates.

SECTION 521.10. STATE AND LOCAL REBATE AUTHORIZATION

There is hereby appropriated, from those funds designated by or pursuant to the applicable proceedings authorizing the issuance of state obligations, amounts computed at the time to represent the portion of investment income to be rebated or amounts in lieu of or in addition to any rebate amount to be paid to the federal government in order to maintain the exclusion from gross income for federal income tax purposes of interest on those state obligations under section 148(f) of the Internal Revenue Code.

Rebate payments shall be approved and vouchered by the Office of Budget and Management.

SECTION 521.20. STATEWIDE INDIRECT COST RECOVERY

Whenever the Director of Budget and Management determines that an appropriation made to a state agency from a fund of the state is insufficient

to provide for the recovery of statewide indirect costs under section 126.12 of the Revised Code, the amount required for such purpose is hereby appropriated from the available receipts of such fund.

SECTION 521.30. GRF TRANSFERS ON BEHALF OF THE STATEWIDE INDIRECT COST ALLOCATION PLAN

The total transfers made from the General Revenue Fund by the Director of Budget and Management under this section shall not exceed the amounts transferred into the General Revenue Fund under section 126.12 of the Revised Code.

The director of an agency may certify to the Director of Budget and Management the amount of expenses not allowed to be included in the Statewide Indirect Cost Allocation Plan under federal regulations, from any fund included in the Statewide Indirect Cost Allocation Plan, prepared as required by section 126.12 of the Revised Code.

Upon determining that no alternative source of funding is available to pay for such expenses, the Director of Budget and Management may transfer from the General Revenue Fund into the fund for which the certification is made, up to the amount of the certification. The director of the agency receiving such funds shall include, as part of the next budget submission prepared under section 126.02 of the Revised Code, a request for funding for such activities from an alternative source such that further federal disallowances would not be required.

SECTION 521.40. FISCAL YEAR 2009 GENERAL REVENUE FUND ENDING BALANCE

Notwithstanding divisions (B) and (C) of section 131.44 of the Revised Code, all fiscal year 2009 surplus revenue in excess of the amount required under division (A)(3) of section 131.44 of the Revised Code shall remain in the General Revenue Fund.

SECTION 521.50. FEDERAL GOVERNMENT INTEREST REQUIREMENTS

Notwithstanding any provision of law to the contrary, on or before the first day of September of each fiscal year, the Director of Budget and Management, in order to reduce the payment of adjustments to the federal government, as determined by the plan prepared under division (A) of section 126.12 of the Revised Code, may designate such funds as the

Director considers necessary to retain their own interest earnings.

SECTION 521.60. FEDERAL CASH MANAGEMENT
IMPROVEMENT ACT

Pursuant to the plan for compliance with the Federal Cash Management Improvement Act required by section 131.36 of the Revised Code, the Director of Budget and Management may cancel and re-establish all or part of encumbrances in like amounts within the funds identified by the plan. The amounts necessary to re-establish all or part of encumbrances are hereby appropriated.

SECTION 521.70. FISCAL STABILIZATION AND RECOVERY

(A) To ensure the level of accountability and transparency required by federal law, the Director of Budget and Management may issue guidelines to any agency applying for federal money made available to this state for fiscal stabilization and recovery purposes, and may prescribe the process by which agencies are to comply with any reporting requirements established by the federal government.

(B) Notwithstanding any provision of law to the contrary, federal money received by or on behalf of this state for fiscal stabilization in support of elementary, secondary, and higher education, public safety, and any other government service shall be deposited into the state treasury to the credit of the General Revenue Fund. The federal money shall not be used as a match for the state's share of Medicaid.

(C) Federal money received by or on behalf of the state for fiscal stabilization and recovery purposes in fiscal years 2010 and 2011 shall not be used for purposes of the computation of debt service under division (D) of Section 17 of Article VIII, Ohio Constitution, and division (E) of section 126.16 of the Revised Code.

SECTION 521.80. OVERSIGHT OF FEDERAL STIMULUS FUNDS

(A) The Office of Internal Auditing within the Office of Budget and Management shall, in connection with its duties under sections 126.45 to 126.48 of the Revised Code, monitor and measure the effectiveness of funds allocated to the state as part of the federal American Recovery and Reinvestment Act of 2009. As such, the Office of Internal Auditing shall review how funds allocated to each state agency are spent. For purposes of this section, "state agency" has the same meaning as in division (A) of

section 126.45 of the Revised Code.

In addition to the reports required under section 126.47 of the Revised Code, the Office of Internal Auditing shall submit a report of its findings to the President of the Senate, Minority Leader of the Senate, Speaker of the House of Representatives, Minority Leader of the House of Representatives, and the Chairs of the committees in the Senate and House of Representatives handling finance and appropriations. The report shall be submitted every six months at the following intervals:

(1) For the six-month period ending December 31, 2009, not later than February 1, 2010;

(2) For the six-month period ending June 30, 2010, not later than August 1, 2010;

(3) For the six-month period ending December 31, 2010, not later than February 1, 2011;

(4) For the six-month period ending June 30, 2011, not later than August 1, 2011.

(B) When, as part of its compliance with the federal American Recovery and Reinvestment Act of 2009 requirements to monitor and measure the effectiveness of funds for which the state of Ohio is the prime recipient, and for which reporting authority has not been delegated to a sub-recipient, the Office of Budget and Management submits quarterly reports to the federal government, the Office of Budget and Management shall also submit those reports to the President of the Senate, Minority Leader of the Senate, Speaker of the House of Representatives, Minority Leader of the House of Representatives, and Chairs and ranking members of the committees in the Senate and House of Representatives handling finance and appropriations. The Office of Budget and Management shall continue to submit quarterly reports to the legislature for the duration of the period in which the state of Ohio is required to make reports to the federal government concerning Ohio's use of the federal American Recovery and Reinvestment Act of 2009 funds.

SECTION 521.90. FEDERAL FUNDS FOR HISTORIC PRESERVATION LOAN GUARANTEE

(A) As used in this section:

(1) "Approved historic rehabilitation project" means a rehabilitation of a historic building that the Director of Development has approved for a rehabilitation tax credit under section 149.311 of the Revised Code.

(2) "Federal funds" means federal money available to states under the American Recovery and Reinvestment Act of 2009 or any other source of

federal money available to the states, that may lawfully be used for the purposes of this section.

(3) "Owner" and "qualified rehabilitation expenditures" have the same meanings as in section 149.311 of the Revised Code.

(B) There is hereby created in the state treasury the Ohio Historic Preservation Tax Credit Fund. The fund shall consist of money obtained by the Director of Development under division (C) of this section. Money in the fund shall be used to secure and pay guarantees of loans for approved historic rehabilitation projects as provided in this section.

(C) The Director of Development may undertake to secure \$75,000,000 of federal funds for crediting to the Ohio Historic Preservation Tax Credit Fund. If the Director secures such funds, the Director, for the purpose of creating new jobs or preserving existing jobs and employment opportunities and improving the economic welfare of the people of this state, shall enter into loan guarantee contracts under section 166.06 of the Revised Code in connection with approved historic rehabilitation projects, except that the guarantees shall be secured solely by and be payable solely from the Ohio Historic Preservation Tax Credit Fund. Money deposited into the Ohio Historic Preservation Tax Credit Fund shall be prioritized by providing loan guarantees for approved historic rehabilitation projects from the first funding round of the Ohio Historic Preservation Tax Credit Program before being used to provide loan guarantees for approved historic rehabilitation projects approved in subsequent funding rounds. The amount of a loan guarantee provided under this section shall not exceed the amount of the credit to be awarded for the approved historic rehabilitation project. References to the loan guarantee fund in divisions (C) and (F) of section 166.06 of the Revised Code shall be construed as references to the Ohio Historic Preservation Tax Credit Fund for the purposes of loan guarantees authorized by this section, except that no transfer shall be made to the Ohio Historic Preservation Tax Credit Fund from the facilities establishment fund as may otherwise be required by that section.

(D) Nothing in this section is a determination by the General Assembly that federal funds are currently available for the purposes of this section. Rather, this section evidences a determination by the General Assembly that public purposes will be advanced by the use of current or future federal funds for the purposes of this section.

SECTION 523.10. ADVANCED ENERGY RESEARCH AND DEVELOPMENT

(A) All items set forth in this division are hereby appropriated, for fiscal

years 2011 and 2012, the biennium ending on June 30, 2012, out of any moneys in the state treasury to the credit of the Advanced Energy Research and Development Taxable Fund (Fund 7004) derived from the proceeds of obligations heretofore authorized under section 166.11 of the Revised Code:

AIR AIR QUALITY DEVELOPMENT AUTHORITY

C89800	Advanced Energy Research and Development Taxable	\$	9,000,000
TOTAL	Advanced Energy Research and Development Taxable Fund	\$	9,000,000
TOTAL	AIR QUALITY DEVELOPMENT AUTHORITY	\$	9,000,000

(B) All items set forth in this division are hereby appropriated, for fiscal years 2011 and 2012, the biennium ending on June 30, 2012, out of any moneys in the state treasury to the credit of the Advanced Energy Research and Development Fund (Fund 7005) derived from the proceeds of obligations heretofore authorized under section 166.11 of the Revised Code:

AIR AIR QUALITY DEVELOPMENT AUTHORITY

C89801	Advanced Energy Research and Development	\$	19,000,000
TOTAL	Advanced Energy Research and Development Fund	\$	19,000,000
TOTAL	AIR QUALITY DEVELOPMENT AUTHORITY	\$	19,000,000

(C) The appropriation items C89800, Advanced Energy Research and Development Taxable, and C89801, Advanced Energy Research and Development, shall be used for advanced energy projects as provided in sections 3706.25 to 3706.30 of the Revised Code. The Executive Director of the Air Quality Development Authority may certify to the Director of Budget and Management that a need exists to fund additional advanced energy projects. If the Director of Budget and Management determines that investment earnings of the Advanced Energy Research and Development Taxable Fund (Fund 7004) and the Advanced Energy Research and Development Fund (Fund 7005) are available to fund additional projects, the Director may authorize additional expenditures from Fund 7004 or Fund 7005, subject to the approval of the Controlling Board. If approved by the Controlling Board, such amounts are hereby appropriated.

(D) Notwithstanding any contrary provision of law, upon the request of the Executive Director of the Air Quality Development Authority, the Director of Budget and Management may transfer cash between Funds 7004 and 7005. Any such transfers shall be requested from and approved by the Controlling Board. Amounts transferred are hereby appropriated.

(E) Expenditures from appropriations contained in this section may be accounted for as though made in the main capital appropriations act for the fiscal year 2011-2012 biennium enacted by the 128th General Assembly. The Air Quality Development Authority shall not expend any of the appropriations made in this section until after July 1, 2010.

SECTION 525.10. INTERIM BUDGET RECONCILIATION

All amounts expended or encumbered from interim budget appropriations made in Am. Sub. H.B. 16 of the 128th General Assembly, H.B. 245 of the 128th General Assembly, or any successive act providing such interim budget appropriations shall be deducted from the appropriate line item appropriations made in this act. The Director of Budget and Management shall make any necessary adjustments to the appropriate line item appropriations to carry out this section.

SECTION 601.10. That Sections 205.10, 309.10, 317.10, 321.10, 325.20, and 327.10 of Am. Sub. H.B. 2 of the 128th General Assembly be amended to read as follows:

Sec. 205.10. DPS DEPARTMENT OF PUBLIC SAFETY

State Highway Safety Fund Group

4W40	762321	Operating Expense - BMV	\$	85,145,103	\$	89,005,103
4W40	762410	Registrations Supplement	\$	31,753,145	\$	32,480,610
5V10	762682	License Plate Contributions	\$	2,100,000	\$	2,100,000
7036	761321	Operating Expense - Information and Education	\$	8,819,954	\$	8,828,661
7036	761401	Lease Rental Payments	\$	13,337,000	\$	11,836,200
7036	764033	Minor Capital Projects	\$	1,250,000	\$	1,250,000
7036	764321	Operating Expense - Highway Patrol	\$	269,887,828	\$	269,975,259
7036	764605	Motor Carrier Enforcement Expenses	\$	3,340,468	\$	3,340,468
8300	761603	Salvage and Exchange - Administration	\$	20,800	\$	21,632
8310	761610	Information and Education - Federal	\$	468,982	\$	468,982
8310	764610	Patrol - Federal	\$	2,455,484	\$	2,455,484
8310	764659	Transportation Enforcement - Federal	\$	6,132,592	\$	6,132,592
8310	765610	EMS - Federal	\$	582,007	\$	582,007
8310	767610	Liquor Enforcement - Federal	\$	514,184	\$	514,184
8310	769610	Food Stamp Trafficking Enforcement - Federal	\$	1,032,135	\$	1,032,135
8310	769631	Homeland Security - Federal	\$	2,100,000	\$	2,184,000
8320	761612	Traffic Safety - Federal	\$	16,577,565	\$	16,577,565
8350	762616	Financial Responsibility Compliance	\$	6,063,600	\$	6,063,600
8370	764602	Turnpike Policing	\$	11,553,959	\$	11,553,959
8380	764606	Patrol Reimbursement	\$	100,000	\$	100,000
83C0	764630	Contraband, Forfeiture, Other	\$	622,894	\$	622,894
83F0	764657	Law Enforcement Automated Data System	\$	10,984,978	\$	9,053,266
83G0	764633	OMVI	\$	650,000	\$	650,000

3020

83J0	764693	Enforcement/Education Highway Patrol Justice Contraband	\$	2,100,000	\$	2,100,000
83M0	765624	Operating Expense - Trauma and EMS	\$	2,915,113	\$	2,924,562
83N0	761611	Elementary School Seat Belt Program	\$	390,000	\$	405,600
83P0	765637	EMS Grants	\$	4,562,912	\$	4,562,912
83R0	762639	Local Immobilization Reimbursement	\$	750,000	\$	750,000
83T0	764694	Highway Patrol Treasury Contraband	\$	21,000	\$	21,000
8400	764607	State Fair Security	\$	1,396,283	\$	1,396,283
8400	764617	Security and Investigations	\$	6,317,530	\$	6,432,686
8400	764626	State Fairgrounds Police Force	\$	830,769	\$	849,883
8400	769632	Homeland Security - Operating	\$	1,552,049	\$	1,614,131
8410	764603	Salvage and Exchange - Highway Patrol	\$	1,339,399	\$	1,339,399
8440	761613	Seat Belt Education Program	\$	400,000	\$	400,000
8460	761625	Motorcycle Safety Education	\$	3,324,987	\$	3,538,903
8490	762627	Automated Title Processing Board	\$	19,240,839	\$	19,240,839
TOTAL HSF State Highway Safety Fund Group			\$	520,633,559	\$	522,404,799
General Services Fund Group						
4P60	768601	Justice Program Services	\$	1,070,962	\$	1,109,004
4S30	766661	Hilltop Utility Reimbursement	\$	520,000	\$	540,800
5ET0	768625	Drug Law Enforcement	\$	4,200,000	\$	4,200,000
5Y10	764695	Highway Patrol Continuing Professional Training	\$	280,820	\$	280,820
5Y10	767696	Investigative Unit Continuing Professional Training	\$	15,000	\$	15,000
TOTAL GSF General Services Fund Group			\$	6,086,782	\$	6,145,624
Federal Special Revenue Fund Group						
3290	763645	Federal Mitigation Program	\$	10,801,636	\$	11,233,702
3370	763609	Federal Disaster Relief	\$	27,707,636	\$	27,707,636
3390	763647	Emergency Management Assistance and Training	\$	84,031,935	\$	84,072,023
3AY0	768606	Federal Justice Grants	\$	1,020,000	\$	745,000
3CB0	768691	Federal Justice Grants - FFY06	\$	920,000	\$	795,000
3CC0	768609	Justice Assistance Grants - FFY07	\$	1,450,000	\$	1,215,000
3DE0	768612	Federal Stimulus - Justice Assistance Grants	\$	36,146,492	\$	1,902,447
<u>3DH0</u>	<u>768613</u>	<u>Federal Stimulus - Justice Programs</u>	\$	<u>4,404,597</u>	\$	<u>200,000</u>
3L50	768604	Justice Program	\$	12,056,300	\$	12,056,300
3N50	763644	U.S. Department of Energy Agreement	\$	31,358	\$	31,672
TOTAL FED Federal Special Revenue Fund			\$	174,165,357	\$	139,758,780

Group			<u>178,569,954</u>		<u>139,958,780</u>
State Special Revenue Fund Group					
4V30	763662	EMA Service and Reimbursement	\$ 4,474,751	\$	4,653,743
5390	762614	Motor Vehicle Dealers Board	\$ 200,000	\$	200,000
5B90	766632	Private Investigator and Security Guard Provider	\$ 1,341,478	\$	1,395,137
5BK0	768687	Criminal Justice Services - Operating	\$ 400,000	\$	400,000
5BK0	768689	Family Violence Shelter Programs	\$ 750,000	\$	750,000
5CM0	767691	Federal Investigative Seizure	\$ 642,175	\$	642,175
5DS0	769630	Homeland Security	\$ 517,350	\$	538,044
5FF0	762621	Indigent Interlock and Alcohol Monitoring	\$ 1,600,000	\$	2,750,000
5FL0	769634	Investigations	\$ 1,172,080	\$	1,195,522
6220	767615	Investigative Contraband and Forfeiture	\$ 375,000	\$	375,000
6570	763652	Utility Radiological Safety	\$ 1,413,889	\$	1,415,945
6810	763653	SARA Title III HAZMAT Planning	\$ 254,794	\$	262,438
8500	767628	Investigative Unit Salvage	\$ 100,000	\$	100,000
TOTAL SSR State Special Revenue Fund Group			\$ 13,241,517	\$	14,678,004
Liquor Control Fund Group					
7043	767321	Liquor Enforcement - Operating	\$ 12,007,894	\$	11,897,178
TOTAL LCF Liquor Control Fund Group			\$ 12,007,894	\$	11,897,178
Agency Fund Group					
5J90	761678	Federal Salvage/GSA	\$ 1,500,000	\$	1,500,000
TOTAL AGY Agency Fund Group			\$ 1,500,000	\$	1,500,000
Holding Account Redistribution Fund Group					
R024762619		Unidentified Motor Vehicle Receipts	\$ 1,885,000	\$	1,885,000
R052762623		Security Deposits	\$ 350,000	\$	350,000
TOTAL 090 Holding Account			\$ 2,235,000	\$	2,235,000
Redistribution Fund Group					
TOTAL ALL BUDGET FUND GROUPS			\$ 729,870,109 <u>734,274,706</u>	\$	698,619,383 <u>698,819,383</u>

MOTOR VEHICLE REGISTRATION

The Registrar of Motor Vehicles may deposit revenues to meet the cash needs of the State Bureau of Motor Vehicles Fund (Fund 4W40) established in section 4501.25 of the Revised Code, obtained under sections 4503.02 and 4504.02 of the Revised Code, less all other available cash. Revenue deposited pursuant to this paragraph shall support, in part, appropriations for operating expenses and defray the cost of manufacturing and distributing

license plates and license plate stickers and enforcing the law relative to the operation and registration of motor vehicles. Notwithstanding section 4501.03 of the Revised Code, the revenues shall be paid into Fund 4W40 before any revenues obtained pursuant to sections 4503.02 and 4504.02 of the Revised Code are paid into any other fund. The deposit of revenues to meet the aforementioned cash needs shall be in approximately equal amounts on a monthly basis or as otherwise determined by the Director of Budget and Management pursuant to a plan submitted by the Registrar of Motor Vehicles.

CASH TRANSFERS FROM THE STATE BUREAU OF MOTOR VEHICLES FUND

Notwithstanding any provision of law to the contrary, on July 1, 2009, or as soon as possible thereafter, the Director of Budget and Management may transfer, from the Bureau of Motor Vehicles Fund (Fund 4W40), cash in the amounts of up to \$635,293 to the Justice Program Services Fund (Fund 4P60), up to \$3,284,464 to the EMA Service and Reimbursement Fund (Fund 4V30), and up to \$879,060 to the Investigations Fund (Fund 5FL0).

Notwithstanding any provision to the contrary, the Director of Budget and Management may make additional cash transfers in fiscal years 2010 and 2011 from the Bureau of Motor Vehicles Fund (Fund 4W40) to any of the following five funds if the Director of Public Safety determines that the cash balance is insufficient in those funds and requests the Director to make the transfer: the Justice Program Services Fund (Fund 4P60), the EMA Service and Reimbursement Fund (Fund 4V30), the Investigations Fund (Fund 5FL0), the Homeland Security Fund (Fund 5DS0), and the Trauma and Emergency Medical Services Fund (Fund 83M0).

CAPITAL PROJECTS

The Registrar of Motor Vehicles may transfer cash from the State Bureau of Motor Vehicles Fund (Fund 4W40) to the State Highway Safety Fund (Fund 7036) to meet its obligations for capital projects CIR-047, Department of Public Safety Office Building and CIR-049, Warehouse Facility.

OBA BOND AUTHORITY/LEASE RENTAL PAYMENTS

The foregoing appropriation item 761401, Lease Rental Payments, shall be used for payments to the Ohio Building Authority for the period July 1, 2009, to June 30, 2011, under the primary leases and agreements for public safety related buildings financed by obligations issued under Chapter 152. of the Revised Code. Notwithstanding section 152.24 of the Revised Code, the Ohio Building Authority may, with approval of the Director of Budget and

Management, lease capital facilities to the Department of Public Safety.

HILLTOP TRANSFER

The Director of Public Safety shall determine, per an agreement with the Director of Transportation, the share of each debt service payment made out of appropriation item 761401, Lease Rental Payments, that relates to the Department of Transportation's portion of the Hilltop Building Project, and shall certify to the Director of Budget and Management the amounts of this share. The Director of Budget and Management shall transfer the amounts of such shares from the Highway Operating Fund (Fund 7002) to the State Highway Safety Fund (Fund 7036).

CASH TRANSFERS OF SEAT BELT FINE REVENUES

Notwithstanding any provision of law to the contrary, the Controlling Board, upon request of the Director of Public Safety, may approve the transfer of cash between the following four funds that receive fine revenues from enforcement of the mandatory seat belt law: the Trauma and Emergency Medical Services Fund (Fund 83M0), the Elementary School Program Fund (Fund 83N0), the Trauma and Emergency Medical Services Grants Fund (Fund 83P0), and the Seat Belt Education Fund (Fund 8440).

STATE DISASTER RELIEF

The State Disaster Relief Fund (Fund 5330) may accept transfers of cash and appropriations from Controlling Board appropriation items for Ohio Emergency Management Agency disaster response costs and disaster program management costs, and may also be used for the following purposes:

(A) To accept transfers of cash and appropriations from Controlling Board appropriation items for Ohio Emergency Management Agency public assistance and mitigation program match costs to reimburse eligible local governments and private nonprofit organizations for costs related to disasters;

(B) To accept and transfer cash to reimburse the costs associated with Emergency Management Assistance Compact (EMAC) deployments;

(C) To accept disaster related reimbursement from federal, state, and local governments. The Director of Budget and Management may transfer cash from reimbursements received by this fund to other funds of the state from which transfers were originally approved by the Controlling Board.

(D) To accept transfers of cash and appropriations from Controlling Board appropriation items to fund the State Disaster Relief Program, for disasters that have been declared by the Governor, and the State Individual Assistance Program for disasters that have been declared by the Governor and the federal Small Business Administration. The Ohio Emergency

Management Agency shall publish and make available application packets outlining procedures for the State Disaster Relief Program and the State Individual Assistance Program.

JUSTICE ASSISTANCE GRANT FUND

The federal payments made to the state for the Byrne Justice Assistance Grants Program under Title II of Division A of the American Recovery and Reinvestment Act of 2009 shall be deposited to the credit of the Justice Assistance Grant Fund (Fund 3DE0), which is hereby created in the state treasury. All investment earnings of the fund shall be credited to the fund.

JUSTICE ASSISTANCE GRANTS

The foregoing appropriation ~~item~~ items 768612, Federal Stimulus - Justice Assistance Grants, and 768613, Federal Stimulus - Justice Programs, shall be used to support activities to prevent and control crime and to improve the criminal justice system.

FAMILY VIOLENCE PREVENTION FUND

Notwithstanding any provision of law to the contrary, in each of fiscal years 2010 and 2011, the first \$750,000 received to the credit of the Family Violence Prevention Fund (Fund 5BK0) in each of those fiscal years shall be appropriated to appropriation item 768689, Family Violence Shelter Programs, and the next \$400,000 received to the credit of Fund 5BK0 in each of those fiscal years shall be appropriated to appropriation item 768687, Criminal Justice Services - Operating. Any moneys received to the credit of Fund 5BK0 in excess of the aforementioned appropriated amounts in each fiscal year shall, upon the approval of the Controlling Board, be used to provide grants to family violence shelters in Ohio.

SARA TITLE III HAZMAT PLANNING

The SARA Title III HAZMAT Planning Fund (Fund 6810) is entitled to receive grant funds from the Emergency Response Commission to implement the Emergency Management Agency's responsibilities under Chapter 3750. of the Revised Code.

COLLECTIVE BARGAINING INCREASES

Notwithstanding division (D) of section 127.14 and division (B) of section 131.35 of the Revised Code, except for the General Revenue Fund, the Controlling Board may, upon the request of either the Director of Budget and Management, or the Department of Public Safety with the approval of the Director of Budget and Management, increase appropriations for any fund, as necessary for the Department of Public Safety, to assist in paying the costs of increases in employee compensation that have occurred pursuant to collective bargaining agreements under Chapter 4117. of the Revised Code and, for exempt employees, under section 124.152 of the

Revised Code.

CASH BALANCE FUND REVIEW

Not later than the first day of April in each fiscal year of the biennium, the Director of Budget and Management shall review the cash balances for each fund, except the State Highway Safety Fund (Fund 7036) and the State Bureau of Motor Vehicles Fund (Fund 4W40), in the State Highway Safety Fund Group, and shall recommend to the Controlling Board an amount to be transferred to the credit of Fund 7036 or Fund 4W40, as appropriate.

Sec. 309.10. The federal payments made to the state for the Weatherization Assistance Program and the State Energy Grant Program under Title IV of Division A of the American Recovery and Reinvestment Act of 2009, and for the Homelessness Prevention Fund under Title XII of Division A of the American Recovery and Reinvestment Act of 2009, shall be deposited to the credit of the Federal Special Revenue Fund (Fund 3080).

The federal payments made to the state for the Energy Star Rebate Program under the American Recovery and Reinvestment Act of 2009 shall be deposited to the credit of the Energy Star Rebate Program Fund (Fund 3DA0), which is hereby created in the state treasury.

The federal payments made to the state for the Energy Efficiency and Conservation Block Grants Program under Title IV of Division A of the American Recovery and Reinvestment Act of 2009 shall be deposited to the credit of the Energy Efficiency and Conservation Block Grants Fund (Fund 3DB0), which is hereby created in the state treasury.

The federal payments made to the state for the Community Development Block Grant program under Title XII of Division A of the American Recovery and Reinvestment Act of 2009 shall be deposited to the credit of the Community Development Block Grant Fund (Fund 3K80).

The federal payments made to the state for community services block grants under Title XII of Division A of the American Recovery and Reinvestment Act of 2009 shall be deposited to the credit of the Community Services Block Grant Fund (Fund 3L00).

The federal payments made to the state for the Home Investment Partnerships Program under Title XII of Division A of the American Recovery and Reinvestment Act of 2009 shall be deposited to the credit of the HOME Program Fund (Fund 3V10).

The items in this division are appropriated as designated out of any moneys in the state treasury to the credit of their respective funds that are not otherwise appropriated.

Appropriations

DEV DEPARTMENT OF DEVELOPMENT

Federal Special Revenue Fund Group

3080	195603	Housing and Urban Development	\$	0	\$	26,205,724
3080	195605	Federal Projects	\$	0	\$	266,781,409
3080	195618	Energy Federal Grants	\$	0	\$	96,083,000
3DA0	195632	Federal Stimulus - Energy Star Rebate Program	\$	0	\$	11,000,000
3DB0	195642	Federal Stimulus - Energy Efficiency and Conservation Block Grants	\$	0	\$	<u>21,000,000</u> <u>24,979,600</u>
3K80	195613	Community Development Block Grant	\$	0	\$	12,957,527
3L00	195612	Community Services Block Grant	\$	0	\$	38,979,000
3V10	195601	HOME Program	\$	0	\$	83,484,547
TOTAL FED Federal Special Revenue Fund Group						<u>556,491,207</u> <u>560,470,807</u>
TOTAL ALL BUDGET FUND GROUPS						\$ 0 \$ <u>556,491,207</u> <u>560,470,807</u>

The foregoing appropriation item 195605, Federal Projects, shall be used to carry out the Home Weatherization Assistance Program, subject to any requirements of the American Recovery and Reinvestment Act of 2009 that apply to the money appropriated.

The foregoing appropriation items 195603, Housing and Urban Development, 195618, Energy Federal Grants, 195613, Community Development Block Grant, 195612, Community Services Block Grant, 195601, HOME Program, 195632, Federal Stimulus - Energy Star Rebate Program, and 195642, Federal Stimulus - Energy Efficiency and Conservation Block Grants, shall be used in accordance with the requirements of the American Recovery and Reinvestment Act of 2009 that apply to the money appropriated.

Sec. 317.10. (A) ~~The federal payments made to the state for the Immunization Program under Title VIII of Division A of the American Recovery and Reinvestment Act of 2009 shall be deposited to the credit of the Preventive Health Block Grant Fund (Fund 3870).~~

~~(B)~~ The federal payments made to the state for the Special Supplemental Nutrition Program under Title VIII of Division A of the American Recovery and Reinvestment Act of 2009 shall be deposited to the credit of the Women, Infants, and Children Fund (Fund 3890).

~~(C)~~~~(B)~~ The federal payments made to the state for the IDEA – Infants and Children Program under Title VIII of Division A of the American Recovery and Reinvestment Act of 2009 shall be deposited to the credit of the General Operations Fund (Fund 3920).

~~(D)~~~~(C)~~ The items in this section are appropriated as designated out of any moneys in the state treasury to the credit of their respective funds that

are not otherwise appropriated.

				Appropriations
DOH DEPARTMENT OF HEALTH				
Federal Special Revenue Fund Group				
3890	440604	Women, Infants, and Children	\$	0 \$ 2,000,000
3920	440618	Federal Public Health Programs	\$	0 \$ 14,410,000
TOTAL FED Federal Special Revenue Fund Group				\$ 0 \$ 16,410,000
TOTAL ALL BUDGET FUND GROUPS				\$ 0 \$ 16,410,000

The foregoing appropriation items 440604, Women, Infants, and Children, and 440618, Federal Public Health Programs, shall be used in accordance with the requirements of the American Recovery and Reinvestment Act of 2009 that apply to the money appropriated.

Sec. 321.10. The federal payments made to the state for the Vocational Rehabilitation Program under Title VIII of Division A of the American Recovery and Reinvestment Act of 2009 shall be deposited to the credit of the Consolidated Federal Fund (Fund 3790).

The federal payments made to the state for the Independent Living Program under Title VIII of Division A of the American Recovery and Reinvestment Act of 2009 shall be deposited to the credit of the Independent Living/Vocational Rehabilitation Fund (Fund 3L40).

The items in this section are appropriated as designated out of any moneys in the state treasury to the credit of their respective funds that are not otherwise appropriated.

				Appropriations
RSC REHABILITATION SERVICES COMMISSION				
Federal Special Revenue Fund Group				
3790	415616	Federal - Vocational Rehabilitation	\$	0 \$ 21,590,000
3L40	415612	Federal Independent Living Centers or Services	\$	0 \$ 509,000 <u>509,170</u>
3L40	415617	Independent Living/Vocational Rehabilitation Programs	\$	0 \$ 1,392,958
<u>4680</u>	<u>415618</u>	<u>Third Party Funding</u>	\$	<u>0 \$ 245,816</u>
TOTAL FED Federal Special Revenue Fund Group				\$ 0 \$ <u>23,491,958</u>
TOTAL ALL BUDGET FUND GROUPS				\$ 0 \$ <u>23,491,958</u>
				<u>23,737,944</u>

The foregoing appropriation items 415616, Federal – Vocational Rehabilitation, 415612, Federal Independent Living Centers or Services, and 415617, Independent Living/Vocational Rehabilitation Programs, shall be used in accordance with the requirements of the American Recovery and Reinvestment Act of 2009 that apply to the money appropriated.

Sec. 325.20. Expenditures from appropriations made in ~~Sections 325.05 and Section~~ Section 325.10 shall be accounted for as though made in Am. Sub. H.B. 67 of the 127th General Assembly. However, law contained in the relevant operating appropriations act that is generally applicable to the appropriations made in that act also is generally applicable to the appropriations made in ~~Sections 325.05 and Section~~ Section 325.10 of this act Am. Sub. H.B. 2 of the 128th General Assembly.

Sec. 327.10. The unexpended, unencumbered portions of the appropriation items made in Sections 303.10, 305.10, 307.10, 309.10, 311.10, 313.10, 317.10, 318.10, 319.10, 321.10, ~~325.05~~, and 325.10 of Am. Sub. H.B. 2 of the 128th General Assembly at the end of fiscal year 2009 are hereby reappropriated for the same purposes for fiscal year 2010.

SECTION 601.11. That existing Sections 205.10, 309.10, 317.10, 321.10, 325.20, and 327.10 of Am. Sub. H.B. 2 of the 128th General Assembly are hereby repealed.

SECTION 610.10. That Sections 103.80.80, 103.80.90, 301.10.50, and 301.30.30 of H.B. 496 of the 127th General Assembly be amended to read as follows:

			Reappropriations
Sec. 103.80.80. OSB SCHOOL FOR THE BLIND			
C22606	Glass Windows/East Wall of Natatorium	\$	63,726
C22607	Renovation of Science Laboratory Greenhouse	\$	58,850
C22608	Renovating Recreation Area	\$	213,900
C22609	New Classrooms for Secondary MH Program	\$	996,164
C22610	Renovation of Student Health Service Area	\$	144,375
C22611	Replacement of Cottage Windows	\$	208,725
C22612	Residential Renovations	\$	7,043 <u>41,649</u>
C22613	Food Preparation Area Air Conditioning	\$	67,250
C22614	New School Lighting	\$	184,500
C22616	Renovation and Repairs	\$	890,000
C22617	Elevator Replacement	\$	110,000
Total Ohio School for the Blind			\$ <u>2,944,533</u> <u>2,979,139</u>

RESIDENTIAL RENOVATIONS

The amount reappropriated for the foregoing appropriation item C22612, Residential Renovations, is the unencumbered and unallotted balance as of June 30, 2008, in appropriation item C22612, Residential Renovations, plus \$34,606.

Reappropriations

Sec. 103.80.90. OSD SCHOOL FOR THE DEAF

C22103	Dormitory Renovations	\$	2,833
C22104	Boilers, Blowers, and Controls for the School Complex	\$	47,360
C22105	Central Warehouse	\$	676,624
C22106	Storage Barn	\$	330,850 384,279
C22107	Renovation and Repairs	\$	1,000,000
Total Ohio School for the Deaf		\$	2,057,667
			2,111,096
TOTAL Administrative Building Fund		\$	101,617,431
			101,705,466

STORAGE BARN

The amount reappropriated for the foregoing appropriation item C22106, Storage Barn, is the unencumbered and unallotted balance as of June 30, 2008, in appropriation item C22106, Storage Barn, plus \$53,429.

Sec. 301.10.50. THIRD FRONTIER PROJECT

The foregoing appropriation item C23506, Third Frontier Project, shall be used to acquire, renovate, or construct facilities and purchase equipment for research programs, technology development, product development, and commercialization programs at or involving state-supported and state-assisted institutions of higher education. The funds shall be used to make grants awarded on a competitive basis, and shall be administered by the Third Frontier Commission. Expenditure of these funds shall comply with Section 2n of Article VIII, Ohio Constitution, and sections 151.01 and 151.04 of the Revised Code for the period beginning July 1, 2008, and ending June 30, 2010.

Of the foregoing appropriation item C23506, Third Frontier Project, a portion of the unexpended, unencumbered portion at the end of fiscal year 2008 that was allocated for the implementation of the NextGen Network, and is necessary for the continuation of the implementation of the Connect Ohio contract, shall be used for the same purpose in fiscal year 2009 and fiscal year 2010.

The Third Frontier Commission shall develop guidelines relative to the application for and selection of projects funded from appropriation item C23506, Third Frontier Project. The commission may develop these guidelines in consultation with other interested parties. The Board of Regents and all state-assisted and state-supported institutions of higher education shall take all actions necessary to implement grants awarded by the Third Frontier Commission.

The foregoing appropriation item C23506, Third Frontier Project, for which an appropriation is made from the Higher Education Improvement Fund (Fund 7034), is determined to consist of capital improvements and capital facilities for state-supported and state-assisted institutions of higher education, and is designated for the capital facilities to which proceeds of obligations in the Higher Education Improvement Fund (Fund 7034) are to

be applied.

		Reappropriations
Sec. 301.30.30. WSU WRIGHT STATE UNIVERSITY		
C27500	Basic Renovations	\$ 4,543,368
C27501	Basic Renovations - Lake	\$ 86,157
C27504	Library Access Consolidation System	\$ 5,551,183
C27505	Information Technology Center	\$ 23,860
C27506	Specialized Communication	\$ 7,798
C27508	Environmental Technology Consortium	\$ 6,298
C27511	Electrical Infrastructure - Phase 1	\$ 80,151
C27513	Science Lab Renovations - Planning	\$ 9,484,384
C27514	Lake Campus University Center	\$ 2,007,909
C27517	Video Analysis Content Extraction	\$ 56,641
C27523	Advanced Data Manager	\$ 186,309
C27526	Lake Campus Rehabilitation	\$ 478,906
C27527	Advanced Technology Intelligence Center	\$ 2,500,000
C27529	Consolidated Community Project - Greene	\$ 750,000
C27531	Glenn Helen Preserve Eco Art Classroom	\$ 15,000
<u>C27541</u>	<u>WSU STEM School</u>	<u>\$ 750,000</u>
Total Wright State University		\$ 25,777,964

SECTION 610.11. That existing Sections 103.80.80, 103.80.90, 301.10.50, and 301.30.30 of H.B. 496 of the 127th General Assembly are hereby repealed.

SECTION 610.12. That Section 301.60.50 of H.B. 496 of the 127th General Assembly, as amended by Am. Sub. H.B. 420 of the 127th General Assembly, be amended to read as follows:

		Reappropriations
Sec. 301.60.50. STC STARK TECHNICAL COLLEGE		
C38900	Basic Renovations	\$ 374,496
C38901	Instructional and Data Processing Equipment	\$ 22,356
C38903	Timken Regional Campus Technology Project	\$ 219,659
C38912	Health and Science Building	\$ 4,814,648
Total Stark Technical College		\$ 5,431,159
TOTAL Higher Education Improvement Fund		\$ 828,556,976
		<u>832,056,976</u>

SECTION 610.13. That existing Section 301.60.50 of H.B. 496 of the 127th General Assembly, as amended by Am. Sub. H.B. 420 of the 127th General Assembly is hereby repealed.

SECTION 610.14. That Section 301.20.20 of H.B. 496 of the 127th General Assembly, as amended by Am. Sub. H.B. 562 of the 127th General

Assembly, be amended to read as follows:

		Reappropriations
Sec. 301.20.20. BGSU BOWLING GREEN STATE UNIVERSITY		
C24000	Basic Renovations	\$ 10,751,883
C24001	Basic Renovations - Firelands	\$ 811,360
C24002	Instructional and Data Processing Equipment	\$ 1,200,186
C24004	ADA Modifications	\$ 19,544
C24005	Child Care Facility	\$ 49,406
C24007	Materials Network	\$ 90,981
C24008	Video Link	\$ 10,644
C24013	Hannah Hall Rehabilitation	\$ 2,005,522
C24014	Biology Lab Renovation	\$ 12,533,708
C24015	Campus-Wide Paving/Sidewalk Upgrade	\$ 4,899
C24016	Student Learning	\$ 13,149
C24017	Video Teaching Network	\$ 5,436
C24019	Kinetic Spectrometry Consortium	\$ 77,671
C24020	Admissions Visitor Center	\$ 3,000,000
C24021	Theatre/Performing Arts Complex	\$ 8,750,000
C24022	University Hall Rehabilitation	\$ 1,174,981
C24025	Administration Building Fire Alarm System	\$ 83,986
C24026	Campus-Wide Carpet Upgrade	\$ 329,700
C24027	Reroof East, West, and North Buildings	\$ 173,999
C24028	Instructional Laboratory - Phase 1	\$ 960,000
C24031	Health Center Addition	\$ 9,750,000
C24032	Student Services Building Replacement	\$ 8,100,000
C24033	BGU Aviation Improvements	\$ 500,000
C24034	Tunnel Upgrade-Phase II	\$ 98,820
C24035	Library Depository Northwest	\$ 56,000
C24036	Wood County Environmental Health Project	\$ 700,000
<u>C24041</u>	<u>BGSU Ice Arena</u>	<u>\$ 300,000</u>
<u>C24042</u>	<u>Water Quality Lab Equipment</u>	<u>\$ 200,000</u>
<u>C24043</u>	<u>Center for Microscopy and Microanalysis</u>	<u>\$ 200,000</u>
Total Bowling Green State University		\$ 61,251,875

SECTION 610.15. That existing Section 301.20.20 of H.B. 496 of the 127th General Assembly, as amended by Am. Sub. H.B. 562 of the 127th General Assembly is hereby repealed.

SECTION 610.20. That Section 11 of Am. Sub. H.B. 554 of the 127th General Assembly be amended to read as follows:

Sec. 11. (A) All items set forth in this division are hereby appropriated out of any moneys in the state treasury, for the biennium ending on June 30, 2010, to the credit of the Advanced Energy Research and Development Taxable Fund (Fund 7004) that are not otherwise appropriated:

AIR AIR QUALITY DEVELOPMENT AUTHORITY		
C89800	Advanced Energy R&D <u>Research and Development</u>	\$ 9,000,000
	Taxable	<u>18,000,000</u>

Total Air Quality Development Authority	\$	9,000,000
		<u>18,000,000</u>
TOTAL Advanced Energy Research and Development Taxable Fund	\$	9,000,000
		<u>18,000,000</u>

(B) All items set forth in this division are hereby appropriated out of any moneys in the state treasury, for the biennium ending on June 30, 2010, to the credit of the Advanced Energy Research and Development Fund (Fund 7005) that are not otherwise appropriated:

AIR AIR QUALITY DEVELOPMENT AUTHORITY

C89801	Advanced Energy R&D <u>Research and Development</u>	\$	19,000,000
			<u>38,000,000</u>
Total Air Quality Development Authority		\$	19,000,000
			<u>38,000,000</u>
TOTAL Advanced Energy Research and Development Fund		\$	19,000,000
			<u>38,000,000</u>

(C) The foregoing appropriation items C89800, Advanced Energy ~~R&D~~ Research and Development Taxable, and C89801, Advanced Energy ~~R&D~~ Research and Development, shall be used for advanced energy projects in the manner provided in sections 3706.25 to 3706.30 of the Revised Code. The Executive Director of the Air Quality Development Authority may certify to the Director of Budget and Management that a need exists to appropriate investment earnings of funds 7004 and 7005 to be so used. If the Director of Budget and Management, pursuant to sections 3706.25 to 3706.30 of the Revised Code, determines that investment earnings are available to support additional appropriations, such amounts are hereby appropriated.

(D) Upon the request of the Executive Director of the Air Quality Development Authority, the Director of Budget and Management may transfer cash between funds 7004 and 7005. Amounts transferred are hereby appropriated.

(E) Expenditures from appropriations contained in this section may be accounted as though made in the main capital appropriations act of the FY 2009-FY 2010 biennium of the 127th General Assembly. The appropriations made in this section are subject to all provisions of the FY 2009-FY 2010 biennial capital appropriations act of the 127th General Assembly that are generally applicable to such appropriations.

SECTION 610.21. That existing Section 11 of Am. Sub. H.B. 554 of the 127th General Assembly is hereby repealed.

SECTION 610.30. That Sections 233.30.20, 233.30.50, 233.40.30, 235.10,

and 701.20 of Am. Sub. H.B. 562 of the 127th General Assembly be amended to read as follows:

Appropriations

Sec. 233.30.20. BGU BOWLING GREEN STATE UNIVERSITY

C24000	Basic Renovations	\$	4,354,164
C24001	Basic Renovations - Firelands	\$	298,536
C24021	Fine Art and Theater Complex	\$	6,116,000
C24037	Academic Buildings Rehabilitation	\$	6,857,801
C24038	Health Sciences Building	\$	934,363
C24039	Wood County Health District Facility	\$	1,200,000
C24040	James H. McBride Arboretum at BGSU Firelands	\$	378,000
<u>C24041</u>	<u>BGSU Ice Arena</u>	<u>\$</u>	<u>1,200,000</u>
Total Bowling Green University		\$	20,138,864

Appropriations

Sec. 233.30.50. CLS CLEVELAND STATE UNIVERSITY

C26000	Basic Renovations	\$	6,431,121
<u>C26027</u>	<u>Cleveland Playhouse</u>	<u>\$</u>	<u>150,000</u>
C26035	Cleveland Institute of Art	\$	500,000
C26048	Rhodes Tower Renovation	\$	4,030,166
C26049	Basic Science Building HVAC and Electrical Upgrade	\$	1,125,000
C26050	Law Building Renovation	\$	3,500,000
C26051	Cleveland Hearing and Speech Center	\$	125,000
C26052	University Hospitals Ireland Cancer Center	\$	3,000,000
C26053	Playhouse Square Center	\$	350,000
Total Cleveland State University		\$	19,061,287
			<u>19,211,287</u>

Appropriations

Sec. 233.40.30. CTI COLUMBUS STATE COMMUNITY COLLEGE

C38400	Basic Renovations	\$	1,691,834
C38411	Columbus Hall Renovation	\$	5,470,913
C38412	Painters Apprenticeship Council	\$	500,000
C38413	Jewish Community Center NE Initiative	\$	575,000
C38414	Somali Community Center	\$	100,000
<u>C38415</u>	<u>Building E</u>	<u>\$</u>	<u>1,200,000</u>
Total Columbus State Community College		\$	8,337,747
			<u>9,537,747</u>

Sec. 235.10. The items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Parks and Recreation Improvement Fund (Fund 7035) that are not otherwise appropriated.

Appropriations

DNR DEPARTMENT OF NATURAL RESOURCES

C725A0	State Parks, Campgrounds, Cabins, & Lodges	\$	5,150,000
C725A9	Park Boating Facilities - Shawnee Marina	\$	1,000,000
C725B8	Upgrade Underground Fuel Storage Tanks - Statewide	\$	250,000
C725E2	Local Parks Projects	\$	26,227,333
C725E6	Project Planning	\$	500,000

C725L8	Statewide Trails Program - Hocking Hills Trails Rehabilitation Phase II	\$	1,000,000
C725M5	Middle Bass Island State Park - Marina	\$	4,000,000
C725N0	Handicapped Accessibility - Statewide	\$	100,000
C725N4	Hazardous Waste/Asbestos Abatement - Statewide	\$	150,000
C725N6	Statewide Wastewater/Water Systems Upgrade	\$	3,000,000
C725R3	State Park Renovations/Upgrading - Statewide Beach Bath House Replacement	\$	1,000,000
	Total Department of Natural Resources	\$	42,377,333
	TOTAL Parks and Recreation Improvement Fund	\$	42,377,333

FEDERAL REIMBURSEMENT

All reimbursements received from the federal government for any expenditures made pursuant to this section shall be deposited in the state treasury to the credit of the Parks and Recreation Improvement Fund (Fund 7035).

LOCAL PARKS PROJECTS

Of the foregoing appropriation item C725E2, Local Parks Projects, an amount equal to two per cent of the projects listed may be used by the Department of Natural Resources for the administration of local projects, \$3,050,000 shall be used for the Scioto Mile Development, \$2,000,000 shall be used for the Riverfront Park, \$2,000,000 shall be used for the Goodyear Park, \$1,090,000 shall be used for the Sterling Park, \$1,000,000 shall be used for the Little Miami Trail extension - Hamilton County Park District, \$675,000 shall be used for the Anthony Wayne Youth Foundation Recreation area, \$100,000 shall be used for the Euclid Beach Pier, \$500,000 shall be used for the Euclid Marina Breakwater Project, \$500,000 shall be used for the Columbus Crew Facility - Hilliard, \$500,000 shall be used for the Franklin Park Conservatory, \$500,000 shall be used for the Colerain Township Park, \$500,000 shall be used for the Green Township Legacy Place Park, \$475,000 shall be used for the Dublin Emerald Fields Special Needs Playground, \$450,000 shall be used for the Sippo Lake Park improvements, \$400,000 shall be used for the Mentor Beach Park or Mentor Lagoons Marina, \$400,000 shall be used for the Harrison Park - Wick District - Smoky, \$400,000 shall be used for the Wayne County Rails to Trails Project, \$350,000 shall be used by Franklin County Metro Parks for the Whittier Peninsula Park, \$350,000 shall be used for the Perry Township Park, \$733,333 shall be used for the East Bank of the Flats, \$175,000 shall be used for the New Richmond Park, \$300,000 shall be used for the Beaver Creek Wildlife Education Center, \$300,000 shall be used for the Versailles Park Project, \$300,000 shall be used for the Madison Township Park, \$284,000 shall be used for the Bike and Pedestrian Path - SugarTree Corridor, \$275,000 shall be used for the Montville Township Park Project, \$250,000 shall be used for the Grand Lake St. Mary's Shoreline Rip Rap

Project, \$250,000 shall be used for the West Chester Beckett Park Improvements, \$250,000 shall be used for the City of Strongsville Family Aquatic Center, \$250,000 shall be used for the Reis Park improvements, \$250,000 shall be used for the McIntyre Park Hiking and Biking Trails, \$250,000 shall be used for the Circleville Community Park Project, \$250,000 shall be used for the Fremont Area Foundation Park athletic facilities, \$250,000 shall be used for the Alliance Park, \$250,000 shall be used for the Audubon Ohio Nature Center, \$200,000 shall be used for the Maple Heights Pool/Park improvements, \$200,000 shall be used for the Lancaster Community Parks revitalization, \$200,000 shall be used for the Grandview Yard Public Park, \$200,000 shall be used for the Wyoming City Regional Park, \$200,000 shall be used for the Chagrin River Lakefront Park, \$200,000 shall be used for the Aullwood Audubon Center, \$400,000 shall be used for the Austin Pike Project - land acquisition, \$200,000 shall be used for the Mary Virginia Crites Hammum Community Park, \$500,000 shall be used for the Canton Water Facilities Park Project, \$150,000 shall be used for the Lima Historic Athletic Field, \$150,000 shall be used for the Myers Memorial Bandshell, \$150,000 shall be used for the City of Logan Park/Pool improvements, \$150,000 shall be used for the Houston Fisher Memorial Park improvements, \$150,000 shall be used for the Indian Lake State Park Campground Electrical Improvements, \$150,000 shall be used for the Avon Lake Veterans Park improvements, \$125,000 shall be used for the York Township Park land acquisition, \$124,500 shall be used for the Salt Fork Concession Stand, \$100,000 shall be used for the Monroe Veterans' Memorial Park, \$100,000 shall be used for the Rivers Edge Bikeway, \$100,000 shall be used for the Mayfield Heights Park Facility improvement, \$100,000 shall be used for the Auburn Township Community Park, \$100,000 shall be used for the Kidron Community Park Improvements, \$100,000 shall be used for the Lucas County Marina, \$100,000 shall be used for the Youngstown City Park, \$100,000 shall be used for the Salisbury Township Park improvements/land acquisition, \$100,000 shall be used for the Community Built Playground, \$100,000 shall be used for the Burkes Point Park, \$100,000 shall be used for the Barberton Newton Park, \$100,000 shall be used for the Crown Point Conservation Easement, \$100,000 shall be used for the Mudbrook Trail and Greenway Project, \$100,000 shall be used for the Waddell Park in the City of Niles, \$100,000 shall be used for the Moonville Rail Trail Project, \$100,000 shall be used for the Springboro Park improvements, \$75,000 shall be used for the Ault Park improvements, \$75,000 shall be used for the Willard Soccer and Football Park Project, \$75,000 shall be used for the Austintown Nature Rooms, \$75,000 shall be

used for the Meigs Local Enrichment Project Multi-Purpose Complex, \$75,000 shall be used for the Miracle League facility - Muskingum County, \$70,000 shall be used for the City of Nelsonville ~~Park/land acquisition to acquire land, make park improvements, or purchase park-related equipment,~~ \$65,000 shall be used for the Village of Jacksonville Park improvements, \$58,500 shall be used by the Greene County Parks and Recreation Department to provide recreational opportunities, \$50,000 shall be used for the Ohio Wildlife Center, \$50,000 shall be used for the Kelley's Island Park Restroom PHASE II, \$50,000 shall be used for the Little League Challenger Field - Cambridge, \$50,000 shall be used for the Avon Isle Park improvements, \$50,000 shall be used for the Monroe Township, Clermont County Fair Oak Park, \$46,000 shall be used for the Huntington Township Park Projects, \$35,000 shall be used for the Village of Buchtel Park improvements, \$35,000 shall be used for the Village of Syracuse Park improvements, \$30,000 shall be used for the Village of Albany Park improvements, \$30,000 shall be used for the Village of Aberdeen Boat Dock, \$30,000 shall be used for the Village of Hamler Parks improvement, \$25,000 shall be used for the Coshocton Children's Park, \$25,000 shall be used for the Alt Park improvements, \$25,000 shall be used for the Cambridge Handicapped Playground, \$25,000 shall be used for the Murray City Community Parks improvement, \$25,000 shall be used for the Marblehead Lighthouse State Park - Replica Life Boat Station, \$25,000 shall be used for the Village of Attica Park Maintenance, \$20,000 shall be used for the Village of Stockport Park improvements, \$15,000 shall be used for the Village of Salineville Baseball Field, \$15,000 shall be used for the City of Parma Heights Greenbriar Commons Park Walking Trail, \$10,000 shall be used for the Village of Albany Bike Paths, \$10,000 shall be used for the Salem Park Board, \$10,000 shall be used for the Village of Pomeroy Mini Park improvements, \$10,000 shall be used for the Skyvue Outdoor Classroom, and \$6,000 shall be used for the Wadsworth Skate Park.

Sec. 701.20. (A) The Ohio Commission on Local Government Reform and Collaboration shall develop recommendations on ways to increase the efficiency and effectiveness of local government operations, to achieve cost savings for taxpayers, and to facilitate economic development in this state. In developing the recommendations, the commission shall consider, but is not limited to, the following:

- (1) Restructuring and streamlining local government offices to achieve efficiencies and cost savings for taxpayers and to facilitate local economic development;
- (2) Restructuring and streamlining special taxing districts and local

government authorities authorized by the constitution or the laws of this state to levy a tax of any kind or to have a tax of any kind levied on its behalf, and of local government units, including schools and libraries, to reduce overhead and administrative expenses;

(3) Restructuring, streamlining, and finding ways to collaborate on the delivery of services, functions, or authorities of local government to achieve cost savings for taxpayers;

(4) Examining the relationship of services provided by the state to services provided by local government and the possible realignment of state and local services to increase efficiency and improve accountability; ~~and~~

(5) Ways of reforming or restructuring constitutional, statutory, and administrative laws to facilitate collaboration for local economic development, to increase the efficiency and effectiveness of local government operations, to identify duplication of services, and to achieve costs savings for taxpayers;

(6) Making annual financial reporting across local governments consistent for ease of comparison; and

(7) Aligning regional planning units across state agencies.

(B)(1) There is hereby created the Ohio Commission on Local Government Reform and Collaboration, consisting of fifteen voting members. The President of the Senate shall appoint three members, one of whom may be a person who is recommended by the Minority Leader of the Senate. The Speaker of the House of Representatives shall appoint three members, one of whom may be a person who is recommended by the Minority Leader of the House of Representatives. The Governor shall appoint three members. One member shall be appointed by, and shall represent, each of the following organizations: the Ohio Municipal League, the Ohio Township Association, the Ohio School Boards Association, the County Commissioners' Association of Ohio, the Ohio Library Council, and the Ohio Association of Regional Councils. The initial appointments shall be made not later than ninety days after the effective date of this section. Vacancies shall be filled in the manner provided for original appointments. Members are not entitled to compensation for their services.

(2) The initial meeting of the commission shall be called by the Governor within forty-five days after the initial appointments to the commission are complete. The commission shall elect two of its members to serve as co-chairpersons of the commission.

(C) The commission may create an advisory council consisting of interested parties representing taxing authorities and political subdivisions that are not taxing authorities. The appointment of members to the advisory

council is a matter of the commission's discretion. The commission may direct the advisory council to provide relevant information to the commission. Advisory council members are not members of the commission, and may not vote on commission business.

(D) The commission may consult with and obtain assistance from state institutions of higher education (as defined in section 3345.011 of the Revised Code) and from business organizations for research and data gathering related to its mission. State institutions of higher education and business organizations shall cooperate with the commission.

(E) The commission shall issue a report of its findings and recommendations to the President of the Senate, the Speaker of the House of Representatives, and the Governor not later than July 1, 2010. The commission ceases to exist upon submitting its report.

SECTION 610.31. That existing Sections 233.30.20, 233.30.50, 233.40.30, 235.10, and 701.20 of Am. Sub. H.B. 562 of the 127th General Assembly are hereby repealed.

SECTION 610.40. That Section 231.20.30 of Am. Sub. H.B. 562 of the 127th General Assembly, as amended by Am. Sub. H.B. 420 of the 127th General Assembly, be amended to read as follows:

		Appropriations
Sec. 231.20.30. DMR DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES		
STATEWIDE AND CENTRAL OFFICE PROJECTS		
C59004	Community Assistance Projects	\$ 13,551,537
C59022	Razing of Buildings	\$ 200,000
C59024	Telecommunications	\$ 400,000
C59029	Generator Replacement	\$ 1,000,000
C59034	Statewide Developmental Centers	\$ 4,294,237
C59050	Emergency Improvements	\$ 500,000
C59051	Energy Conservation	\$ 500,000
C59052	Guernsey County MRDD Boiler Replacement	\$ 275,000
C59054	Recreation Unlimited Life Center Ashley Campus Support Company - Delaware	\$ 150,000
C59055	Camp McKinley Improvements	\$ 30,000
C59056	The Hope Learning Center	\$ 250,000
Total Statewide and Central Office Projects		\$ 21,150,774
TOTAL Department of Mental Retardation and Developmental Disabilities		\$ 21,150,774
TOTAL Mental Health Facilities Improvement Fund		\$ 127,630,774

COMMUNITY ASSISTANCE PROJECTS

The foregoing appropriation item C59004, Community Assistance

Projects, may be used to provide community assistance funds for the development, purchase, construction, or renovation of facilities for day programs or residential programs that provide services to persons eligible for services from the Department of Mental Retardation and Developmental Disabilities or county boards of mental retardation and developmental disabilities. Any funds provided to nonprofit agencies for the construction or renovation of facilities for persons eligible for services from the Department of Mental Retardation and Developmental Disabilities and county boards of mental retardation and developmental disabilities shall be governed by the prevailing wage provisions in section 176.05 of the Revised Code.

Of the foregoing appropriation item C59004, Community Assistance Projects, \$250,000 shall be used for North Olmsted Welcome House. Notwithstanding any provision of law to the contrary, North Olmsted Welcome House is not subject to the requirements of Chapter 153. of the Revised Code.

SECTION 610.41. That existing Section 231.20.30 of Am. Sub. H.B. 562 of the 127th General Assembly, as amended by Am. Sub. H.B. 420 of the 127th General Assembly, is hereby repealed.

SECTION 610.50. That Sections 227.10 and 233.50.80 of Am. Sub. H.B. 562 of the 127th General Assembly, as amended by Am. Sub. H.B. 420 of the 127th General Assembly, be amended to read as follows:

Sec. 227.10. The items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Cultural and Sports Facilities Building Fund (Fund 7030) that are not otherwise appropriated.

Appropriations

AFC CULTURAL FACILITIES COMMISSION

C37118	Statewide Site Repairs	\$	650,000
C37120	Cincinnati Museum Center	\$	2,500,000
C37122	Akron Art Museum	\$	700,000
C37123	Youngstown Symphony Orchestra	\$	675,000
C37127	Cedar Bog	\$	50,000
C37139	Stan Hywet Hall & Gardens	\$	1,050,000
C37140	McKinley Museum Improvements	\$	200,000
C37142	Midland Theatre Improvements	\$	300,000
C37148	Hayes Presidential Center	\$	150,000
C37152	Zoar Village Building Restoration	\$	90,000
C37153	Basic Renovations and Emergency Repairs	\$	850,000
C37158	Rankin House Restoration and Development	\$	242,000
C37163	Harding Home and Tomb	\$	340,000
C37165	Ohio Historical Center Rehabilitation	\$	514,000

C37187	Renaissance Theatre	\$	900,000
C37188	Trumpet in the Land Facility	\$	150,000
C371A3	Voice of America Museum Facility	\$	500,000
C371A9	Western Reserve Historical Society	\$	300,000
C371C7	Music Hall Facility	\$	1,100,000
C371E5	Pro Football Hall of Fame	\$	500,000
C371F6	Colony Theater	\$	250,000
C371G4	Collections Storage Facility and Learning Center	\$	1,240,000
C371G6	Lockington Locks Stabilization	\$	462,000
C371H2	National Underground Railroad Freedom Center	\$	850,000
C371H5	Heritage Center of Dayton Manufacturing & Entrepreneurship	\$	1,000,000
C371H7	COSI - Columbus	\$	500,000
C371H8	Columbus Museum of Art	\$	1,500,000
C371J3	Davis-Shai Historical Facility	\$	725,000
C371J4	Massillon Museum Improvements	\$	150,000
C371J6	Peggy McConnell Arts Center - Worthington	\$	475,000
C371J9	Stambaugh Auditorium	\$	675,000
C371K3	Cincinnati Ballet	\$	250,000
C371L3	Ukrainian Museum	\$	50,000
C371L4	Gordon Square Arts District	\$	1,800,000
C371M8	Hale Farm and Village	\$	200,000
C371O9	Historic Site-Signage - Phase II	\$	50,000
C371P4	Cleveland Playhouse	\$	150,000
C371P9	Civil War Site Improvements	\$	475,000
C371Q0	On-Line Portal to Ohio's Heritage	\$	427,000
C371Q1	Lucas County Multi-purpose Sports Arena	\$	2,200,000
C371Q2	Ballpark Village project	\$	2,000,000
C371Q5	Cincinnati Zoo	\$	1,500,000
C371Q6	Cincinnati Art Museum	\$	1,500,000
C371R0	King Arts Complex	\$	861,000
C371R3	Loudonville Opera House	\$	600,000
C371R4	Eagles Palace Theater	\$	410,000
C371R6	Historic McCook House	\$	500,000
C371R7	Jeffrey Mansion in Bexley	\$	475,000
C371R8	Columbus Zoo and Aquarium	\$	500,000
C371S0	Towpath Trail	\$	500,000
C371S1	Museum of Contemporary Art Cleveland	\$	450,000
C371S2	Arts in Stark Cultural Center	\$	150,000
C371S3	Ohio Genealogical Society	\$	350,000
C371S5	The Fine Arts Association	\$	300,000
C371S7	Maltz Museum of Jewish Heritage	\$	300,000
C371S8	Allen County Historical Society Museum Renovation	\$	280,000
C371S9	Portsmouth Mural	\$	250,000
C371T2	Bucyrus Little Theater Restoration Project	\$	250,000
C371T3	Boonshoft Museum of Discovery	\$	250,000
C371T5	Cliffton Cultural Arts Center	\$	250,000
C371T6	Baltimore Theatre	\$	50,000
C371T7	Rock Mill Park Improvements	\$	150,000
C371T9	Cozad-Bates House Historic Project	\$	100,000
C371U3	Lake Erie Nature & Science Center	\$	200,000
C371U4	Great Lakes Science Center	\$	300,000
C371U5	Cleveland Zoological Society	\$	150,000
C371U8	Kidron Historical Society - Sonnenberg Village project	\$	200,000

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C371V0	Chesterhill Union Hall Theatre	\$	25,000
C371V1	Geauga County Historical Society - Maple Museum	\$	20,000
C371V2	Hallsville Historical Society	\$	100,000
C371V3	Fayette County Historical Society	\$	150,000
C371V4	Covedale Theatre	\$	100,000
C371V5	Mariemont City - Women's Cultural Arts Center	\$	220,000
C371V6	Madeira Historical Society/Miller House	\$	60,000
C371V7	Sylvania Historic Village restoration	\$	200,000
C371V9	Henry County Historical Society museum	\$	59,000
C371W0	Antwerp Railroad Depot historic building	\$	106,000
C371W1	Village of Edinburg Veterans Memorial	\$	35,000
C371W2	Lorain County Historical Society Horace Starr House	\$	200,000
C371W3	North Ridgeville Historic Community Theater	\$	175,000
C371W4	Redbrick Center for the Arts	\$	200,000
C371W5	Irene Lawrence Fuller Historic House	\$	250,000
C371W6	Preble County Historical Society Amphitheater	\$	250,000
C371W7	BalletTech	\$	200,000
C371W8	Cincinnati Museum Center - Eulett Center	\$	150,000
C371W9	Rickenbacker Boyhood Home	\$	139,000
C371X0	Rivers Edge Amphitheater project	\$	100,000
C371X1	Variety Theater	\$	85,000
C371X2	Morgan Township Historical Society	\$	80,000
C371X3	Salem Community Theater	\$	53,000
C371X4	Our House State Memorial	\$	50,000
C371X5	Belle's Opera House Improvements	\$	50,000
C371X6	Warren Veterans memorial	\$	50,000
C371X7	Huntington Playhouse	\$	40,000
C371X8	Cambridge Performing Arts Center	\$	37,500
C371X9	Old Harvey Historic School Restoration	\$	25,000
C371Y0	Dalton Community Historical Society	\$	10,000
C371Y1	Mohawk Veterans' Memorial	\$	15,000
C371Y2	Cleveland Museum of Natural History	\$	150,000
C371Y3	Fire Museum	\$	83,334
C371Y4	New Town Indian Artifact Museum	\$	300,000
C371Y5	City of Perrysburg Fort Meigs	\$	200,000
C371Y6	Historic League Park Restoration	\$	150,000
C371Y8	Madisonville Arts Center of Hamilton County	\$	36,000
C371Z0	Marietta Citizens Armory Cultural Center	\$	200,000
C371Z1	Great Lakes Historical Museum	\$	200,000
C371Z3	Port of Lorain Foundation - Lorain Lighthouse Restoration	\$	190,000
Total Cultural Facilities Commission		\$	<u>42,759,834</u>
TOTAL Cultural and Sports Facilities Building Fund		\$	<u>42,609,834</u>
			<u>42,759,834</u>
			<u>42,609,834</u>

Of the foregoing appropriation item C371Q5, Cincinnati Zoo, \$750,000 shall be used for the Cat Canyon/Small Cat Reproduction Center project.

Appropriations

Sec. 233.50.80. STC STARK TECHNICAL COLLEGE

C38900	Basic Renovations	\$	786,333
C38913	Business Technologies Building	\$	2,034,537
C38914	Corporate and Community Services Facility	\$	500,000
Total Stark Technical College		\$	3,320,870

Total Board of Regents and Institutions of Higher Education	\$	598,559,802 600,209,802
TOTAL Higher Education Improvement Fund	\$	609,109,802 610,759,802

SECTION 610.51. That existing Sections 227.10 and 233.50.80 of Am. Sub. H.B. 562 of the 127th General Assembly, as amended by Am. Sub. H.B. 420 of the 127th General Assembly are hereby repealed.

SECTION 610.61. That Section 217.11 of Am. Sub. H.B. 562 of the 127th General Assembly, as amended by Am. Sub. H.B. 2 of the 128th General Assembly, be amended to read as follows:

Sec. 217.11. CLEAN OHIO REVITALIZATION

The Treasurer of State is hereby authorized to issue and sell, in accordance with Section 2o and 2q of Article VIII, Ohio Constitution, and pursuant to sections 151.01 and 151.40 of the Revised Code, original obligations in an aggregate principal amount not to exceed \$100,000,000 in addition to the original issuance of obligations heretofore authorized by prior acts of the General Assembly. These authorized obligations shall be issued and sold from time to time, subject to applicable constitutional and statutory limitations, as needed to ensure sufficient moneys to the credit of the Clean Ohio Revitalization Fund (Fund 7003) to pay costs of revitalization projects.

CLEAN OHIO PROJECT SAVINGS REALLOCATION

Notwithstanding division (A) of section 122.658 of the Revised Code, the Director of Development may reallocate moneys for the purposes of section 122.653 or 122.656 of the Revised Code if the Department of Development realizes Clean Ohio Fund project savings attributable to any of the following instances:

(A) The completion of any project for less than the amount of grant funds awarded, subject to the local matching funds participation requirement;

(B) The cancellation of grant awards in which Clean Ohio Fund moneys have been encumbered for a project but not disbursed, including those for which a grantee has decided not to proceed with a project or for which the project term has expired without substantial project progress; or

(C) Any recapture of Clean Ohio Fund moneys due to a grantee's default or failure to perform the conditions of the grant agreement.

SECTION 610.62. That existing Section 217.11 of Am. Sub. H.B. 562 of the 127th General Assembly, as amended by Am. Sub. H.B. 2 of the 128th General Assembly, is hereby repealed.

SECTION 620.10. That Section 831.06 of Am. Sub. H.B. 530 of the 126th General Assembly be amended to read as follows:

Sec. 831.06. The amendments by this act of the first paragraph of division (F) of section 5751.01, of division (F)(2)(w) of section 5751.01, of the first paragraph of section ~~5751.032~~ 5751.53, and of divisions (A)(7) and (A)(8)(c) of section 5751.032 of the Revised Code are nonsubstantive corrections of errors in Chapter 5751. of the Revised Code.

SECTION 620.11. That existing Section 831.06 of Am. Sub. H.B. 530 of the 126th General Assembly is hereby repealed.

SECTION 630.10. That Section 4 of Am. Sub. H.B. 516 of the 125th General Assembly, as most recently amended by Am. Sub. H.B. 100 of the 127th General Assembly, be amended to read as follows:

Sec. 4. The following agencies shall be retained pursuant to division (D) of section 101.83 of the Revised Code and shall expire on December 31, 2010:

AGENCY NAME	REVISED CODE OR UNCODIFIED SECTION
Administrator, Interstate Compact on Mental Health	5119.50
Administrator, Interstate Compact on Placement of Children	5103.20
Advisory Board of Governor's Office of Faith-Based and Community Initiatives	107.12
Advisory Boards to the EPA for Air Pollution	121.13
Advisory Boards to the EPA for Water Pollution	121.13
Advisory Committee of the State Veterinary Medical Licensing Board	4741.03(D)(3)
Advisory Committee on Livestock Exhibitions	901.71
Advisory Council on Amusement Ride Safety	1711.51

Advisory Board of Directors for Prison Labor	5145.162
Advisory Council for Each Wild, Scenic, or Recreational River Area	1517.18
Advisory Councils or Boards for State Departments	107.18 or 121.13
Advisory Group to the Ohio Water Resources Council	1521.19(C)
Alzheimer's Disease Task Force	173.04(F)
AMBER Alert Advisory Committee	5502.521
Apprenticeship Council	4139.02
Armory Board of Control	5911.09
Automated Title Processing Board	4505.09(C)(1)
Banking Commission	1123.01
Board of Directors of the Ohio Health Reinsurance Program	3924.08
Board of Voting Machine Examiners	3506.05(B)
Brain Injury Advisory Committee	3304.231
Capitol Square Review and Advisory Board	105.41
Child Support Guideline Advisory Council	3119.024
Children's Trust Fund Board	3109.15
Citizens Advisory Committee (BMV)	4501.025
Citizen's Advisory Councils (Dept. of Mental Retardation and Developmental Disabilities)	5123.092
Clean Ohio Trail Advisory Board	1519.06
Coastal Resources Advisory Council	1506.12
Commission on African-American Males	4112.12
Commission on Hispanic-Latino Affairs	121.31
Commission on Minority Health	3701.78
Committee on Prescriptive Governance	4723.49
Commodity Advisory Commission	926.32
Community Mental Retardation and Developmental Disabilities Trust Fund Advisory Council	5123.353
Community Oversight Council	3311.77
Compassionate Care Task Force	Section 3, H.B. 474, 124th GA
Continuing Education Committee (for Sheriffs)	109.80
Coordinating Committee, Agricultural Commodity Marketing Programs	924.14

Council on Alcohol and Drug Addiction Services	3793.09
Council on Unreclaimed Strip Mined Lands	1513.29
Council to Advise on the Establishment and Implementation of the Birth Defects Information System	3705.34
County Sheriffs' Standard Car-Marking and Uniform Commission	311.25
Credit Union Council	1733.329
Criminal Sentencing Advisory Committee	181.22
Day-Care Advisory Council	5104.08
Dentist Loan Repayment Advisory Board	3702.92
Development Financing Advisory Council	122.40
Education Commission of the States (Interstate Compact for Education)	3301.48
Electrical Safety Inspector Advisory Committee	3783.08
Emergency Response Commission	3750.02
Engineering Experiment Station Advisory Committee	3335.27
Environmental Education Council	3745.21
EPA Advisory Boards or Councils	121.13
Farmland Preservation Advisory Board	901.23
Financial Planning & Supervision Commission for Municipal Corporation, County, or Township	118.05
Financial Planning & Supervision Commission for School District	3316.05
Forestry Advisory Council	1503.40
Governance Authority for a State University or College	3345.75
Governor's Advisory Council on Physical Fitness, Wellness, & Sports	3701.77
Governor's Council on People with Disabilities	3303.41
Governor's Residence Advisory Commission	107.40
Great Lakes Commission (Great Lakes Basin Compact)	6161.01
Gubernatorial Transition Committee	107.29
Head Start Partnership Study Council	Section 41.35, H.B. 95, 125th GA
Hemophilia Advisory Subcommittee	3701.0210
Housing Trust Fund Advisory Committee	475.25 <u>174.06</u>

Industrial Commission Nominating Council	4121.04
Industrial Technology and Enterprise Advisory Council	122.29
Infant Hearing Screening Subcommittee	3701.507
Insurance Agent Education Advisory Council	3905.483
Interagency Council on Hispanic/Latino Affairs	121.32(J)
Interstate Mining Commission (Interstate Mining Compact)	1514.30
Interstate Rail Passenger Advisory Council (Interstate High Speed Intercity Rail Passenger Network Compact)	4981.35
Joint Council on MR/DD	101.37
Joint Select Committee on Volume Cap	133.021
Labor-Management Government Advisory Council	4121.70
Legal Rights Service Commission	5123.60
Legislative Task Force on Redistricting, Reapportionment, and Demographic Research	103.51
Maternal and Child Health Council	3701.025
Medically Handicapped Children's Medical Advisory Council	3701.025
Midwest Interstate Passenger Rail Compact Commission (Ohio members)	4981.361
Military Activation Task Force	5902.15
Milk Sanitation Board	917.03
Mine Subsidence Insurance Governing Board	3929.51
Minority Development Financing Board	122.72
Multi-Agency Radio Communications Systems Steering Committee	Sec. 21, H.B. 790, 120th GA
Multidisciplinary Council	3746.03
Muskingum River Advisory Council	1501.25
National Museum of Afro-American History and Culture Planning Committee	149.303
Ohio Advisory Council for the Aging	173.03
Ohio Aerospace & Defense Advisory Council	122.98
Ohio Arts Council	3379.02
Ohio Business Gateway Steering Committee	5703.57
Ohio Cemetery Dispute Resolution Commission	4767.05
Ohio Civil Rights Commission Advisory Agencies and Conciliation Councils	4112.04(B)
Ohio Commercial Insurance Joint Underwriting	3930.03

Association Board Of Governors	
Ohio Commercial Market Assistance Plan Executive Committee	3930.02
Ohio Commission on Dispute Resolution and Conflict Management	179.02
Ohio Commission to Reform Medicaid	Section 59.29, H.B. 95, 125th GA
Ohio Community Service Council	121.40
Ohio Council for Interstate Adult Offender Supervision	5149.22
Ohio Cultural Facilities Commission	3383.02
Ohio Developmental Disabilities Council	5123.35
Ohio Expositions Commission	991.02
Ohio Family and Children First Cabinet Council	121.37
Ohio Geology Advisory Council	1505.11
Ohio Grape Industries Committee	924.51
Ohio Hepatitis C Advisory Commission	3701.92
Ohio Historic Site Preservation Advisory Board	149.301
Ohio Historical Society Board of Trustees	149.30
Ohio Judicial Conference	105.91
Ohio Lake Erie Commission	1506.21
Ohio Medical Malpractice Commission	Section 4, S.B. 281, 124th GA and Section 3, S.B. 86, 125th GA
Ohio Medical Quality Foundation	3701.89
Ohio Parks and Recreation Council	1541.40
Ohio Peace Officer Training Commission	109.71
Ohio Public Defender Commission	120.01
Ohio Public Library Information Network Board	Sec. 69, H.B. 117, 121st GA, as amended by H.B. 284, 121st GA
Ohio Quarter Horse Development Commission	3769.086
Ohio Small Government Capital Improvements Commission	164.02

Ohio Soil and Water Conservation Commission	1515.02
Ohio Standardbred Development Commission	3769.085
Ohio Steel Industry Advisory Council	122.97
Ohio Teacher Education and Licensure Advisory Council	3319.28(D)
Ohio Thoroughbred Racing Advisory Committee	3769.084
Ohio Tuition Trust Authority	3334.03
Ohio University College of Osteopathic Medicine Advisory Committee	3337.10
Ohio Vendors Representative Committee	3304.34
Ohio War Orphans Scholarship Board	5910.02
Ohio Water Advisory Council	1521.031
Ohio Water Resources Council	1521.19
Ohioana Library Association, Martha Kinney Cooper Memorial	3375.62
Oil and Gas Commission	1509.35
Operating Committee, Agricultural Commodity Marketing Programs	924.07
Organized Crime Investigations Commission	177.01
Pharmacy and Therapeutics Committee of the Dept. of Job and Family Services	5111.81 <u>5111.084</u>
Physician Loan Repayment Advisory Board	3702.81
Power Siting Board	4906.02
Prequalification Review Board	5525.07
Private Water Systems Advisory Council	3701.346
Public Employment Risk Reduction Advisory Commission	4167.02
Public Health Council	3701.33
Public Utilities Commission Nominating Council	4901.021
Public Utility Property Tax Study Committee	5727.85
Radiation Advisory Council	3748.20
Reclamation Commission	1513.05
Recreation and Resources Commission	1501.04
Recycling and Litter Prevention Advisory Council	1502.04
Rehabilitation Services Commission Consumer Advisory Committee	3304.24
Savings & Loans Associations & Savings Banks Board	1181.16
Schools and Ministerial Lands Divestiture Committee	501.041

Second Chance Trust Fund Advisory Committee	2108.17
Small Business Stationary Source Technical and Environmental Compliance Assistance Council	3704.19
Solid Waste Management Advisory Council	3734.51
State Agency Coordinating Group	1521.19
State Board of Emergency Medical Services	4765.04
Subcommittees	
State Council of Uniform State Laws	105.21
State Committee for the Purchase of Products and Services Provided by Persons with Severe Disabilities	4115.32
State Criminal Sentencing Commission	181.21
State Fire Commission	3737.81
State Racing Commission	3769.02
State Victims Assistance Advisory Committee	109.91
Student Tuition Recovery Authority	3332.081
Tax Credit Authority	122.17
Technical Advisory Committee to Assist the Director of the Ohio Coal Development Office	1551.35
Technical Advisory Council on Oil and Gas	1509.38
Transportation Review Advisory Council	5512.07
Unemployment Compensation Review Commission	4141.06
Unemployment Compensation Advisory Council	4141.08
Utility Radiological Safety Board	4937.02
Vehicle Management Commission	125.833
Veterans Advisory Committee	5902.02(K)
Volunteer Fire Fighters' Dependents Fund Boards (Private and Public)	146.02
Water and Sewer Commission	1525.11(C)
Waterways Safety Council	1547.73
Wildlife Council	1531.03
Workers' Compensation Board of Directors	4121.123
Nominating Committee	

SECTION 630.11. That existing Section 4 of Am. Sub. H.B. 516 of the 125th General Assembly, as most recently amended by Am. Sub. H.B. 100 of the 127th General Assembly, is hereby repealed.

SECTION 640.10. That Section 153 of Am. Sub. H.B. 117 of the 121st General Assembly, as most recently amended by Am. Sub. H.B. 119 of the 127th General Assembly, be amended to read as follows:

Sec. 153. (A) Sections 5112.01, 5112.03, 5112.04, 5112.05, 5112.06, 5112.07, 5112.08, 5112.09, 5112.10, 5112.11, 5112.18, 5112.19, 5112.21, and 5112.99 of the Revised Code are hereby repealed, effective October 16, ~~2009~~ 2011.

(B) Any money remaining in the Legislative Budget Services Fund on October 16, ~~2009~~ 2011, the date that section 5112.19 of the Revised Code is repealed by division (A) of this section, shall be used solely for the purposes stated in then former section 5112.19 of the Revised Code. When all money in the Legislative Budget Services Fund has been spent after then former section 5112.19 of the Revised Code is repealed under division (A) of this section, the fund shall cease to exist.

SECTION 640.11. That existing Section 153 of Am. Sub. H.B. 117 of the 121st General Assembly, as most recently amended by Am. Sub. H.B. 119 of the 127th General Assembly, is hereby repealed.

SECTION 640.20. That Sections 120.01 and 120.02 of Am. Sub. H.B. 119 of the 127th General Assembly be amended to read as follows:

Sec. 120.01. During the period beginning July 1, 2007, and expiring ~~July~~ January 1, ~~2009~~ 2010, the operation of sections 3718.02, 3718.05, 3718.06, 3718.07, 3718.08, 3718.09, 3718.10, 3718.99, and 6111.441 of the Revised Code is suspended. On ~~July~~ January 1, ~~2009~~ 2010, sections 3718.02, 3718.05, 3718.06, 3718.07, 3718.08, 3718.09, 3718.10, 3718.99, and 6111.441 of the Revised Code, in either their present form or as they are later amended, again become operational.

Sec. 120.02. (A)(1) Effective July 2, 2007, the rules adopted by the Public Health Council under section 3718.02 of the Revised Code that took effect on January 1, 2007, are not valid. Not later than July 2, 2007, the Director of Health shall adopt rules that are identical to the rules adopted by the Public Health Council that were in effect prior to January 1, 2007, and were codified in Chapter 3701-29 of the Administrative Code, except the rules in that chapter that established requirements for separation distances from a water table and soil absorption requirements.

At the same time that the Public Health Council adopts the rules

required under division (A)(2) of this section, the Director shall rescind the rules adopted under this division.

The adoption and rescission of rules under this division are not subject to section 119.03 of the Revised Code. However, the Director shall file the adoption and rescission of the rules in accordance with section 119.04 of the Revised Code. Upon that filing, the adoption and rescission of the rules take immediate effect.

(2) Not later than thirty days after the effective date of this section as enacted by Am. Sub. H.B. 119 of the 127th General Assembly and notwithstanding any provision of law to the contrary, the Public Health Council shall rescind rules adopted by the Council under section 3718.02 of the Revised Code, that took effect on January 1, 2007. At the same time as those rules are rescinded, the Council shall adopt rules that are identical to the rules adopted by the Council that were in effect prior to January 1, 2007, and were codified in Chapter 3701-29 of the Administrative Code, except the rules in that Chapter that established requirements for separation distances from a water table and soil absorption requirements. Instead, a board of health or the authority having the duties of a board of health shall adopt standards establishing requirements for separation distances from a water table and soil absorption requirements based on the water table and soils in the applicable health district for purposes of the installation and operation of household sewage treatment systems and small flow on-site sewage treatment systems in the applicable health district.

The rescission and adoption of rules under this division are not subject to section 119.03 of the Revised Code. However, the Public Health Council shall file the rules in accordance with section 119.04 of the Revised Code. Upon that filing, the rules take immediate effect.

(B) A local board of health or the authority having the duties of a board of health may adopt standards for use in the health district that are more stringent than the rules adopted under division (A)(1) or (2) of this section, provided that the board of health or authority having the duties of a board of health in adopting such standards considers the economic impact of those standards on property owners, the state of available technology, and the nature and economics of the available alternatives. If a board of health or authority having the duties of a board of health adopts standards that are more stringent than the rules adopted under division (A)(1) or (2) of this section, the board or authority shall send a copy of the standards to the Department of Health.

(C)(1) A board of health or the authority having the duties of a board of health shall approve or deny the use of household sewage treatment systems

and small flow on-site sewage treatment systems in the applicable health district. In approving or denying a household sewage treatment system or a small flow on-site sewage treatment system for use in the health district, the board or authority shall consider the economic impact of the system on property owners, the state of available technology, and the nature and economics of the available alternatives, ensure that a system will not create a public health nuisance, and require a system to comply with the requirements established in divisions (C)(2) and (3) of this section.

(2) Notwithstanding any rule adopted by the Director of Health or the Public Health Council or standard adopted by a board of health or the authority having the duties of a board of health governing the installation and operation of sewage treatment systems, a board of health or the authority having the duties of a board of health shall ensure that the design and installation of a soil absorption system prevents public health nuisances. To the extent determined necessary by a board of health or the authority having the duties of a board of health, a sewage treatment system that is installed after the effective date of this section as enacted by Am. Sub. H.B. 119 of the 127th General Assembly shall not discharge to a ditch, stream, pond, lake, natural or artificial waterway, drain tile, other surface water, or the surface of the ground unless authorized by a national pollutant discharge elimination system (NPDES) permit issued under Chapter 6111. of the Revised Code and rules adopted under it. In addition, a sewage treatment system shall not discharge to an abandoned well, a drainage well, a dry well or cesspool, a sinkhole, or another connection to ground water. As a condition to the issuance of a permit to operate a system, a board of health or the authority having the duties of a board of health shall require a service contract for any sewage treatment system that is subject to an NPDES permit to the extent required by the Environmental Protection Agency. If classified as a class V injection well, a household sewage treatment system serving a two- or three-family dwelling or a small flow on-site sewage treatment system shall comply with 40 C.F.R. 144, as published in the July 1, 2005, Code of Federal Regulations and with the registration requirements established in rule 3745-34-13 of the Administrative Code.

(3) Notwithstanding any rule adopted by the Director of Health or the Public Health Council or standard adopted by a board of health or the authority having the duties of a board of health governing the installation and operation of household sewage treatment systems, all septic tanks, other disposal component tanks, dosing tanks, pump vaults, household sewage disposal system holding tanks and privy vaults, or other applicable sewage disposal system components manufactured after the effective date of this

section as enacted by Am. Sub. H.B. 119 of the 127th General Assembly and used in this state shall be watertight and structurally sound.

(4) For purposes of division (C) of this section, "economic impact" means all of the following with respect to the approval or denial of a household sewage treatment system or small flow on-site sewage treatment system, as applicable:

(a) The cost of a proposed system;

(b) The cost of an alternative system that will not create a public health nuisance;

(c) A comparison of the costs of repairing a system as opposed to replacing the system with a new system;

(d) The value of the dwelling or facility, as applicable, that the system services as indicated in the most recent tax duplicate.

(D)(1) Notwithstanding any rule adopted by the Director of Health or the Public Health Council governing the installation and operation of household sewage treatment systems, a board of health or the authority having the duties of a board of health may establish and collect fees for the purposes of this section.

(2) In addition to the fees that are authorized to be established under division (D)(1) of this section, there is hereby levied an application fee of twenty-five dollars for a sewage treatment system installation permit. A board of health or the authority having the duties of a board of health shall collect the fee on behalf of the Department of Health and forward the fee to the Department to be deposited in the state treasury to the credit of the Sewage Treatment System Innovation Fund, which is hereby created. Not more than seventy-five per cent of the money in the Fund shall be used by the Department to administer the sewage treatment system program, and not less than twenty-five per cent of the money in the Fund shall be used to establish a grant program in cooperation with boards of health to fund the installation and evaluation of new technology pilot projects. In the selection of the pilot projects, the Director of Health shall consult with the Sewage Treatment System Technical Advisory Committee created in section 3718.03 of the Revised Code.

(E) Not later than one year after the installation of a household sewage treatment system, a board of health or the authority having the duties of a board of health shall inspect the system to ensure that it is not a public health nuisance.

(F) The Department of Health may file an injunctive action against a board of health or the authority having the duties of a board of health that allows a household sewage treatment system or small flow on-site sewage

treatment system to cause a public health nuisance, provided that the Department provides reasonable notice to the board or authority and allows for the opportunity to abate the nuisance prior to the action.

(G) The Environmental Protection Agency shall not require a board of health or the authority having the duties of a board of health to enter into a memorandum of understanding or any other agreement with the Agency regarding the issuance of NPDES permits for off-lot sewage treatment systems. Instead, a representative of a board of health or the authority having the duties of a board of health may meet with a person who intends to install such a system to determine the feasibility of the system and refer the person to the Agency to secure an NPDES permit for the system if needed. The Environmental Protection Agency, within ninety days or as quickly as possible after the effective date of this section as enacted by Am. Sub. H.B. 119 of the 127th General Assembly, shall seek a revision to the general NPDES permit, issued pursuant to the federal Water Pollution Control Act as defined in section 6111.01 of the Revised Code, in order not to require a memorandum of understanding with a board of health or the authority having the duties of a board of health and that allows a property owner to seek coverage under the general NPDES permit for purposes of this division. A board of health or the authority having the duties of a board of health voluntarily may enter into a memorandum of understanding with the Environmental Protection Agency to implement the general NPDES permit. In the interim, the Agency shall work with boards of health or authorities having the duties of boards of health and with property owners in order to facilitate the owners' securing an NPDES permit in counties without a memorandum of understanding.

(H) Notwithstanding any rule adopted by the Director of Health or the Public Health Council governing the installation and operation of household sewage treatment systems, a board of health or the authority having the duties of a board of health that, prior to the effective date of this section, has obtained authority from the Department of Health and the Environmental Protection Agency to regulate small flow on-site sewage treatment systems may continue to regulate such systems on and after the effective date of this section as enacted by Am. Sub. H.B. 119 of the 127th General Assembly. A board of health or the authority having the duties of a board of health that has not obtained such authority may request the authority from the Department of Health and the Environmental Protection Agency in the manner provided by law.

(I) Because the rules adopted by the Public Health Council under section 3718.02 of the Revised Code that were effective on January 1, 2007,

have been rescinded by operation of this section, the references to those rules in section 3718.021 of the Revised Code are not operable. Instead, notwithstanding any other provisions of this section, the Director of Health or the Public Health Council, as applicable, shall provide for the implementation of section 3718.021 of the Revised Code in the rules that are required to be adopted under division (A) of this section.

(J) The Department of Health in cooperation with a board of health or the authority having the duties of a board of health shall assess the familiarity of the board's or authority's staff with the best practices in the use of sewage treatment systems and conduct appropriate training to educate the board's or authority's staff in those best practices and in the use of any new sewage treatment system technology that is recommended for use by the Sewage Treatment System Technical Advisory Committee created in section 3718.03 of the Revised Code.

(K)(1) As used in this section, "household sewage treatment system," "small flow on-site sewage treatment system," and "sewage treatment system" have the same meanings as in section 3718.01 of the Revised Code.

(2) For the purposes of this section, "household sewage treatment system" is deemed to mean "household sewage disposal system" as necessary for the operation of this section.

(3) For purposes of this section, a public health nuisance shall be deemed to exist when an inspection conducted by a board of health documents odor, color, or other visual manifestations of raw or poorly treated sewage and either of the following applies:

(a) Water samples exceed five thousand fecal coliform counts per one hundred milliliters (either MPN or MF) in two or more samples when five or fewer samples are collected or in more than twenty per cent of the samples when more than five samples are taken.

(b) Water samples exceed five hundred seventy-six E. Coli counts per one hundred milliliters in two or more samples when five or fewer samples are collected or in more than twenty per cent of the samples when more than five samples are taken.

(L) Neither the Director of Health or the Public Health Council shall adopt rules prior to ~~July~~ January 1, 2009 2010, that modify or change the requirements established by this section.

(M) This section expires on the effective date of the rules that are to be adopted under section 3718.02 of the Revised Code when that section becomes operational on ~~July~~ January 1, 2009 2010, pursuant to Section 120.01 of ~~this act~~ Am. Sub. H.B. 119 of the 127th General Assembly.

SECTION 640.21. That existing Sections 120.01 and 120.02 of Am. Sub. H.B. 119 of the 127th General Assembly are hereby repealed.

SECTION 640.22. That sections 711.001, 711.05, 711.10, 711.131, 4736.01, 6111.04, and 6111.44 of the Revised Code be amended to read as follows:

Sec. 711.001. As used in this chapter:

(A) "Plat" means a map of a tract or parcel of land.

(B) "Subdivision" means either of the following:

(1) The division of any parcel of land shown as a unit or as contiguous units on the last preceding general tax list and duplicate of real and public utility property, into two or more parcels, sites, or lots, any one of which is less than five acres for the purpose, whether immediate or future, of transfer of ownership, provided, however, that the following are exempt:

(a) A division or partition of land into parcels of more than five acres not involving any new streets or easements of access;

(b) The sale or exchange of parcels between adjoining lot owners, where that sale or exchange does not create additional building sites;

(c) If the planning authority adopts a rule in accordance with section 711.133 of the Revised Code that exempts from division (B)(1) of this section any parcel of land that is four acres or more, parcels in the size range delineated in that rule.

(2) The improvement of one or more parcels of land for residential, commercial, or industrial structures or groups of structures involving the division or allocation of land for the opening, widening, or extension of any public or private street or streets, except private streets serving industrial structures, or involving the division or allocation of land as open spaces for common use by owners, occupants, or leaseholders or as easements for the extension and maintenance of public or private sewer, water, storm drainage, or other similar facilities.

~~(C) "Household sewage treatment system" has the same meaning as in section 3709.091 of the Revised Code.~~

Sec. 711.05. (A) Upon the submission of a plat for approval, in accordance with section 711.041 of the Revised Code, the board of county commissioners shall certify on it the date of the submission. Within five days of submission of the plat, the board shall schedule a meeting to consider the plat and send a written notice by regular mail to the fiscal officer of the board of township trustees of the township in which the plat is

located and the board of health of the health district in which the plat is located. The notice shall inform the trustees and the board of health of the submission of the plat and of the date, time, and location of any meeting at which the board of county commissioners will consider or act upon the proposed plat. The meeting shall take place within thirty days of submission of the plat, and no meeting shall be held until at least seven days have passed from the date the notice was sent by the board of county commissioners. The approval of the board required by section 711.041 of the Revised Code or the refusal to approve shall take place within thirty days from the date of submission or such further time as the applying party may agree to in writing; otherwise, the plat is deemed approved and may be recorded as if bearing such approval.

(B) The board may adopt general rules governing plats and subdivisions of land falling within its jurisdiction, to secure and provide for the coordination of the streets within the subdivision with existing streets and roads or with existing county highways, for the proper amount of open spaces for traffic, circulation, and utilities, and for the avoidance of future congestion of population detrimental to the public health, safety, or welfare, but shall not impose a greater minimum lot area than forty-eight hundred square feet. Before the board may amend or adopt rules, it shall notify all the townships in the county of the proposed amendments or rules by regular mail at least thirty days before the public meeting at which the proposed amendments or rules are to be considered.

The rules may require the board of health to review and comment on a plat before the board of county commissioners acts upon it and may also require proof of compliance with any applicable zoning resolutions, and with ~~rules governing household sewage treatment systems~~ rules adopted under section 3718.02 of the Revised Code, as a basis for approval of a plat. Where under section 711.101 of the Revised Code the board of county commissioners has set up standards and specifications for the construction of streets, utilities, and other improvements for common use, the general rules may require the submission of appropriate plans and specifications for approval. The board shall not require the person submitting the plat to alter the plat or any part of it as a condition for approval, as long as the plat is in accordance with general rules governing plats and subdivisions of land, adopted by the board as provided in this section, in effect at the time the plat was submitted and the plat is in accordance with any standards and specifications set up under section 711.101 of the Revised Code, in effect at the time the plat was submitted.

(C) The ground of refusal to approve any plat, submitted in accordance

with section 711.041 of the Revised Code, shall be stated upon the record of the board, and, within sixty days thereafter, the person submitting any plat that the board refuses to approve may file a petition in the court of common pleas of the county in which the land described in the plat is situated to review the action of the board. A board of township trustees is not entitled to appeal a decision of the board of county commissioners under this section.

Sec. 711.10. (A) Whenever a county planning commission or a regional planning commission adopts a plan for the major streets or highways of the county or region, no plat of a subdivision of land within the county or region, other than land within a municipal corporation or land within three miles of a city or one and one-half miles of a village as provided in section 711.09 of the Revised Code, shall be recorded until it is approved by the county or regional planning commission under division (C) of this section and the approval is endorsed in writing on the plat.

(B) A county or regional planning commission may require the submission of a preliminary plan for each plat sought to be recorded. If the commission requires this submission, it shall provide for a review process for the preliminary plan. Under this review process, the planning commission shall give its approval, its approval with conditions, or its disapproval of each preliminary plan. The commission's decision shall be in writing, shall be under the signature of the secretary of the commission, and shall be issued within thirty-five business days after the submission of the preliminary plan to the commission. The disapproval of a preliminary plan shall state the reasons for the disapproval. A decision of the commission under this division is preliminary to and separate from the commission's decision to approve, conditionally approve, or refuse to approve a plat under division (C) of this section.

(C) Within five calendar days after the submission of a plat for approval under this division, the county or regional planning commission shall schedule a meeting to consider the plat and send a notice by regular mail or by electronic mail to the fiscal officer of the board of township trustees of the township in which the plat is located and the board of health of the health district in which the plat is located. The notice shall inform the trustees and the board of health of the submission of the plat and of the date, time, and location of any meeting at which the county or regional planning commission will consider or act upon the plat. The meeting shall take place within thirty calendar days after submission of the plat, and no meeting shall be held until at least seven calendar days have passed from the date the planning commission sent the notice.

The approval of the county or regional planning commission, the

commission's conditional approval as described in this division, or the refusal of the commission to approve shall be endorsed on the plat within thirty calendar days after the submission of the plat for approval under this division or within such further time as the applying party may agree to in writing; otherwise that plat is deemed approved, and the certificate of the commission as to the date of the submission of the plat for approval under this division and the failure to take action on it within that time shall be sufficient in lieu of the written endorsement or evidence of approval required by this division.

A county or regional planning commission may grant conditional approval under this division to a plat by requiring a person submitting the plat to alter the plat or any part of it, within a specified period after the end of the thirty calendar days, as a condition for final approval under this division. Once all the conditions have been met within the specified period, the commission shall cause its final approval under this division to be endorsed on the plat. No plat shall be recorded until it is endorsed with the commission's final or unconditional approval under this division.

The ground of refusal of approval of any plat submitted under this division, including citation of or reference to the rule violated by the plat, shall be stated upon the record of the county or regional planning commission. Within sixty calendar days after the refusal under this division, the person submitting any plat that the commission refuses to approve under this division may file a petition in the court of common pleas of the proper county, and the proceedings on the petition shall be governed by section 711.09 of the Revised Code as in the case of the refusal of a planning authority to approve a plat. A board of township trustees is not entitled to appeal a decision of the commission under this division.

A county or regional planning commission shall adopt general rules, of uniform application, governing plats and subdivisions of land falling within its jurisdiction, to secure and provide for the proper arrangement of streets or other highways in relation to existing or planned streets or highways or to the county or regional plan, for adequate and convenient open spaces for traffic, utilities, access of firefighting apparatus, recreation, light, and air, and for the avoidance of congestion of population. The rules may provide for their modification by the commission in specific cases where unusual topographical and other exceptional conditions require the modification. The rules may require the board of health to review and comment on a plat before the commission acts upon it and also may require proof of compliance with any applicable zoning resolutions, and with ~~rules governing household sewage treatment systems~~ rules adopted under section

3718.02 of the Revised Code, as a basis for approval of a plat.

Before adoption of its rules or amendment of its rules, the commission shall hold a public hearing on the adoption or amendment. Notice of the public hearing shall be sent to all townships in the county or region by regular mail or electronic mail at least thirty business days before the hearing. No county or regional planning commission shall adopt any rules requiring actual construction of streets or other improvements or facilities or assurance of that construction as a condition precedent to the approval of a plat of a subdivision unless the requirements have first been adopted by the board of county commissioners after a public hearing. A copy of the rules shall be certified by the planning commission to the county recorders of the appropriate counties.

After a county or regional street or highway plan has been adopted as provided in this section, the approval of plats and subdivisions provided for in this section shall be in lieu of any approvals provided for in other sections of the Revised Code, insofar as the territory within the approving jurisdiction of the county or regional planning commission, as provided in this section, is concerned. Approval of a plat shall not be an acceptance by the public of the dedication of any street, highway, or other way or open space shown upon the plat.

No county or regional planning commission shall require a person submitting a plat to alter the plat or any part of it as long as the plat is in accordance with the general rules governing plats and subdivisions of land, adopted by the commission as provided in this section, in effect at the time the plat is submitted.

A county or regional planning commission and a city or village planning commission, or platting commissioner or legislative authority of a village, with subdivision regulation jurisdiction over unincorporated territory within the county or region may cooperate and agree by written agreement that the approval of a plat by the city or village planning commission, or platting commissioner or legislative authority of a village, as provided in section 711.09 of the Revised Code, shall be conditioned upon receiving advice from or approval by the county or regional planning commission.

(D) As used in this section, "business day" means a day of the week excluding Saturday, Sunday, or a legal holiday as defined in section 1.14 of the Revised Code.

Sec. 711.131. (A) Notwithstanding sections 711.001 to 711.13 of the Revised Code and except as provided in division (C) of this section, unless the rules adopted under section 711.05, 711.09, or 711.10 of the Revised Code are amended pursuant to division (B) of this section, a proposed

division of a parcel of land along an existing public street, not involving the opening, widening, or extension of any street or road, and involving no more than five lots after the original tract has been completely subdivided, may be submitted to the planning authority having approving jurisdiction of plats under section 711.05, 711.09, or 711.10 of the Revised Code for approval without plat. If the authority acting through a properly designated representative finds that a proposed division is not contrary to applicable platting, subdividing, zoning, health, sanitary, or access management regulations ~~or~~ regulations adopted under division (B)(3) of section 307.37 of the Revised Code regarding existing surface or subsurface drainage, or ~~rules governing household sewage treatment systems~~ rules adopted under section 3718.02 of the Revised Code, it shall approve the proposed division within seven business days after its submission and, on presentation of a conveyance of the parcel, shall stamp the conveyance "approved by (planning authority); no plat required" and have it signed by its clerk, secretary, or other official as may be designated by it. The planning authority may require the submission of a sketch and other information that is pertinent to its determination under this division.

(B) For a period of up to two years after ~~April 15, 2005~~ the effective date of this amendment, the rules adopted under section 711.05, 711.09, or 711.10 of the Revised Code may be amended within that period to authorize the planning authority involved to approve proposed divisions of parcels of land without plat under this division. If an authority so amends its rules, it may approve no more than five lots without a plat from an original tract as that original tract exists on the effective date of the amendment to the rules. The authority shall make the findings and approve a proposed division in the time and manner specified in division (A) of this section.

(C) This section does not apply to parcels subject to section 711.133 of the Revised Code.

(D) As used in this section, "business day" means a day of the week excluding Saturday, Sunday, or a legal holiday as defined in section 1.14 of the Revised Code.

Sec. 4736.01. As used in this chapter:

(A) "Environmental health science" means the aspect of public health science that includes, but is not limited to, the following bodies of knowledge: air quality, food quality and protection, hazardous and toxic substances, consumer product safety, housing, institutional health and safety, community noise control, radiation protection, recreational facilities, solid and liquid waste management, vector control, drinking water quality, milk sanitation, and rabies control.

(B) "Sanitarian" means a person who performs for compensation educational, investigational, technical, or administrative duties requiring specialized knowledge and skills in the field of environmental health science.

(C) "Registered sanitarian" means a person who is registered as a sanitarian in accordance with this chapter.

(D) "Sanitarian-in-training" means a person who is registered as a sanitarian-in-training in accordance with this chapter.

(E) "Practice of environmental health" means consultation, instruction, investigation, inspection, or evaluation by an employee of a city health district, a general health district, the environmental protection agency, the department of health, or the department of agriculture requiring specialized knowledge, training, and experience in the field of environmental health science, with the primary purpose of improving or conducting administration or enforcement under any of the following:

(1) Chapter 911., 913., 917., 3717., 3718., 3721., 3729., or 3733. of the Revised Code;

(2) Chapter 3734. of the Revised Code as it pertains to solid waste;

(3) Section 955.26, 3701.344, 3707.01, or 3707.03, sections 3707.38 to 3707.99, or section 3715.21 of the Revised Code;

(4) Rules adopted under section 3701.34 of the Revised Code pertaining to ~~home sewage~~, rabies control, or swimming pools;

(5) Rules adopted under section 3701.935 of the Revised Code for school health and safety network inspections and rules adopted under section 3707.26 of the Revised Code for sanitary inspections.

"Practice of environmental health" does not include sampling, testing, controlling of vectors, reporting of observations, or other duties that do not require application of specialized knowledge and skills in environmental health science performed under the supervision of a registered sanitarian.

The state board of sanitarian registration may further define environmental health science in relation to specific functions in the practice of environmental health through rules adopted by the board under Chapter 119. of the Revised Code.

Sec. 6111.04. (A) Both of the following apply except as otherwise provided in division (A) or (F) of this section:

(1) No person shall cause pollution or place or cause to be placed any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution of any waters of the state.

(2) Such an action prohibited under division (A)(1) of this section is hereby declared to be a public nuisance.

Divisions (A)(1) and (2) of this section do not apply if the person causing pollution or placing or causing to be placed wastes in a location in which they cause pollution of any waters of the state holds a valid, unexpired permit, or renewal of a permit, governing the causing or placement as provided in sections 6111.01 to 6111.08 of the Revised Code or if the person's application for renewal of such a permit is pending.

(B) If the director of environmental protection administers a sludge management program pursuant to division (S) of section 6111.03 of the Revised Code, both of the following apply except as otherwise provided in division (B) or (F) of this section:

(1) No person, in the course of sludge management, shall place on land located in the state or release into the air of the state any sludge or sludge materials.

(2) An action prohibited under division (B)(1) of this section is hereby declared to be a public nuisance.

Divisions (B)(1) and (2) of this section do not apply if the person placing or releasing the sludge or sludge materials holds a valid, unexpired permit, or renewal of a permit, governing the placement or release as provided in sections 6111.01 to 6111.08 of the Revised Code or if the person's application for renewal of such a permit is pending.

(C) No person to whom a permit has been issued shall place or discharge, or cause to be placed or discharged, in any waters of the state any sewage, sludge, sludge materials, industrial waste, or other wastes in excess of the permissive discharges specified under an existing permit without first receiving a permit from the director to do so.

(D) No person to whom a sludge management permit has been issued shall place on the land or release into the air of the state any sludge or sludge materials in excess of the permissive amounts specified under the existing sludge management permit without first receiving a modification of the existing sludge management permit or a new sludge management permit to do so from the director.

(E) The director may require the submission of plans, specifications, and other information that the director considers relevant in connection with the issuance of permits.

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

(1) Waters used in washing sand, gravel, other aggregates, or mineral products when the washing and the ultimate disposal of the water used in the washing, including any sewage, industrial waste, or other wastes contained in the waters, are entirely confined to the land under the control of the person engaged in the recovery and processing of the sand, gravel, other

aggregates, or mineral products and do not result in the pollution of waters of the state;

(2) Water, gas, or other material injected into a well to facilitate, or that is incidental to, the production of oil, gas, artificial brine, or water derived in association with oil or gas production and disposed of in a well, in compliance with a permit issued under Chapter 1509. of the Revised Code, or sewage, industrial waste, or other wastes injected into a well in compliance with an injection well operating permit. Division (F)(2) of this section does not authorize, without a permit, any discharge that is prohibited by, or for which a permit is required by, regulation of the United States environmental protection agency.

(3) Application of any materials to land for agricultural purposes or runoff of the materials from that application or pollution by animal waste or soil sediment, including attached substances, resulting from farming, silvicultural, or earthmoving activities regulated by Chapter 307. or 1511. of the Revised Code. Division (F)(3) of this section does not authorize, without a permit, any discharge that is prohibited by, or for which a permit is required by, the Federal Water Pollution Control Act or regulations adopted under it.

(4) The excrement of domestic and farm animals defecated on land or runoff therefrom into any waters of the state. Division (F)(4) of this section does not authorize, without a permit, any discharge that is prohibited by, or for which a permit is required by, the Federal Water Pollution Control Act or regulations adopted under it.

(5) On and after the date on which the United States environmental protection agency approves the NPDES program submitted by the director of agriculture under section 903.08 of the Revised Code, any discharge that is within the scope of the approved NPDES program submitted by the director of agriculture;

(6) The discharge of sewage, industrial waste, or other wastes into a sewerage system tributary to a treatment works. Division (F)(6) of this section does not authorize any discharge into a publicly owned treatment works in violation of a pretreatment program applicable to the publicly owned treatment works.

(7) ~~Septic tanks or other disposal systems for the disposal or treatment of sewage from single family, two family, or three family dwellings~~ A household sewage treatment system or a small flow on-site sewage treatment system, as applicable, as defined in section 3718.01 of the Revised Code that is installed in compliance with the sanitary code and section 3707.04 Chapter 3718. of the Revised Code and rules adopted under it.

Division (F)(7) of this section does not authorize, without a permit, any discharge that is prohibited by, or for which a permit is required by, regulation of the United States environmental protection agency.

(8) Exceptional quality sludge generated outside of this state and contained in bags or other containers not greater than one hundred pounds in capacity. As used in division (F)(8) of this section, "exceptional quality sludge" has the same meaning as in division (Y) of section 3745.11 of the Revised Code.

(G) The holder of a permit issued under section 402 (a) of the Federal Water Pollution Control Act need not obtain a permit for a discharge authorized by the permit until its expiration date. Except as otherwise provided in this division, the director of environmental protection shall administer and enforce those permits within this state and may modify their terms and conditions in accordance with division (J) of section 6111.03 of the Revised Code. On and after the date on which the United States environmental protection agency approves the NPDES program submitted by the director of agriculture under section 903.08 of the Revised Code, the director of agriculture shall administer and enforce those permits within this state that are issued for any discharge that is within the scope of the approved NPDES program submitted by the director of agriculture.

Sec. 6111.44. (A) Except as otherwise provided in division (B) of this section, in section 6111.14 of the Revised Code, or in rules adopted under division (G) of section 6111.03 of the Revised Code, no municipal corporation, county, public institution, corporation, or officer or employee thereof or other person shall provide or install sewerage or treatment works for sewage, sludge, or sludge materials disposal or treatment or make a change in any sewerage or treatment works until the plans therefor have been submitted to and approved by the director of environmental protection. Sections 6111.44 to 6111.46 of the Revised Code apply to sewerage and treatment works of a municipal corporation or part thereof, an unincorporated community, a county sewer district, or other land outside of a municipal corporation or any publicly or privately owned building or group of buildings or place, used for the assemblage, entertainment, recreation, education, correction, hospitalization, housing, or employment of persons.

In granting an approval, the director may stipulate modifications, conditions, and rules that the public health and prevention of pollution may require. Any action taken by the director shall be a matter of public record and shall be entered in the director's journal. Each period of thirty days that a violation of this section continues, after a conviction for the violation,

constitutes a separate offense.

(B) Sections 6111.45 and 6111.46 of the Revised Code and division (A) of this section do not apply to any of the following:

(1) Sewerage or treatment works for sewage installed or to be installed for the use of a private residence or dwelling;

(2) Sewerage systems, treatment works, or disposal systems for storm water from an animal feeding facility or manure, as "animal feeding facility" and "manure" are defined in section 903.01 of the Revised Code;

(3) Animal waste treatment or disposal works and related management and conservation practices that are subject to rules adopted under division (E)(2) of section 1511.02 of the Revised Code;

(4) Sewerage or treatment works for the on-lot disposal or treatment of sewage from a small flow on-site sewage treatment system, as defined in section 3718.01 of the Revised Code, if the board of health of a city or general health district has notified the director of health and the director of environmental protection under section 3718.021 of the Revised Code that the board has chosen to regulate the system, provided that the board remains in compliance with the rules adopted under division (A)(13) of section 3718.02 of the Revised Code.

The exclusions established in divisions (B)(2) and (3) of this section do not apply to the construction or installation of disposal systems, as defined in section 6111.01 of the Revised Code, that are located at an animal feeding facility and that store, treat, or discharge wastewaters that do not include storm water or manure or that discharge to a publicly owned treatment works.

SECTION 640.23. That existing sections 711.001, 711.05, 711.10, 711.131, 4736.01, 6111.04, and 6111.44 of the Revised Code are hereby repealed.

SECTION 640.24. Sections 640.22 and 640.23 take effect on January 1, 2010.

SECTION 690.10. That Section 3 of Am. Sub. H.B. 203 of the 126th General Assembly and Section 325.05 of Am. Sub. H.B. 2 of the 128th General Assembly are hereby repealed.

SECTION 701.05. (A) There is hereby created the Ohio Legislative

Commission on the Education and Preservation of State History consisting of the following members:

(1) Three members of the Senate appointed by the President of the Senate, one of whom shall be from the minority party and be recommended by the Minority Leader of the Senate;

(2) Three members of the House of Representatives appointed by the Speaker of the House of Representatives, one of whom shall be from the minority party and be recommended by the Minority Leader of the House of Representatives;

(3) Three members appointed by the Governor who shall have specific knowledge regarding museum or archive management.

The Commission may appoint nonvoting members to the Commission who represent state agencies, educational institutions, or private organizations and who have expertise in museum or archive management.

(B)(1) Appointments shall be made to the Commission not later than thirty days after the effective date of this section. A member of the Senate appointed by and so designated by the President of the Senate shall be the chairperson of the Commission. A member of the House of Representatives appointed by and so designated by the Speaker of the House of Representatives shall be the vice-chairperson of the Commission. The Commission shall meet as often as necessary to carry out its duties and responsibilities. Members of the Commission shall serve without compensation.

(2) The Legislative Service Commission shall provide professional and technical support that is necessary for the Ohio Legislative Commission on the Education and Preservation of State History to perform its duties.

(C) The Ohio Legislative Commission on the Education and Preservation of State History shall do all of the following:

(1) Review the overall delivery of services and instruction on Ohio's history by organizations that have individually received in the previous two bienniums a total of at least one million dollars in funding through legislative appropriation for their operations. The review shall include a needs assessment with regard to each organization for all of the following:

(a) Historic sites owned or managed by the organization;

(b) Archives owned or maintained by the organization;

(c) Programs offered by the organization;

(d) The governance structure of the organization;

(e) A comparison of the organization's operations with the operations of organizations that are located inside and outside the state and that have

similar functions.

(2) Following the review, make recommendations on all of the following:

- (a) Improving the efficiency of the organizations;
- (b) Alternative methods for the performance or discharge of state-mandated functions and other functions by the organizations;
- (c) Best practices regarding governance structures for the organizations;
- (d) Any other recommendations that the Commission determines to be necessary.

(3) Identify alternative public and private funding sources to support the organizations.

(D) The Commission shall issue a report of its findings and recommendations to the President of the Senate, the Speaker of the House of Representatives, and the Governor not later than July 1, 2010. Upon submission of the report, the Commission shall cease to exist.

SECTION 701.10. EXEMPT EMPLOYEE CONSENT TO CERTAIN DUTIES

(A) As used in this section, "appointing authority" has the same meaning as in section 124.01 of the Revised Code, and "exempt employee" has the same meaning as in section 124.152 of the Revised Code.

(B) Notwithstanding section 124.181 of the Revised Code, both of the following apply:

(1) In cases where no vacancy exists, an appointing authority may, with the written consent of an exempt employee, assign duties of a higher classification to that exempt employee for a period of time not to exceed two years, and that exempt employee shall receive compensation at a rate commensurate with the duties of the higher classification.

(2) If necessary, exempt employees who are assigned to duties within their agency to maintain operations during the Ohio Administrative Knowledge System (OAKS) implementation may agree to a temporary assignment that exceeds the two-year limit.

SECTION 701.20. FINANCIAL PLANNING AND SUPERVISION COMMISSIONS

For any Financial Planning and Supervision Commission established prior to the effective date of the amendment of section 118.05 of the Revised Code by the Main Operating Appropriations Act of the 128th General Assembly, four members constitute a quorum and the affirmative

vote of a majority of the members is necessary for any action taken by vote of the commission.

SECTION 701.30. SCIENCE AND TECHNOLOGY
COLLABORATION

The Department of Development, the Board of Regents, the Air Quality Development Authority, the Department of Agriculture, and the Third Frontier Commission shall collaborate in relation to appropriation items and programs referred to as Technology-based Economic Development Programs in this section, and other technology-related appropriations and programs in the Department of Development, Air Quality Development Authority, Department of Agriculture, and the Board of Regents as these agencies may designate, to ensure implementation of a coherent state science and technology strategy.

To the extent permitted by law, the Air Quality Development Authority shall assure that coal research and development programs, proposals, and projects consider or incorporate collaborations with Third Frontier Project programs and grantees and with Technology-based Economic Development Programs and grantees.

"Technology-based Economic Development Programs" means appropriation items 195401, Thomas Edison Program; 898402, Coal Development Office; 898604, Coal Research and Development Fund; 235508, Air Force Institute of Technology; 235510, Ohio Supercomputer Center; 235535, Ohio Agricultural Research and Development Center; 235556, Ohio Academic Resources Network; 195435, Biomedical Research and Technology Transfer; 195687, Third Frontier Research & Development Projects; C23506, Third Frontier Project; 195692, Research & Development Taxable Bond Projects; 195694, Jobs Fund Bioproducts; 195695, Jobs Fund Biomedical; Technology Action grants provided in 195615, Facilities Establishment; and tax credits supporting the Ohio Venture Capital Authority and Technology Investment Tax Credit programs.

Technology-based Economic Development Programs shall be managed and administered in accordance with the following objectives: (1) to build on existing competitive research strengths; (2) to encourage new and emerging discoveries and commercialization of products and ideas that will benefit the Ohio economy; and (3) to assure improved collaboration among programs administered by the Third Frontier Commission and with other state programs that are intended to improve economic growth and job creation. As directed by the Third Frontier Commission, Technology-based Economic Development Program managers shall report to the Commission

or the Third Frontier Advisory Board regarding the contributions of their programs to achieving these objectives.

Each Technology-based Economic Development Program shall be reviewed annually by the Third Frontier Commission with respect to its development of complementary relationships within a combined state science and technology investment portfolio, and with respect to its overall contribution to the state's science and technology strategy, including the adoption of appropriately consistent criteria for: (1) the scientific and technical merit and relationship to Ohio's research strengths of activities supported by the program; (2) the relevance of the program's activities to commercial opportunities in the private sector; (3) the private sector's involvement in a process that continually evaluates commercial opportunities to use the work supported by the program; and (4) the ability of the program and recipients of grant funding from the program to engage in activities that are collaborative, complementary, and efficient in the expenditure of state funds. Each Technology-based Economic Development Program shall provide an annual report to the Third Frontier Commission that discusses existing, planned, or possible collaborations between programs and between recipients of grant funding related to technology, development, commercialization, and the support of Ohio's economic development. The annual review conducted by the Third Frontier Commission shall be a comprehensive review of the entire state science and technology program portfolio rather than a review of individual programs.

Applicants for Third Frontier and Technology-based Economic Development Programs funding shall identify their requirements for high-performance computing facilities and services, including both hardware and software, in all proposals. If an applicant's requirements exceed approximately \$100,000 for a proposal, the Ohio Supercomputer Center shall convene a panel of experts. The panel shall review the proposal to determine whether the proposal's requirements can be met through Ohio Supercomputer Center facilities or through other means and report such information to the Third Frontier Commission.

To ensure that the state receives the maximum benefit from its investment in the Third Frontier Project and the NextGen Network, organizations receiving Third Frontier awards and Technology-based Economic Development Programs awards shall, as appropriate, be expected to have a connection to the NextGen Network that enables them and their collaborators to achieve award objectives through the NextGen Network.

SECTION 701.40. The General Assembly intends that all funds

appropriated or otherwise made available by the state for fiscal stabilization or recovery purposes, or by the American Recovery and Reinvestment Act of 2009, shall be used, to the extent possible, in accordance with the preferences established in section 125.09 of the Revised Code to purchase products made and services performed in the United States and in this state. The General Assembly further recognizes that a preference for buying goods and materials that are produced, and services that are performed, in the United States for projects is important for maximizing the creation of American jobs and restoring economic growth and opportunity.

If any person requests or obtains a waiver of the preferences referred to in the first paragraph of this section, the Director of Administrative Services shall publish information identifying the person and the product or service with regard to which the waiver was requested or obtained. The purpose of publishing this identifying information is to enhance opportunities for producers, service providers, and workers to identify and provide products made and services performed in the United States and this state, and thereby to maximize the success of the fiscal stabilization and economic recovery program. The director shall publish the identifying information on an internet web site maintained by the Department of Administrative Services.

SECTION 701.50. (A) Each state agency shall appoint an Equal Employment Opportunity Officer who shall be responsible for monitoring the agency's compliance with sections 123.151, 123.152, and 125.081 of the Revised Code and for reporting the level of the agency's compliance to the Deputy Director of the Equal Opportunity Division of the Department of Administrative Services. The Equal Employment Opportunity Officer for each state agency shall also do all of the following:

(1) Analyze spending on goods, services, and construction projects for the officer's agency and determine any missed opportunities for the inclusion of certified minority business enterprise and EDGE business vendors;

(2) Analyze the spending of the officer's agency with EDGE business enterprise vendors, as well as EDGE business enterprise vendor availability by regions of this state, and communicate the analysis to the Department of Administrative Services so that the department may determine the appropriate EDGE business enterprise goal for each contract;

(3) Report minority business enterprise or EDGE business enterprise enrollment for all contracts issued by the officer's agency to the Deputy

Director of the Equal Opportunity Division;

(4) Implement a scorecard system that tracks compliance with minority business enterprise and EDGE business enterprise program requirements for the officer's agency;

(5) Implement the outreach and training plan to ensure compliance by the officer's agency with minority business enterprise and EDGE business enterprise requirements;

(6) Attend the semiannual training conducted by the Deputy Director of the Equal Opportunity Division on minority business enterprise and EDGE business enterprise requirements; and

(7) Participate in the annual compliance review conducted by the Deputy Director of the Equal Employment Opportunity Division and implement recommendations made by the Deputy Director as a result of the review process.

The Deputy Director of the Equal Opportunity Division shall develop the scorecard system and the outreach and training plan, shall conduct semiannual training on minority business enterprise and EDGE business enterprise requirements for Equal Employment Opportunity Officers, shall conduct an annual review of each state agency's compliance with minority business enterprise and EDGE business enterprise requirements, and shall make recommendations for improved compliance as a result of each review.

(B) Each state agency shall ensure that all contracts the agency enters into for the purchase of goods and services contain provisions that do all of the following:

(1) Prohibit contractors and subcontractors from engaging in discriminatory employment practices;

(2) Certify that contractors and subcontractors are in compliance with all applicable federal and state laws and rules that govern fair labor and employment practices; and

(3) Encourage contractors and subcontractors to purchase goods and services from certified minority business enterprise and EDGE business enterprise vendors.

(C)(1) A state agency shall not issue an EDGE business enterprise waiver without doing all of the following:

(a) Having all waivers reviewed by the agency's Procurement Officer, in collaboration with the agency's Equal Employment Opportunity Officer, who shall certify that each waiver the agency issues complies with criteria for granting the waiver;

(b) Submitting quarterly reports to the Equal Opportunity Division that lists each waiver the agency grants;

(c) Permitting the Equal Opportunity Division to complete its review of the agency's quarterly report and to conduct periodic audits of the agency's administration of the waiver process.

The Deputy Director of the Equal Opportunity Division shall review each quarterly report of EDGE business enterprise waivers and shall conduct periodic audits of each agency's administration of the waiver process.

(2) If the Deputy Director of the Equal Opportunity Division determines that a state agency has not properly administered the issuance of EDGE business enterprise waivers, subsequent waivers shall not be issued by that state agency without the authorization and approval of the Deputy Director. The Deputy Director may release a state agency from the approval process when the Deputy Director has determined that the agency has the ability to consistently administer the waiver process.

(D) On the first day of October of each year, the Deputy Director of the Equal Opportunity Division shall submit a written report to the Governor, the Speaker of the House of Representatives, the President of the Senate, and the Minority Leaders of the House of Representatives and Senate that describe the progress of state agencies in advancing the minority business enterprise and EDGE business enterprise programs, as well as any initiatives that have been implemented to increase the number of certified minority business enterprise and EDGE business enterprise vendors doing business with this state.

SECTION 701.51. (A) The Ohio Housing Finance Agency, the Third Frontier Commission, and the Clean Ohio Council shall comply with agency procurement for contracting with EDGE business enterprises established under section 123.152 of the Revised Code.

(B) To the extent that a state university as defined in section 3345.011 of the Revised Code, the Ohio Housing Finance Agency, the Third Frontier Commission, the Clean Ohio Council, or the Ohio School Facilities Commission is authorized to make purchases, it shall comply with the minority business set aside requirements in division (B) of section 125.081 of the Revised Code.

SECTION 701.52. If a state agency, including a state university as defined in section 3345.011 of the Revised Code and the Ohio Housing Finance Agency, the Third Frontier Commission, the Clean Ohio Council, and the Ohio School Facilities Commission, has failed to comply with the set-aside

requirement in division (B) of section 125.081 of the Revised Code, or to comply with the procurement goals specified under division (B)(2) or (14) of section 123.152 of the Revised Code, the state agency shall establish, not later than December 31, 2009, a long-term plan for complying with those provisions.

SECTION 701.70. The Department of Administrative Services shall conduct a pilot project involving propane-powered state vehicles. During the period commencing October 1, 2009, and ending September 30, 2010, the Department of Administrative Services shall convert or cause to be converted to a propane fuel system five per cent of the gasoline-powered passenger cars, sport utility vehicles, and light-duty pickup trucks that are owned by the state and are used by the Department of Natural Resources, five per cent of such vehicles that are used by the Department of Public Safety, and five per cent of such vehicles that are used by the Department of Transportation. During the period commencing October 1, 2010, and ending December 31, 2010, the Department shall convert or cause to be converted to a propane fuel system an additional five per cent of the gasoline-powered motor vehicles that are described in this section and are used by the Department of Natural Resources, an additional five per cent of such vehicles that are used by the Department of Public Safety, and an additional five per cent of such vehicles that are used by the Department of Transportation. Only propane fuel systems that have been approved by the United States Environmental Protection Agency shall be installed in state vehicles pursuant to this section.

During the period commencing October 1, 2009, and ending September 30, 2011, the Department shall keep detailed records of the propane-powered vehicles, including fuel mileage and maintenance costs. After September 30, 2011, the Department shall conduct a study of the pilot project to assess all aspects of the use by the state of the propane-powered vehicles during the pilot project. The study shall include all relevant findings and recommendations, if any, regarding future use of propane gas in state vehicles, and shall be compiled into a final report.

Not later than December 31, 2011, the Department shall submit copies of the final report to the Governor, the President of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives.

SECTION 701.80. The Director of Budget and Management shall prepare, beginning on October 1, 2009, and on the first day of each calendar quarter thereafter, a list of all employees paid by warrant of the Director who work primarily for one state agency while being paid from appropriations made to another state agency. The Director shall provide a copy of the list to the President of the Senate, the Speaker of the House of Representatives, and the Minority Leaders of the Senate and House of Representatives.

SECTION 701.90. (A) To facilitate the implementation of the motion picture production tax credit authorized in section 122.85 of the Revised Code, the Director of Development may develop, publish, accept, and review applications for certification of motion pictures as tax credit-eligible productions and may indicate preliminary certification before the effective date of that section. A motion picture for which the director has issued a preliminary certification becomes a motion picture certified as a tax credit-eligible production on the effective date of section 122.85 of the Revised Code.

(B) In adopting the rules required under division (K) of section 122.85 of the Revised Code, as enacted by this act, the Director of Development shall file the notice and text of the proposed rules as required by division (B) of section 119.03 of the Revised Code not later than two hundred five days after the effective date of this section.

(C) Not later than eighty days after the effective date of this section, the Director of Development shall adopt initial rules to effect the same purposes of the rules required under division (K) of section 122.85 of the Revised Code, as enacted by this act. The initial rules shall be adopted pursuant to section 111.15 of the Revised Code, but division (D) of that section does not apply to the adoption of the initial rules. The initial rules shall be effective until the final rules adopted pursuant to division (B) of this section and Chapter 119. of the Revised Code take effect.

SECTION 703.10. (A) The board of county commissioners of a county with a population of not less than 800,000 and not more than 900,000 as determined by the most recent federal decennial census shall conduct a pilot project authorizing commercial advertising on county web sites in accordance with this section.

(B) The board of county commissioners, by resolution adopted by a

majority of the board's members, shall authorize commercial advertising on a county web site under this section. The resolution shall include all of the following:

(1) A statement authorizing county officials to place commercial advertisements on web sites of county offices under those county officials;

(2) Requirements and procedures for making requests for proposals under this section;

(3) Any other requirements or limitations necessary to authorize under this section commercial advertising on county web sites.

(C) The board of county commissioners shall send a copy of the resolution to each county official. After receiving the resolution, the county official shall determine if the official intends to implement the resolution. The county official may make requests for proposals in the manner specified by the resolution for the purpose of identifying advertisers who, and whose advertisements will, meet any criteria specified in the request for proposals and any requirements and limitations specified in the resolution. The county official may enter into a contract with such an advertiser whereby the advertiser places an advertisement on the office's web site and pays a fee in consideration to the county general fund. Any contract entered into under this section shall be concluded not later than December 31, 2011.

(D) A county web site on which commercial advertising is placed under this section shall be used exclusively to provide information from a county office to the public, and shall not be used as a public forum.

(E) The pilot project conducted under this section shall conclude on December 31, 2011. Not later than 30 days after the conclusion of the pilot project, the board of county commissioners shall submit a report to the Governor, the Speaker and Minority Leader of the House of Representatives, and the President and Minority Leader of the Senate regarding the operation of the pilot project. The report shall include the board's recommendations on whether commercial advertising on county web sites should be continued and expanded to other counties.

(F) As used in this section:

(1) "Advertising" means internet advertising, including banners and icons that may contain links to commercial internet web sites. "Advertising" does not include "spyware," "malware," or any viruses or programs considered to be malicious.

(2) "County official" includes the county auditor, county treasurer, county engineer, county recorder, county prosecuting attorney, county sheriff, county coroner, board of county commissioners, clerk of the probate court, clerk of the juvenile court, clerk of court for all divisions of the court

of common pleas, clerk of a county-operated municipal court, and clerk of a county court.

(3) "County web site" means any web site, internet page, or web page of a county office, with respective internet addresses or subdomains, that are intended to provide to the public information about services offered by the county office, including relevant forms and searchable data.

SECTION 709.10. (A) There is hereby created in the Department of Agriculture the Ohio Beekeepers Task Force consisting of the following members:

(1) Two members of the standing committee of the House of Representatives that is primarily responsible for considering agricultural matters appointed by the Governor, each from a different political party;

(2) Two members of the standing committee of the Senate that is primarily responsible for considering agricultural matters appointed by the Governor, each from a different political party;

(3) The Chief of the Division of Plant Industry in the Department of Agriculture or the Chief's designee;

(4) The Director of Natural Resources or the Director's designee;

(5) Two representatives of the Ohio State Beekeepers Association appointed by the Association;

(6) The Director of The Ohio State University Extension or the Director's designee;

(7) An apiculture specialist of The Ohio State University Extension appointed by the Director of The Ohio State University Extension;

(8) The Chair of The Ohio State University Department of Entomology or the Chair's designee;

(9) A representative of the Ohio Produce Growers and Marketing Association appointed by the Association;

(10) A representative of the Ohio Farm Bureau Federation Bee and Honey Committee appointed by the Federation;

(11) A representative of the Ohio Farmers Union appointed by the Union;

(12) A representative of the County Commissioners Association of Ohio appointed by the Association.

(B) The members shall be appointed not later than sixty days after the effective date of this section. The Task Force shall hold its first meeting not later than ninety days after the effective date of this section.

(C) The Governor shall select a chairperson and vice-chairperson from among the members of the Task Force. The chairperson may appoint a

secretary.

(D) The members of the Task Force shall receive no compensation for their services.

(E) Not later than ten months after the effective date of this section, the Ohio Beekeepers Task Force shall submit a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Ohio State Beekeepers Association. The report shall do all of the following:

(1) Provide an overview of the characteristics of the honeybee crisis in Ohio;

(2) Examine and provide an overview of and conclusions regarding whether pollinator shortages are affecting crop pollination in Ohio;

(3) Review and provide an overview of the Ohio Honeybee Emergency Action Plan;

(4) Review and provide a summary of the federal initiatives regarding Ohio's bee population and of all of the Department of Agriculture's and the Ohio State Beekeepers Association's programs concerning Ohio's bee population;

(5) Provide an overview of the five-year goals of the Department of Agriculture concerning honeybees, including recommendations for the restoration of Ohio's bee population;

(6) Examine and describe the funding that is available for honeybee programs and issues affecting honeybees;

(7) Any other issues that the Task Force considers appropriate.

(F) Not later than ninety days following the submission of the report, the Task Force shall meet and respond to any question from a person who received the report. The Task Force shall cease to exist upon submitting its response to all questions from persons who received the report.

SECTION 715.10. A wild, scenic, or recreational river area that was declared as such by the Director of Natural Resources under Chapter 1517. of the Revised Code prior to the effective date of this section shall retain its declaration as a wild, scenic, or recreational river area for purposes of sections 1547.81 to 1547.87 of the Revised Code, as amended or enacted by this act. In addition, an advisory council for a wild, scenic, or recreational river area that was appointed by the Director under Chapter 1517. of the Revised Code prior to the effective date of this section shall continue to be the advisory council for the applicable wild, scenic, or recreational river area for purposes of sections 1547.81 to 1547.87 of the Revised Code, as amended or enacted by this act.

SECTION 721.10. (A) In Lorain County, all proceedings that are within the jurisdiction of the Probate Court under Chapter 2101. and other provisions of the Revised Code that are pending before a judge of the Domestic Relations Division of the Lorain County Court of Common Pleas on the effective date of this act shall remain with that judge of the Domestic Relations Division of the Lorain County Court of Common Pleas. All proceedings that are within the jurisdiction of the Domestic Relations Division of the Lorain County Court of Common Pleas under Chapter 2301. and other provisions of the Revised Code that are pending before the probate judge of the Lorain County Probate Court on September 29, 2009, shall remain with that probate judge of the Lorain County Probate Court.

(B) The successors to the judge of the Lorain County Court of Common Pleas who was elected pursuant to section 2301.02 of the Revised Code in 2008 for a term that began on February 9, 2009, shall be elected in 2014 and thereafter pursuant to section 2101.02 of the Revised Code as judges of the probate division of the Lorain County Court of Common Pleas.

SECTION 733.10. A member of the Ohio Tuition Trust Authority created in section 3334.03 of the Revised Code as it existed prior to the amendment of that section by this act continues to serve as a member of the Ohio Tuition Trust Authority Board created in that section as amended by this act until the member's term expires as provided in that section.

SECTION 733.20. If a board of education acquired or acquires a parcel of real property between January 1, 2008, and December 31, 2010, and if the board, by vote of a majority of its members, determines that a portion of the parcel, or a portion of the improvements located on or to be constructed on the parcel, is not required for school use, the board may convey a leasehold interest in that excess property for a term not to exceed ninety-nine years, without reserving any right to cancel or terminate the lease other than breach of the lease by the lessee. The board may convey the leasehold interest as a single leasehold interest pursuant to one lease or as separate leasehold interests pursuant to two or more leases.

The board shall convey the leasehold interest at public auction or by sealed bid to the highest bidder. If the board proceeds by sealed bid, the board shall prescribe the form of the bid, and shall require that each bid contain the name of the person submitting the bid.

The board shall publish notice of the time and place of the auction or bid opening in a newspaper of general circulation in the school district or by posting notices in five of the most public places in the school district. The notice shall state that the terms and conditions of the lease are available in the office of the treasurer of the school district for review by prospective bidders. If the board proceeds by sealed bid, the notice shall include instructions for making a bid.

The board, from and after the day the notice is published, shall make all the terms and conditions of the lease available in the office of the treasurer of the school district for review by prospective bidders.

The base rent payable under the lease shall not be part of the terms and conditions of the lease. Rather, the highest bid shall establish the base rent payable under the lease. The base rent may be in addition to other payments and nonmonetary obligations of the lessee under the lease.

If the board proceeds by auction, the board shall conduct the auction at the time and place stated in the notice. If the board proceeds by sealed bid, the board shall open and tabulate bids at the time and place stated in the notice. The board may reject all bids, but only if the rejection occurs within sixty days following the auction or the opening of bids. Upon rejection of all bids, the board may again proceed by public auction or sealed bid to convey the leasehold interest in the manner prescribed by this section.

The president and treasurer of the board of education shall execute and deliver the lease agreement and any other agreements, documents, or instruments that are necessary to complete conveyance of the leasehold interest.

SECTION 735.10. It is the intent of the General Assembly to address political contribution issues by the end of the 128th General Assembly.

SECTION 737.10. Notwithstanding any other provision to the contrary in Chapter 3769. of the Revised Code, for a period of two years after the effective date of this section, any person holding a permit under the provisions of that chapter to conduct live horse-racing meetings at a facility owned by a political subdivision may apply for, and the State Racing Commission may grant, a permit to conduct horse-racing meetings at a location at which such meetings have not previously been conducted, if the permit application is accompanied by a resolution adopted by the board of county commissioners of the county of the proposed location, and of the local legislative authority, whether a municipal corporation or township, of

the proposed location, requesting that the Commission grant the permit. The Commission may only grant such an application if the proposed location is in the same or a contiguous county and is within fifty miles of the current location associated with the permit, but is not in the same county as another location at which live horse-racing meetings are conducted.

SECTION 739.10. The Department of Insurance shall not designate any entities, which have not been designated prior to the effective date of this section, to provide investment options under alternative retirement plans established by public institutions of higher education in accordance with Chapter 3305. of the Revised Code pursuant to section 3305.03 of the Revised Code until July 1, 2010. However the Superintendent may approve additions, deletions, substitutions, or other changes to one or more of the investment options offered by an entity already designated by the Superintendent to provide investment options under alternative retirement plans prior to the effective date of this section.

SECTION 741.01. For purposes of Sections 741.01, 741.02, 741.03, 741.04, 741.05, 741.06, and 741.07 of this act:

(A) "Appropriate unit" means independent child care providers or independent home care providers, whichever is the subject of the bargaining activity.

(B) "Independent child care provider" means a child care provider categorized under the Revised Code as either a Type A licensed provider who does not meet the definition of employee under the National Labor Relations Act, or a Type B certified or licensed provider or an in-home aide who is not a county or state employee. The terms in this division have the same meanings as the terms defined in Chapter 5104. of the Revised Code.

(C)(1) "Independent home care provider" means any person who meets either of the following criteria:

(a) The person provides home services under a medicaid waiver component as described in section 5111.851 or 5111.87 of the Revised Code.

(b) The person provides home services through a state medicaid plan amendment as described in 42 U.S.C. 1396n(i).

(2) "Independent home care provider" does not include any person employed by a private agency for purposes of performing the activities

described in division (C)(1) of this section.

(D) "Provider" means an independent child care provider or an independent home care provider.

(E) "Recipient" means any person receiving the services of an independent child care provider or an independent home care provider, or that person's parent or legal guardian.

(F) "Representative organization" means any employee organization as defined in division (D) of section 4117.01 of the Revised Code or any labor or bona fide organization in which providers participate and that exists for the purpose, in whole or in part, of dealing with the state concerning grievances, wages, hours, terms, and other conditions of employment of providers that are within the control of the state.

SECTION 741.02. Providers may do all of the following:

(A) Form, join, assist, or participate in, or refrain from forming, joining, assisting, or participating in, except as otherwise provided in sections 741.01 to 741.06 of this act, any representative organization of their own choosing;

(B) Engage in concerted activities, other than those described in division (A) of this section, for the purpose of collective bargaining or other mutual aid and protection;

(C) Be represented by a representative organization;

(D) Bargain collectively with the state to determine wages, hours, terms, other conditions of employment that are within the control of the state, the continuation, modification, or deletion of an existing provision of a collective bargaining agreement, and enter into a collective bargaining agreement.

(E) Present grievances and have them adjusted, without the intervention of the representative organization, so long as the adjustment is not inconsistent with the terms of any collective bargaining agreement then in effect and the representative organization has the opportunity to be present at the adjustment.

SECTION 741.03. (A) A representative organization shall become the exclusive representative of all the providers in an appropriate unit for the purpose of collective bargaining by satisfying either of the following criteria:

(1) Being certified by an impartial election monitor as described in the governor's executive order 2008-02S for independent child care providers or the governor's executive order 2007-23S for independent home care

providers;

(2) Filing a request with the state for recognition as an exclusive representative, as described in division (B) of this section, a copy of which shall be sent to the state employment relations board.

(B)(1) In the request for recognition, the representative organization shall do all of the following:

(a) Describe the bargaining unit;

(b) Allege that a majority of the providers in the bargaining unit wish to be represented by the representative organization;

(c) Support the request with substantial evidence based on, and in accordance with, rules prescribed by the state employment relations board demonstrating that a majority of the providers in the bargaining unit wish to be represented by the representative organization.

(2) Immediately upon receipt of the request described in divisions (A)(2) and (B)(1) of this section, the state shall request an election in accordance with the same requirements as provided in division (A)(2) of section 4117.07 of the Revised Code.

(C) Nothing in this section shall be construed to permit the state to recognize, or the state employment relations board to certify, a representative organization as an exclusive representative if there is in effect a lawful written agreement, contract, or memorandum of understanding between the state and another representative organization that, on the effective date of this section, has been recognized by the state as the exclusive representative of the providers in an appropriate unit or that by tradition, custom, practice, election, or negotiation has been the only representative organization representing all providers in the unit. This division does not apply to any agreement that has been in effect in excess of three years. For purposes of this section, extensions of an agreement do not affect the expiration of the original agreement.

SECTION 741.04. (A) All matters pertaining to wages, hours, terms and other conditions of employment that are within the control of the state, the continuation, modification, or deletion of an existing provision of a collective bargaining agreement shall be subject to collective bargaining between the state and the exclusive representative as described in Section 741.03 of this act, except as otherwise specified in this section.

(B) This section shall not alter the unique relations between providers and recipients of care. The recipient retains the absolute right to choose providers and to control the hiring, termination, and supervision of providers.

(C) This section shall not affect the ability of the state to take appropriate action when a provider is no longer eligible to provide care under state or federal law, or any rules or regulations adopted thereunder.

SECTION 741.05. The parties to any collective bargaining agreement entered into pursuant to sections 741.01, 741.02, 741.03, and 741.04 of this act shall record that agreement in writing, which is to be executed by all of the parties to the agreement. The agreement shall contain the same provisions as described in divisions (B), (C), and (E) of section 4117.09 of the Revised Code. Such provisions shall apply to the state, its agents or representatives, any representative organization, its agents or representatives, and to providers in the same manner as the same provisions apply to public employers, public employees, and employee organizations as described in Chapter 4117. of the Revised Code.

SECTION 741.06. The state employment relations board has the same authority as described in sections 4117.12 and 4117.13 of the Revised Code to investigate, hold hearings, make determinations, and issue complaints regarding unfair labor practices, insofar as that authority does not conflict with sections 741.01, 741.02, 741.03, 741.04, 741.05, and 741.06 of this act. For purposes of this section, "unfair labor practice" has the same meaning as in section 4117.11 of the Revised Code, except any provisions applying to public employers shall apply to the state, any provisions applying to employee organizations shall apply to representative organizations, and any provisions applying to public employees shall apply to providers.

SECTION 741.07. Sections 741.01 to 741.06 of this act shall remain in effect until the end of the current governor's time in office as governor.

SECTION 741.10. PAYROLL REDUCTION STRATEGIES

Notwithstanding any other provision of law to the contrary, the Office of Collective Bargaining of the Department of Administrative Services is authorized to negotiate with the respective state collective bargaining units various payroll reduction strategies through the collective bargaining process prior to July 1, 2009, including, but not limited to, reductions in pay for fiscal years 2010 and 2011 and an increase in each state employee's share of dental, vision, and life insurance benefits for those fiscal years. If the Office successfully negotiates or reaches alternative payroll reduction

strategies through the collective bargaining process, those payroll reduction strategies shall be implemented. The total amount of state employee payroll reduction strategy savings to be negotiated or implemented for each of those fiscal years shall be between \$170,000,000 and \$200,000,000, unless otherwise agreed to by the Office of Collective Bargaining and the Director of Budget and Management. The Director of Budget and Management is authorized to transfer cash from non-General Revenue Fund funds to the General Revenue Fund to carry out this section.

SECTION 743.10. If a petition seeks the holding of an election on Sunday liquor sales on or after the effective date of this section under question (B)(1), (2), or (3) of section 4301.351 or 4301.354 of the Revised Code, under question (B)(2) of section 4301.355 of the Revised Code, or under section 4301.356 of the Revised Code and the petition contains signatures that were placed on it before the effective date of this section, the petition is not invalid merely because the question or questions sought to be submitted to the electors and contained in the petition state that Sunday liquor sales may commence beginning at 1 p.m. rather than 11 a.m.

SECTION 743.11. (A) Notwithstanding division (A)(3) of section 4303.182 of the Revised Code, as amended by this act, the electors in a precinct in which the first hour of sale on Sunday was changed from one p.m. to eleven a.m. by operation of that division may petition to hold an election to revert that first hour of sale to one p.m. That election shall be held under the following conditions:

(1) At the first general election that occurs after the effective date of this section unless that general election will be held less than one hundred thirty-five days after that date, in which case the election shall be held at the immediately following general election;

(2) Under division (B)(1), (2), or (3) of section 4301.351 or 4301.354 of the Revised Code, under division (B)(2) of section 4301.355 of the Revised Code, or under section 4301.356 of the Revised Code, as applicable, except that the starting time for sales under the question shall be one p.m. rather than eleven a.m.;

(3) In accordance with the applicable requirements and provisions governing elections that are held under those divisions or that section and that are established under Chapter 4301. of the Revised Code.

(B) Not later than forty-five days after the effective date of this section, the Superintendent of Liquor Control shall publish notice of the provisions

of division (A) of this section in a newspaper of general circulation in each county of the state.

SECTION 745.10. For the time period beginning on the effective date of this section and ending June 30, 2010:

(A) For purposes of Chapter 4505. of the Revised Code, "manufactured housing broker" includes a manufactured home broker.

(B) Notwithstanding division (N) of section 4517.01 of the Revised Code, "salesperson" shall include any person employed by a manufactured home broker to sell, display, and offer for sale, or deal in manufactured homes or mobile homes for a commission, compensation, or other valuable consideration, but does not include any public officer performing official duties.

(C)(1) For purposes of section 4517.03 of the Revised Code, if a licensed new or used motor vehicle dealer also is a licensed manufactured home park operator, all of the following apply:

(a) An established place of business that is located in the operator's manufactured home park and that is used for selling, leasing, and renting manufactured homes and mobile homes in that manufactured home park shall be considered as used exclusively for that purpose even though rent and other activities related to the operation of the manufactured home park take place at the same location or office.

(b) The dealer's established place of business in the manufactured home park shall be staffed by someone licensed and regulated under Chapter 4517. of the Revised Code who could reasonably assist any retail customer with or without an appointment, but such established place of business shall not be required to satisfy office size, display lot size, and physical barrier requirements applicable to other used motor vehicle dealers.

(c) The manufactured and mobile homes being offered for sale, lease, or rental by the dealer may be located on individual rental lots inside the operator's manufactured home park.

(2) For purposes of section 4517.03 of the Revised Code, a place of business used for the brokering or sale of manufactured homes or mobile homes shall be considered as used exclusively for brokering, selling, displaying, offering for sale, or dealing in motor vehicles even though industrialized units, as defined by section 3781.06 of the Revised Code, are brokered, sold, displayed, offered for sale, or dealt at the same place of business.

(D) Notwithstanding division (B) of section 4517.22 of the Revised Code, contracts may be signed, deposits taken, and sales consummated at a

motor vehicle show at which the motor vehicles being displayed are new manufactured homes, as defined in division (C)(4) of section 3781.06 of the Revised Code.

SECTION 745.20. Notwithstanding section 4781.16 of the Revised Code, any person licensed as a new motor vehicle dealer, used motor vehicle dealer, manufactured homes broker, or salesperson under Chapter 4517. of the Revised Code on June 30, 2010, may continue to engage in the business of displaying, selling at retail, or brokering manufactured homes or mobile homes under the authority of such license until the license expires or until the manufactured homes commission issues or denies the person a manufactured housing dealer's license, manufactured housing broker's license, or manufactured housing salesperson's license under Chapter 4781. of the Revised Code, whichever occurs earlier.

SECTION 745.30. Effective July 1, 2010, the manufactured homes commission may suspend or revoke any existing new motor vehicle dealer, used motor vehicle dealer, manufactured homes broker, or salesperson license issued to a person engaged in the business of displaying, selling at retail, or brokering manufactured homes or mobile homes, and such action may be appealed under section 4781.25 of the Revised Code.

SECTION 745.40. Effective July 1, 2010, nothing in sections 4517.01 to 4517.99 of the Revised Code shall be construed to apply to any of the following:

(A) Manufactured homes as defined in division (C)(4) of section 3781.06 of the Revised Code;

(B) Mobile homes as defined in division (O) of section 4501.01 of the Revised Code; or

(C) Dealers, brokers or salespersons of manufactured homes or mobile homes.

SECTION 745.50. The amendment of sections 4582.07, 4582.08, 4582.32, and 4582.33 of the Revised Code is intended to eliminate certain unintended effects that resulted from the enactment of those sections, in that, as enacted, those sections unintentionally burdened the process by which Ohio port authorities promote their authorized purposes, including activities that enhance, foster, aid, provide, or promote transportation, economic

development, housing, recreation, education, governmental operation, culture, or research, and the creation and preservation of jobs and employment opportunities, within this state, and therefore the amendments apply to work commenced or to be commenced, as well as proceedings occurring, after the effective date of the amendments, and insofar as the provisions of the amendments are applicable to, support, or facilitate any financing proceedings that are pending, in progress, or completed on such effective date, also apply to those financing proceedings and to any securities authorized or issued pursuant to those financing proceedings, and any such financing proceedings pending, in progress, or completed and any securities authorized, sold, issued, delivered, or validated pursuant to those financing proceedings, shall be deemed to have been taken, and authorized, sold, issued, delivered, and validated in conformity herewith and with sections 4582.07, 4582.08, 4582.32, and 4582.33 of the Revised Code, if and as applicable.

SECTION 745.60. (A) Sections 1321.20, 1321.51, 1321.52, 1321.521, 1321.522, 1321.53, 1321.531, 1321.532, 1321.533, 1321.534, 1321.535, 1321.536, 1321.54, 1321.55, 1321.551, 1321.552, 1321.57, 1321.59, 1321.591, 1321.592, 1321.593, 1321.594, 1321.60, 1321.99, 1322.01, 1322.02, 1322.022, 1322.023, 1322.024, 1322.025, 1322.03, 1322.031, 1322.04, 1322.041, 1322.05, 1322.051, 1322.052, 1322.06, 1322.061, 1322.062, 1322.063, 1322.064, 1322.065, 1322.07, 1322.071, 1322.072, 1322.074, 1322.075, 1322.08, 1322.081, 1322.09, 1322.10, 1322.11, 1322.99, 1343.011, 1345.01, 1345.05, 1345.09, 1349.31, 1349.43, 1733.252, and 1733.26 of the Revised Code, as amended or enacted by this act, shall apply on and after January 1, 2010.

(B) The Division of Financial Institutions shall begin accepting applications for a mortgage loan originator license, and applications for an exemption from registration under sections 1321.51 to 1321.60 or 1322.01 to 1322.12 of the Revised Code, on the effective date of this section.

(C) Individuals holding a valid mortgage lender certificate of registration, mortgage broker certificate of registration, or loan officer license as of January 1, 2010, shall not be required to be in compliance with the sections described in division (A) of this section until the first renewal of that certificate or license after that date.

SECTION 747.10. The Governor shall appoint the members, who are general contractors who have recognized ability and experience in the construction of residential buildings and persons with recognized ability and experience in the use of advanced and renewable energy and the use of energy conservation in the construction of commercial and residential buildings, added to the Board of Building Standards by section 3781.07 of the Revised Code, as amended by this act, within sixty days after the effective date of section 3781.07 of the Revised Code as amended by this act. The terms of the members who are general contractors who have recognized ability and experience in the construction of residential buildings appointed pursuant to this section shall expire on October 13, 2012. The term of the member who has recognized ability and experience in the use of advanced and renewable energy in the construction of commercial and residential buildings appointed pursuant to this section shall expire on October 13, 2011. The term of the member who has recognized ability and experience in the use of energy conservation in the construction of commercial and residential buildings appointed pursuant to this section shall expire on October 13, 2010. Upon the expiration of the appointments to the Board made by this section, all successive appointments shall be made as provided in section 3781.07 of the Revised Code, as amended by this act, and all successive terms shall last for the period of time provided in that section.

SECTION 751.13. STUDY REGARDING AMOUNT, DURATION, AND SCOPE OF COMMUNITY BEHAVIORAL HEALTH SERVICES

(A) The Directors of Alcohol and Drug Addiction Services, Mental Health, and Job and Family Services shall convene a group consisting of representatives of all of the following:

- (1) Their departments;
- (2) Boards of alcohol, drug addiction, and mental health services; community mental health boards; and alcohol and drug addiction services boards;
- (3) Providers of community behavioral health services;
- (4) Consumers of community behavioral health services and advocates of such consumers.

(B) Members of the group convened under this section shall serve without compensation, except to the extent that serving on the group is considered part of their regular employment duties.

The group shall develop recommendations regarding the amount, duration, and scope of publicly funded community behavioral health services that should be available through Ohio's community behavioral health system, including recommendations regarding the conditions under which the services should be available. The group shall prepare a report with its recommendations. The group shall submit the report to the Governor and, in accordance with section 101.68 of the Revised Code, the General Assembly not later than June 30, 2011. The group shall cease to exist on submission of the report.

SECTION 751.20. SERVICE COORDINATION WORKGROUP

(A) There is hereby created the Service Coordination Workgroup. The Workgroup shall consist of a representative of each of the following:

- (1) The Office of the Governor, appointed by the Governor;
- (2) The Department of Alcohol and Drug Addiction Services, appointed by the Director of Alcohol and Drug Addiction Services;
- (3) The Department of Education, appointed by the Superintendent of Public Instruction;
- (4) The Department of Health, appointed by the Director of Health;
- (5) The Department of Job and Family Services, appointed by the Director of Job and Family Services;
- (6) The Department of Mental Health, appointed by the Director of Mental Health;
- (7) The Department of Developmental Disabilities, appointed by the Director of Developmental Disabilities;
- (8) The Department of Youth Services, appointed by the Director of Youth Services;
- (9) The Office of Budget and Management, appointed by the Director of Budget and Management;
- (10) The Family and Children First Cabinet Council, appointed by the chairperson of the Council.

(B) The representative of the Office of the Governor shall serve as chairperson of the Workgroup.

(C) Members of the Workgroup shall serve without compensation, except to the extent that serving on the Workgroup is considered part of their regular employment duties.

(D) The Workgroup shall develop procedures for coordinating services that the entities represented on the Workgroup provide to individuals under age twenty-one and the families of those individuals. In developing the procedures, the Workgroup shall focus on maximizing resources, reducing

unnecessary costs, removing barriers to effective and efficient service coordination, eliminating duplicate services, prioritizing high risk populations, and any other matters the Workgroup considers relevant to service coordination. Not later than July 31, 2009, the Workgroup shall submit a report to the Governor with recommendations for implementing the procedures.

(E) The Workgroup shall cease to exist June 30, 2011.

SECTION 751.30. PROMPT PAYMENT POLICY WORKGROUP

(A) There is hereby created the Prompt Payment Policy Workgroup. The Workgroup shall consist of the following members:

(1) One representative of the Office of Budget and Management, appointed by the Director of Budget and Management;

(2) Three representatives of the Department of Insurance, appointed by the Superintendent of Insurance;

(3) Four representatives of the Office of Ohio Health Plans in the Department of Job and Family Services, appointed by the Director of Job and Family Services;

(4) Two representatives of Ohio's Medicaid managed care plans, appointed by the Executive Director of Ohio's Care Coordination Plans;

(5) Two representatives from the community of provider associations, one appointed by the Speaker of the House of Representatives and one appointed by the President of the Senate;

(6) Two members of the Ohio House of Representatives, one appointed by the Speaker of the House of Representatives and one appointed by the Minority Leader;

(7) Two members of the Ohio Senate, one appointed by the President of the Senate and one appointed by the Minority Leader.

(B) The Director of the Department of Job and Family Services, or the Director's designee, shall serve as chairperson of the Workgroup.

(C) Members of the Workgroup shall serve without compensation, except to the extent that serving on the Workgroup is considered part of the members' regular employment duties.

(D) The Workgroup shall do all of the following:

(1) Recommend one set of regulations to govern prompt payment policies for Medicaid managed care plans;

(2) Research and analyze prompt payment policies related to aged medical claims within the health insurance industry and the Medicaid program;

(3) Review general payment rules, payment policies related to electronic

and paper claims, definitions of clean and unclean claims, late payment penalties, auditing requirements, and any other issues related to Medicaid prompt payment policy identified by the Workgroup;

(4) Review statistical data on the compliance rates of current policies.

(E) Not later than February 1, 2010, the Workgroup shall submit a report to the Governor and the majority and minority leadership in both Houses of the Ohio General Assembly. The report shall contain prompt payment policy recommendations for Ohio's Medicaid program.

(F) The Workgroup shall cease to exist February 28, 2010.

SECTION 751.40. The Director of Natural Resources shall enter into a memorandum of understanding with Farmers and Hunters Feeding the Hungry. The memorandum shall prescribe a method by which, during the period from July 1, 2009, through June 30, 2011, Farmers and Hunters Feeding the Hungry may donate venison to Ohio's food banks. The memorandum also shall prescribe methods that encourage private persons to make matching donations in money or food to Ohio's food banks that are equal or greater in value to the venison that is donated by the Farmers and Hunters Feeding the Hungry.

SECTION 753.10. (A) The Director of Natural Resources shall enter into a memorandum of understanding with the Southeastern Ohio Port Authority to develop the future use of the property that formerly comprised the Marietta State Nursery. The memorandum shall provide for all of the following:

(1) Sale of the property for highest and best use;

(2) Sale and usage of the property that is compatible with neighboring properties;

(3) Maximum financial return for the Department of Natural Resources;

(4) Expeditious sale of parcels of the property.

(B) The memorandum shall require contracted professional engineering services to provide both of the following:

(1) A phase 1 environmental site assessment;

(2) A master plan for property development, including all of the following:

(a) An inventory of site features and assets;

(b) Collection of public input through a meeting and comment period;

(c) Identification of site usage areas such as commercial, light industrial, residential, recreational use, or green space use;

- (d) Lot lines and parcel sizes in concept;
 - (e) Means of ingress and egress from State Route 7 and interior site access that are delineated in concept, including possible eastern access to the site with a rough calculation of cut and fill required for the construction of roads;
 - (f) Identification of utility services, locations, and capacities;
 - (g) Plans for compliance with subdivision regulations;
 - (h) Recommendations for possible deed restrictions;
 - (i) An evaluation of permits that must be obtained and other regulatory requirements that must be satisfied for purposes of the development of the property;
 - (j) Any necessary maps.
- (C) The memorandum shall require the Southeastern Ohio Port Authority to do all of the following:
- (1) Manage the formulation of the master plan;
 - (2) Create a master plan brochure and sales brochures;
 - (3) Market the property by mail, signage, and the web sites *www.pioneerspirit.us* and *www.Ohiosites.com*;
 - (4) Respond to sales leads;
 - (5) Screen inquiries regarding the property;
 - (6) Negotiate sales based on pricing guidelines established by the Department of Natural Resources;
 - (7) Present qualified purchase offers to the Department.
- (D) The memorandum shall specify that the Department of Natural Resources owns the property, that it may sell the property in lots to the Port Authority, and that the Port Authority then may sell the lots to individual private buyers.
- (E) The memorandum shall specify that the Department of Natural Resources is responsible for paying for the environmental, engineering, graphic design, signage, and printing costs as invoices for those costs are received. The Department and the Port Authority shall agree to a cap for each of those invoices. In addition, the memorandum shall specify that as parcels of the property are transferred to private buyers, the Port Authority retains five per cent of the sale price of each parcel as a fee for services provided by the Port Authority.

SECTION 753.40. (A) The Governor is hereby authorized to execute a deed in the name of the state conveying to Fairfield Village Realty, LLC, ("grantee"), an Ohio limited liability company, and its successors and assigns, all of the state's right, title, and interest in the following described

real estate:

Situated in Section 20, Township 2, Range 2, City of Fairfield, County of Butler, State of Ohio, being part of Fairfield City Lot No. 483, and being all of that real estate conveyed to The Butler County Board of Mental Retardation and Developmental Disabilities by deeds recorded in Deed Book 1553, Page 549 and Deed Book 1602, Page 538, and part of that real estate recorded in Deed Book 1451, Page 248 (all references to deeds, microfiche, plats, surveys, etc. refer to the records of the Butler County Recorder's Office, unless noted otherwise) and being more particularly bounded and described as follows:

Commencing at the southwest corner of said Section 20;

Thence North 4°00'00" East, along the west line of said Section 20 for a distance of 1138.50 feet to the south line of a tract of land conveyed to Cincinnati Financial Corporation by deed recorded in Official Record Volume 6544, Page 199;

Thence North 80°01'34" East, leaving the west line of said Section 20 along the south line of said Cincinnati Financial Corporation for a distance of 1476.72 feet to the northwest corner of a tract of land conveyed to The Butler County Board of Mental Retardation and Developmental Disabilities by deed recorded in Deed Book 1451, Page 248, also being the TRUE PLACE OF BEGINNING for the land herein described;

Thence North 80°01'34" East, continuing along the south line of said Cincinnati Financial Corporation tract for a distance of 1215.00 feet to the west line of a tract of land conveyed to Cincinnati Financial Corporation by deed recorded in Official Record Volume 7039, Page 97;

Thence South 3°59'06" West, leaving the south line of said Cincinnati Financial Corporation tract along the west line of said Cincinnati Financial Corporation tract for a distance of 1140.76 feet to the northerly line of a tract of land conveyed to Cincinnati Mills, LLC by deeds recorded in Official Record Volume 9048, Page 5078, Official Record Volume 9494, Page 5461, and Official Record Volume 9494, page 5496 (Hamilton County, Ohio Recorder's Office), also being in the south line of said Section 20 and the corporation line between the City of Fairfield (Butler County) and the City of Forest Park (Hamilton County);

Thence South 80°04'24" West, leaving the west line of said Cincinnati Financial Corporation tract along the south line of said Section 20 for a distance of 521.77 feet to the easterly line of said Cincinnati Mills, LLC tract;

Thence leaving the south line of said Section 20 along the easterly line

of said Cincinnati Mills, LLC tract the following three (3) courses:

1) Along the arc of a curve to the right having a radius of 225.00 feet for an arc distance of 260.16 feet, the chord of said arc being subtended by a central angle of 66°15'00" and a long chord bearing North 66°48'06" West for a distance of 245.91 feet;

2) North 33°40'36" West for a distance of 519.55 feet;

3) Along the arc of a curve to the left having a radius of 250.00 feet for an arc distance of 65.00 feet, the chord of said arc being subtended by a central angle of 14°53'52" and a long chord bearing North 41 °07'32" West for a distance of 64.82 feet to the existing south right-of-way of Kolb Drive;

Thence leaving the easterly line of said Cincinnati Mills, LLC tract along the existing south right-of-way of Kolb Drive the following two (2) courses:

1) Along the arc of a curve to the left having a radius of 50.00 feet for an arc distance of 34.31 feet, the chord of said arc being subtended by a central angle of 39°19'01" and a long chord bearing North 45°31'41" East for a distance of 33.64 feet;

2) North 79°00'00" East for a distance of 10.00 feet to the east terminus of Kolb Drive also being in the west line of said Butler County Board of Mental Retardation and Developmental Disabilities (Deed Book 1451, Page 248).

Thence North 11 °00'00" West, leaving the existing south right-of-way of Kolb Drive along the west of said Butler County Board of Mental Retardation and Developmental Disabilities (Deed Book 1451, Page 248) for a distance of 421.73 feet to the place of beginning and containing 25.349 acres, subject however to all covenants, conditions, reservations or easements of record contained in any instrument of record to the above described tract of land.

Being all of that real estate conveyed to The Butler County Board of Mental Retardation and Developmental Disabilities by deeds recorded in Deed Book 1553, Page 549 and Deed Book 1602, Page 538, and part of that real estate recorded in Deed Book 1451, Page 248 of the Butler County, Ohio Recorder's Office.

This description was prepared from deeds and plats of record with bearings based upon deed recorded in Deed Book 1451, Page 248 of the Butler County, Ohio Recorder's Office.

WOOLPERT, INC., Paul W. Feie, Ohio Registered Surveyor No. 6723

This legal description may be modified to a final form if modifications are needed to meet recordation standards in Butler County, Ohio.

(B)(1) Consideration for conveyance of the real estate described in

division (A) of this section is \$450,000. The consideration shall be paid by the grantee to the state at the closing according to an executed offer to purchase real estate agreement reached between the state, through the Department of Administrative Services, and the grantee.

(2) As additional consideration for conveyance of the real estate described in division (A) of this section, grantee and Empowering People, Inc., ("EPI"), an Ohio corporation and the licensed operator of the facility on the real estate, have executed and delivered to the Department of Mental Retardation and Developmental Disabilities (now the Department of Developmental Disabilities), a "Cognovit Promissory Purchase Note," dated June 30, 2008, for \$5,000,000. The grantee and EPI shall be entitled to credits against the "Cognovit Promissory Purchase Note" for certain completed improvements and development obligations defined as the "Improvement Plan" in the "Definitive Agreement" dated June 30, 2008, and signed by the grantee and EPI. The balance of the "Cognovit Promissory Purchase Note" shall be forgiven if the grantee and EPI complete all development obligations set forth in the "Definitive Agreement," the "Improvement Plan," and the "Cognovit Promissory Purchase Note."

(C) The real estate described in division (A) of this section shall be sold as an entire tract and not in parcels through a Governor's Deed. Any personal property or chattels located on the real estate shall be transferred to the grantee through a bill of sale.

(D) The Governor's Deed shall contain deed restrictions that prohibit, within five years from the date of closing, the grantee from transferring the real estate described in division (A) of this section to a third party or assigning its interest in the real estate to a third party without the prior written approval of the Department of Developmental Disabilities. Prior written approval shall not be required if the transfer or assignment is due to the death or disability of the grantee's owner. If a transfer or assignment of the real estate involves the termination or reduction in the level of services provided to individuals with mental retardation and developmental disabilities, the Department shall not approve the transfer or assignment unless the termination or reduction is otherwise required by law, including a judicial proceeding that is not caused by any act or omission of the grantee.

(E) Before the execution of the Governor's Deed as described in division (F) of this section, possession of the real estate described in division (A) of this section shall be governed by an existing interim lease between the Department of Administrative Services and the grantee, an operating license between the Department of Mental Retardation and Developmental Disabilities and EPI, and the "Definitive Agreement" between the grantee,

EPI, and the Department of Mental Retardation and Developmental Disabilities.

(F) The Auditor of State, with the assistance of the Attorney General, shall prepare a Governor's Deed to the real estate described in division (A) of this section. The Governor's Deed shall state the consideration and the deed restrictions contained in division (D) of this section. The deed shall be executed by the Governor in the name of the State, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the Office of the Auditor of State for recording, and delivered to the grantee. The grantee shall present the Governor's Deed for recording in the Office of the Butler County Recorder.

(G) The grantee shall pay the costs of the conveyance of the real estate described in division (A) of this section, including recordation costs of the Governor's Deed.

(H) This section expires two years after its effective date.

SECTION 753.50. (A) The Governor is hereby authorized to execute a deed in the name of the state conveying to the Jackson City Schools Board of Education ("grantee"), its successors and assigns, all of the state's right, title, and interest in the following described real estate:

Parcel 1

The following described tract is located in part of the Scioto Salt Reserve (SSR) Lots 4 and 5, Township 6 North, Range 18 West, Franklin Township, Jackson County Ohio. Being part of the State of Ohio, Ohio Agricultural Research and Development Center's tract two and tract three, as recorded in Volume 209, at Page 648, of the Deed Records, Recorder's Office, Jackson County, Ohio and being more accurately described as follows:

Beginning at the intersection of the centerline of the Portsmouth Branch of the B&O SW Railroad (Jackson Short Line) and the township line between Franklin and Lick Townships, thence South 82°18'53" East, along the township line, a distance of 1398.90 feet to an iron pin set, said pin being the **TRUE POINT OF BEGINNING** for the herein described tract;

Thence South 82°18'53" East, continuing along the township line, passing an iron pin previously set at the southeast corner of Lick Township, SSR Lot 116 at a distance of 41.07 feet, a total distance of 215.54 feet to an iron pin set on the west right-of-way line of County Home Road (Township Road 707, 40' right-of-way), also being a tract of the Board of County Commissioners of Jackson County, as recorded in Deed Volume 76, at Page 267;

Thence South 07°11'24" West, along the west right-of-way line of County

Home road and said Commissioner's tract, a distance of 637.87 feet to an iron pin set;

Thence South 25°23'58" West, through the tract of which this description is a part, a distance of 677.82 feet to an iron pin set on the north right-of-way line of State Route 93 (right-of-way varies) and being the south line of the tract of which this description is a part;

Thence North 64°30'00" West, along the north right-of-way line of State Route 93, a distance of 223.70 feet to an iron pin set on the east line of the Ohio Department of Transportation's tract as recorded in Deed Volume 270, at Page 49;

Thence along said Ohio Department of Transportation's tract and the right-of-way line for state Route 93, the following two (2) courses;

North 25°30'00" East, a distance of 20.00 feet to an iron pin set;

North 61°03'58" West, a distance of 136.45 feet to an iron pin set;

Thence North 23°14'34" East, through the tract of which this description is a part, a distance of 1190.21 feet to the point of beginning. Containing a total of 9.665 acres, 9.648 acres are within Scioto Salt Reserve Lot 4, and 0.017 acres within Scioto Salt Reserve Lot 5. All being part of Auditor's Parcel # 0050010004500;

Being subject to all legal right-of-ways and easements.

All iron pins set for this survey are 5/8" rebar (30" long) with i.d. cap stamped "Dana Exline 7060."

A plat of survey is attached hereto and made a part hereof. This description is valid only if the plat is attached and recorded with it.

Bearings for this survey are rotated to ODOT plans JAC 93-13.95 recorded in Jackson County Record of Centerline Plats Book 1, Page 83.

The above description was prepared from an actual field survey completed on March 08, 2001, by Dana A. Exline, Ohio Professional Surveyor #7060.

Easement

The following described easement is located in part of the Scioto Salt Reserve (SSR) Lots 4 and 5, Township 6 North, Range 18 West, Franklin Township, Jackson County Ohio, and being part of the State of Ohio, Ohio Agricultural Research and Development Center's tract two and three, as recorded in Volume 209, at Page 648, of the Deed Records, Recorder's Office, Jackson County, Ohio. Being a sixty (60) foot wide easement, with thirty (30) feet on each side of the following described centerline:

Beginning at the intersection of the Portsmouth Branch of the B&O SW Railroad (Jackson Short Line) and the township line between Franklin and Lick Townships, thence South 82°18'53" East, along the township line, a distance of 1398.90 feet to an iron pin set for the northwest corner of the

9.665 acre tract this easement will serve; thence South 23°14'34" West, along the west line of said 9.665 acre tract, a distance of 1048.27 feet to a point, said point being the **TRUE POINT OF BEGINNING** for this easement description;

Thence North 64°30'00" West, through the tract of which this description is a part, a distance of 739.98 feet to a point on the easterly right-of-way line of the Jackson Short Line Railroad, formerly known as the Portsmouth Branch of the B&O SW Railroad, said point being the terminus of this easement description.

All iron pins set for this survey are 5/8" rebar (30" long) with i.d. cap stamped "Dana Exline 7060."

A plat of survey is attached hereto and made a part hereof. This description is valid only if the plat is attached and recorded with it.

Bearings for this survey are rotated to ODOT plans JAC 93-13.95 recorded in Jackson County Record of Centerline Plats Book 1, Page 83.

The above description was prepared from an actual field survey completed on March 08, 2001, by Dana A. Exline, Ohio Professional Surveyor #7060.

Parcel 2

The following described tract is located in part of the Scioto Salt Reserve (SSR) Lot 4, Township 6 North, Range 18 West, Franklin Township, Jackson County Ohio. Being part of the State of Ohio, Ohio Agricultural Research and Development Center's tract two as recorded in Volume 209, at Page 648, of the Deed Records, Recorder's Office, Jackson County, Ohio and being more accurately described as follows:

Beginning at the intersection of the centerline of the Portsmouth Branch of the B&O SW Railroad (Jackson Short Line) and the township line between Franklin and Lick townships, thence South 82°18'53" East, along the township line, a distance of 1654.44 feet to an iron pin set on the east right-of-way line of County Home Road (Township Road 707, 40' right-of-way) also being a tract of the Board of County Commissioners of Jackson County, as recorded in Deed Volume 76, at page 267, said pin being the **TRUE POINT OF BEGINNING** for the herein described tract;

Thence South 82°18'53" East, continuing along the township line, a distance of 353.70 feet to an iron pin set;

Thence South 38°54'57" West, through the tract of which this description is a part, a distance of 672.60 feet to an iron pin set on the east right-of-way line of County Home Road and said Commissioner's tract;

Thence North 07°11'24" East, along the east right-of-way line of County Home Road, a distance of 575.15 feet to the point of beginning. Containing a total of 2.335 acres. Being part of Auditor's Parcel # 0050010004500;

Being subject to all legal right-of-ways and easements.

All iron pins set for this survey are 5/8" rebar (30" long) with i.d. cap stamped "Dana Exline 7060."

A plat of survey is attached hereto and made a part hereof. This description is valid only if the plat is attached and recorded with it.

Bearings for this survey are rotated to ODOT plans JAC 93-13.95 recorded in Jackson County Record of Centerline Plats Book 1, Page 83.

The above description was prepared from an actual field survey completed on March 08, 2001, by Dana A. Exline, Ohio Professional Surveyor #7060.

(B) Consideration for conveyance of the real estate is the conveyance from the grantee to the state, its successors and assigns, of the following described real estate:

The following described tract is located in part of the Scioto Salt Reserve (SSR) Lots 117 and 118, Township 7 North, Range 18 West, Lick Township, Jackson County Ohio, and being part of the Jackson City Schools, Board of Education's 24.118 acre tract, as recorded in Volume 330, at Page 333, of the Deed Records, Recorder's Office, Jackson County, Ohio and being more accurately described as follows:

Beginning at the intersection of the centerline of the Portsmouth Branch of the B&O SW Railroad (Jackson Short Line) and the township line between Lick and Franklin Townships, thence South 82°18'53" East, along the township line, passing an iron pin set at the southwest corner of SSR Lot 117 at 1439.97 feet, a total distance of 2112.86 feet to an iron pin set and being the **TRUE POINT OF BEGINNING** for the herein described tract;

Thence North 05°33'28" East, through the tract of which this description is a part, a distance of 735.22 feet to an iron pin set on the north line of the 24.118 acre tract;

Thence South 82°15'00" East, along the north line of the tract of which this description is a part, a distance of 659.26 feet to an iron pin previously set on the west line of a twenty foot wide ingress-egress easement for the Jackson County Home Cemetery;

Thence South 07°08'47" West, along an easterly line of the tract of which this description is a part, a distance of 308.00 feet to an iron pin previously set;

Thence South 82°18'53" East, along a boundary line of the tract of which this description is a part passing into SSR Lot 118 at 20.00 ft, a total distance of 108.20 feet to an iron pin previously set;

Thence South 07°08'47" West, along an easterly line of the tract of which this description is a part, a distance of 426.00 feet to an iron pin previously set on the township line between Lick and Franklin Townships;

Thence North 82°18'53" West, along the township line passing an iron pin previously set for the southeast corner of SSR Lot 117 at 88.20 feet, a total distance of 747.07 feet to the point of beginning. Containing a total of 12.000 acres. 11.137 acres are within Scioto Salt Reserve Lot 117, and 0.863 acres are within Scioto Salt Reserve Lot 118. All being part of Auditor's Parcel # H120060025401;

Being subject to all legal right-of-ways and easements.

All iron pins set for this survey are 5/8" rebar (30" long) with i.d. cap stamped "Dana Exline 7060."

A plat of survey is attached hereto and made a part hereof. This description is valid only if the plat is attached and recorded with it.

Bearings for this survey are rotated to ODOT plans JAC 93-13.95 recorded in Jackson County Record of Centerline Plats Book 1, Page 83.

The above description was prepared from an actual field survey completed on March 08, 2001 by Dana A. Exline, Ohio Professional Surveyor #7060.

(C) The grantee shall pay the costs of the conveyance.

(D) Upon the conveyance to the state of the real estate described in division (B) of this Section, the Auditor of State, with the assistance of the Attorney General, shall prepare a deed to the real estate described in division (A) of this Section. The deed shall state the consideration. The deed shall be executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the Office of the Auditor of State for recording, and delivered to the grantee. The grantee shall present the deed for recording in the Office of the Jackson County Recorder.

(E) This Section expires one year after its effective date.

SECTION 753.60. (A) The Governor is authorized to execute a Governor's Deed in the name of the state conveying to the Dayton Public School District/Dayton Board of Education, ("grantee"), and its successors and assigns, all of the state's right, title, and interest in the following described real estate:

STATE OF OHIO TO BOARD OF EDUCATION 45.3599 Acres

Situated in Section 26, Township 2, Range 7 of the Miami River Survey, the City of Dayton, the County of Montgomery, the State of Ohio, being a 2.2361 acre portion of a 15 acres 30 rods tract conveyed to the State of Ohio as recorded in Deed Book U-2, Page 40, and being a 22.5673 acre portion of a 24.36 acre tract of land conveyed to the Trustees of the Southern Ohio Lunatic Asylum as recorded in Deed Book N-3, Page 233, being an 4.6813 acre portion of a 21.25 acre tract of land conveyed to the

State of Ohio as recorded in Deed Book 169, Page 583, and being an 8.6742 acre portion of a 33.5 acre tract as conveyed to the State of Ohio as recorded in Deed Book 169, Page 585, being an 7.2010 acre portion of a 10.544 acre tract of land as conveyed to the State of Ohio as recorded in Deed Book 138, Page 125 and being a portion of City of Dayton Lot Number 61376 and all of Lot Number 61377 of the revised and consecutive numbers of lots on the plat of the City of Dayton and more particularly bounded and described as follows:

Beginning at a capped 5/8" Iron Pin found stamped "Woolpert" at the Southeast corner of a 2.881 acre tract being Parcel 2 of the Wilmington Woods Plat as recorded in Plat Book 134, Page 3A, said point also being the northeast corner of an 8.338 acre tract of land conveyed to the Barry K. Humphries as recorded in Microfiche 01-O590A04 and the TRUE POINT OF BEGINNING;

Thence with the east line of said 2.881 acre tract being Parcel 2 and the West line of a 24.36 acre tract of land conveyed to the Trustees of the Southern Ohio Lunatic Asylum as recorded in Deed Book N-3, Page 233, North 00°32' 15" East a distance of 459.39 feet to a RR Spike set in the centerline of Wayne Avenue, passing a 5/8 inch iron pin set at the northeast corner of said 2.881 acre tract and the south right of way of Wayne Avenue at 429.39 feet;

Thence with the centerline of Wayne Ave and the north lines of said 24.36 acre tract and said 21.25 acre tract, South 89°18'28" East a distance of 790.80 feet to a RR spike set at the northwest corner of a 1.056 acre tract of land conveyed to the City of Dayton as recorded in M.F. No. 90-424 EO9;

Thence with the west line of said 1.056 acre tract and the east line of said 21.25 acre tract, South 01°17'05" West a distance of 230.89 feet to a 5/8 inch iron pin stamped "Riancho", passing a 5/8 inch iron set at the south right of way of Wayne Avenue at 30.00 feet;

Thence with the south line of said 1.056 acre tract and the south line of a 1.056 acre tract of land conveyed to the City of Dayton as recorded in M.F. No. 78-725 B08, South 89°27' 55" East a distance of 400.00 feet to a found 5/8" iron pin and passing a 5/8 inch iron pin found stamped "Riancho" at 200.00 feet;

Thence with the east line of said 1.056 acre tract and the west line of said 33.5 acre tract as conveyed to the State of Ohio as recorded in Deed Book 169 Page 585, North 1°17'05" East a distance of 229.79 feet to a RR spike set, passing a 5/8 inch iron pin set at the south right of way of Wayne Avenue at 199.79 feet;

Thence with the centerline of Wayne Avenue and the north line of said

33.5 acre tract, South 89°18'28" East a distance of 270.78 feet to a RR spike set at the Intersection of the centerlines of Watervliet Avenue and Wayne Avenue;

Thence with the centerline of Watervliet Avenue and with the northerly line of said 33.5 acre tract, South 55°21'16" East a distance of 231.10 feet to a RR spike set;

Thence with the east line of said 33.5 acre tract and the west line of a 13.00 acre tract conveyed to the Board of Education of the Dayton City School District as recorded in Deed Book 1522, Page 341, South 00°48' 28" West a distance of 709.51 feet to a 5/8 inch iron pin set;

Thence with a new division line, North 89°11'12" West, a distance of 468.08 feet to a 5/8 inch iron pin set, in the west line of said 33.5 acre tract and the east line of said 21.25 acre tract, to a 5/8 inch iron pin set;

Thence with the west line of said 33.5 acre tract and the east line of said 21.25 acre tract, North 01°07'55" East a distance of 141.74 feet to a 5/8 inch iron pin set;

Thence with a new division line, North 89°15'53" West, passing the west line of said 21.25 acre tract and the east line of said 24.36 acre tract conveyed to The Trustees of the Southern Ohio Lunatic Asylum as recorded in Deed Book N-3, Page 233 at a distance of 425.35 feet, for a total distance of 507.35 feet to a 5/8 inch iron pin set;

Thence with a new division line South 01°07'00" West passing the south line of 24.36 acre tract conveyed to The Trustees of the Southern Ohio Lunatic Asylum as recorded in Deed Book N-3, Page 233 and the north line of said 10.544 acre tract at a distance of 627.92 feet, for a total distance of 1,013.05 feet to a 5/8 inch iron pin set in the south line of said 10.544 acre tract;

Thence with the south line of said 10.544 acre tract and the north line a 20.3 acre tract conveyed to the State of Ohio Department of Public Works for the use of the Department of Public Welfare, Dayton State Hospital as recorded in Deed Book 1326, Page 247, North 88°52'07" West a distance of 808.89 feet to a 5/8 inch iron pin set in the east line of a 11.579 acre tract of land conveyed to the Hospice of Dayton as recorded in Microfiche 94-0448C08;

Thence with the east line of said 11.579 acre tract of land, the east line of said 8.338 acre tract as conveyed to Barry K. Humphries as recorded in M.F. number 01-0590 A04, the west line of said 10.544 acre tract, and the west line of said 2.36 acre tract, North 03°24 '08" West a distance of 956.68 feet to a 5/8 inch iron pin set;

Thence with an easterly line of said 8.338 acre tract, the westerly line of

said 24.36 acre tract, and the north line of said 2.36 acre tract, North 49°49'38" East a distance of 275.99 feet to a capped 5/8 inch Iron Pin found stamped "LJB";

Thence with the east line of said 8.338 acre tract and the west line of a 24.36 acre tract, North 00°32'15" East a distance of 108.09 feet to a capped 5/8" Iron Pin stamped "Woolpert" and the TRUE POINT OF BEGINNING, containing 45.3599 acres more or less. Subject to all easements, agreements and right of ways of record.

The basis of bearings for this description is the easterly line of Parcel 2, South 00°32'15" West, as recorded in the Wilmington Woods Plat as recorded in Plat Book 134, Page 3A;

All iron pins set in the above boundary description are 5/8" (O.D.) 30" long with a plastic cap stamped "LJB"

(B)(1) Consideration for conveyance of the real estate described in division (A) of this section is the transfer to the state at no cost of 8.9874 acres adjacent to the remaining Twin Valley Behavioral Healthcare/Dayton Campus, subject to the following conditions:

(a) Within one hundred eighty days after conveyance of the real estate described in division (A) of this section, grantee at its own cost shall complete construction of a new western extension off of Mapleview Avenue to provide a new entrance roadway to the remaining Twin Valley Behavioral Healthcare/Dayton Campus and provide an easement to the state for full utilization of the roadway for the benefit of the remaining Twin Valley Behavioral Healthcare/Dayton Campus until the property described in division (B)(1) of this section is transferred to the state.

(b) Within three hundred forty days after the occupancy of the New Belmont High School, grantee shall demolish and environmentally restore the 8.9874 acres being transferred to the state.

(2) In lieu of the transfer of the 8.9874 acres, if the Director of Mental Health determines that the grantee has insufficiently performed its construction, demolition, and environmental restoration obligations specified in division (B)(1) of this section, the grantee, as consideration, shall pay a purchase price of \$1,175,000.00 to the state, which is the appraised value of the 45.3599 acres described in division (A) of the section less the cost of demolition, site, and utility work.

(C) The real estate described in division (A) of this section shall be conveyed as an entire tract and not in parcels.

(D) Upon transfer of the 8.9874 acres to the state or payment of the purchase price, the Auditor of State, with the assistance of the Attorney General, shall prepare a deed to the real estate described in division (A) of

this section. The deed shall state the consideration and shall be executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the Office of the Auditor of State for recording, and delivered to the grantee. The grantee shall present the deed for recording in the Office of the Montgomery County Recorder.

(E) The grantee shall pay all costs associated with conveyance of the real estate described in division (A) of this section, including recordation costs of the deed.

(F) If the payment of \$1,175,000.00 is made in lieu of the transfer of the 8.9874 acres to the state, the proceeds of the conveyance of the real estate described in division (A) of this section shall be deposited into the state treasury to the credit of the Department of Mental Health Trust Fund created by section 5119.18 of the Revised Code and the easement described in division (B)(1)(a) of this section shall become a permanent easement.

(G) The grantee shall not, during any period that any bonds issued by the state to finance or refinance all or a portion of the real estate described in division (A) of this section are outstanding, use any portion of the real estate for a private business use without the prior written consent of the state.

As used in this division:

"Private business use" means use, directly or indirectly, in a trade or business carried on by any private person other than use as a member of, and on the same basis as, the general public. Any activity carried on by a private person who is not a natural person shall be presumed to be a trade or business.

"Private person" means any natural person or any artificial person, including a corporation, partnership, limited liability company, trust, or other entity and including the United States or any agency or instrumentality of the United States, but excluding any state, territory, or possession of the United States, the District of Columbia, or any political subdivision thereof that is referred to as a "State or local governmental unit" in Treasury Regulation § 1.103-1(a) and any person that is acting solely and directly as an officer or employee of or on behalf of any such governmental unit.

(H) This section expires two years after its effective date.

SECTION 753.70. The Governor is hereby authorized to execute a deed in the name of the state conveying to the City of Cincinnati ("grantee"), its successors and assigns, all of the state's right, title, and interest in the following described real estate:

Situated in Section 6, Town 3 Fractional Range 2, of the Miami

Purchase, Mill Creek Township in the City of Cincinnati, Hamilton County, State of Ohio, being more particularly described as follows:

Commencing in the center of Seymour Avenue at the southeast corner to Lot 1 of the Hannah A. Sandburn's subdivision recorded in Plat Book, Page 263 at the Hamilton County Records records in Cincinnati, Ohio:

Thence along centerline of Seymour Avenue $88^{\circ}41'02''$ West a distance of 60.00 feet;

Thence along a line parallel to Lot 1 and Lot 2 of Hannah A. Sandburn's Subdivision North $01^{\circ}06'58''$ East a distance of 42.01 feet at a set cross-notch in the north right of way line of Seymour Avenue at the common corner to Domicile, Inc. (OR 6940, PG 1715) and being the true POINT OF BEGINNING to this description;

Thence along the right of way line of Seymour Avenue the following three (3) courses:

North $86^{\circ}49'13''$ West a distance of 151.95 feet to a point;

North $88^{\circ}57'41''$ West a distance of 197.14 feet to a point;

Along a curve to the right having a radius of 1633.20 feet, an arc distance of 254.86 feet and whose chord bears North $84^{\circ}29'29''$ West a distance of 254.60 feet to a set cross-notch, common corner to the Ohio Department of Transportation;

Thence leaving said right of way and along the line of the Ohio Department of Transportation the following three (3) courses:

North $03^{\circ}21'39''$ West a distance of 468.28 feet to a set 5/8" steel rebar with plastic cap stamped "J.G.K. S-8227";

North $03^{\circ}47'08''$ East a distance of 313.70 feet to a set 5/8" steel rebar with plastic cap stamped "J.G.K. S-8227";

North $04^{\circ}59'33''$ East a distance of 153.84 feet to a set 5/8" steel rebar with plastic cap stamped "J.G.K. S-8227";

Thence leaving said common line and with a new division line through the lands of State of Ohio and along a curve to the left having a radius of 598.66 feet, an arc distance of 798.59 feet and whose chord bears South $72^{\circ}43'03''$ East a distance of 740.68 feet to a set 5/8" steel rebar with plastic cap stamped "J.G.K. S-8227";

Thence South $03^{\circ}00'59''$ West, passing a recovered 5/8" steel rebar (PLS #6670) at 10.3 feet, corner to the United States of America (OR 6308, PG 3023), a total distance of 637.68 feet to a set 5/8" steel rebar with plastic cap stamped "J.G.K. S-8227" corner to the same;

Thence along the line of the United States of America the following two (2) calls

North $87^{\circ}35'48''$ West a distance of 33.54 feet to a set 5/8" steel rebar

with plastic cap stamped "J.G.K. S-8227";

South 01°06'58" West a distance of 33.30 feet to a set 5/8" steel rebar with plastic cap stamped "J.G.K. S-8227" at a corner to Domicile, Inc.;

Thence with the line of Domicile, Inc. the following two (2) calls;

North 88°53'02" West a distance of 60.00 feet to a set 5/8" steel rebar with plastic cap stamped "J.G.K. S-8227";

South 01°06'58" West a distance of 157.78 feet to the POINT OF BEGINNING.

Containing 12.956 acres and being subject to all easements and restrictions of record.

Being a part of the property conveyed to the State of Ohio in Official Record Book 2279, Page 583 of the Hamilton County Clerks records in Cincinnati, Ohio.

Said herein description being the result of a survey performed by Cardinal Engineering Corporation in September, 2008 under the direct supervision of Joseph G. Kramer, P.L.S. #S-8227. The bearings of this description are based on a survey performed by the Army Corps of Engineers dated 1957.

Consideration for conveyance of the real estate described in this section is \$1,230,000.

The grantee shall not use, develop, or sell the real estate described in this section such that it will interfere with the quiet enjoyment of the adjacent state-owned land.

The real estate described in this section shall be sold as an entire tract and not in parcels.

Upon payment of the purchase price, the Auditor of State, with the assistance of the Attorney General, shall prepare a Governor's Deed to the real estate described in this section. The Governor's Deed shall state the consideration and the condition. The deed shall be executed by the Governor in the name of the State, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the Office of the Auditor of State for recording, and delivered to the grantee. The grantee shall present the deed for recording in the Office of the Hamilton County Recorder.

The grantee shall pay all costs associated with the purchase and conveyance of the real estate described in this section, including deed recordation costs.

The net proceeds of the sale of the real estate described in this section shall be deposited in the State Treasury to the credit of the Department of Mental Health Trust Fund under section 5119.18 of the Revised Code.

This section expires two years after its effective date.

SECTION 757.10. (A) This section is intended as remedial legislation authorizing the exemption of airport property for which a port authority applied for tax exemption, but was denied because the applicant was a lessee and not the owner of the property, as required under section 5715.27 of the Revised Code as that section existed before its amendment by Sub. H.B. 160 of the 127th General Assembly.

(B) As used in this section:

(1) "Eligible year" means any year for which taxes, penalties, and interest could have been remitted or abated, and the property placed on the exempt tax list, under a previous application for exemption if the application had not been dismissed as provided under division (A) of this section.

(2) "Qualified property" means real property owned by a subdivision of this state, leased to a port authority created under Chapter 4582. of the Revised Code, and used as an airport, and that currently qualifies for exemption from taxation under any section of the Revised Code, but for which the application for exemption for an eligible year was dismissed by the Tax Commissioner as provided in division (A) of this section.

(3) "Subdivision," "taxing authority," and "taxing unit" have the same meanings as in section 5705.01 of the Revised Code.

(C) Notwithstanding section 5713.081 of the Revised Code, if an application for exemption from and abatement or remission of property taxes for qualified property was dismissed because of failure to comply with Chapter 5713., or section 5715.27 of the Revised Code as that section existed before its amendment by Sub. H.B. 160 of the 127th General Assembly, the current owner of qualified property, on or before January 1, 2010, may file with the Tax Commissioner an application requesting that the property be placed on the exempt tax list and that all paid or unpaid taxes, penalties, and interest on the property be abated or remitted, as appropriate, for each eligible year. The application shall be filed on the form prescribed by the Commissioner under section 5715.27 of the Revised Code. The owner shall include with the application a copy of the Commissioner's final determination dismissing the previous application and the certificate issued by the county treasurer under division (F) of this section. Failure to include the Commissioner's final determination that dismissed the previous application for exemption or the treasurer's certificate shall result in dismissal of the application filed under this section.

(D) Upon receiving an application under this section, the Tax Commissioner shall determine if the applicant and the applicant's property satisfy the requirements for exemption, abatement, and remission under this

section. If the requirements are satisfied, the Commissioner shall issue an order directing the auditor to place the property on the exempt tax list of the county and ordering that all paid or unpaid taxes, penalties, and interest be abated or remitted for every eligible year the property was qualified property. If the Commissioner determines that the property does not satisfy the requirements for exemption for one or more years, the Commissioner shall deny the application for those years and certify the finding to the county treasurer of the county in which the property is located for collection of all taxes, penalties, and interest and distribution thereof to the appropriate subdivisions. Tax payments for eligible years shall not be considered unpaid taxes for purposes of establishing jurisdiction to consider an application under this section.

(E) The county auditor shall notify the county treasurer that any tax payments for eligible years that have not been distributed shall be held in a special fund pending a decision by the Tax Commissioner on an application filed under this section. No subdivision or other taxing unit is entitled to advance payment of such amounts under section 321.34 of the Revised Code. After the Commissioner issues a decision, the county auditor shall either remit the taxes, penalties, and interest to the applicant if the application is approved or distribute the taxes, penalties, and interest to the proper taxing authorities if the application for exemption is denied.

(F) Upon request by the applicant, the county treasurer shall determine whether all taxes, penalties, and interest that were levied for all tax years that are not eligible years and whether all special assessments charged against the property have been paid in full. If so, the treasurer shall issue a certificate to the applicant stating that all such amounts have been paid, or, if not, the certificate shall list the tax years for which such taxes, penalties, interest, and special assessments remain unpaid.

SECTION 759.10. Notwithstanding division (B)(1) of section 5919.34 of the Revised Code, the number of participants in the Ohio National Guard Scholarship Program for the summer term occurring in the year 2009 shall be limited to the equivalent of one thousand two hundred full-time participants.

SECTION 801.10. As used in the uncodified law of this act, "American Recovery and Reinvestment Act of 2009" means the "American Recovery and Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115.

SECTION 803.10. Section 1751.14 of the Revised Code, as amended by this act, shall apply only to policies, contracts, and agreements that are delivered, issued for delivery, or renewed in this state on or after July 1, 2010; section 3923.24 of the Revised Code, as amended by this act, shall apply only to policies of sickness and accident insurance and plans of health coverage that are established or modified in this state on or after July 1, 2010; and section 3923.241, as enacted by this act, shall apply only to public employee health plans established or modified in this state on or after July 1, 2010.

SECTION 803.20. Sections 718.04 and 5747.01 of the Revised Code, as amended by this act, first apply to taxable years beginning on or after January 1, 2010.

The amendment by this act of sections 5733.47 and 5747.76 of the Revised Code applies to credits claimed with respect to certificates issued in taxable years ending on or after the effective date of this amendment.

SECTION 803.30. In anticipation of the amendments to section 124.134 of the Revised Code taking effect on August 30, 2009, the Director of Administrative Services shall determine an additional, prorated amount of vacation leave for employees who are in their fourth, ninth, fourteenth, nineteenth, or twenty-fourth year of service to receive as a result of the transition occurring on that date. The additional, prorated amount shall be such that the affected employees are not harmed as a result of the transition, and shall be added to the vacation leave balances of the affected employees on August 30, 2009.

SECTION 803.50. The amendment by this act of section 5727.811 of the Revised Code applies to the measurement period that includes the effective date of that section and ensuing measurement periods.

SECTION 803.60. The amendment of section 105.41 of the Revised Code by this act does not abrogate any collective bargaining agreement, for the duration of the agreement, that applies to employees of the Capitol Square Review and Advisory Board and that was entered into under Chapter 4117. of the Revised Code before the effective date of that amendment.

SECTION 803.70. The amendment by this act of division (B) of section 5751.02 of the Revised Code is to clarify the General Assembly's intent of that section when it was enacted by Am. Sub. H.B. 66 of the 126th General Assembly.

SECTION 806.10. The items of law contained in this act, and their applications, are severable. If any item of law contained in this act, or if any application of any item of law contained in this act, is held invalid, the invalidity does not affect other items of law contained in this act and their applications that can be given effect without the invalid item of law or application.

SECTION 809.10. An item of law, other than an amending, enacting, or repealing clause, that composes the whole or part of an uncodified section contained in this act has no effect after June 30, 2011, unless its context clearly indicates otherwise.

SECTION 812.10. Except as otherwise provided in this act, the amendment, enactment, or repeal by this act of a section is subject to the referendum under Ohio Constitution, Article II, Section 1c and therefore takes effect on the ninety-first day after this act is filed with the Secretary of State or, if a later effective date is specified below, on that date.

The amendments by this act to section 3901.381 of the Revised Code take effect twelve months after the effective date specified in the first paragraph of this section.

The amendments by this act to sections 3733.02 and 4781.06 of the Revised Code take effect January 1, 2010.

The amendment, enactment, or repeal by this act of sections 4505.20, 4517.01, 4517.02, 4517.03, 4517.052, 4517.27, 4517.30, 4517.33, 4517.43, 4781.02, 4781.04, 4781.05, 4781.16, 4781.17, 4781.18, 4781.19, 4781.20, 4781.21, 4781.22, 4781.23, 4781.24, 4781.25, and 4781.99 of the Revised Code takes effect July 1, 2010.

The amendment of sections 1739.05, 1751.14, 3923.24, 3923.241, 5743.15, 5743.61, and 5747.01 of the Revised Code takes effect January 1, 2010.

The enactment of section 3903.77 of the Revised Code takes effect one year after the effective date specified in the first paragraph of this section.

The enactment of sections 153.013 and 5525.26 of the Revised Code takes effect January 1, 2010.

Sections 803.10 and 803.20 of this act take effect January 1, 2010.

The amendments by this act to sections 3319.391 and 3327.10 of the Revised Code take effect January 1, 2010.

SECTION 812.20. The amendment, enactment, or repeal by this act of the sections listed below is exempt from the referendum because it is or relates to an appropriation for current expenses within the meaning of Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, or defines a tax levy within the meaning of Ohio Constitution, Article II, Section 1d, and therefore takes effect immediately when this act becomes law or, if a later effective date is specified below, on that date.

Sections 103.24, 121.40, 121.401, 121.402, 122.011, 124.03, 124.152, 124.181, 124.183, 124.27, 124.34, 124.381, 124.382, 124.385, 124.386, 124.392, 124.393, 124.821, 124.822, 124.86, 126.05, 131.33, 133.02, 133.022, 145.298, 152.12, 166.02, 166.08, 166.11, 166.25, 166.28, 173.70, 173.71, 173.72, 173.721, 173.722, 173.723, 173.724, 173.73, 173.731, 173.732, 173.74, 173.741, 173.742, 173.75, 173.751, 173.752, 173.753, 173.76, 173.77, 173.771, 173.772, 173.773, 173.78, 173.79, 173.791, 173.80, 173.801, 173.802, 173.803, 173.81, 173.811, 173.812, 173.813, 173.814, 173.815, 173.82, 173.83, 173.831, 173.832, 173.833, 173.84, 173.85, 173.86, 173.861, 173.87, 173.871, 173.872, 173.873, 173.874, 173.875, 173.876, 173.88, 173.89, 173.891, 173.892, 173.90, 173.91, 173.99, 303.213, 307.79, 319.301, 319.302, 319.54, 321.24, 323.156, 504.21, 505.82, 901.20, 901.43, 901.91, 903.082, 903.11, 903.25, 905.32, 905.33, 905.331, 905.36, 905.38, 905.381, 905.50, 905.51, 905.52, 905.56, 905.66, 907.13, 907.14, 907.16, 907.30, 907.31, 921.02, 921.06, 921.09, 921.11, 921.13, 921.16, 921.22, 921.27, 921.29, 923.44, 923.46, 927.51, 927.52, 927.53, 927.54, 927.56, 927.69, 927.70, 927.701, 927.71, 927.74, 942.01, 942.02, 942.06, 942.13, 943.01, 943.02, 943.031, 943.04, 943.05, 943.06, 943.07, 943.13, 943.14, 943.16, 953.21, 953.22, 953.23, 1501.01, 1501.05, 1501.07, 1501.30, 1504.01, 1504.02, 1504.03, 1504.04, 1506.01, 1507.01, 1511.01, 1511.02, 1511.021, 1511.022, 1511.03, 1511.04, 1511.05, 1511.06, 1511.07, 1511.071, 1511.08, 1514.08, 1514.10, 1514.13, 1515.08, 1515.183, 1517.02, 1517.10, 1517.11, 1517.14 (1547.81), 1517.15, 1517.16 (1547.82), 1517.17 (1547.83), 1517.18 (1547.84), 1519.03, 1520.02, 1520.03, 1521.02, 1521.03, 1521.031, 1521.04, 1521.06, 1521.061, 1521.062, 1521.064, 1521.07, 1521.10, 1521.11, 1521.12, 1521.13, 1521.14, 1521.15, 1521.16, 1521.18, 1521.19, 1523.01, 1523.02, 1523.03, 1523.04,

1523.05, 1523.06, 1523.07, 1523.08, 1523.09, 1523.10, 1523.11, 1523.12, 1523.13, 1523.14, 1523.15, 1523.16, 1523.17, 1523.18, 1523.19, 1523.20, 1541.03, 1547.01, 1547.02, 1547.51, 1547.52, 1547.531, 1547.54, 1547.542, 1547.73, 1547.85, 1547.86, 1547.87, 1547.99, 1548.10, 1707.37, 2101.01, 2301.02, 2301.03, 2921.13, 3301.122, 3301.57, 3301.95, 3302.031, 3302.05, 3302.07, 3306.01, 3306.012, 3306.02, 3306.03, 3306.04, 3306.05, 3306.051, 3306.052, 3306.06, 3306.07, 3306.08, 3306.09, 3306.091, 3306.10, 3306.11, 3306.12, 3306.13, 3306.17, 3306.18, 3306.19, 3306.191, 3306.192, 3306.21, 3306.22, 3306.25, 3306.29, 3306.291, 3306.292, 3306.30, 3306.31, 3306.33, 3306.34, 3306.35, 3306.40, 3306.50, 3306.51, 3306.52, 3306.53, 3306.54, 3306.55, 3306.56, 3306.57, 3306.58, 3307.31, 3307.64, 3309.41, 3309.48, 3309.51, 3310.08, 3310.09, 3310.41, 3311.059, 3311.0510, 3311.06, 3311.19, 3311.21, 3311.29, 3311.52, 3311.76, 3313.483, 3313.55, 3313.64, 3313.642, 3313.843, 3313.98, 3313.981, 3314.028, 3314.08, 3314.085, 3314.087, 3314.088, 3314.091, 3314.10, 3314.13, 3314.35, 3316.041, 3316.06, 3316.20, 3317.01, 3317.011, 3317.013, 3317.018, 3317.02, 3317.021, 3317.022, 3317.023, 3317.024, 3317.025, 3317.0210, 3317.0211, 3317.0216, 3317.031, 3317.04, 3317.061, 3317.063, 3317.081, 3317.082, 3317.12, 3317.16, 3317.18, 3317.20, 3317.201, 3318.011, 3318.051, 3319.088, 3319.221, 3319.57, 3319.70, 3319.71, 3323.091, 3323.14, 3323.142, 3324.05, 3326.21, 3326.33, 3326.39, 3327.02, 3327.04, 3327.05, 3329.16, 3333.04, 3333.122, 3333.27, 3333.28, 3333.38, 3333.391, 3333.392, 3333.61, 3333.62, 3333.66, 3345.32, 3349.242, 3353.20, 3365.01, 3704.14, 3704.143, 3706.04, 3712.03, 3714.03, 3718.03, 3733.43, 3745.015, 3748.01, 3748.04, 3748.07, 3748.12, 3748.13, 3770.03, 3770.21, 3901.3812, 3923.90, 3923.91, 4117.02, 4117.12, 4117.24, 4141.01, 4141.31, 4501.06, 4501.24, 4501.29, 4503.068, 4503.10, 4503.19, 4503.40, 4503.42, 4505.06, 4505.09, 4519.59, 5101.073, 5111.21, 5111.65, 5111.651, 5111.68, 5111.681, 5111.685, 5111.686, 5111.688, 5111.689, 5111.874, 5111.875, 5112.30, 5112.31, 5112.37, 5112.39, 5112.40, 5112.41, 5112.42, 5112.43, 5112.44, 5112.45, 5112.46, 5112.47, 5112.48, 5123.0412, 5123.0417, 5123.19, 5123.193, 5123.197, 5126.05, 5126.24, 5153.163, 5502.12, 5703.80, 5715.26, 5725.18, 5727.84, 5729.03, 5739.01, 5739.03, 5739.033, 5739.051, and 6111.044 of the Revised Code.

The amendment by this act of sections 711.001, 711.05, 711.10, 711.131, 4736.01, 6111.04, and 6111.044 of the Revised Code as amended by Sections 101.01 and 101.02 takes effect immediately when this act becomes law.

The repeal and reenactment of section 5112.371 of the Revised Code.

The amendment by this act to division (A) of section 124.134 of the

Revised Code takes effect on August 30, 2009, and the remainder of that section takes effect immediately when this act becomes law.

The amendment, enactment, or repeal of sections 122.85, 3721.02, 3721.50, 3721.51, 3721.511, 3721.512, 3721.513, 3721.53, 3721.55, 3721.56, 4301.43, 4503.182, 4507.23, 5111.20, 5111.231, 5111.24, 5111.243, 5111.25, 5111.262, and 5111.263 of the Revised Code takes effect July 1, 2009.

The repeal of sections 5112.40, 5112.41, 5112.42, 5112.43, 5112.44, 5112.45, 5112.46, 5112.47, and 5112.48 of the Revised Code takes effect October 1, 2011.

Sections of this act prefixed with section numbers in the 200's, 300's, 400's, 500's, 700's, and 800's, except for Sections 265.60.60, 265.70.20, 265.80.10, 309.40.20, 309.50.30, 313.20, 371.60.20, 399.20, 523.10, 701.20, 745.60, and 751.10 of this act.

The amendment of Sections 120.01 and 120.02 of Am. Sub. H.B. 119 of the 127th General Assembly takes effect immediately when this act becomes law.

The amendment of Section 153 of Am. Sub. H.B. 117 of the 121st General Assembly.

Sections 309.30.20, 309.30.30, 309.30.40, 309.30.50, 309.30.60, and 309.30.70 of this act take effect July 1, 2009.

SECTION 812.30. The sections that are listed in the left-hand column of the following table combine amendments by this act that are and that are not exempt from the referendum under Ohio Constitution, Article II, Sections 1c and 1d and section 1.471 of the Revised Code.

The middle column identifies the amendments to the listed sections that are subject to the referendum under Ohio Constitution, Article II, Section 1c and therefore take effect on the ninety-first day after this act is filed with the Secretary of State or, if a later effective date is specified, on that date.

The right-hand column identifies the amendments to the listed sections that are exempt from the referendum because they are or relate to an appropriation for current expenses within the meaning of Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, or define a tax levy within the meaning of Ohio Constitution, Article II, Section 1d, and therefore take effect immediately when this act becomes law or, if a later effective date is specified, on that date.

Section of law	Amendments subject to referendum	Amendments exempt from referendum
121.04	All amendments except	The amendment striking

	those described in the right-hand column	"Water;" the amendment replacing "conservation" with " <u>resources</u> "; and the amendment striking "Real estate and land management;" All other amendments
127.16	The amendment to divisions (D)(2) and (34)	All other amendments
1521.05	All amendments except those described in the right-hand column	The amendments to division (B)
1521.063	All amendments except those described in the right-hand column	The amendments to divisions (A) and (A)(1) replacing "division of water" with "division of soil and water resources"
3301.07	The amendment that strikes through original division (N)	All amendments except the amendment described in the middle column
3302.031	All amendments except those described in the right-hand column	The amendments to division (A)
3313.6410	Division (A)	Division (B)
3314.03	All amendments except the amendments described in the right-hand column	The amendments to division (A)(8)
3315.37	All amendments except the amendment described in the right-hand column	The amendment to the fourth paragraph that strikes through "3333.27,"
3317.01	The amendments to division (B)	All other amendments
3319.088	The amendments to the second paragraph of division (C)	All other amendments
3734.57	The amendment to division (A) authorizing electronic payment of solid waste disposal fees	All other amendments to division (A)
4117.01	All amendments except	The amendment to

	those described in the right-hand column	division (C)(5), the amendment striking the language from division (C)(15), and the amendments adjusting the division numbering in divisions (C)(16) and (17)
5751.20	All amendments except those described in the right-hand column	The amendments to division (B), effective July 1, 2009

SECTION 812.50. (A) The amendments by this act to sections 109.57, 109.572, and 3319.291 of the Revised Code are subject to the referendum. Except as otherwise provided in division (B) of this section, the amendments take effect on the ninety-first day after this act is filed with the Secretary of State.

(B) The following amendments take effect January 1, 2010:

(1) The amendment creating division (F)(2)(c) of section 109.57 of the Revised Code and the amendment to division (F)(4) of that section;

(2) The amendment to division (B)(2) of section 109.572 of the Revised Code;

(3) All of the amendments to section 3319.291 of the Revised Code except the amendments to divisions (A)(3) and (4) of that section.

SECTION 815.10. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the following sections, presented in this act as composites of the sections as amended by the acts indicated, are the resulting versions of the sections in effect prior to the effective date of the sections as presented in this act:

Section 9.314 of the Revised Code as amended by Am. Sub. H.B. 106 and Sub. H.B. 204, both of the 125th General Assembly.

Section 109.57 of the Revised Code as amended by both Sub. H.B. 428 and Sub. S.B. 163 of the 127th General Assembly.

Section 109.572 of the Revised Code as amended by Sub. H.B. 195, Sub. H.B. 545, and Sub. S.B. 247, all of the 127th General Assembly.

Section 109.77 of the Revised Code as amended by Am. Sub. H.B. 490, Sub. H.B. 545, and H.B. 675, all of the 124th General Assembly.

Section 121.37 of the Revised Code as amended by both Sub. H.B. 289 and Am. Sub. H.B. 530 of the 126th General Assembly.

Section 122.075 of the Revised Code as amended by Sub. H.B. 245 and Sub. H.B. 251, both of the 126th General Assembly.

Section 149.43 of the Revised Code as amended by Am. Sub. H.B. 214 and Am. Sub. S.B. 248, both of the 127th General Assembly.

Section 1511.01 of the Revised Code as amended by Am. Sub. S.B. 73 and Am. Sub. S.B. 182, both of the 120th General Assembly.

Section 1520.02 of the Revised Code as amended by Sub. H.B. 443 and Am. Sub. H.B. 699, both of the 126th General Assembly.

Section 1547.99 of the Revised Code as amended by Am. Sub. S.B. 17 and Am. Sub. S.B. 271, both of the 127th General Assembly.

Section 2913.46 of the Revised Code as amended by Am. Sub. S.B. 107, Am. Sub. S.B. 269, and Am. Sub. S.B. 293, all of the 121st General Assembly.

Section 2921.51 of the Revised Code as amended by Sub. H.B. 259 and Sub. S.B. 281, both of the 126th General Assembly.

Section 2923.16 of the Revised Code as amended by Sub. S.B. 184 and Sub. S.B. 209, both of the 127th General Assembly.

Section 3313.614 of the Revised Code as amended by Am. Sub. H.B. 276 and Am. Sub. S.B. 311, both of the 126th General Assembly.

Section 3313.64 of the Revised Code as amended by Am. Sub. H.B. 119 and Am. Sub. H.B. 214, both of the 127th General Assembly.

Section 3319.291 of the Revised Code as amended by Sub. H.B. 428 and Am. Sub. H.B. 562, both of the 127th General Assembly.

Section 3733.02 of the Revised Code as amended by Am. Sub. H.B. 368 and Sub. S.B. 102, both of the 125th General Assembly.

Section 4301.355 of the Revised Code as amended by Am. Sub. H.B. 562 and Sub. S.B. 150, both of the 127th General Assembly.

Section 4169.02 of the Revised Code as amended by both Am. Sub. S.B. 293 and Sub. H.B. 535 of the 121st General Assembly.

Section 4169.04 of the Revised Code as amended by both Am. Sub. S.B. 293 and Sub. H.B. 535 of the 121st General Assembly.

Section 4303.182 of the Revised Code as amended by Am. Sub. H.B. 562 and Sub. S.B. 150, both of the 127th General Assembly.

Section 4507.03 of the Revised Code as amended by Sub. S.B. 96 of the 120th General Assembly and Sub. H.B. 9 of the 127th General Assembly.

Section 4763.05 of the Revised Code as amended by Am. Sub. H.B. 699 and Am. Sub. S.B. 223, both of the 126th General Assembly.

Section 4767.08 of the Revised Code as amended by Am. Sub. H.B. 138

and Sub. H.B. 531, both of the 123rd General Assembly.

SECTION 815.20. The amendment of sections 5112.03 and 5112.08 of the Revised Code is not intended to supersede the earlier repeal, with delayed effective date, of that section.

Am. Sub. H. B. No. 1

128th G.A.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Am. Sub. H. B. No. 1

128th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____